



# Tent Cities, Homelessness & Human Rights 2014




**CRUEL, INHUMAN, AND DEGRADING:**  
Homelessness in the United States under the International Covenant on Civil and Political Rights

Submitted to the U.N. Human Rights Committee  
August 23, 2013



Prepared by  
NATIONAL LAW CENTER  
ON HOMELESSNESS & POVERTY

ALLARD K. LOWENSTEIN INTERNATIONAL HUMAN RIGHTS CLINIC  
YALE LAW SCHOOL



welcome  
home

The Rise of Tent Cities in the United States

NATIONAL LAW CENTER  
ON HOMELESSNESS & POVERTY

ALLARD K. LOWENSTEIN INTERNATIONAL HUMAN RIGHTS CLINIC  
YALE LAW SCHOOL

## HUMAN RIGHT TO HOUSING REPORT CARD

Student: United States of America

CATEGORY	2011	2012	2013
Security of Tenure			
Renters	B-	C-	C
Homeowners	D+	D	D
Access to Counsel	D	F	D-
Emergency & Dire Circumstances			
Criminalization of Homelessness	F	D-	D
Domestic Violence	B-	C	A-
Availability of Services, Materials & Infrastructure	D	D	D
Affordability	D	D	F
Accessibility	C-	C-	C-
Habitability	C-	C-	D
Location	D	D	D
Cultural Adequacy	D	D	D
Overall	D+	D	D+

### COMMENTS

*Some progress, but needs more work!*

NATIONAL LAW CENTER  
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## 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**



# Human Rights Reviews

- U.S. reports

## II. IMPLEMENTATION OF SPECIFIC PROVISIONS OF THE COVENANT

### 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 a half million people. In addition, the financial reform 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 (FHEO) 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 purchasers 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 – FHEO 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 FHEO 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 charges brought by HUD include: (1) a charge against the owners of several apartment buildings in suburban Philadelphia for discrimination against families

- Analyze report



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# Human Rights Reviews

- HRC asks questions
- Suggest questions

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## 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;



# Human Rights Reviews

## U.S. Written Answers

### United States Responses to Questions Concerning the Fourth Periodic Report on the International Covenant on Civil and Political Rights

1. It is with great pleasure that the Government of the United States is pleased to participate in this process and to provide as much information as possible in response to the questions. The Government's response to them does not bear directly into consideration the page limit, even though the Government further welcomes the opportunity to provide additional information in 2013.
2. **Issue 1(a).** With respect to the question concerning the Committee to "504 - Report".
3. **Issue 1(b).** With respect to the question concerning the 216 of the U.S. Periodic Report on Discrimination on June 13, 2010, Annex A of the Common Core Document.
4. **Issue 1(c).** The United States continues to evaluate its human rights obligations, including engaging in robust dialogue with other countries regarding the implementation of the Universal Periodic Review process. The United States House leads a policy process on the domestic commitments, including the Universal Periodic Review process, and continues to evaluate its human rights obligations on U.S.

they violate the Constitution and other laws. On June 12, 2013, DOJ filed a Statement of Interest in *Floyd* on the subject of fashioning an appropriate remedy so that, if the court does determine that NYPD's conduct is unlawful, that conduct can be effectively and sustainably corrected. As the Statement of Interest makes clear, DOJ takes no position as to whether NYPD's stop-and-frisk practices violate the law. Drawing on DOJ's extensive experience in facilitating wide-scale police reform, the Statement of Interest, among other things, sets forth the important function that an independent monitor can serve in cases involving systemic police misconduct.

17. **Issue 6.** The 2009 Helping Families Save Their Homes Act (the 2009 Act) amended various federal laws and programs to help homeowners avoid foreclosure and otherwise assist borrowers retain their homes. The Act also reauthorized the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act, which called for the U.S. Interagency Council on Homelessness (USICH) to "develop alternatives to laws and policies that prohibit sleeping, eating, sitting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of property belonging to people experiencing homelessness without due process, or are selectively enforced against people experiencing homelessness." While criminalization of homelessness is driven by local measures and decisions, USICH and federal agencies provide leadership, technical assistance, and incentives urging communities to adopt alternatives.

