

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Housing as a Human Right

The Law Center leverages its legal expertise and the pro bono power of the private bar in its fight to establish a right to housing in the United States. We believe no man, woman, or child should be without a safe place to call home. This is why we have been fighting for over two decades to hold the U.S. accountable to international standards, to prevent homelessness for renters, and to create homes and communities for those already experiencing homelessness using surplus government property or through subsidies or incentives for the development or preservation of deeply affordable housing.

History

In his 1944 State of the Union address, Franklin Roosevelt declared that the United States had adopted a “[Second Bill of Rights](#),” including the right to a decent home. In 1948, the United States signed the [Universal Declaration of Human Rights](#) (UDHR), recognizing adequate housing as a component of the human right to an adequate standard of living.

International documents ratified by the United States also recognize the right to be free from discrimination—including housing discrimination—on the basis of race, gender, disability, and other status. They also emphasize the need for equitable policies to make up for past discrimination.

In more recent years, the U.S. government supported, in part, a recommendation from the Human Rights Council in 2015 to “guarantee the right by all residents in the country to adequate housing, food, health and education, with the aim of decreasing poverty, which affects 48 million people in the country.” In October 2016, the U.S. signed onto the New Urban Agenda, committing to policies that support a right to adequate housing as a component of an adequate standard of living.

What Is Housing as A Human Right?

According to the U.N. Committee on Economic, Social, and Cultural Rights, which oversees the ICESCR, the human right to adequate housing consists of [seven elements](#): (1) security of tenure; (2) availability of services, materials, and infrastructure; (3) affordability; (4) accessibility; (5) habitability; (6) location; and (7) cultural adequacy.

Governments may use a variety of policies and practices to help ensure these rights, including but not limited to:

- market regulations
- subsidies and incentives to developers
- public-private partnerships
- rental and homeowner tax policy
- devoting resources to public housing or vouchers
- inclusionary zoning regulation
- legal due process protections from eviction or foreclosure
- right to counsel
- removing the criminalization of homelessness

No matter the methods, the right to housing signifies using the maximum of its currently available resources to ensure as many people as possible are enjoying the right, and that this increases progressively, until the full right becomes realized for all.

What Is Housing as A Human Right NOT?

Having the right to housing does not mean that the government must build a house for every person in America and

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give it to them free of charge. It does, however, allocate ultimate responsibility to the government to progressively realize the right to adequate housing. Implementing the right to housing will involve some immediate action as well as a clear plan for future action that the state can hold itself accountable to, all of which will eventually lead to the full, society-wide, enjoyment of this right.

Right to housing legislation would also not mean the state is obligated to devote all of its resources toward housing and nothing else until everyone is adequately housed. Available resources include legal and regulatory frameworks which do not cost the state anything to implement, and theoretically, the state could achieve its obligations purely through creative regulation, for example, strong inclusionary zoning requirements. The availability of additional federal COVID-19 relief funding could also be used to supplement state and local funding.

What Is CA ACA-10?

California [Assembly Constitutional Amendment 10 \(ACA-10\)](#) states: “The fundamental human right to housing is hereby declared to exist in this state. This right ensures access to adequate housing for all Californians. This right is exclusively enforceable by a public right of action. It is the shared obligation of state and local jurisdictions to respect, protect, and fulfill this right through progressively implemented measures, consistent with available resources, within an aggressive but reasonable time frame.”

Housing as a human right in California would include immediately ensuring all Californians currently experiencing unsheltered homelessness have a safe, legal place to be, both day and night, with their family members and belongings. This could include the use of federal COVID-19 dollars to rent hotel rooms or to provide legalization of safe camping areas and parking lots with relatively low-cost sanitation facilities.

The progressive obligation would ensure that the state does not stall out at this stage, but rather that as additional funding comes from the federal government or its own relief spending and policymaking, it must continue on, through purchasing hotels, repurposing other vacant properties, new public or private construction, or subsidies to create the adequate, affordable housing capacity to be able to move people out of encampments and hotels, and equally importantly, to prevent new homelessness, equitably prioritizing the needs of those most currently at risk.

Who Else Has Recognized A Human Right to Housing?

[France](#), [Scotland](#), [South Africa](#), and many other countries have adopted a right to housing in their constitutions or legislation, leading to improved housing conditions. In Scotland, the “Homelessness Act of 2003” includes the right for all homeless persons to be immediately housed and the right to long-term, supportive housing for as long as needed. The law also includes an individual right to sue if one believes these rights are not being met and requires jurisdictions to plan for the development of adequate affordable housing stock. Complementary policies include the right to purchase public housing units and automatic referrals by banks to foreclosure prevention programs to help people remain in their homes. All these elements work together to ensure that the right to housing is upheld. Although challenges remain in its implementation, in general, Scotland’s homelessness is a brief, rare, and non-recurring phenomenon.

Resources for Advocates

Advocates can hold local government accountable to human rights standards by creating an annual [Human Right to Housing Report Card](#). Deeper detail on the right is available in our [Manual](#) and other materials on our [human rights resource page](#). Numerous professional associations, including the [American Bar Association](#), [American Medical Association](#), [American Public Health Association](#), the [International Association of Official Human Rights Agencies](#) and the [U.S. Conference of Catholic Bishops](#) have passed resolutions endorsing a domestic implementation of the human right to housing.