

HOMELESSNESS AND AFFORDABLE HOUSING

Response to the Periodic Report of the United States
to the United Nations Committee on the Elimination
of Racial Discrimination

February 2008

**Prepared by:
US Human Rights Network Housing Caucus**

**A Report to the
Committee on the Elimination of Racial Discrimination
on Racial Discrimination in Homelessness
and Affordable Housing in the United States**

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¹ Submitting and endorsing organizations jointly endorse this report as a statement of solidarity, but do not necessarily endorse every assertion made herein.

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Executive Summary

1. In the United States, some 750,000 people experience homelessness on any given night.³ Over the course of a year, an estimated 2.5 to 3.5 million people experience homelessness.⁴ African-Americans are disproportionately represented in these numbers, making up an estimated 45% of the homeless population; some 41% are Caucasian; 11% Hispanic; 8% Native American.⁵ Approximately 41% are families with children, and 44% of homeless adults worked at some point in any given month. 66% of homeless adults reported problems with psychosocial disability, drug or alcohol abuse, or some combination of these problems.
2. The lack of affordable housing is the primary cause of homelessness. Some 13.7 million households, or 14% of all households, have “critical housing needs,” meaning that they spend more than 50% of their incomes on housing or live in substandard housing.⁶ Inadequate incomes are directly linked to this problem: a person working a regular work week at the legal minimum wage cannot afford the fair market rent for a one-bedroom apartment anywhere in the United States.⁷
3. Racial minorities constitute a disproportionate percentage of people living in acutely substandard housing or suffering from unmanageably severe rent burdens. These marginalized minority communities thus constitute a disproportionate number of people relying on the United States government for housing assistance. More than 50% of the population with worst case housing needs are black or Hispanic, although they represent only about 25% of the total U.S. population. At the same time, between 2003 and 2005, the number of households with worst case housing needs increased by 16 percent.⁸ In that same period, of those households with worst case needs, numbers of white and Hispanic households increased by 12 to 13 percent, while the number of black households with worst case needs increased by 28 percent.⁹
4. Rather than increasing assistance to homeless individuals, many communities have instead enacted ordinances criminalizing behavior of homeless persons, or are disproportionately enforcing other laws such as jaywalking or littering against homeless persons, with a disparate impact on racial minorities. In Los Angeles’ Skid Row, over 12,000 citations have been issued in the past year, almost exclusively to homeless and poor African American men.
5. Los Angeles, Chicago, New York City, and Illinois provide case studies of the racially disparate impact of the lack of affordable housing in the U.S., and the inadequacy of government response.

³ See MARY CUNNINGHAM AND MEGHAN HENRY, *Homelessness Counts*, (2007).

⁴ Bruce Link, et al., *Life-time and Five-Year Prevalence of Homelessness in the United States*, 65 AMERICAN JOURNAL OF PUBLIC HEALTH (1994).

⁵ INTERAGENCY COUNCIL ON THE HOMELESS, *HOMELESSNESS: PROGRAMS AND THE PEOPLE THEY SERVE, FINDINGS OF THE NATIONAL SURVEY OF HOMELESS ASSISTANCE PROVIDERS AND CLIENTS* (1999).

⁶ Stegman et al., *Housing America’s Working Families*, http://www.huduser.org:80/periodicals/urm/urm_12_2000/urm1.html on Aug. 2, 2001.

⁷ NATIONAL LOW INCOME HOUSING COALITION, *OUT OF REACH* (2005), (based on federal affordability guidelines, or 30% of income or less spent on rent).

⁸ *Id.*

⁹ *Id.* at 17.

6. Housing policies penalizing renting to undocumented immigrants have a disparate impact on all immigrant communities in the housing market.
7. Women of color and lesbian, gay, bisexual, and transgender (LGBT) people of color are disparately impacted by lack of affordable housing, shelter space, and domestic violence leading to homelessness.
8. Because the populations eligible for government housing assistance are disproportionately composed of members of racial minorities, and federal policies have led to less available housing, and there is a lack of legal representation for such individuals, vulnerable minority populations suffer systemic discrimination as their housing needs are increasingly disregarded, in violation of articles 2(1)(c), 2(2), 5(a) and 5(e)(iii) of the International Convention on the Elimination of Racial Discrimination (“ICERD” or “the Convention”).
9. The following policy changes are recommended to cure these violations and shortcomings of the United States’ obligations under the Convention:
 - Eradicate laws and policies at the federal, state and local levels that criminalize homelessness by reviewing existing federal, state and local laws to ensure effective protection against racial discrimination and disparate impacts;
 - Prohibit the disproportionate enforcement of laws against minority homeless persons;
 - Create national and state Affordable Housing Trust Funds with dedicated line-item sources of funding for the creation, rehabilitation, and preservation of rental housing that is affordable to low income families;
 - Adequately fund the existing Housing Choice Voucher program (Section 8) and public housing facilities.
 - Encourage states to adopt, follow, and enforce best practices such as the California Housing Element law which requires each local jurisdiction to adopt a housing element of its general plan to meet the housing needs of all segments of the population through incentives, processes, and planning practices in their existing land use and police powers;
 - Increase resources for fair housing (non-discrimination enforcement) within the state and federally subsidized housing stock, including robust enforcement plans; and
 - Provide adequate legal representation for all who are unable to afford it in landlord-tenant suits.
 - Clarify the constitutional prohibitions against the enactment of legislation that limits the opportunities of undocumented immigrants through housing restrictions by city and county governments and adopt effective measures to enjoin the enforcement of such legislation and to make reparations any resulting harm.
 - Extend the model protections created for public housing in the Violence Against Women Act to protect *all* persons experiencing domestic violence in public or private housing;
 - Adequately increase resources for domestic violence shelters and transitional housing and permanent housing to meet the need and providing priority to domestic violence victims in obtaining permanent housing; and
 - Encourage state legislatures to revise their domestic violence statutes with a more comprehensive definition of “family” to afford the necessary protections to victims of LGBT domestic violence

I. Overview

10. This report will examine the racial impact of the violations of right to housing cited above, beginning with the criminalization of the homeless population as one of the most acute examples of racial discrimination in the U.S. This is followed by an analysis of the more subtle disparate impact of the reduction of federal contributions to affordable housing. Then follow case studies, on Los Angeles, California, and the state of Illinois, highlighting how the deficiencies in federal programs are compounded by state and local policies to the detriment of racial minority populations. The report then addresses discriminatory measures being taken against immigrant populations. It concludes with a brief analysis of the intersectionality of gender and race with regards to housing.
11. Racial segregation in housing and housing rights violations in the context of Hurricane Katrina are addressed in separate reports, but are inherently connected to the violations discussed in this report.

II. Criminalization of Homelessness

12. Given its enormous resources, one would have expected homelessness in the U.S. to have been dealt with in a positive way long ago. Unfortunately, rather than remedy the source of homelessness, many municipalities, with the acquiescence of the federal government, have instead chosen to try to sweep the problem under the rug by criminalizing the behavior of homeless persons. The U.S. report completely neglects to mention the unfortunate trend in cities around the country over the past 25 years to turn to the criminal justice system to target homeless persons by making it illegal to perform life-sustaining activities in public. These measures prohibit activities such as sleeping/camping, eating, sitting, and begging in public spaces, or the disproportionate enforcing of other laws, such as jaywalking and littering, against homeless persons, usually including criminal penalties for violation of these laws.
13. Although the U.S. government paints a very rosy picture of response to homelessness in ¶248 of the Periodic Report,¹⁰ the reality is that, in 2005, the need for emergency shelter was not being met. 71 percent of the 24 cities surveyed by the U.S. Conference of Mayors reported a 6 percent increase in requests for emergency shelter, with an average of 14 percent of overall emergency shelter requests going unmet, and 32 percent of shelter requests by homeless families unmet.¹¹ The lack of available shelter space leaves many homeless persons with no choice but to struggle to survive on the streets of our cities.
14. While collecting demographic information on unsheltered homeless populations is difficult, data on the sheltered homeless reveal that African Americans are disproportionately represented.¹²

¹⁰ Sixth Periodic Report of the United States of America to the Committee on the Elimination of Racial Discrimination, CERD/C/USA/6, 1 May 2007, available at http://ohchr.org/english/bodies/cerd/docs/AdvanceVersion/cerd_c_usa6.doc (hereinafter "US Report").

¹¹ U.S. CONFERENCE OF MAYORS, A STATUS REPORT ON HUNGER AND HOMELESSNESS IN AMERICA'S CITIES: A 24-CITY SURVEY 5 (2005).

¹² U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; ANNUAL HOMELESS ASSESSMENT REPORT 2005.

Table 2: Population Data from ACS; Homeless Data from AHAR

Race	Percent Total Population	Percent of sheltered homeless population	Percent of Population below poverty line
Total	100	100	12.6
White	67	41.1	8.3
Black	12.3	45	24.9
Latino	12.5	22.1	21.8

15. Because homeless persons are disproportionately racial minorities, these criminalization measures have a racially disparate impact in violation of Articles 1, 2 and 5 of the Convention. In 2006, the Human Rights Committee (HRC) recognized the severity of this problem, and issued a concluding observation stating:

The Committee is concerned by reports that some 50 % of homeless people are African American although they constitute only 12 % of the U.S. population. (articles 2 and 26)
The State party should take measures, including adequate and adequately implemented policies, to ensure the cessation of this form of de facto and historically generated racial discrimination.¹³

16. Racial profiling and race-based policing practices, discussed in greater detail in the report on police brutality and abuse in the United States, compound discrimination against homeless people of color by law enforcement agents.