18. "Opening Doors," the first federal strategic plan to prevent and end homelessness, urges cities to adopt constructive approaches to reduce criminalization of homelessness. In December 2010, USICH and DOJ's Access to Justice Initiative (DOJ/AJ), with support from the Department of Housing and Urban Development (HUD), held a summit with local officials, law enforcement, business representatives, and advocates from around the country that resulted in recommendations for alternatives to criminalization that are detailed in a report released in April 2012, [http://www.usich.gov/resources/uploads/asset\\_library/RPT\\_SoS\\_March2012.pdf](http://www.usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf). The report suggests that a combination of solutions involving coordination among communities and institutions and a variety of social, health, law enforcement, and justice providers, can help to achieve reductions in street homelessness, <https://www.onecpd.info/resource/1966/2011-shar-to-congress-and-supplemental-reports/>.



United States Interagency Council on Homelessness

*No one should experience homelessness. No one should be without a safe, stable place to call home.*

## USICH Blog

share this page

### 07/17/2013 - Reducing the Criminalization of Homelessness

Today, USICH and the National Law Center on Homelessness and Poverty met with agency partners to discuss new strategies to reduce criminalization of homelessness. Implementing alternatives to criminalization of homelessness requires interagency collaboration. The Department of State's "U.S. Report Concerning the International Covenant on Civil and Political Rights to the United Nations" was just the catalyst needed to bring Federal agencies and national partners together around this topic. Today's meeting will inform the Department of State's oral argument on criminalization of homelessness, which will be presented to the UN in Geneva, Switzerland in November.

Across the United States, communities continue to criminalize homelessness by implementing ordinances that prohibit actions commonly associated with homelessness such as sleeping, eating, sitting, lying down, or panhandling in public spaces. Criminalization not only violates human rights but further marginalizes people who are experiencing homelessness by creating additional barriers to accessing housing, employment, and services such as a criminal record. Criminalization policies also require substantial state and local resources, making them morally, legally, and fiscally objectionable.

*Opening Doors* includes a strategy to reduce criminalization of homelessness by defining constructive alternatives to address street homelessness and considering incentives to urge cities to adopt these practices. In December 2010, USICH, Department of Justice, and Department of Housing and Urban Development, held a summit on the creation of constructive alternatives to criminalization of homelessness, which spurred USICH to release *Searching Out Solutions*. This report challenges the nation to look to outreach, housing, and supportive services to provide a sustainable, measurable answer to homelessness.

Today's meeting was a great first step in creating interagency collaboration to reduce criminalization of homelessness. While the Department of State continues to work internationally to advance human rights for people experiencing homelessness, USICH encourages local communities in the United States

to look for opportunities to promote human rights and decrease criminalization of homelessness. Familiarize yourself with local ordinances that may disproportionately target people experiencing homelessness and engage in conversation with local law enforcement, housing and service providers, and people experiencing homelessness.

For additional information on criminalization of homelessness:

- USICH Searching Out Solutions report and webinar
- Department of Justice Resources for Law Enforcement – Alternatives to the Criminalization of Homelessness
- National Law Center on Homelessness and Poverty, *Criminalizing Crisis: The Criminalization of Homelessness in U.S. Cities and A Dream Denied: The Criminalization of Homelessness in U.S. Cities*

posted in Department of Justice, Access to Justice, Strategies to reduce criminalization, Advocates, Individuals in Need, Service Providers, State and Local Government, Alternatives to Criminalization by: Elizabeth Grism



# Human Rights Reviews

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## SEARCHING OUT SOLUTIONS

*Constructive Alternatives to the  
Criminalization of Homelessness*

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United States Interagency  
Council on Homelessness

