

HUMAN RIGHTS TO HUMAN REALITY

A **10** Step Guide
to Strategic Human Rights Advocacy

NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

HUMAN RIGHTS at HOME

A CAMPAIGN FOR A NEW DOMESTIC HUMAN RIGHTS AGENDA

ABOUT THE NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

The National Law Center on Homelessness & Poverty (NLCHP) is a 501(c) 3 organization based in Washington, D.C. and founded in 1989 as the legal arm of the national movement to end and prevent homelessness. Through policy advocacy, public education, and impact litigation, NLCHP addresses the root causes of homelessness and seeks to meet both the immediate and long-term needs of homeless and poor people. Through training and support, NLCHP also enhances the capacity of local groups. We are the only national organization dedicated solely to using the power of the law to prevent and end homelessness in America.

For more information about the Law Center and to access publications such as this report, please visit our website at www.nlchp.org.

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EXECUTIVE SUMMARY

Working consistently for the past two decades, the National Law Center on Homelessness & Poverty is achieving unprecedented success in getting federal agencies to address the criminalization of homelessness as a human rights violation. Because the Law Center strongly believes that human rights are universal and intersectional, we are working as part of the Human Rights at Home (HuRAH) Campaign, a collaborative effort to help ensure that human rights principles, standards, and obligations are considered and implemented in all areas of domestic policy and practice by promoting the adoption of concrete accountability mechanisms in the United States. While our road to our success has not been direct or easy, this guide presents ten steps as a case study of our experiences that we believe can help others achieve broader respect for, and implementation of, human rights.

These steps are:

1. **Vision your work as human rights work**—discussing why we felt it was important to take a human rights approach in the first place, and how we began applying human rights standards to our issues.
2. **Lay your base**—discussing how our regional and national forums built an educated base of grassroots and legal advocates, and, crucially, helped us educate government officials too.
3. **Use the standards**—discussing how our purposeful inclusion of relevant human rights standards across our advocacy materials led to key references in federal reports that we have built further success upon.
4. **Use the mechanisms internationally**—discussing our strategy of building a comprehensive record across multiple international human rights mechanisms on the issue of criminalization of homelessness.
5. **Use the mechanisms domestically**—discussing our use of international human rights events to prompt meetings with domestic officials at which we persistently discuss domestic issues through a human rights lens.
6. **Build complementary standards**—discussing our work with national associations and through local resolutions to build further legitimacy and acceptance of international human rights standards.
7. **Follow up, follow up, follow up**—emphasizing that it is not the big international treaty reviews or cross-agency meetings that produce change on their own, but the one on one meetings and phone calls in between the major events that actually make change happen.
8. **Document your success to make more success**—discussing our communications strategies to build our own “echo chamber” and promote further success with our targets and partners.
9. **Make the rights real**—discussing how we are taking broad human rights processes and standards and using them to promote a specific end that would have a concrete impact for our community.
10. **Hold the federal, state, and local governments accountable**—discussing how even when we make progress, we need to make sure we do follow up work to see that it producing the results we want, and where it is not, to repeat the above steps as needed.

We have seen the growth over the past two decades of an increasingly sophisticated movement of domestic human rights advocates who we believe are poised to fundamentally alter the way our federal government interacts with human rights standards and mechanisms. We hope this guide helps these advocates take their next steps toward creating a future where we can all enjoy Human Rights at Home.

INTRODUCTION

At the close of 2014, following condemnation of the criminalization of homelessness from three human rights treaty monitoring bodies and their recommendations to create federal funding incentives to discourage the practice, the United States Department of Housing and Urban Development (HUD) is considering such incentives in its funding applications.¹ This builds on steps taken earlier this year, as the U.S. Interagency Council on Homelessness launched a new web page dedicated to “Human Rights and Alternatives to Criminalization of Homelessness,” and HUD issued policy guidance which emphasized the importance of “a human rights approach to ending homelessness” and pointed out that criminalization measures are not aligned with this approach.²

These are important, groundbreaking steps, and the federal government did not take them on its own. The National Law Center on Homelessness & Poverty has been relentlessly advocating for an increased federal role in stopping criminalization for years. But since strategically bringing a human rights approach to the issue, we have seen the government significantly increase its support, first through increased collaboration and now to actively promoting human rights standards, beginning to lay a foundation that can make a real difference in the lives of homeless persons across the country.