Criminalization of Homelessness in Los Angeles

17. Los Angeles' Skid Row, a 52 block area of the city with approximately 4,000 homeless individuals and families, is a sad example of this criminalization trend. 69 percent of the homeless population in Skid Row is African American, versus only 10 percent in the rest of the city.¹⁴ In September 2006, the City announced its "Safer City Initiative" (SCI), bringing 50 new police officers to the area. SCI costs in excess of \$6 million per year, while the City is only spending \$5.7 million for emergency housing, services, and permanent housing in the remaining 464 square miles of the City.¹⁵ However, rather than targeting drug dealers and violent criminals in Skid Row, police have been recorded on videotape sitting and watching poor and homeless African Americans, waiting for them to commit a minor violation.

Portraits of Violations of African American Homeless Persons Rights

Otis Howard, a homeless African American man was watched by police officers from across the street for 15 minutes, as he smoked a cigarette. When he tipped the ashes onto the sidewalk, the officers rushed across the street, handcuffed him, and ticketed him for littering.

Leonard Woods, a poor African American man uses a wheelchair as a result of multiple back and neck surgeries. One day, he was prevented from crossing the street by the congestion on the sidewalk ramp. He recognized he would not be able to cross the street before the light changed, so he waited on the edge of the street, and crossed in a timely manner at the next light. When he reached the opposite side, he was cited for jaywalking because he had waited off the edge of the curb.

¹³ Human Rights Committee, *Concluding Observations on the Second and Third U.S. Reports to the Committee*, 87th Session, at para. 22, U.N. Doc, CCPR/C/USA/Q/3/CRP.4.

¹⁴ INTER-UNIVERSITY CONSORTIUM AGAINST HOMELESSNESS, ENDING HOMELESSNESS IN LOS ANGELES, (2007), http://www.usc.edu/dept/geography/ESPE/documents/WEB_Research.pdf.

¹⁵ Testimony of Gary Blasi, UCLA Professor of Law, University of California, Los Angeles, to State Legislators in Sacramento, CA (July 18, 2007).

18. In the first year of the SCI program, the Los Angeles Police Department (LAPD) has confiscated only three handguns, but have issued an average of 1,000 citations a month in Skid Row, primarily for jaywalking violations to African Americans. This is 48 to 69 times the rate of citation in the city at large.¹⁶ In contrast, on Thursday evenings, when Skid Row's rapidly gentrifying, white, affluent residents stroll about on "Gallery nights," their jaywalking, drinking publicly, and littering is ignored, while police rather than ticketing them, "protect" them from interaction with homeless persons.¹⁷
19. A jaywalking ticket carries a fine of \$117 in Los Angeles, more than half of a homeless person's \$221 general relief benefit. Between this steep fine and the inaccessibility of the courts for many homeless persons, these tickets often go unpaid, thus resulting in warrants for the arrest of the person, and leading to the collateral consequences of incarceration.

Policy Recommendation

20. The practice of criminalizing the behavior of homeless and minority persons is counter to the recommendations made by both the HRC and the Committee on the Elimination of Racial Discrimination ("CERD" or "Committee"), which indicated in its 2001 concluding observations on the U.S. that the Government has "obligations under the Convention and, in particular, to article 1, paragraph 1, and general recommendation XIV, to undertake to prohibit and to eliminate racial discrimination in all its forms, including practices ... that may not be discriminatory in purpose, but in effect. All appropriate measures should be taken to review existing legislation and federal, state and local policies to ensure effective protection against any form of racial discrimination and any unjustifiably disparate impact."¹⁸ The U.S. should take immediate steps to inform state and local officials that disproportionate enforcement of laws against minority homeless persons violates our obligations under the Convention, and that rather than criminalizing homelessness, government at all levels should instead take positive steps to fulfill the right to housing.

III. Racism in Affordable Housing in the United States

21. Since 2001, United States government policies regarding affordable housing have led to a reduction of eligible persons obtaining housing aid in a manner that disproportionately affects racial minorities, in violation of the Convention. In that period, public policy and government expenditures have disproportionately prejudiced minority sectors of the population, leading to increased vulnerability to homelessness.

International Legal Framework of the Right to Housing as Applied to the United States

22. Article 5(e)(iii) of the Convention specifically guarantees everyone equality in the enjoyment of the right to adequate housing. "States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to

¹⁶ GARY BLASI ET.AL, POLICING OUR WAY OUT OF HOMELESSNESS? THE FIRST YEAR OF THE SAFER CITIES INITIATIVE ON SKID ROW, (Sept. 2007), available at <http://www.law.ucla.edu/docs/Skid%20Row%20Safer%20Cities%20One%20Year%20Report.pdf>.

¹⁷ Police monitoring was done by the LA Community Action Network. For more information, see <http://www.congress.org/rights.htm>.

¹⁸ CERD, *Concluding Observations on the United States of America*, para. 393, U.N. Doc A/56/18 (2001).

race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ...the right to housing." In General Comment 14, the CERD clarified that to determine "whether an action has an effect contrary to the Convention, it will look to see whether that action has an unjustifiable *disparate impact* upon a group distinguished by race, colour, descent, or national or ethnic origin."¹⁹ This applies when the state abandons or neglects existing policies, as well as in the creation of new law.

23. The State Party incorrectly asserts in paragraph 148 of its report that the ICERD does not require ensuring the fulfillment of the rights enumerated in article 5.²⁰ However, the question is of discrimination in fulfillment of those rights. For instance, in Communication No. 31/2003, the Committee heard the case of Ms. L.R. and 26 other Slovak citizens of Roma ethnicity. Their city councilors had prepared a project to alleviate appalling housing conditions, but then dropped the initiative, which would have mostly benefited the Roma, an unpopular minority community. The Committee observed: "the definition of racial discrimination in article 1 expressly extends beyond measures which are explicitly discriminatory, to encompass measures which are not discriminatory at face value but are discriminatory in fact and effect, that is, if they amount to indirect discrimination."²¹
24. The Committee concluded that the council resolutions impaired the realization of the right to housing in a manner that particularly injured the equal status of the Roma community, and thus violated Article 5 of the Convention. To satisfy the equal enjoyment of housing for all races, a state must revise its housing plans to account for racial disparities and ensure that its policies do not perpetuate indirect discrimination.
25. The Committee has stated that it "cannot accept any claim that the enactment of law making racial discrimination a criminal act in itself represents full compliance with the obligations of States parties under the Convention."²² The state party outlines a number of laudable (if underfunded) programs dealing with fair housing enforcement,²³ However, federal and state housing policies have not adequately addressed the growing numbers of at-risk and homeless persons or households in squalid or untenable living conditions. This results in an unjustifiable disparate impact on racial minorities, contravening the requirements of Art. 5 as described above, and Art. 2(1)c's requirement to take effective measures against policies that perpetuate discrimination. Federal and state housing policies must therefore be amended and adequately funded to ensure the equal enjoyment of the right to housing.
26. In 2001, the Committee recommended in its Concluding Observations that the United States review its existing laws and policies to "ensure effective protection against any form of racial discrimination and any unjustifiable disparate impact."²⁴ Likewise, in 1995, the Special

¹⁹ Committee on the Elimination of Racial Discrimination, General Recommendation 14, *Definition of Racial Discrimination*, para. 114, U.N. Doc A/48/18 (1994), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 203, U.N. Doc. HRI/GEN/1/Rev.6 [emphasis added].

²⁰ See U.S. Report, at para. 148.

²¹ L. R. et al. v. Slovakia, Communication No. 31/2003, Para. 10.4, U.N. Doc. CERD/C/66/D/31/2003 (2005).

²² L.K. v. The Netherlands, Communication No. 4/1991, U.N. Doc. A/48/18 at 131 (1993).

²³ See U.S. Report, at para. 64-68. 246-254.

²⁴ Committee on the Elimination of Racial Discrimination, *Concluding observations on the United States of*

Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance observed that government housing programs in the United States had been deteriorating since the 1980s, and quoted the U.S. Commission on Civil Rights: "Civil rights law enforcement in areas such as education, housing, employment, and economic development has deteriorated steadily in recent years, and today, is incapable of meeting the social and economic challenges facing our increasingly diverse nation."²⁵

27. Article 2(2) of the Convention provides that state parties shall, when the circumstances so warrant, take special and concrete measures to ensure the adequate development and protection of certain racial groups in the social, economic, and cultural fields for the purpose of guaranteeing them equal enjoyment of human rights. In particular, under international law, "the international norms of non-discrimination and equality...demand that particular attention be given to vulnerable groups."²⁶ Accordingly, where racial minorities suffer from poorer housing conditions than their white counterparts, a state is obligated under the Convention to adopt targeted policies to improve their situation. In 1995, the UN Special Rapporteur on contemporary forms of racism and racial discrimination expressed the view that "30 years of intense struggle against racism and racial discrimination have not yet made it possible to eliminate the consequences of over 300 years of slavery and racial discrimination, particularly where African Americans are concerned." He recommended to the U.S. that "affirmative action programmes should be revitalized ... in the fields of health, housing, education and employment."²⁷

28. Equality of enjoyment entails affirmative obligations on the state to improve access and services for marginalized groups. At the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the participants resolved that:

We recognize the necessity for special measures or positive actions for the victims of ... racial discrimination... in order to promote their full integration into society. Those measures for effective action, including social measures, should aim at correcting the conditions that impair the enjoyment of rights and the introduction of special measures to encourage equal participation of all racial and cultural, linguistic and religious groups in all sectors of society and to bring all onto an equal footing. Those measures should include measures to achieve appropriate representation in ... housing...²⁸

29. As demonstrated in the next section, since 2001 the United States federal government has, among other prejudicial changes in policy, reduced spending on the Department of Housing and Urban Development's (HUD) affordable housing programs, including voucher programs

America. 14/08/2001, paras. 380-407, U.N. Doc. A/56/18.

