Tent Cities, Homelessness & Human Rights 2014

Eric Tars
Director of Human Rights & Children’s Rights Programs
Phone: 202-638-2535
E-mail: etars@nlchp.org
Web: www.nlchp.org
Presenters

• Eric Tars, National Law Center on Homelessness & Poverty
• Amy Sawyer, U.S. Interagency Council on Homelessness
Roadmap

1. Human Rights Reviews
2. Tent Cities Report
3. Human Right to Housing Report Card
4. Bringing Human Rights Home
Human Rights Reviews

• International Covenant on Civil & Political Rights (ICCPR)
• International Convention on the Elimination of all forms of Racial Discrimination (ICERD)
• Convention Against Torture and other forms of cruel, inhuman, and degrading treatment or punishment (CAT)
• Universal Periodic Review (UPR)
Human Rights Reviews

• Spotlight on domestic human rights violations
• Creating standards and recommendations for use in policy advocacy or litigation
• Maintaining the record
**U.S. reports**

**Article 2 – Equal Protection Of The Rights In The Covenant**

**Newly Enacted Federal Laws**

47. In addition, the American Recovery and Reinvestment Act of 2009, P.L. 111-5, also contains elements that help reduce discrimination and improve the lives of minority populations. For example, the Race to the Top program sets up the largest competitive education grant program in U.S. history ($4.35 billion), to provide incentives to states to implement large-scale, system changing reforms that improve student achievement, narrow achievement gaps, and increase graduation and college enrollment rates. Other Recovery Act funds are being used to promote high-quality early childhood education, provide increases in available financial assistance and loans for postsecondary school, and provide $12 billion for community colleges to give access to workers who need more education and training. The Homeless Prevention and Rapid Re-Housing Program awarded nearly $1.4 billion in 2009 to more than 6,400 local programs to help prevent and end homelessness for nearly half million people. In addition, the financial relief legislation enacted in 2010 includes a new consumer protection bureau that will help address the disproportionate effect of the foreclosure crisis on communities of color.

**Equal Protection in Housing and Lending**

72. Fair Housing. Ensuring equal opportunity in housing is one of the strategic goals of the U.S. Department of Housing and Urban Development (HUD). HUD’s Office of Fair Housing and Equal Opportunity (FHHO) administers and enforces federal laws that prohibit discrimination on the bases of race, color, religion, sex, national origin, disability, and familial status, and that require Federal, state, and local governments to take proactive measures to ensure balanced living patterns. The Fair Housing Act also protects persons from discrimination in obtaining loans for the purchase of housing. HUD further administers programs to educate lenders, housing providers, developers, architects, home-seekers, landlords, and tenants about their rights and obligations under the law. Working with national, state, and local partners – as well as the private and nonprofit sectors – FHHO is involved in a cooperative effort to increase access to the nation’s housing stock so that more Americans can obtain housing of their choice. The laws implemented by FHHO include the Fair Housing Act (Title VIII of the Civil Rights Act of 1968), Section 109 of the Housing and Community Development Act of 1974, and Section 3 of the Housing and Urban Development Act of 1968. Recent changes brought by HUD include: (1) a charge against the owners of several apartment buildings in suburban Philadelphia for discrimination against families,
Human Rights Committee

List of issues to be taken up in connection with the consideration of the fourth periodic report of the United States of America (CCPR/C/USA/4), adopted by the committee at its 107th session, 11 – 28 March 2013

6. Please provide information on the imposition of criminal penalties on people living on the streets. Please also provide information on the implementation of the 2009 Helping Families Save Their Home Act and the creation of durable alternatives to criminalization measures to address homelessness.

7. Please provide information on obstacles to access of undocumented migrants to health services and higher education institutions, and to federal and state programs addressing such obstacles.

Right to life (art. 6)

8. Please provide information on:

a) death sentences imposed, the number of executions carried out, the grounds for each conviction and sentence, the age of the offenders at the time of committing the crime, and their ethnic origin;
they relate to the Constitution and other laws. On June 26, 2019, DOJ filed a statement of interest in 
the complaint of an opposition party, the Democratic Party of Puerto Rico, for a preliminary order 
issuing a temporary restraining order and a temporary injunction to prevent the election, based on 
the provision of the North Carolina voting rights law that is not unconstitutionally discriminatory. 