The domestic human rights movement has grown in leaps and bounds over the past decade as more advocates have become aware of the standards and mechanisms and the opportunities they present to build upon the traditional social justice conversation in the U.S. In particular, many advocates become excited when they see economic and social issues—the rights to housing, healthcare, education, food and water, decent work—addressed as rights, rather than as mere subjects for social debate. But understanding how to translate those rights from lofty principle into concrete change in the lives of people on the ground is a challenge.

The Law Center first engaged with human rights processes in its work to end homelessness in America in 1996. Since that time, we have understood that

if we are to achieve our mission of ending and preventing homelessness in America, we must gain recognition—by the government, and by the public at large—of housing as a human right to which all are entitled. For close to two decades, we have learned much, through trial, error, and dogged persistence about how we could use the tools of human rights to strategically aid in our domestic advocacy on behalf of poor and homeless people across the country. This guide presents a case study of our lessons learned, as well as some examples from partners, to help others as they continue on their journeys toward domestic human rights implementation.

The Law Center presents this guide as part of its work on the Human Rights at Home (HuRAH) Campaign. HuRAH was founded in late 2008 (then as the “Campaign for a New Domestic Human Rights Agenda), to support the development of federal infrastructure to create human rights accountability across all issues.³ Campaign goals include: 1) Promoting the institutionalization, mandate expansion, and effective use of the Equality Working Group (EWG) as a federal focal point for coordination and implementation of U.S. human rights obligations; 2) Promoting meaningful engagement with the Equality Working Group (and the range of federal actors it comprises), and coordination between the Equality Working Group and state and local agencies and officials to improve implementation of human rights obligations; 3) Promoting the development and use of other accountability structures at the federal, state, and local levels for human rights compliance including the continued support of work to reform and strengthen the capacity of the US Civil Rights Commission and create a National Human Rights Institution; 4) Expanding grassroots outreach, capacity, and engagement in informing and advancing human rights accountability mechanisms including the Equality Working Group; and 5) Advancing specific issue area campaigns - focused on eliminating discrimination against and criminalization of vulnerable groups - by actively working with, and promoting the strengthening of the Equality Working Group. HuRAH is governed by a Steering Committee chaired by the US Human Rights Network comprised of the American Civil Liberties Union, Human Rights

Institute at Columbia Law School, National Economic and Social Rights Initiative, National Law Center on Homelessness and Poverty, and the Border Network for Human Rights.

HuRAH seeks to build the policy infrastructure that will translate the world of international human rights into concrete action at the federal, state, and local levels here in the United States.

This guide is intended for our fellow advocates in the HuRAH Campaign and those who have been working with international treaty bodies, Special Rapporteurs, and the Universal Periodic Review. As such, it assumes some basic knowledge of the human rights system and its applicability to the U.S. There

are excellent guides on how to work with different international human rights mechanisms issued by our fellow leaders in the HuRAH Campaign including the US Human Rights Network, the Human Rights Institute at Columbia Law School, and the American Civil Liberties Union, the National Economic & Social Rights Initiative, and others. This guide will not discuss the specifics of how to use the mechanisms; rather, it presents a case study of the bigger picture strategy around using the mechanisms to advance an issue, primarily at the federal level.

Each section of the guide presents a piece of the case study and offers take away lessons and action steps to help advocates in their work toward creating a future where we can all enjoy Human Rights at Home.

1

VISION YOUR WORK AS HUMAN RIGHTS WORK

The Law Center was founded in 1989 to serve as the legal arm of the national movement to end and prevent homelessness. Early in this movement, we won a major breakthrough victory when, against long political odds, the McKinney-Vento Act became law, putting in place the first major federal legislation addressing the exploding national crisis of homelessness. The Act put in place comprehensive but primarily emergency measures; we worked to build on this to achieve the rest of our agenda, in the form of preventive measure and long term solutions to homelessness, primarily permanent affordable housing. By 1996, as cuts to the budget of the Department of Housing & Urban Development continued along with cuts to other social safety net supports, it was clear that pushing forward our agenda for long term solutions would require additional strategies and further breakthroughs.