²⁵ Commission on Human Rights, *Report by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on his Mission to the United States of America from 9 to 22 October 1994*, p. 29, U.N. Doc E/CN.4/1995/78/Add.1.

²⁶ Commission on Economic, Social, and Cultural Rights, *Report Mr. Miloon Kothari, Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, para. 43, U.N. Doc E/CN.4/2002/59.

²⁷ Commission on Human Rights, *Report by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on his Mission to the United States of America from 9 to 22 October 1994*, p. 32, U.N. Doc E/CN.4/1995/78/Add.1.

²⁸ *Report of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance*, para. 108, U.N. Doc A/CONF.189/12 (2001).

and public housing services. This has caused a corresponding reduction in available housing assistance and a negative impact on the people in need of housing aid, who are disproportionately racial minorities. The changes in government housing assistance policy have reduced and limited publicly assisted housing and perpetuated racial discrimination in the enjoyment of the right to housing.

Decreases in Publicly Assisted Housing Results in a High Housing Cost Burden and High Rates of Homelessness, Disproportionately Affecting Racial Minorities

30. The government makes multiple statements in its report that HUD provides affordable housing to disproportionately minority populations.²⁹ While this is true, since 2001, a number of government policies have led to reductions in the stock of publicly assisted housing and the number of eligible persons served over the last several years. While the federal government appropriates roughly \$38 billion to housing and community development, only 25 percent of the eligible renter households receive assistance.³⁰ The effects have dramatically decreased the number of people served, leaving a high number of households with high housing cost burden and high rates of homelessness, disproportionately affecting racial minorities.

31. Three principle government programs affect the access to affordable housing:

- **Public Housing** is government-funded, multi-unit housing. Eligibility for public housing is limited to low income families who do not earn more than 80 percent of the area median income (AMI). Many Housing Authorities target units to households and families at very low income (VLI) levels (50 percent AMI) and/or extremely low income (ELI) levels (30 percent AMI.) It is ultimately up to the Housing Authority how they allocate their limited resources.³¹
- **Housing Choice Voucher Program (Section 8)** provides vouchers which allow renters to pay 30% of their income for rent, with the voucher reimbursing private landlords the remainder of the fair market rent. A number of government-built, privately owned buildings are also funded through the project-based section 8 program. Households must not earn more than 50 percent AMI to be eligible. By law, 75 percent of vouchers must be targeted to ELI households, earning no more than 30 percent AMI.³² Approximately 1.3 million families are served through this program.³³
- **Privately-owned, government-subsidized multifamily stock**, today comprising some 1.7 million low income families, serve those earning less than 80% AMI.

32. A number of policy changes have resulted in a loss of units.

- The number of tenant-based section 8 vouchers authorized by the federal government has increased to 2.14 million. But changes in the section 8 funding formula have led to a loss of 150,000 vouchers since 2004.³⁴ The voucher utilization rate has also fallen in recent years.

²⁹ See, e.g. U.S. Report, at para. 254.

³⁰ Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing 2006*.

³¹ U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *AFFORDABLE HOUSING NEEDS: 2005* (2007).

³² *Id.*

³³ *Id.*

³⁴ Rice, D. & Sard, B. *The Effects of the Federal Budget Squeeze on Low Income Housing Assistance*. Center on Budget and Policy Priorities. Feb. 2, 2007.

In 2003, 98.5 percent of authorized vouchers were actually in use, this fell to 92.6 percent in 2006.³⁵

- A number of federally subsidized, private market units have dropped out of the affordable housing stock. In the last ten years, 300,000 units have been lost to deterioration, largely due to an inadequate funding level that did not provide for rehabilitation.³⁶ More than 400,000 additional units have been lost since 1996, when Congress ended the Title VI Preservation regulatory program, which required owners of subsidized buildings to maintain affordable rental levels below market rate. The Joint Center for Housing Studies estimates that there is an annual loss of 200,000 private market rental units due to demolition.³⁷ Funding for such units has declined in the last ten years, threatening the 1.4 million private units that are a part of the federally subsidized, affordable housing stock.
- In 2001 the total number of occupied public housing units was 1.85 million. This decreased to 1.793 million in 2003 and, due to a number of program changes (most notably HOPE VI, which replaces low income units with mixed-income) increased to 1.89 million in 2005.³⁸

33. Households that are eligible for publicly assisted housing are disproportionately minority.

VLI households eligible for public housing, already disproportionately minority, have experienced a growth since 2001. While the eligible white population has decreased, the Hispanic population who qualify for assisted housing has increased.

	VLI Renters	VLI White	VLI Black	VLI Hispanic
2001	15,054,000	51.16	25.30	17.36
2003	15,658,000	48.56	23.95	20.82
2005	16,072,000	49.20	24.70	19.71

The most vulnerable eligible population, extremely low income (ELI) renter households, those who earn only 30 percent of the area median income (AMI,) number over 9.7 million, and 51 percent of these households are minority-headed.³⁹

34. Households affected by the loss and lack of affordable housing are disproportionately minority.

The shrinking stock of affordable housing both assisted and private stock, has led to severe housing cost burden among low-income households. Housing affordability problems are particularly widespread among racial minorities. Minority households have a higher housing cost burden compared to white households. According to the Joint Center for Housing Studies at Harvard University, “regardless of income, the incidence of [cost] burden is higher among minorities than whites. Approximately 78 percent of minority households in the

³⁵ *Id.*

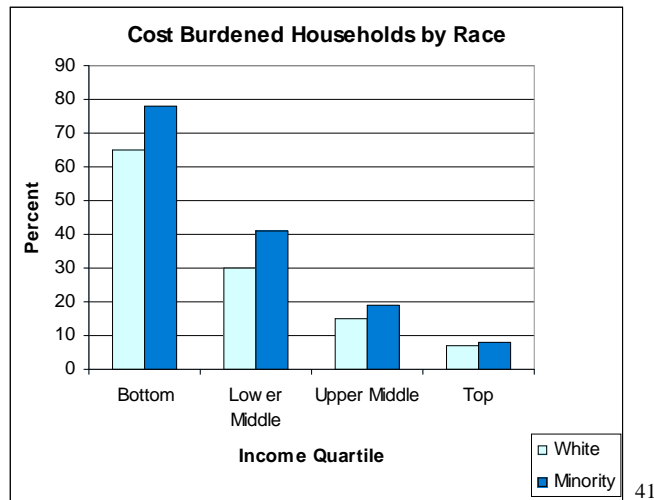
³⁶ *Id.*

³⁷ Joint Center for Housing Studies of Harvard University, *America’s Rental Housing – Homes for a Diverse Nation* (2006).

³⁸ U.S. Census Bureau, *American Housing Survey 2005*.

³⁹ U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *AFFORDABLE HOUSING NEEDS: 2005* (2007).

bottom income quartile are cost burdened compared to 62 percent of white households.⁴⁰ Across all income groups, minorities had higher levels of cost burden.



Between 2001 and 2005 the percent of very low income households with worst case housing needs by race/ethnicity has changed. The rate of worst case housing needs of white, VLI households increased from 36.3 to 39.2. Black VLI households also experienced an increase from 30.2 to 33.5, and Hispanic VLI households grew from 30.2 to 36.9. When compared to the rates of the overall population, black and Hispanic households are overrepresented.

35. Lack of affordable housing disproportionately affects racial minority households and drives homelessness among these populations.

Policy Recommendations

36. Contrary to the government's assertion in paragraph 148 of its report, the Convention does require that State Party to take affirmative measures to ensure the social, economic, and cultural equality of racial minorities. The United States is not meeting its obligations to guarantee the enjoyment of equal rights to housing for racial minorities, because reductions in housing aid have had a disparate impact on minority populations in violation of Convention articles 2(1)(c), 2(2), and 5(e)(iii). The state is obligated to review and amend governmental laws and policies which perpetuate racial discrimination, whether in purpose or effect, and to take affirmative steps to target and protect the enjoyment of equal rights of minorities. Such steps should include:
 - Create a National Affordable Housing Trust Fund that does not depend on appropriations but receives a dedicated source of funding from Fannie Mae, Freddie Mac, and the Federal Housing Administration for the creation, rehabilitation, and preservation of rental housing that is affordable for low income families.
 - Adequately fund the Housing Choice Voucher program (Section 8) and public housing facilities such that the waiting lists for these programs are progressively lessened through the adequate housing of all needy families.