11. Issue 110. With respect to issue 110 on the Constitution in the 59th Congress, the Department of 
Justice sought to address an issue regarding the constitutionality of the Voting Rights Act, which 
requires states to submit changes in voting laws to the Justice Department for approval before 
implementation. On December 2, 2020, the Department of Justice filed a brief in the Supreme 
Court of the United States in support of the plaintiff’s position on the constitutionality of the Voting 
Rights Act. The Department of Justice has been actively involved in litigation and advocacy efforts 
related to voting rights issues, including cases challenging the constitutionality of state laws that 
are alleged to discriminate against certain groups, such as non-citizens, and cases challenging 
the constitutionality of federal laws that are alleged to discriminate against some groups, such 
as individuals with disabilities.

12. Open-Door. The first federal strategy plan to address homelessness was adopted in 2003 and 
was known as the Open-Door Strategy. The strategy aimed to increase the number of homes 
available to homeless individuals by providing housing assistance and support services. The 
strategy included targeted outreach to identify and assist homeless individuals, coordination 
with service providers, and a focus on permanent housing solutions. The strategy was 
implemented in partnership with local governments, non-profits, and other stakeholders to 
provide housing and support services to homeless individuals. 

By 2010, the Department of Housing and Urban Development (HUD) had reported significant 
progress in implementing the Open-Door Strategy, with an increase in the number of homes 
available to homeless individuals and a decrease in the number of individuals experiencing 
homelessness. The strategy continued to evolve over time, with a focus on increasing the 
number of permanent homes available to homeless individuals and improving the quality of 
support services provided. 

Today, the Department of Housing and Urban Development (HUD) continues to be a leader in 
addressing homelessness, working with local governments, non-profits, and other stakeholders 
to develop and implement effective strategies to reduce homelessness and improve the lives 
of those who experience it. The Department has partnered with communities across the country 
to implement evidence-based approaches to addressing homelessness, and has provided 
resources and guidance to local governments and non-profits to support their efforts. 

For more information on the Department’s efforts to address homelessness, please visit the 
Department’s website at https://www.hud.gov. The website provides resources and information 
about homelessness prevention and response strategies, including information on best practices, 
models of care, and innovative approaches to addressing homelessness. 

Today’s meeting was a significant step in advancing the department’s efforts to address homelessness, 
and I look forward to working with my colleagues in Congress and stakeholders across the country 
to continue making progress in this important work.
Human Rights and Alternatives to Criminalization: USICH Focus


- Dialogue and follow up with Federal agencies and national organizations.

- Work with the State Department on Human Rights related to homelessness

- Conversations and outreach through newsletters, blogs, and other media

“Providing shelter [and housing] is about more than charity and compassion, it is about acting on a basic commitment enshrined in our Constitution.”

*Kevin Lindsey, Commissioner of the Minnesota Dept. of Human Rights*
Human Rights Reviews

- HRC reviews U.S. – March 13-14, 2014
- Meet with Committee
Human Rights Reviews

• Follow along

Housing as a Human Right

The Road to Geneva: Criminalization and Displacement

This is the second addition to a new blogs series (see first blog) by the National Law Center on Homelessness and Poverty's advocate review of U.S. compliance with the ICCPR. The information is based on the Law Center’s shadow report, Cruel, Inhuman, and Degrading: A Webinar on the topic of criminalization and the ICCPR next steps.

The harms of the criminalization of homelessness are particularly felt by people who experience one or multiple intersecting forms of discrimination.
Positive aspects: The Committee welcomes the report of the USICH, *Searching Out Solutions* (2012), acknowledging that criminalization of homelessness may constitute discrimination and cruel, inhuman, and degrading treatment or punishment in violation of the ICCPR and CAT.

Suggested observations
The Committee notes with concern reports that homeless persons in the United States are routinely and disproportionately criminalized for essential human functions and behaviors they have no choice but to perform in public due to lack of available housing or shelter space (Articles 2, 7, 9, 17, 21 and 26).

