

"AT A REASONABLE COST" THE HUMAN RIGHT TO AFFORDABLE HOUSING

The Right to Housing entails "adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities -all at a reasonable cost."

-UN Committee on Economic, Social and Cultural Rights [1]

The Right to Adequate Housing

- The Universal Declaration of Human Rights (UDHR), the foundational document of the international human rights system, affirms the right to adequate housing. [2]
- Under the International Covenant on Social, Economic and Cultural Rights (ICESCR), states have the duty to "recognize the **right** of everyone to an **adequate standard of living** for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." [3]
- The UN Special Rapporteur on Adequate housing describes this as "**the right to live in a home in peace, security, and dignity.**" [4]
- The UN Committee on Economic, Social and Cultural Rights (CESCR), which monitors compliance with ICESCR, sets out seven essential components of adequate housing: legal security of tenure; availability of services, materials, facilities, and infrastructure; **affordability**; habitability; accessibility; location; and cultural adequacy. [5]

A Human Rights Approach to Affordability

- CESCR, states that "**the right to housing should be ensured to all persons irrespective of income or access to economic resources.**" [6]
- CESCR recognizes that **paying for housing should not threaten the ability of individuals or families to meet other basic needs,** [7] such as food or transportation.
- CESCR recommends that states should establish **strong general welfare systems** and also provide specific housing subsidies. [8]
- The Special Rapporteur on Adequate Housing recommends that states **regulate the real estate market,** especially in times of economic growth, to ensure that housing remains affordable. [9]
- States must ensure that **private developers are building housing that is affordable to residents** and does not further displace people. [10] The Special Rapporteur on Adequate Housing calls on states to "ensure the regulation of business in a manner consistent with State obligations and address the financialization of housing." [11] Governments need to take an active role in **regulating the private housing market** to ensure that "the rules under which [financial actors] operate and their actions are consistent with the realization of the right to adequate housing." [12]

Good Practices For Housing Affordability

Housing Subsidies

- In South Africa, citizens who meet certain income thresholds qualify for either fully subsidized housing, which includes a plot of land and a home, or are eligible to join social housing programs which provide rental housing in cities. [13]

Development

- The Government of Scotland has committed to building 110,000 affordable homes, 70% of these being social housing, over the next ten years.[14]
- In Finland, new housing developments are required to make 25% of the housing in each new area affordable.[15]
- The city of Johannesburg in South Africa enacted a policy requiring that in all new housing developments of 20 units or more, the building must designate 30% of the units to be targeted to low-income residents.[16]

Rent

- The Enforceable Right to housing Act (DALO) in France, allows the government to lease a housing unit from a private property owner, and establish a maximum rent for it, ensuring that unit remains affordable. [17]

United States Recommendations

- **Country Wide**
 - Use a human rights framework to regularly monitor housing availability, addressing inequalities and unaffordability.
 - Expand access to housing subsidies by creating a more efficient Housing Choice Voucher Program/Section 8 housing system that reduces the time spent on a waitlist.
 - Expand welfare benefits to ensure that citizens are not sacrificing basic needs to meet high housing costs.
- **States and Municipalities**
 - Recognize the human right to housing through legislation.
 - Implement a comprehensive plan to build and refurbish affordable housing units in all neighborhoods, involve residents and local business owners in creation of the plan, and create incentives for developers to participate;[18]
 - Incentivize the private development of affordable housing, such as through simplified building codes, inclusionary zoning, or the Low-Income Housing Tax Credit.
 - Require public hearings in neighborhoods with new developments. Developers should prepare community impact assessments and mitigation plans for displacing vulnerable populations.
 - Preserve and rehabilitate existing public housing, and use public funds to purchase abandoned properties and transform them into social housing, which also increases available jobs;[19]
 - Enable rental of ADUs (accessory dwelling units), such as a basement, upper floor, or guest house.
 - Adopt policies best suited to community needs, including social housing, community land trusts, rent control, renters' tax credits, and/or subsidized housing.
 - Raise the minimum wage.