⁴⁰ JOINT CENTER FOR HOUSING POLICY OF HARVARD UNIVERSITY, STATE OF THE NATION'S HOUSING, 2005.

⁴¹ *Id.*

IV. The Racial Impact of the Lack of Affordable Housing in Los Angeles

37. Los Angeles (L.A.) is known as the “homelessness capital” of the U.S., with more homeless persons than all other U.S. states, except for California; every night there are almost 90,000 persons without permanent housing across the County.⁴² Racial minorities are disproportionately represented among the homeless in L.A. County, including 39% African American compared with 9.8% for the population at-large and 3% American Indian or Alaska Native, compared with 0.3% for the County as a whole.⁴³ In the City of L.A., African Americans are nearly half the homeless population but only a tenth of the total population.⁴⁴
38. Almost 90% of homeless individuals and families in L.A. County sleep on the streets, in parks, and in other places not fit for human habitation, such as cars, garages, and abandoned buildings.⁴⁵ The majority go unsheltered because there are a little more than 13,000 shelter and transitional housing beds for the 90,000 homeless.⁴⁶ In a recent countywide survey of the homeless population, almost 30% of respondents had recently tried to access an emergency shelter or transitional housing program but had been turned away, most often due to a lack of program availability.⁴⁷
39. Racial minorities dependent upon public assistance are many times more likely to experience homelessness than their white counterparts. Among families, for example, a 2005 study of the CalWORKS program, the state welfare-to-work program, revealed that the incomes of housed recipients and those of homeless recipients were nearly identical. Racial minorities, however, were over-represented among homeless recipients, with 62.3% being Latino, 43.6% African American, and only 11.8% Caucasian.⁴⁸
40. Despite the magnitude of homelessness in Los Angeles, the City has not responded with public investment commensurate with the need as compared to other cities with much smaller homeless populations. In 2005, Los Angeles spent less than \$1 per capita to address

⁴² LOS ANGELES HOMELESS SERVICES AUTHORITY AND APPLIED SURVEY RESEARCH, 2005 GREATER LOS ANGELES HOMELESS COUNT: EVERYONE COUNTS IN L.A.,

<http://www.lahsa.org/archive/homelesscount2005/pdfs/LAHSAReport%20-%20Final%20Version6-4.pdf>.

⁴³ *Id.*

⁴⁴ *Policing Our Way out of Homelessness? The First Year of the Safer Cities Initiative on Skid Row*, September 24, 2007, a comprehensive study of the first year of the Safer Cities Initiative authored by Gary Blasi, UCLA School of Law, and the UCLA School of Law Fact Investigation Clinic, at 12.

⁴⁵ *Id.*

⁴⁶ Testimony of Gary Blasi, UCLA Professor of Law, University of California, Los Angeles, to State Legislators in Sacramento, CA (July 18, 2007).

⁴⁷ LOS ANGELES HOMELESS SERVICES AUTHORITY AND APPLIED SURVEY RESEARCH, 2005 GREATER LOS ANGELES HOMELESS COUNT: EVERYONE COUNTS IN L.A.,

<http://www.lahsa.org/archive/homelesscount2005/pdfs/LAHSAReport%20-%20Final%20Version6-4.pdf>.

⁴⁸ CALWORKS, HOMELESS FAMILIES REPORT TO THE COUNTY OF LOS ANGELES BOARD OF SUPERVISORS (2005), http://www.ladpss.org/dpss/REQAD/pdf/CW_Homeless_Families_2005.pdf.

homelessness, while Chicago spent \$3 (6,700 homeless⁴⁹), Boston spent \$8 (6,400 homeless⁵⁰), and Seattle spent \$13 (7,800 homeless⁵¹).⁵²

41. The most visible manifestation of the staggering homeless population can be found in Los Angeles' Skid Row neighborhood, a 52 block area which, until a recent police "crackdown" described above, had approximately 4,000 homeless individuals and families, about half sleeping on the streets and half in shelters on any given night. African Americans are overrepresented among the homeless on Skid Row by a factor of 7, making up 69 percent of the homeless population. Native Americans are overrepresented by a factor of 2.⁵³

The Ever Widening Affordability Gap in Los Angeles

42. The Los Angeles rental market is growing increasingly out of reach for low-income and homeless households. The average rent in the City of Los Angeles is \$1,750, while it is \$1,642 in Los Angeles County. This is an 82% jump in the last 10 years.⁵⁴ Wages, conversely, have only increased an average of just one percent a year since 1996.⁵⁵
43. Racial minorities are disproportionately likely to suffer from this mushrooming housing-income gap. African Americans and Latinos are two-and-a-half times more likely to be extremely poor than non-Hispanic whites.⁵⁶ Furthermore, only 28.2% of Black workers and 14.9% of Latino workers earn suitable wages as compared to 41.6% of white workers.⁵⁷
44. The precipitous rise in housing costs in Los Angeles County, coupled with relatively flat wages, is threatening the housing security of minority residents. From 1999 to 2003, Los Angeles saw a 56% increase in the number of working families (full-time employment earning less than 120% of area median income; approximately \$70,000 per year for a family of four) with critical housing needs, defined as paying more than 50% of one's income towards housing and/or living in dilapidated conditions.⁵⁸ Out of 31 major metropolitan areas in this country, including New York, Philadelphia, Chicago, and Seattle, Los Angeles has the highest percentage of renters and homeowners with critical housing needs.⁵⁹

⁴⁹ Chicago Continuum of Care, 2005 Homeless Count,

<http://www.chicagocontinuum.org/tenyrplan/chihomeless.html>.

⁵⁰ City of Boston, 2005-2006 Homeless Census, http://www.cityofboston.gov/shelter/pdfs/report_05.pdf.

⁵¹ 2007 Annual One Night Count of People Who Are Homeless in King County, WA. Seattle/King County Coalition on Homelessness, <http://www.homelessinfo.org/ONCreportv2.pdf>.

⁵² Troy Anderson, *L.A.'s Homeless Strategy Called Inadequate*, LA DAILY NEWS, Jan. 29, 2007.

⁵³ INTER-UNIVERSITY CONSORTIUM AGAINST HOMELESSNESS, ENDING HOMELESSNESS IN LOS ANGELES (2007). http://www.usc.edu/dept/geography/ESPE/documents/WEB_Research.pdf.

⁵⁴ Nancy Cleeland, *Low Pay, High Rent, Wit's End*, LOS ANGELES TIMES, Oct. 24, 2006.

⁵⁵ LOS ANGELES ALLIANCE FOR A NEW ECONOMY, POVERTY, JOBS AND THE LOS ANGELES ECONOMY: AN ANALYSIS OF U.S. CENSUS DATA AND THE CHALLENGES FACING OUR REGION, (2007), http://laane.org/docs/research/Poverty_Jobs_and_the_Los_Angeles_Economy.pdf.

⁵⁶ *Id.*

⁵⁷ UC BERKELEY LABOR CENTER, JOB QUALITY AND BLACK WORKERS: AN EXAMINATION OF THE SAN FRANCISCO BAY AREA, LOS ANGELES, CHICAGO, AND NEW YORK, (2007), http://laborcenter.berkeley.edu/blackworkers/black_workers_2007.pdf.

⁵⁸ Center for Housing Policy, *The Housing Landscape for America's Working Families 2007*, http://www.nhc.org/pdf/pub_landscape2007_08_07.pdf.

⁵⁹ *Id.*

45. Soaring housing costs are also creating structural barriers for persons trying to exit homelessness. It is increasingly common for homeless families and individuals to remain in the emergency shelter and transitional housing systems for extended periods of time, cycling from one program to another for months and sometimes years, without a resolution to their housing problems. A recent study of family shelters and transitional housing programs in Los Angeles County found that 39% of participating families came directly from another program and almost 45% of programs reported longer lengths of stay from 2003 to 2005, with the lack of affordable housing cited as a primary cause of families remaining homeless.⁶⁰

The Scarcity of Affordable Housing Despite Established Policy

46. The primary remedy for homelessness, affordable housing, is in woefully limited supply in the city and county, due to both production and preservation problems.

47. California's Housing Element law is a model program that directs local governments to use their land use and zoning powers to provide for the housing needs of all economic segments of the community, including special needs populations such as the homeless and the disabled. Essentially, the state law is a requirement to *plan* for, not necessarily produce, sufficient numbers of units to accommodate a city's housing needs. Nevertheless, the state mandate has proven to be an effective tool; "from 1999 to the present, compliant jurisdictions that have appropriately planned in compliance with state law supplied between 78 and 92 percent of all multifamily permits issued in California."⁶¹

48. Unfortunately, this law is has inadequate enforcement mechanisms. Only 28.4% of the Southern California region allocated affordable housing need was met between 1998 and 2005.⁶² Moreover, according to the California Department of Housing and Community Development's Housing Element Report, 20 cities in 2007 in L.A. County alone had failed to adopt compliant housing elements designed to further the planning of affordable housing.⁶³

49. For example, in its Housing Element, the City of L.A. was charged with producing, at a minimum, about 28,400 affordable units between 1998 and 2005,⁶⁴ but came at least 8,000 units shy of meeting that goal.⁶⁵ In 2006, the City also fell far short of its annual affordable housing goal.⁶⁶ Ironically, in the same year, the City built more than double the number of *higher* income units than it was required to build.