**Suggested observations**

The State Party should take immediate measures to eliminate the criminalization of basic life activities where homeless persons have no choice but to perform them in public, and cease disparate enforcement of other laws that adversely affect homeless persons.
Federal agencies should promulgate guidance for communities emphasizing the negative consequences of criminalization, provide incentives for decriminalization and constructive alternative approaches, discontinue their funding of local law enforcement practices that criminalize homelessness, and investigate and prosecute criminalization policies or enforcement wherever they occur.
Human Rights Reviews

- ICCPR – March 13-14, 2014
- ICERD – August 2014
- CAT – November 2014
- UPR – March 2015
Tent Cities

- Background
- Case studies
- Legal analysis

etars@nlchp.org
Tent Cities

• **Background**
• **Over 100 encampments reported in 46 of 51 states (including D.C.)**
• **Only 8 encampments had legal status**
• **Majority were evicted in this time period**
• **Conditions ranged from organized and self-sustaining to dangerous**
Tent Cities

- Case Studies
- Providence, RI
- Lakewood, NJ
- New Orleans, LA
- St. Petersburg, FL

- Responses
- Evicted, but led to Bill of Rights
- Awaiting resettlement
- Residents housed
- Legal tent city/shelter options, but criminalization continues

Credit: Ellis Lucia, The Times Picayune
Federal law

- 4, 5, 14A: Rights to Be Free from Unreasonable Seizure and Not To Be Deprived of Liberty or Property Without Due Process of Law
- 8A: Cruel & Unusual Punishment
- 1A: Right to Free Exercise of Religion
- Fair Housing Act
Tent Cities

State law

- Promissory Estoppel
- Unclean hands and Duty to Aid the Poor
- Necessity
Tent Cities

- International Law
- Right to shelter/housing
- Right to life, dignity, freedom from cruel and degrading treatment
- Right to property, privacy

Camp Runamuck (Credit: NYTimes)
Tent Cities

- Comparative Law
- India
- South Africa
- Columbia
- Canada
Tent Cities

- Background
- Case studies
- Legal analysis
  - Federal
  - State
  - International
  - Comparative
Human Right to Housing Report Card 2013

Human Right to Housing Report Card 2013

“Simply Unacceptable”: Homelessness and the Human Right to Housing In the United States 2011

A Report of the National Law Center on Homelessness & Poverty

June 2011

1411 K Street, NW, Suite 1400
Washington, DC 20005
Phone: 202-638-2553
Fax: 202-638-2767
www.nlchp.org

http://www.nlchp.org/Simply_Unacceptable
## Human Right to Housing Report Card 2013

<table>
<thead>
<tr>
<th>Category</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal security of tenure</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Renters</td>
<td>B-</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Homeowners</td>
<td>D+</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>Access to Counsel</td>
<td>D</td>
<td>F</td>
<td>D-</td>
</tr>
<tr>
<td>Emergency &amp; Dire Circumstances: Criminalization</td>
<td>F</td>
<td>D-</td>
<td>D</td>
</tr>
<tr>
<td>Emergency &amp; Dire Circumstances: Domestic Violence</td>
<td>B-</td>
<td>C</td>
<td>A-</td>
</tr>
<tr>
<td>Availability of services, materials &amp; infrastructure</td>
<td>D+</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>Affordability</td>
<td>D</td>
<td>D</td>
<td>F</td>
</tr>
<tr>
<td>Accessibility</td>
<td>C-</td>
<td>C-</td>
<td>C-</td>
</tr>
<tr>
<td>Habitability</td>
<td>C-</td>
<td>C-</td>
<td>D</td>
</tr>
<tr>
<td>Location</td>
<td>D</td>
<td>D</td>
<td>D</td>
</tr>
<tr>
<td>Cultural Adequacy</td>
<td>D</td>
<td>D</td>
<td>D</td>
</tr>
</tbody>
</table>
Bringing Human Rights Home

A CAMPAIGN FOR A NEW DOMESTIC HUMAN RIGHTS AGENDA

Bringing Human Rights Home

- Framing
- Educating
- Participating
Wrap Up

- Human Rights Reviews
- Tent Cities Report
- Human Right to Housing Report Card
- Bringing Human Rights Home
Discussion & Questions

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Eric Tars
202-638-2535
etars@nlchp.org
www.nlchp.org
Homlessnesslaw.org
@nlchphomeless
Facebook.com/homelessnesslaw