2012



# Human Rights and Alternatives to Criminalization: USICH Focus

- Searching out Solutions strategies - <http://usich.gov/issue/human-rights>
- 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

The collage consists of three overlapping screenshots:

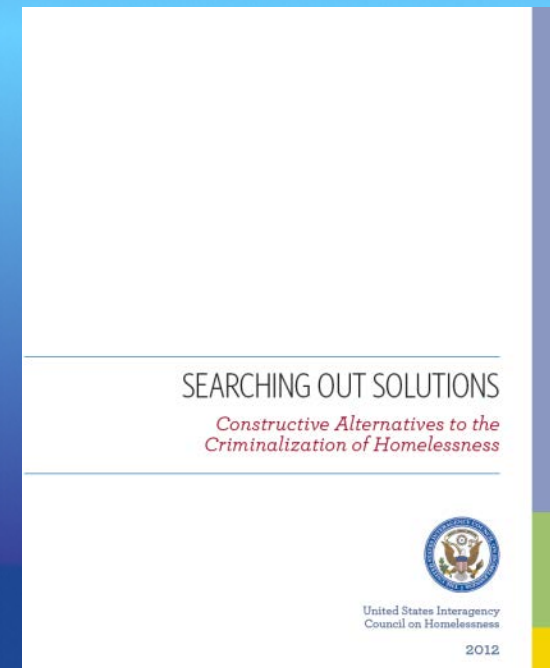
- Left Screenshot:** A web browser window showing the homepage of <http://homelessnesslaw.org/>. The main heading is "Housing as a Human Right". Below it is a photograph of a group of people at a protest holding signs, one of which says "IS A HUMAN". Below the photo are navigation links for "Home" and "About". A blog post titled "The Road to Geneva: Criminalization and D..." is visible, dated October 4, 2013, by [homelessnesslaw](#). The post text begins with "This is the second addition to a new blogs series (see [first blog](#)... National Law Center on Homelessness and Poverty's advocacy Review of U.S. compliance with the ICCPR. The information... Law Center's shadow report, [Cruel, Inhuman, and Degrading](#)... a [webinar](#) on the topic of criminalization and the ICCPR next...". Below the text, it says "The harms of the criminalization of homelessness are particular... people who experience one or multiple intersecting forms of d...".
- Middle Screenshot:** A Twitter profile page for NLCHP (NLCHPHomeless). The profile picture shows a group of people. The bio reads: "The National Law Center on Homelessness and Poverty uses the power of the law to prevent and end homelessness in America. Washington, DC · nlchp.org". Statistics show 3,165 tweets, 1,103 following, and 3,700 followers. A "Follow" button is present. A sign-up form for "Follow NLCHP" is visible, with fields for "Full name", "Email", and "Password", and a yellow "Sign up" button. Below the form is a section for "Photos and videos" showing a grid of images.
- Right Screenshot:** A tweet from "National Homeless" (@Ntl\_Homeless) dated 23 Sep. The tweet text is: "RT @huffpostimpact: State hands down another controversial homeless feeding ban [huff.to/1eBRLDh](http://huff.to/1eBRLDh)". It is retweeted by NLCHP. Below the tweet is another tweet from NLCHP (@NLCHPHomeless) dated 5 Oct, which reads: "RT @Ntl\_Homeless RT @Thinkt3: How much do you really know about the lives of [#panhandlers2.org/np155X](http://panhandlers2.org/np155X)".



# Human Rights Reviews

- **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**



# Human Rights Reviews

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.