⁶⁰ SHELTER PARTNERSHIP, OPERATING AT CAPACITY: FAMILY SHELTERS IN LOS ANGELES COUNTY, http://www.shelterpartnership.org/documents/FinalFamilyReport_000.pdf.

⁶¹ Status of Housing Elements in California, 2004 State Department of Housing and Community Development report to the legislature.

⁶² Housing Element Compliance and Building Permit Issuance in the SCAG Region, April 2006; Table 2— because there is no uniform, reliable data source for the creation of lower income housing units, SCAG used Lower Income Housing Tax Credit projects and units as a minimum measure of achievement.

⁶³ CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT 2007 HOUSING ELEMENT COMPLIANCE REPORT 9-11 (2007).

⁶⁴ Regional Housing Needs Assessment Numbers, found at: <http://api.ucla.edu/rhna/RegionalHousingNeedsAssessment/DraftNumbers/Frame.htm>; See also CITY OF LOS ANGELES, 2005-2006 ANNUAL PROGRESS REPORT ON IMPLEMENTATION OF THE HOUSING ELEMENT, 3.

⁶⁵ Livable Places, Are We Producing Enough Affordable Housing?. <http://www.livableplaces.org/policy/index.html>

⁶⁶ See CITY OF LOS ANGELES, 2005-2006 ANNUAL PROGRESS REPORT ON IMPLEMENTATION OF THE HOUSING ELEMENT, 3.

50. Related to this failure to produce is the failure to preserve. The City has made decisions to approve conversions and demolitions in flat contravention of the policy contained within the City's Housing Element to "*discourage development, demolition and conversions that contribute to the loss of affordable housing.*" The City has lost over 12,000 of its rent-controlled units since 2001, resulting from the City's actions in affirmatively approving condo conversions and demolitions of these properties for other uses.⁶⁷ The pace has only accelerated since the beginning of 2005, with the loss of almost 7,000 rent-controlled units during that time period.⁶⁸ This rapid loss of existing stock has essentially negated housing production efforts. While 12,800 affordable housing units were built using city money from 2001-2006, this production resulted in a net gain of less than 1,000 units citywide over a six-year period when affordable unit loss is considered.⁶⁹ Moreover, despite a 97.3% occupancy rate for the Los Angeles area⁷⁰, the City has rarely enforced a 1981 law that enables it to reject permit applications for condo conversions when the rental vacancy rate falls below 5% and the project would have a significant impact on the local rental market.⁷¹
51. Advocates have fought strenuously over the past year to encourage the City to enact stronger policies regulating demolitions and conversions of existing housing, but the only tangible outcome to date has been an increase in the relocation assistance amounts offered to displaced tenants.

Policy Recommendations

52. The U.S. Senate acknowledged in its understanding issued together with ratification of the Convention that state and local governments are responsible for implementing the Convention to the extent of their jurisdiction.⁷² In fulfilling these obligations:
- At the state level, states should follow the best practice of the California Housing Element law, with its requirements that each local jurisdiction to plan appropriately to meet the housing needs of all segments of society. However, in California and elsewhere, the law must be adequately enforced so that policies that support and fund greater preservation and production of housing for every level of income, particularly the very lowest, are fully implemented.
 - At the city level, in addition to adopting Housing Elements that comply with state law and plan for the retention and production of affordable housing, all localities must rely upon their existing land use and police powers to maximize the expansion of affordable housing through reliance upon discretionary processes, zoning regulations, development

⁶⁷ Los Angeles Housing Department, Units Lost Through Ellis Evictions.

⁶⁸ Brad A. Greenberg, *Condominium Upsurge Triggers Backlash; Renters, Others Say Trend Ruins Community Feel*, L.A. DAILY NEWS, June 12, 2006.

⁶⁹ CARA DIMASSA & STEVE HYMON, AFFORDABLE HOUSING BOND ASKS VOTERS FOR THEIR VISION OF L.A., LOS ANGELES TIMES, Nov. 1, 2006.

⁷⁰ MPF Yieldstar, Second Quarter of 2006 Occupancy Rates, as contained in a November 1, 2006 Motion by Council Members Herb Wesson and Ed Reyes Directing the Planning Department to report back to the Housing, Community and Economic Development Committees and the Planning and Land Use Management Committee on Los Angeles Municipal Code Section 12.95.2(F)(6).

⁷¹ Steve Hymon *Council Panel Told Tenant Law Not Enforced*, LOS ANGELES TIMES, Nov. 1, 2006.

⁷² U.S. reservations, declarations, and understandings, International Convention on the Elimination of All Forms of Racial Discrimination, 140 Cong. Rec. S7634-02 (daily ed., June 24, 1994).

incentives, environmental requirements, inclusionary zoning laws, and other sound planning practices that prevent affordable housing erosion.

V. The Right to Housing In Illinois and Chicago

53. The U.S. Report cites the civil rights mechanisms of Illinois and its largest city, Chicago, as one of its case studies in Appendix 1 to its report. While it describes the many laudable aspects of the state and city human rights commissions, which enforce the *negative* prohibitions against racial discrimination, it fails to cite any *positive* measures take to combat the defacto discrimination in housing and homelessness. However, consistent with the national homeownership gap cited in ¶ 244 of the U.S. Report, there are significant gaps in homeownership rates for different groups in Illinois. 77% of whites own homes compared to 50% of minorities⁷³. 49.6% of those who rent are Rent-Burdened (spend over 30% of their income for housing – rent, utilities, and fuels)⁷⁴.
54. The median household net worth (the difference between household assets and household liabilities) has a gap between White Non-Hispanic and minorities of \$93,590. White Non-Hispanic median household net worth is \$111,750, while the median household net worth for minorities is \$18,160⁷⁵. This disparity hinders minority households from saving and decreases their security.
55. According to a recent study, only 20 percent of current and potential Chicago homeowners can afford the city’s median home price of about \$250,000.⁷⁶ Data from the Cook County assessors’ office reveals that between 1984 and 2004, Chicago lost half of its inventory of apartment buildings with seven or more units, but saw a 94 percent increase in the number of condominiums over the same time frame.⁷⁷ In September 2006, Chicago’s foreclosure rate was more than twice the national average.⁷⁸ African-American mortgage-holders in Chicago are hardest hit with 40% receiving high cost and difficult to renegotiate loans, compared to only 10% among whites.⁷⁹
56. In Chicago, the city with the greatest population of people of color in the state of Illinois, there are approximately 133,000 households (about 13 percent of households in the city) who can afford only \$250 a month for housing every month, although only about 37,000

⁷³ Heartland Alliance for Human Needs and Human Rights, Spotlight on Assets: The Future of Economic Security for all Illinoisans, (2007), <http://www.heartlandalliance.org/maip/research.html>.

⁷⁴ Heartland Alliance for Human Needs and Human Rights, 2007 Report on Illinois Poverty, <http://www.heartlandalliance.org/maip/research.html>.

⁷⁵ Heartland Alliance for Human Needs and Human Rights, Spotlight on Assets: The Future of Economic Security for all Illinoisans. (2006). <http://www.heartlandalliance.org/maip/research.html>.

⁷⁶ “Affordable Housing Outlook and Conditions: An Early Warning for Intervention.” UIC Nathalie P. Voorhees Center for Neighborhood and Community Improvement March 2006, available at <http://www.uic.edu/cuppa/voorheesctr/>.

⁷⁷ Chicago Rehab Network. Information available at <http://www.chicagorehab.org>

⁷⁸ Yue, Lorene. “Chicago foreclosure rate twice national average.” Crain’s Chicago Business October 24, 2006.

⁷⁹ Hughes, Zondra. “Middle Class and Homeless – Unlikely Families Face Foreclosure.” Chicago Defender. May 21, 2007. Available at http://news.newamericamedia.org/news/view_article.html?article_id=1b33a9ec66b96536d3a1e0ebddda875d

apartments rent for that price.⁸⁰ This means that the city is short by nearly 100,000 units affordable to poor households.

57. People living in poverty are more likely to participate in federal and state housing assistance programs. 28% of Black and 17.7% of Hispanic populations live in poverty in Illinois compared to 7.3% of White Non-Hispanics⁸¹. Federal and state housing assistance programs, meant to serve as a last resort, face looming demands that far exceed available resources. Even for those fortunate enough to receive a housing unit or a housing voucher, significant problems can persist, such as racial and economic segregation, placement in high crime areas with little or no economic development opportunities, overcrowded and infested buildings, and unresponsive landlords⁸². The state of housing in Illinois only serves to perpetuate poverty and racial discrimination.
58. Despite the assertions of the government in ¶254 of its report, and completely neglected in the Illinois case study in Appendix 1, the need for public housing in Illinois far exceeds demand. There is a supply of 63,810 units and 65,184 households on the waiting list. At any given time, over half of the public housing authorities in Illinois have closed waiting lists for Housing Choice Vouchers – meaning families cannot even sign up to wait for assistance. 81.1% of Illinoisans eligible for Housing Choice Vouchers are not receiving them.⁸³
59. Indeed, the Chicago housing market is becoming more inaccessible each day. Public housing is being eradicated, project-based Section 8 contracts in buildings housing thousands of people are set to expire, homelessness is on the rise, condo conversions have saturated the market, and private low income and affordable housing options have virtually disappeared.
60. Official responses to the homelessness, public housing, and affordable housing crisis fall short of helping poor people of color stay in Chicago.
61. In Chicago’s rapidly changing housing market, the people suffering most from a lack of affordable housing are those without any housing at all. In FY 2005, the Chicago Department of Human Services served 18,873 people in homeless shelters. That same year, it turned away 14,476 adults seeking emergency beds, 5,000 seeking safety in domestic-violence shelters, and 738 young people from youth sanctuaries.⁸⁴ According to one estimate, the actual number of homeless individuals and families in Chicago hovers around 21,078 on a “typical night.” From October 1, 2005 through September 30, 2006, 73,656

⁸⁰ 2005 American Community Survey, U.S. Census

⁸¹ Heartland Alliance for Human Needs and Human Rights, 2007 Report on Illinois Poverty, <http://www.heartlandalliance.org/maip/research.html>.