Into this context came the 1996 World Habitat II Conference in Istanbul, Turkey. This global gathering of policy makers addressing housing issues across the globe takes place every 20 years. The U.S. government reached out to civil society (non-governmental) experts, including the Law Center, to form a national committee to help the government prepare for the conference. The Law Center's Executive Director, Maria Foscarinis, joined the committee, and the Law Center played a central role in overcoming U.S. governmental resistance to including the term "right to housing" in the Habitat Agenda, the major outcome document for the conference.

Having worked hard to include the right to housing language and create a strong agenda for implementing that right, we came back to the U.S. inspired by the concept of the human right to housing as a potentially transformative idea for our advocacy—along with a healthy dose of skepticism about its applicability in the context of the U.S. legal system. In the late

1990s and early 2000s, the Law Center investigated the standards of the human right to housing and how it might be implemented as a legal right in the U.S. It discovered a rich and comprehensive set of legal principles that, if properly applied, could begin to shift the context of housing policy debate. Instead of asking how to spend a limited amount of resources to help a limited number of people access some housing, we could ask how can we ensure the human right to adequate housing for all Americans?

In the human rights vision, the government's highest obligation is to ensure that the full range of human rights—civil, political, economic, social, and cultural—for each and every human being. Assessing housing policy from a rights-based framework would fundamentally change the dialogue about the U.S.'s resource allocation and regulatory policies to ensure people's basic rights are at the highest priority, not simply a side-note. For example: In 2008, our government gave hundreds of billions of Americans' tax dollars to bail out banks overwhelmed by the foreclosure crisis. A rights-based policy would have, at a minimum, demanded that the banks renegotiate mortgages to allow families to remain in their homes in exchange for this unprecedented rescue. Instead, the banks got their bailout and quickly returned to profitability, all while continuing to force American families—who paid for their bailout with their taxes—out of their homes. Now, millions of foreclosed homes stand vacant while families are homeless on the streets. Recognition of the human right to housing in 2008 would have prevented this outcome by putting the duty to the people first.

Since 2011, the Law Center has put out an annual report card on the status of the human right to housing in the U.S., measuring our federal policies against human rights standards.⁴ By doing so, we use the human rights framework as the relevant measure of our the impact of federal policies on housing and homelessness—how are the elements of the human right to housing (affordability, accessibility, habitability, etc., as embodied in international standards) enjoyed on the ground as a result of federal policies?⁵ Because it addresses the human need for housing directly and specifically, the human right to housing can serve an important agenda-setting function for us as advocates to envision a positive and concrete agenda for change.

ACTION STEPS

- Research the international standards applicable to your issue – engage pro bono legal support or local university students or clinics to help.
- Think about how these standards apply to the issues you work on: Where are they better than U.S. standards? How can they help transform the policy debate?
- Draft a human rights report card as a concrete project to help you fully assess how you can apply the standards to current issues and begin holding the government accountable.

2

LAY YOUR BASE

Following the Habitat conference, the Law Center continued to meet with other advocates from across the country who had been engaged in the Habitat process. In 2003, it partnered with an international organization, the Centre on Housing Rights & Evictions (COHRE), to convene the first National Forum on the Human Right to Housing, bringing together over 70 advocates, government representatives, researchers, and donors to educate themselves further on human rights standards and develop concrete plans for further developing the application of the framework to the U.S.

For the next several years, the Law Center and COHRE held national and regional forums on the human right to housing, educating hundreds of advocates on the framework, standards, and mechanisms of the human rights system. At each of the regional forums, the Law Center sought to ensure the local organizers could come out of the event with concrete strategies to continue moving the work forward locally. At the national forums, we brought together the advocates from the regions to share their achievements and challenges, and consider how their local movements contributed to a national whole.

On a parallel track, we published reports and articles on the human right to housing and how it applies in the U.S. These included a manual on human rights advocacy which we used as a basis for our trainings; articles in publications geared toward our target audiences (legal aid attorneys and housing advocates); reports to international treaty bodies (see Sec. 4); and integrating human rights standards throughout our other materials (see Sec. 5).