Endnotes

- [1] CESCR General Comment No. 4, ¶ 7, U.N. Doc. E/1992/23 (Dec. 13, 1991) (quoting the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000).
- [2] Universal Declaration of Human Rights art. 25, G.A. Res. 217 (III) A, U.N. Doc. A/810 (Dec. 10, 1948) [hereinafter UDHR] (“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including... housing.”).
- [3] International Covenant on Economic, Social, and Cultural Rights art. 11, signed Oct. 05, 1977, 993 U.N.T.S. 3 [hereinafter ICESCR].
- [4] Hum. Rts. Council, Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, ¶ 16(b), U.N. Doc. A/HRC/43/43 (2019); See also Comm. on Econ., Soc., and Cultural Rts., General Comment No. 4: The Right to Adequate Housing, ¶ 8, U.N. Doc. E/1992/23 (Dec. 13, 1991) [hereinafter CESCR General Comment No. 4] (“Rather [the right to housing] should be seen as the right to live somewhere in security, peace and dignity.”)
- [5] CESCR General Comment No. 4 ¶ 8, U.N. Doc. E/1992/23 (Dec. 13, 1991) [hereinafter CESCR General Comment No. 4].
- [6] Id. at ¶ 7 (quoting the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000).
- [7] Id. at ¶ 8(c) (quoting the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000).
- [8] Id. at ¶ 8(c) (quoting the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000).
- [9] Hum. Rts. Council, Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, ¶ 67, U.N. Doc. A/HRC/43/43 (2019).
- [10] See Id. at ¶ 67.
- [11] Id. at ¶ Guideline No. 12.
- [12] See Hum. Rts. Council, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the right to non- discrimination in this context, ¶ 15 U.N. Doc. A/HRC/34/51 (2017).
- [13] The Fuller Center for Housing, Housing Delivery in South Africa (2014).
- [14] See Lisa Borthwick, Building up to Realising the Human Right to Housing in Scotland, Shelter Scotland (Dec. 10, 2021) <https://blog.scotland.shelter.org.uk/building-up-to-realising-the-human-right-to-housing-in-scotland/>.
- [15] Tahiat Mahboob, Housing Is a Human Right: How Finland Is Eradicating Homelessness, CBC (Aug. 19, 2020), www.cbc.ca/radio/sunday/the-sunday-edition-for-january-26-2020-1.5429251/housing-is-a-human-right-how-finland-is-eradicating-homelessness-1.5437402; Jon Henley, ‘It’s a Miracle’: Helsinki’s Radical Solution to Homelessness, The Guardian (Jun. 3, 2019) <https://www.theguardian.com/cities/2019/jun/03/its-a-miracle-helsinki-radical-solution-to-homelessness>.
- [16] City of Johannesburg, Inclusionary Housing: Incentives, Regulations and Mechanisms (2019) https://www.joburg.org.za/documents/_Pages/Key%20Documents/policies/Development%20Planning%20&%20Urban%20Mansagement/Citywide%20Spatial%20Policies/City-Wide-Spatial-Policies.aspx.
- [17] Eric S. Tars, Julia Lum & E. Kieran Paul, The Champagne of Housing Rights: France’s Enforceable Right to Housing and Lessons for U.S. Advocates, 4 NE. UNIV. L. J. 2, 450, 457 (2012); Julie Clauzier, The DALO Law: A Step Toward Making the Right to Housing a Reality, Housing Rights Watch (Jul. 6, 2017) <https://www.housingrightswatch.org/content/dalo-law-step-towards-making-right-housing-reality>.
- [18] Carole Carlson, More Vacant Gary schools; city biggest buyer, The Chicago Tribune (Dec. 14, 2020) <https://www.chicagotribune.com/suburbs/post-tribune/ct-ptb-gary-schools-sold-st-1215-20201214-px3vzmrpwjbxjxmrtl64hq7m-story.html>; Carole Carlson, Emerson, Mann Sales Completed to Gary housing Authority, The Chicago Tribune (Jan. 18, 2021) <https://www.chicagotribune.com/suburbs/post-tribune/ct-ptb-gary-school-sales-st-0119-20210118-mwm4wbf12jcmbflp5xsnlpjhju-story.html>; Steve Brown, Dallas Housing Authority Adds to Affordable Housing with Purchase of Inwood Roads Apartments, The Dallas Morning News (May 6, 2020), <https://www.dallasnews.com/business/real-estate/2020/05/06/dallas-housing-authority-adds-to-affordable-housing-with-purchase-of-inwood-road-apartments/>.
- [19] See A National Homes Guarantee, Peoples Action (Sept. 5, 2019) https://homesguarantee.com/wp-content/uploads/Homes-Guarantee-_Briefing-Book.pdf.