⁸² Heartland Alliance for Human Rights and Human Needs, In Our Backyard: Human Rights in the Heartland (2004), <http://www.heartlandalliance.org/maip/research.html>.

⁸³ Heartland Alliance for Human Needs and Human Rights, Not Even a Place in Line 2007: Public Housing and Housing Voucher Capacity and Waiting Lists in Illinois, <http://www.heartlandalliance.org/maip/research.html>.

⁸⁴ “Unaddressed: Why Chicago’s 10-Year Plan to End Homelessness will not work.” Coalition for the Homeless August 2006, available at <http://www.chicagohomeless.org/>.

Chicagoans found themselves without a place to sleep, including 26,413 children.⁸⁵ By one estimate, over 90% of Chicago's homeless population people of color - 80% African-American, 9% Latino, 1% Native American, and 1% Asian.⁸⁶ Last year, the Chicago public schools counted 10,516 homeless students, a 17 percent increase over the previous year.⁸⁷ In a public school system where over 90% of the students are youth of color, this is a racially significant figure.⁸⁸ Without new prevention and permanent housing resources, the city's meager measures will have a devastating effect on homeless Chicagoans of color, and stand in the way of any significant steps toward eradicating homelessness.

62. Chicago's 10-year Plan to End Homelessness, launched in 2003, severely underestimates the number of new permanent housing units needed because it only counts people currently in the shelter system, ignoring increasing numbers of people living in precarious housing situations. Since 2003, the City of Chicago has added only \$3 million to the 10-year plan. This is only enough funding to create 18 new units of affordable housing for a city of nearly three million residents.⁸⁹ Additionally, the city plans to eliminate more than 1,200 shelter beds by 2012, representing a 32 percent reduction.
63. In Chicago Mayor Richard Daley's plan to set aside affordable units in new developments, the so-called "affordable" units would be open to families earning up to 100 percent of the Chicago Area Median Family Income (AMFI), currently \$72,400. In the city's neighborhoods of color, however, family income is considerably lower. For instance, in the predominantly African-American neighborhood of Englewood the family median income is \$37,495. In North Lawndale it is a mere \$34,902.
64. Under its Plan for Transformation, the Chicago Housing Authority has sought to demolish the existing stock of affordable housing in favor of mixed-income development. 19,000 units of public housing have already been demolished without replacement. The dislocation of residents of Chicago public housing is an issue of racial justice given that approximately 84% of residents are African-American and 5.4% Latino.⁹⁰
65. The Plan for Transformation guaranteed the CHA \$1.6 billion in federal funds to demolish 51 high-rise buildings over a 10-year period and to replace them with lower-density, mixed income housing. However, when completed, the plan will have a total of 25,000 units - 13,000 fewer than Chicago had when the plan was approved in 2000.⁹¹ Based on the number of occupied units at the time and not the number of families in need, the CHA plan falls well short of the estimated need for 153,000 affordable housing units for people earning less than

⁸⁵ "How Many People Are Homeless in Chicago?" Coalition for the Homeless December 2006, available at <http://www.chicagohomeless.org/HL%20count%20release%2012-06.doc>

⁸⁶ "Hunger and Homelessness Survey." United States Conference of Mayors, December 2006, available at <http://usmayors.org/uscm/hungersurvey/2006/report06.pdf>

⁸⁷ Heybach, Laurene. "New measure would reduce homelessness." Chicago Sun-Times December 8, 2006.

⁸⁸ "CPS at a Glance." Chicago Public Schools. Available at <http://www.cps.k12.il.us/AtAGlance.html>

⁸⁹ Chicago Coalition for the Homeless, op. cit.

⁹⁰ "Our Readership." We the People Media. Available at <http://www.wethepeoplemedia.org/Backgrounder/Readership.htm>

⁹¹ "Chicago Housing Authority: Plan for Transformation." Chicago Housing Authority January 6, 2000.

\$20,000 a year, a figure determined by a city-supported study completed before the plan was approved.⁹²

66. Nearly six years into the plan, evidence confirms that many families remain without housing or have been re-segregated into very poor and underserved neighborhoods.⁹³ Many have moved into housing with lead contamination and other problems.⁹⁴
67. CHA qualifying policies, moreover, have a disproportionate impact on people of color. Anyone considered in default of a CHA lease, owing money to a utility company, and ex-offenders with drug offenses are prohibited from occupying new public housing developments or Section 8 homes. Upheld by the U.S. Supreme Court in March 2002, this last exemption reflects the national “one strike” policy that can result in eviction of entire families if one member or a visitor is convicted of a drug-related offense on CHA property.⁹⁵
68. Additionally, there is an active effort within public housing developments in Chicago to displace the current residents in favor of gentrification. At the request of the Chicago Housing Authority, the Chicago Police Department is stopping African American men, women and children in the Cabrini Green and Harold Ickes housing developments, checking their identification, and if they do not possess a local address, charging them with trespassing, even if they have a valid reason to be in the area. Police data show that there are over 220 arrests per month for trespassing.⁹⁶ Sadly these numbers only represent two of the many public housing communities throughout America where similar systematic human right abuses take place.

Policy Recommendations

69. Again, the U.S. has recognized the obligation of state governments to implement the treaty to the extent of their jurisdiction. Accordingly, the Illinois should:
 - Reform the state’s Real Estate Transfer Tax to provide more funding to the **Illinois Affordable Housing Trust Fund** and require that 20% of the moneys appropriated to the Trust Fund be used to pay costs of crediting or preserving permanent supportive housing. This legislation is still pending.
 - Include a line item in the Illinois **capital budget** to support the construction and preservation of affordable housing statewide through the Illinois Housing Development Authority. Affordable housing belongs in the capital budget because affordable housing is a long-term asset that serves to strengthen communities
 - Increase resources for and robust enforcement of plans to affirmatively further **fair housing** within the state and federally subsidized affordable housing stock.

⁹² “For Rent: Housing Options in the Chicago Region.” Great Cities Institute University of Illinois at Chicago 1999.

⁹³ “Chicago Housing Authority and Housing Advocates Settle Lawsuit over Resident Relocation,” Sargent Shriver National Center on Poverty Law, available at <http://www.povertylaw.org/>. Based on Wallace v. Chicago Housing Authority, No. 03 C 491 (N.D. Ill.) settled June 2, 2005.

⁹⁴ Antonio Olivo, John Bebow and Darnell Little, “Landlords fail to fix poor’s housing woes.” Chicago Tribune May 22, 2005.

⁹⁵ http://www.povertylaw.org/advocacy/womanview/index.cfm?action=show_article&id=908

⁹⁶ Chicago Police Department, Clear Map Crime Incidents, <http://gis.chicagopolice.org/CLEARMap/startPage.htm>.

- Cease disparate enforcement of trespassing laws in public housing.

VI. Lack of Representation in Housing Court in NYC Disparately Affects Minorities

70. New York City presents a case study of how inequalities disparately affect racial minority populations at every stage of the process from lack of affordable housing, to eviction, to homelessness. The lack of legal counsel during the eviction process prevents many from accessing their right to housing.
71. The Vera Institute for Justice was commissioned by the New York City Department of Homeless Services to investigate the characteristics of families applying for homeless shelter. The neighborhoods a majority of families seeking shelter services come from have staggeringly high percentages of households of color –ranging from 88 to 98%.⁹⁷ In contrast, three of the neighborhoods that sent the *least* families into the shelter system were Upper East Side of Manhattan, where 85.0% of households are white, Midtown Manhattan, where 79.2% of households are white, and Greenwich Village/Soho, where 84.0% are white.
72. These same neighborhoods of color are also the ones with the highest rates of vacant buildings, the most serious housing code violations per unit, and the highest rate of environmentally-induced health problems such as asthma and lead poisoning.
73. Overall, according to New York City statistics, 90% of people living in homeless shelters are Black and/or Latino. The impact of displacement and homelessness, then, is statistically far more likely to be borne by people of color. The failure of government to address this stark disparity amounts to racial discrimination at the policy level and a violation of obligations under article 2 of the Convention.
74. In addition to gentrification forces, inequalities in access to the courts in housing disputes, in violation of article 5 of the Convention, contribute significantly to homelessness in New York City. Over 300,000 cases are filed annually in the Housing Part of the Civil Court of the City of New York, which serves to litigate disputes between landlords and tenants.⁹⁸ Fifty judges are assigned to adjudicate the entire caseload.⁹⁹ The decisions made in the Housing Court often determine whether tenants will be evicted from their homes or whether

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<i>Neighborhood</i>	<i>% Households Of Color</i>
Bedford/Stuyvesant	90.9 %
East New York	88.2%
Morris Heights, University Heights, Fordham	96.1%
Highbridge, Concourse	94.3%
Sound View	95.6%
Central Harlem	86.7%
Jamaica, S. Jamaica, Hollis	98.4%
Ocean Hill, Brownsville	96.4%
Mott Haven, Melrose	97.5%
Melrose, Morrisania, Claremont, Crotona Park East	91.9%

⁹⁸ “Welcome to the New York State Unified Court System, New York City Civil Court Housing Part,” <http://www.courts.state.ny.us/courts/nyc/housing/index.shtml> (last visited October 5th, 2007).