At each of our training forums, we strategically, and repeatedly, invited key federal and local government officials to join our panels. In part, this was so the officials could share their expertise. But it was also a form of strategic advocacy to further engage and educate them about human rights standards as relevant to the domestic policy dialogue. Moreover,

at these forums, these officials heard not just from Law Center staff, but from an increasingly educated grassroots cadre of advocates from the other regional trainings, emphasizing that our human rights advocacy was part of a larger movement.

Laying the base at the grassroots:

The Vermont Worker's Center working with the National Economic & Social Rights Initiative built a successful campaign for universal health care in Vermont by canvassing door to door, documenting Vermonters health care needs, pushing those who expressed needs to participate in human rights forums, and promoting health care as a human right. See more, including an excellent short documentary of the campaign, at: <http://www.workerscenter.org/healthcare>.

The Law Center also strategically invited foundation representatives to be part of our forums. Again, this was in part for the funders to share their expertise with the advocates, and in part to reaffirm to the funders their critical role in continuing to grow the movement for the human right to housing.

As electronic media tools became increasingly available, we incorporated web-based trainings into our education strategy as well, to reach audiences who could not travel to our in-person trainings. These included both broad-based, nationally available webinars and webinars conducted for audiences in individual cities who contacted us requesting specific training where we could not make a cost-effective visit in person.

ACTION STEPS

- Once you have educated yourself on human rights standards, work locally, regionally, nationally, and internationally to educate a broad constituency demanding human rights accountability for your cause through trainings and publications.
- Seek out partners at these different levels to assist in your work.
- Incorporate government officials and funders into your conference panels and/or coalitions.
- Ensure your gatherings are geared toward developing concrete work plans to help keep momentum moving forward.

3

USE THE STANDARDS

The best way to promote human rights accountability is, unsurprisingly, to use human rights standards to hold government accountable. Despite polling showing public support broadly in favor of human rights applicability to the U.S.,⁶ many advocates who may agree with the concept themselves are nonetheless hesitant to utilize these standards as part of their general materials. The targets of our advocacy are unlikely to introduce human rights standards to the debate, so it's up to us if we want to see them become the relevant measuring stick.

The importance of this approach can be seen in the Law Center's success in moving the U.S. Interagency Council on Homelessness (USICH) to adopt human rights framing around criminalization of homelessness. The Law Center had been issuing reports on the criminalization of homelessness in America since the late 1990s. In the reports, we discuss a broad range of domestic constitutional, statutory, and judicial law relevant to the issue of criminalization. But recognizing that human rights standards could help elevate our own domestic legal conversation, we have made it a point to also include discussion of the applicable human rights standards as well (moreover, we have made it a point to develop these standards, *see* Section 4).⁷

These standards supplement our other advocacy—they do not displace it. In 2009, Congress passed the HEARTH Act, reauthorizing programs of McKinney-Vento Act. As part of our advocacy on the legislation, we advocated successfully for provisions requiring USICH to produce a strategic plan to end homelessness and to develop constructive alternatives to the criminalization of homelessness.⁸ The Law Center engaged with USICH in individual meetings and broad consultations in preparation for both of these documents, and shared our reports with them.

When asked by the USICH to provide a quote for the strategic plan, we included human rights language.

Because we had already familiarized the agency staff with our human rights approach through their participation at our trainings (see Step 2), they had begun to accept its relevance. When the *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness* came out in 2010, it included a quote from our Executive Director, stating “Criminally punishing people for living in public when they have no alternative violates human rights norms, wastes precious resources, and ultimately does not work.”⁹ Although it was our own quote, it was included in the federal plan—the first time we are aware of that a domestically-oriented federal agency (i.e. not the State Department) has included a reference to a domestic practice violating human rights obligations. Then, in 2012, responding to the the Congressional mandate for which we had advocated in 2009, USICH issued *Searching Out Solutions: Constructive Alternatives to the Criminalization of Homelessness*. In discussing the legal challenges to criminalization ordinances, the report states, “In addition to violating domestic law, criminalization measures may also violate international human rights law, specifically the Convention Against Torture and International Covenant on Civil and Political Rights.”¹⁰ With this report, the agency incorporated this language of criminalization as a human rights violation as its own text—not merely quoting an outside party. Again, this is the first instance we are aware of a domestic agency referring to specific human rights treaties (beyond the broad “human rights norms” language in *Opening Doors*) that may be violated by a domestic practice. The footnote for the sentence cites the Law Center's criminalization report as its source, emphasizing that had we not included the human rights standards as part of our regular discussion in our report, the government would not have been able to pick it up and include it in their report.