# Human Rights Reviews

- **Suggested observations**

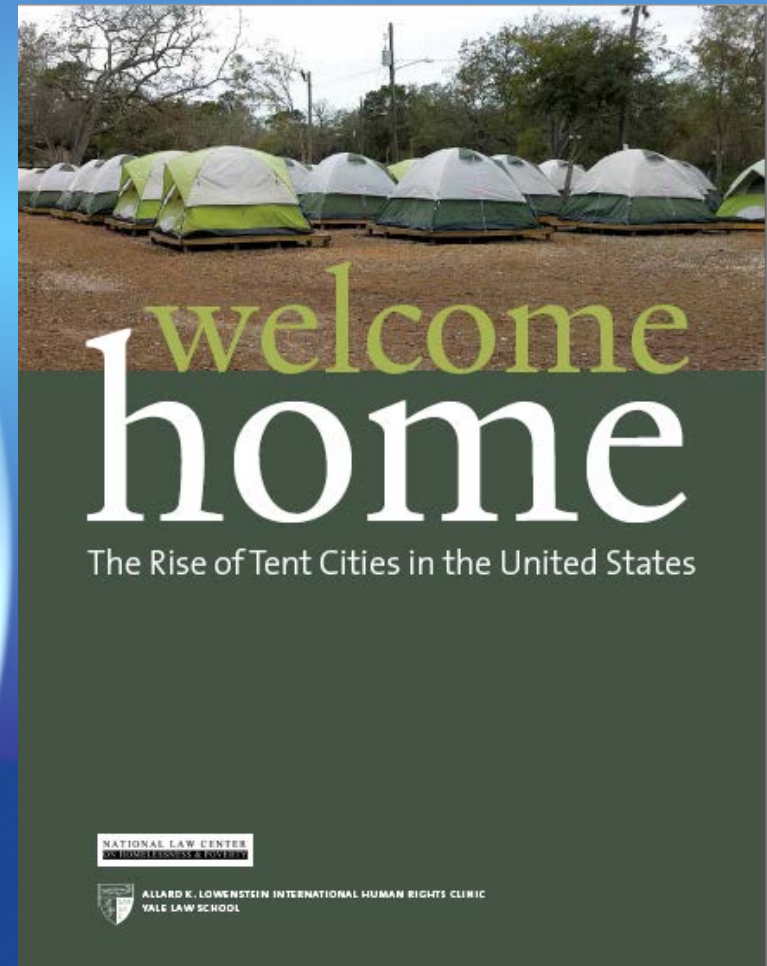
**Federal agencies should promulgate guidance for communities emphasizing the negative consequences of criminalization, provide incentives for decriminalization and constructive alternative approaches, discontinue their funding of local law enforcement practices that criminalize homelessness, and investigate 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](mailto: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



# Tent Cities

## 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

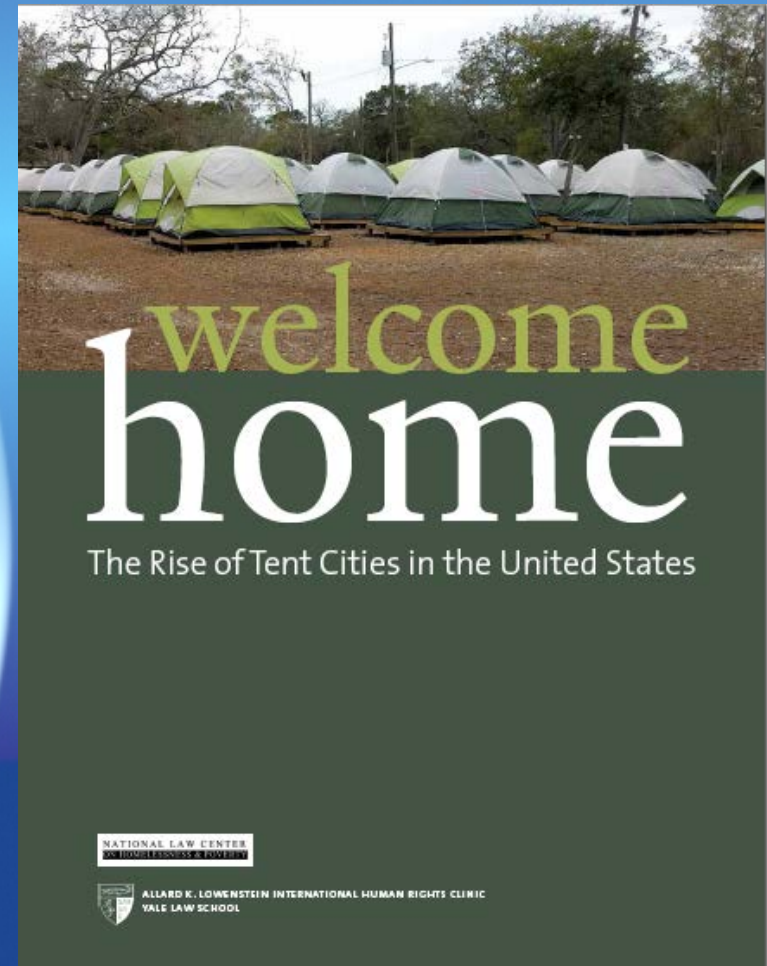
- **Comparative Law**
- **India**
- **South Africa**
- **Columbia**
- **Canada**