⁹⁹ *Id.*

landlords will be forced to make repairs to dangerous conditions on their property. However, when 97.6 percent of landlords and only 11.9 percent of tenants have legal representation, it is clear that tenants are at a substantial disadvantage within an already overburdened system.¹⁰⁰

75. Poor women of color, many of whom are not native English speakers, make up a large proportion of unrepresented tenants, as they often do not have the resources to hire an attorney or to take advantage of the limited legal resources provided by the Housing Court.¹⁰¹ Although the Housing Court maintains a few programs to assist unrepresented litigants,¹⁰² they are woefully inadequate and structural barriers often preclude tenants' participation.¹⁰³ The disparity between landlord and tenant resources makes it easier for landlords to evict poor tenants or to avoid keeping apartment buildings in good repair, resulting in violations of tenants' rights to housing and to equal access to the courts, as well as, all too frequently, homelessness.

Policy Recommendations

76. Limitations on access to counsel in civil cases generally, and landlord tenant court in particular, disparately affects racial minorities, resulting in increased rates of homelessness or inadequate housing in these populations. Lack of counsel in landlord-tenant court impedes racial minorities' equal enjoyment of the right to equal treatment before the courts protected under Article 5(a), in addition to the right to housing under 5(e)(iii). Consistent with the State Party's obligation under Article 2 of the Convention to prevent all branches of government from engaging in or supporting racial discrimination, the State Party should take immediate action to ensure adequate legal counsel is provided to all parties before the courts who are unable to otherwise afford it, particularly in suits for eviction or to require landlords to make necessary repairs.

VII. Local Housing Ordinances Targeting Undocumented Immigrants

77. In conjunction with a recent wave of anti-immigrant sentiment, at least 104 United States cities and counties have proposed or adopted local ordinances targeting undocumented immigrants.¹⁰⁴ Forty-three of these localities have attempted to prohibit landlords from renting to undocumented immigrants. While lower courts thus far have ruled these housing ordinances to be unconstitutional in many respects,¹⁰⁵ the ordinances already have harmed

¹⁰⁰ NEW YORK COUNTY LAWYERS ASSOCIATION, *NEW YORK CITY HOUSING COURT IN THE 21ST CENTURY: CAN IT BETTER ADDRESS THE PROBLEMS BEFORE IT?* (2004).

¹⁰¹ RUSSELL ENGLER, *And Justice For All Including the Unrepresented Poor: Revisiting the Roles of the Judges, Mediators, and Clerks*, 67 *Fordham L. Rev.* 1987 (1999).

¹⁰² See, e.g., New York State Unified Court System, New York City Civil Court Housing Part, Resource Center, <http://www.courts.state.ny.us/courts/nyc/housing/resourcecenter.shtml> (last visited October 5th, 2007); New York State Unified Court System, New York City Civil Court Housing Part, Volunteer Lawyers Project, <http://nycourts.gov/courts/nyc/housing/vlp.shtml> (last visited October 5th, 2007).

¹⁰³ Joe Lamport, *Hallway Settlements In Housing Court*, GOTHAM GAZETTE, December 19, 2005, <http://www.gothamgazette.com/article/housing/20051219/10/1681>.

¹⁰⁴ The data and conclusions put forth in this section largely come from a special report of the American Immigration Law Foundation. JILL EBENSHADE, ET AL., AM. IMMIGRATION LAW FOUND, *DIVISION AND DISLOCATION: REGULATING IMMIGRATION THROUGH LOCAL HOUSING ORDINANCES* (2007).

¹⁰⁵ The federal government has enacted legislation requiring employers to verify the citizenship status of employees, but has declined to require verification by landlords. 8 U.S.C.S. § 1324a (2007). Federal legislation also prohibits

minority communities and individuals, an impact that will intensify if higher courts uphold them. The ordinances radically infringe on minorities' and non-citizens' right under Article 5 to equal enjoyment of their right to housing and other rights.

78. The housing ordinances are generally of two types, the first preventing landlords from renting to tenants that are not related to each other or to the landlord. At least three cities have enacted an ordinance prohibiting landlords from renting to non-relatives in order to maintain the demographics of the town. Others have placed restrictions on the composition of individual households in order to discourage settlement in housing patterns common to immigrants. Milford, Massachusetts, for example, targeted South American immigration by limiting the number of tenants allowed in a residence and redefining "family" to omit those not related by blood. Where minority residents own less property to rent to their relatives than white residents, as in Saint Bernard Parish, Louisiana, the ordinances create a vast racial disparity in access to housing in violation of Article 5 § (e)(3) and intensify racial segregation in contravention of General Recommendation XXX, paragraph 32.
79. More commonly, ordinances prohibit renting homes to undocumented immigrants completely by requiring landlords to verify the citizenship status of tenants, defying any right to shelter. The Farmers Branch, Texas ordinance requires nearly all tenants to provide evidence¹⁰⁶ of citizenship or legal residency before entering into or renewing a rental agreement. Other ordinances only require proof from tenants if a citizen or government official files a complaint in the belief that the tenant is an "illegal alien." Because complaints could be used as a form of harassment, and because landlords would have excessive power in choosing and monitoring tenants, these ordinances violate the State Party's obligation under Article 2 not to support discrimination by private actors.
80. The political developments leading to these ordinances frequently corresponded to a rapid increase in the localities' share of foreign-born or Latino populations. While proponents of the ordinances cite several faults of immigrant populations, none has documented overcrowding in schools, inordinate unemployment rates, or immigrant-perpetrated crime.¹⁰⁷ This suggests that the politicians in these localities are failing to promote integration and refrain from inciting racism and xenophobia as required by Article 2 and as noted in paragraphs 85 and 115 of the Durban Declaration and Programme of Action, respectively.

"harboring" undocumented immigrants. 8 U.S.C.S. § 1324 (2007). Therefore, courts have held that federal immigration authority preempts the local ordinances because the Constitution guarantees the supremacy of federal law. *E.g.*, *Lozano v. City of Hazleton*, No. 06-1586, slip op. at 186 (M.D. Pa. July 26, 2007). Additionally, several of the ordinances do not account for due process rights to notice and hearing. *E.g.*, ESCONDIDO, CAL., CODE § 2006-38 (2006). They also may conflict with federal civil rights and nondiscrimination statutes and interfere with individuals' contract rights and rights against self-incrimination. *E.g.*, Complaint, *Garrett v. City of Escondido*, No. '06 CV 2434 (D. Cal. Nov. 3, 2006).

¹⁰⁶ The ordinances vaguely describe the required proof, which is problematic given the consequences of lack of proof. *Cf.* U.N. Human Rights Committee, *Concluding Observations of the Human Rights Committee: Norway*, vol. I, para. 92, U.N. Doc CCPR/C/79/Add.27, A/49/40 (Nov. 4, 1994), available at <http://www.unhchr.ch/tbs/doc.nsf/0/4c84069a1e300d8441256324003cde0e?Opendocument>.

¹⁰⁷ In some cases, politicians that have cited data have mistakenly conflated Latinos and immigrants.

Indeed, the ordinances have created racial animus and frustrated attempts to integrate the communities.¹⁰⁸

81. The devastating impact of these ordinances is not justified by the purpose of expelling non-citizens. Racial minorities would feel every impact of the ordinances most profoundly, largely because 81% of undocumented immigrants are from Latin America and the Caribbean. Typical ordinance penalties include fines, jail time, and loss of license for landlords, while tenants often face immediate eviction. The ordinances likely would damage the housing markets in Latino communities by causing a decline in the value of rental property and reducing the amount of available housing, thereby penalizing these communities without legitimate grounds in contravention of General Recommendation XXXI § (I)(A)(2)(4)(b). Landlords might require excessive documentation from Latino tenants to avoid the ordinance penalties. These harms are so severe as to constitute a breach of the principle of proportionality.¹⁰⁹

Policy Recommendations

82. Restrictions on renting to undocumented immigrants disparately harm racial minorities, as well as excuse and encourage direct private discrimination against citizen and non-citizen racial minorities, individually and as a group. These ordinances disparately impede racial minorities' enjoyment of rights protected under Article 5 in addition to the right to housing, including in particular the right to freedom of movement and residence within the border of the State. Consistent with the State Party's obligation under Article 2 of the Convention to prevent all branches of government from engaging in or supporting racial discrimination, the State Party should take immediate action to:

- Clarify the constitutional prohibitions, against enactment of legislation to limit the opportunities of undocumented immigrants through housing restrictions by city and county governments
- Adopt effective measures to enjoin enforcement of and make reparations for the harm resulting from such legislation.