While never hesitating to be critical when necessary, the Law Center recognizes the importance of positive reinforcement. Thus, we highlighted these references positively through our social media outlets and subsequent reports, and encouraged international human rights monitors to do so as well (see Sec. 8) to further support agency officials in incorporating human rights standards.

The screenshot shows the United Nations Human Rights website. The header includes the UN logo, the text 'United Nations Human Rights Office of the High Commissioner for Human Rights', and a search bar. The main navigation menu includes 'Home', 'Your human rights', 'Countries', 'Human rights bodies', 'News and events', 'Human rights - New York', 'Publications and resources', and 'About us'. The article title is 'USA: "Moving away from the criminalization of homelessness, a step in the right direction"'. The article text discusses a report from the U.S. Interagency Council on Homelessness and the U.S. Department of Justice, which condemns the criminalization of homelessness and recommends alternative practices. It quotes UN experts and the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda, who warned that States are increasingly adopting laws that penalize people living in poverty. The article also mentions the Special Rapporteur on the right to adequate housing, Catarina de Albuquerque, and the Special Rapporteur on the human right to safe drinking water and sanitation, Raquel Rolnik. The article concludes with a quote from the Special Rapporteur on the right to adequate housing, stating that 'Lack of access to affordable housing is the main cause of homelessness, and I am pleased to hear that the US federal Government is willing to take steps to address this issue.'

ACTION STEPS

- Include human rights standards and language in your public materials (reports, litigation briefs, press releases, social media, etc.) and statements-- unless there is a reason not to.
- Ensure that the human rights standards you do apply are appropriate and strategically directed toward your goals.
- Where you achieve success, document it, share it, and build upon it (see Section 8)!

4

USE THE MECHANISMS INTERNATIONALLY

While using existing human rights standards in your materials is important, it is equally important to participate in the development of new standards by using human rights mechanisms at the international level.

The Universal Declaration of Human Rights and human rights treaties are the foundation of the human rights system. But it is through the various U.N. (and regional) human rights mechanisms that the broad language of the treaties is elaborated upon, and we can both apply the more specific rules developed through these mechanisms as well as work with them to make the rights specific to the issues currently confronting the communities we work with. Again, others have written excellent guides on how to work with different mechanisms; this summary addresses the strategy for using them.

In our early years of advocacy, we attempted to be as comprehensive as possible in producing our reports to U.N. human rights monitors, hoping that as many issues as possible might be discussed. We soon learned, however, that at least with the treaty monitoring bodies, trying to do too much would end up producing either over-generalized or slightly off-topic statements with limited usefulness to our advocacy. We determined that as difficult as it was to let go of bringing all our issues, we would be more effective if we had a single focus.

We began to focus on building a comprehensive record across multiple U.N. mechanisms on the criminalization of homelessness as cruel, inhuman, and degrading treatment. The criminalization of homelessness is a major trend in communities across the country, and we and others are engaged in legal and other advocacy to fight it. Our legal bases include

the Eighth Amendment and Due Process Clause; both include language that U.S. courts—including the U.S. Supreme Court—have interpreted with reference to evolving standards of decency; importantly, they have been willing to look to human rights norms as sources of those standards, especially where the standards are reflected across a number of human rights mechanisms.¹¹ Thus, this was an area of focus that is both critical to our advocacy—and the lives of homeless and poor people—and one in which developing applicable human rights norms could make a difference in the development of U.S. law.