# Tent Cities

- **Background**
- **Case studies**
- **Legal analysis**
  - **Federal**
  - **State**
  - **International**
  - **Comparative**



# Human Right to Housing Report Card 2013

- [http://www.nlchp.org/HousingReport\\_2013%20copy.pdf](http://www.nlchp.org/HousingReport_2013%20copy.pdf)

HUMAN RIGHT TO HOUSING REPORT CARD			
Student: United States of America			
CATEGORY	2011	2012	2013
Security of Tenure			
Renters	B-	C-	C
Homeowners	D+	D	D
Access to Counsel	D	F	D-
Emergency & Dire Circumstances			
Criminalization of Homelessness	F	D-	D
Domestic Violence	B-	C	A-
Availability of Services, Materials & Infrastructure	D	D	D
Affordability	D	D	F
Accessibility	C-	C-	C-
Habitability	C-	C-	D
Location	D	D	D
Cultural Adequacy	D	D	D
Overall	D+	D	D+

COMMENTS
<i>Some progress, but needs more work!</i>

NATIONAL LAW CENTER  
ON HOMELESSNESS & POVERTY



# Human Right to Housing Report Card 2013

NATIONAL LAW CENTER  
ON HOMELESSNESS & POVERTY

**“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

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www.nlchp.org

- [http://www.nlchp.org/  
Simply\\_Unacceptable](http://www.nlchp.org/Simply_Unacceptable)

# Human Right to Housing Report Card 2013

Legal security of tenure	2011	2012	2013
Renters	<i>B-</i>	<i>C</i>	<i>C</i>
Homeowners	<i>D+</i>	<i>D</i>	<i>D</i>
Access to Counsel	<i>D</i>	<i>F</i>	<i>D-</i>
Emergency & Dire Circumstances: Criminalization	<i>F</i>	<i>D-</i>	<i>D</i>
Emergency & Dire Circumstances: Domestic Violence	<i>B-</i>	<i>C</i>	<i>A-</i>
Availability of services, materials & infrastructure	<i>D+</i>	<i>D</i>	<i>D</i>
Affordability	<i>D</i>	<i>D</i>	<i>F</i>
Accessibility	<i>C-</i>	<i>C-</i>	<i>C-</i>
Habitability	<i>C-</i>	<i>C-</i>	<i>D</i>
Location	<i>D</i>	<i>D</i>	<i>D</i>
Cultural Adequacy	<i>D</i>	<i>D</i>	<i>D</i>



# Bringing Human Rights Home

## **HUMAN RIGHTS at HOME**

A CAMPAIGN FOR A NEW DOMESTIC HUMAN RIGHTS AGENDA

- <http://www.ushrnetwork.org/our-work/campaign/human-rights-home-campaign>

# 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

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