VII. Intersectional Analysis of Housing, Race, and Gender

83. Homelessness experienced by women has essentially been invisible in the U.S. Traditionally viewed and interpreted as a single male phenomenon, homelessness has been described by various statistics that show a significant percentage (approximately 40%) of the homeless population being comprised of single male nationwide. This picture of homelessness effectively has veiled homeless women and covertly denied their needs for services.¹¹⁰

¹⁰⁸ For instance, in Escondido, California, the debate over the ordinance led to fights between Latino and white high-school students. Additionally, documented and undocumented immigrants and Latinos have begun to leave these communities, often significantly damaging the local economy.

¹⁰⁹ U.N. Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Australia*, para. 24, U.N. Doc CERD/C/AUS/CO/14, A/60/18 (Apr. 14, 2005).

¹¹⁰ References for this section are drawn from the U.S. Census Bureau: PROCTER, B. D. AND J. DALAKER, POVERTY IN THE UNITED STATES: 2002 CURRENT POPULATION REPORTS (2003), www.census.gov/prod/2003pubs/p60-222.pdf; BUREAU OF LABOR STATISTICS, WOMEN IN THE LABOR FORCE: A DATABOOK UPDATED AND AVAILABLE ON THE INTERNET (2005), <http://www.bls.gov/bls/databooknews2005.pdf>; U.S. CONFERENCE OF MAYORS, HUNGER AND

84. Hidden under the category of family homelessness, homeless women are usually heads of households, comprised of herself and her minor children, and the trend of increasing family homelessness indicates that the female face of homelessness is increasing nationally. While precise national figures are not available, combining the figure for family homelessness and single female homelessness, women experiencing homelessness can be as high as 40%, a figure close to male homelessness. Less likely to be visibly or 'street' homeless, women homelessness more often takes the form of 'couch' homeless, meaning that women and children experience homelessness through doubling up with family or relatives and exhausting their social resources.
85. The racialization and feminization of poverty affect women of color and increase women's faces in statistics on the homeless population. Women earn 80 percent of male earnings and female-headed households are more likely to be in living in poverty in the U.S. One-quarter of single-parent, female-headed households are poor, while half of poor families are headed by women, reflecting the interconnectedness of the two issues. Further, this grim status of homelessness affects women and children of color the most. As with male homelessness, female homelessness is a highly racial minority phenomenon with African American and Native American women being significantly overrepresented in homelessness.
86. One of the primary causes of homelessness among women is domestic violence. Approximately 1.3 million women experience physical assault by an intimate partner each year.¹¹¹ Limited statistics on violence within communities of color signify that women of color suffer from domestic abuse equal to, or more than, that of white women.¹¹² However, the absence of empirical data not only marginalizes non-white domestic violence victims but also silences their voices from gender violence policy discussions.
87. Of the 24 cities surveyed by the U.S. Conference of Mayors, 50% identified domestic violence as a primary cause of homelessness among women.¹¹³ In Minnesota, one in every three homeless women was homeless due to domestic violence in 2003 and 46% of homeless women said that they had stayed in abusive relationships because they had nowhere else to go.¹¹⁴ Shelter providers in Virginia report that 35% of their clients are homeless because of family violence.¹¹⁵ This same survey found that more than 2,000 women seeking shelter from domestic violence facilities were turned away. A recent study in Massachusetts reports

HOMELESSNESS SURVEY: A STATUS REPORT ON HUNGER AND HOMELESSNESS IN AMERICA'S CITIES, A 24-CITY SURVEY 64 (2005), available at <http://www.sodexhousa.com/HungerAndHomelessnessReport2004.pdf>.

¹¹¹ NATIONAL COALITION AGAINST DOMESTIC VIOLENCE, DOMESTIC VIOLENCE AND HOUSING, (2005).

¹¹² These numbers are not reflective of a disproportionate propensity for violence among people of color or pathology among communities of color, but rather of decreased resources available to women of color, and particularly low income women of color, to leave abusive relationships.

¹¹³ U.S. CONFERENCE OF MAYORS, HUNGER AND HOMELESSNESS SURVEY: A STATUS REPORT ON HUNGER AND HOMELESSNESS IN AMERICA'S CITIES, A 24-CITY SURVEY 64, available at <http://www.sodexhousa.com/HungerAndHomelessnessReport2004.pdf>.

¹¹⁴ American Civil Liberties Union, Women's Rights Project, *Domestic Violence and Homelessness*, (2004), available at www.aclu.org.

¹¹⁵ Virginia Coalition for the Homeless. 1995 Shelter Provider Survey, (1995).

that 92% of homeless women had experienced severe physical or sexual assault at some point in their life and 63% were victims of violence by an intimate partner.¹¹⁶

88. Gays and lesbians also face such patterns of abuse and obstacles to assistance in same-sex relationships. However, there remains an extreme disparity in the services available to victims based on the type of relationship they are in.¹¹⁷ The vast majority of states narrowly define family in domestic violence statutes, and exclude gays and lesbians from seeking civil redress for crimes committed against them by their partners.¹¹⁸ Gay and lesbian victims of color suffer from double discrimination as they live with the possibility of violence from whites because of their race, and from heterosexuals of any race because of their sexual orientation or gender identity.¹¹⁹ For example, “many lesbians of color who are experiencing relationship violence express a need to protect both their communities and themselves from the retaliation of the dominant White and heterosexual society that would use lesbian battering to further stigmatize and oppress them.”¹²⁰
89. Currently, women experiencing domestic violence suffer in severe shortage of both short and long-term housing availability. On average, 1,740 people a day are not provided emergency shelter and 1,422 are not provided transitional shelter.¹²¹ Moreover, shelters are frequently filled to capacity and must turn away battered women and their children. An estimated 32% of requests for shelter by homeless families were denied in 2006 due to lack of resources.¹²² Officials in 95% of cities surveyed expect that requests by homeless families will increase next year.¹²³ International Law including the CERD Committee has recognized domestic violence as a violation of the fundamental human rights of women.¹²⁴ Support for and oversight of domestic violence shelters are key components of both the U.S. government’s obligations to protect womens’ rights to life and security of person.
90. The federal Violence Against Women Act (VAWA) is a valuable effort to support violence prevention as well as services for women who are survivors of violence. In January 2006, VAWA was reauthorized with housing provisions that ensure that victims of domestic violence or stalking living in public housing or using federally-funded housing vouchers do not lose their housing based on criminal acts pertaining to domestic violence committed

¹¹⁶ National Alliance to End Homelessness, *Fact Checker: Domestic Violence* (2007), National Alliance to End Homelessness, available at <http://www.naeh.org>.

¹¹⁷ Michelle Aulivola, Note, *Affording Appropriate Protections to Gay and Lesbian Victims*, 42 FAM. CT. REV. 162, (2004).

¹¹⁸ *Id.*

¹¹⁹ N.Y. STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, DOMESTIC VIOLENCE IN LESBIAN, GAY, TRANSGENDER, AND BISEXUAL COMMUNITIES PARTICIPANT MANUAL 49 (2001).

¹²⁰ *Id.* (citing: KANUHA, V., COMPOUNDING THE TRIPLE JEOPARDY: BATTERING IN LESBIAN OF COLOR RELATIONSHIPS WOMEN & THERAPY 183 (1990)).

¹²¹ National Network to End Domestic Violence, *Domestic Violence Counts: A 24-hour census of domestic violence shelters and services across the United States*, (2007).

¹²² MAYORS REPORT, *supra* note 1, at 59.

¹²³ *Id.* at 6.

¹²⁴ See CERD Committee General Recommendation 25; See also Violence Against Women, CEDAW, General Recommendation 19, U.N. Doc. A/47/38 at 1 (1993), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, 246 U.N. Doc. HRI/GEN/1/Rev.6 (2003) (Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.).

against them. It also makes it illegal to deny access to public housing or to a subsidized housing voucher based on an applicant being a victim of domestic violence. However, the number of people in need of federal rent subsidies to afford housing outweighs the number of units available. In some states, people have remained on the waiting list for years.

91. More importantly, VAWA provisions are not applicable at all to victims renting private housing without federal housing subsidies. Such provisions do not address the wide array of discriminatory acts, including refusals by landlords to rent to women who have protection orders or other indications of domestic violence. Additionally, many women trapped in abusive relationships are reluctant to call law enforcement out of fear of losing their housing due to “zero tolerance for crime” policies.¹²⁵ These policies allow landlords to evict tenants when violence occurs in the home, regardless of whether the tenant is the victim or the perpetrator of violence. Without a federal standard ensuring the protection of victims of domestic violence in private housing, the level of protection varies dramatically by location.

Policy Recommendations

92. The U.S. should extend the model protections created for public housing in the Violence Against Women Act to protect *all* persons experiencing domestic violence in public or private housing. The government should increase resources for domestic violence shelters and transitional housing adequate to meet the need, and provide priority to domestic violence victims in obtaining permanent housing. State legislatures should redraft domestic violence statutes to define family more comprehensively to afford the necessary protections to victims of same-sex domestic violence.

Conclusion

93. Through policies criminalizing homelessness and lack of adequate measures to ensure availability of affordable housing the State Party remains substantially out of compliance with its obligations to ensure equal enjoyment of the right to housing to all races in the U.S., The State Party should take immediate affirmative steps to remedy these violations by making the policy recommendations suggested above.

¹²⁵ *Id.*