Of course, our goal is not simply to stop criminalization, but to build support for the human right to housing, and we consistently make this point in our advocacy. Because human rights law views rights as interdependent, it supports and helps us make that connection: by using human rights norms to affirm the rights of homeless people not to be penalized for their lack of housing, we also affirm the framework that holds that government has a positive obligation to ensure the right to housing. In the courts, we are currently exploring arguments to support court remedies that order affirmative relief—as opposed to simply enjoining criminalization laws and policies—by integrating human rights norms and the record we have been developing. In policy advocacy, while we are building a human rights record focused on criminalization, we are also laying a foundation for positive solutions to homelessness based on the human right to housing.

Having made this strategic decision, we have been using a variety of opportunities to get language on criminalization that we could use in our advocacy. As we gain each piece, we add it to our advocacy package to use as part of our next opportunity.

Over the past seven years, we have taken advantage of four official mission visits of U.N. experts to the U.S. to have them make commentary on criminalization of homelessness: the U.N. Special Rapporteurs on Racism, Housing, and Water & Sanitation, and the U.N. HABITAT Advisory Group on Forced Evictions. We also capitalized on multiple thematic reports put out by the Special Rapporteurs on Housing, Water & Sanitation, and Extreme Poverty to further build the standards. Building on this commentary, we used the Universal Periodic Review process in 2010 to advocate

successfully for the U.S. to accept a recommendation to “[r]einforce the broad range of safeguards in favor of ... the homeless to allow them the full enjoyment of their rights and dignity.”¹² More on the domestic use of these mechanism follows in the next section, but at the international level, we were able to take the broad language of the rights to adequate housing; water and sanitation; non-discrimination; freedom from cruel, inhuman, and degrading treatment; and others and turn it into an emerging norm against criminalization of homelessness, often with specific reference to the U.S. context.¹³

Then in 2013-14, we cemented the emergence of the new norm through the U.S.’s three treaty reviews, getting specific questions in the treaty bodies’ advance list of questions, having the Committee members make specific references to criminalization during the reviews, and issuing strong recommendations. These called for the U.S. to “abolish” the practice, addressed it as “cruel, inhuman, and degrading treatment,” and recommended agencies “offer incentives to decriminalize homelessness, including by providing financial support to local authorities that implement alternatives to criminalization, and withdrawing funding from local authorities that criminalize homelessness.”¹⁴ This was important because on a legal level it elevated the norm from the Rapporteurs to commentary on the three human rights treaties the U.S. has ratified and on a policy level it reaffirmed the language in the USICH’s *Searching Out Solutions* report that criminalization violates these treaties. Each successive repetition of the recommendation reinforced our call on the federal government to take the concrete steps needed.

Be Opportunistic:

While the mission visit of the Special Rapporteur on Water & Sanitation might not seem the most obvious place to advocate on criminalization of homelessness, we engaged the Rapporteur to visit homeless communities in Sacramento where she saw the purposeful denial of even public restrooms to homeless persons with the aim of driving them out of the city. Together with local partners, we used her visit, subsequent recommendations, and even a direct letter to Sacramento Mayor Kevin Johnson to generate huge media attention to this issue, reframing the public debate. While the problems have not been fully resolved, local advocates do feel Rapporteur’s visit has left lasting impact, and her strong statements that this treatment can rise to the level of cruel, inhuman, and degrading treatment have contributed to our long term work at the international level on this issue.

ACTION STEPS

- Think creatively about mechanisms which might be available to apply the broad standards of human rights to your issues and cultivate opportunities for them to do so.
- Request Special Rapporteur mission visits, or participate in the development of Rapporteur thematic reports to ensure they link to your issues.
- Participate in treaty body reviews and the Universal Periodic Review.
- Consider focusing on a single issue, rather than a broader range of demands, to establish a concrete victory using international mechanisms and then work toward others.

5

USE THE MECHANISMS DOMESTICALLY

While our work to create a norm against criminalization at the international level is important, equally, if not more important is our work to actively create opportunities for using the norms and commentary domestically. While in some ways what we are doing is nothing revolutionary—we request meetings with federal officials—the persistence and consistency of our using every opportunity to bring the government’s attention back to our goals of getting federal intervention on criminalization of homelessness is the essence of what it means to hold the government accountable through human rights.

Mission visits: One of the best ways to elevate the visibility of your issues as human rights issues is to bring the U.N. Special Rapporteurs to the U.S. on official mission visits on their respective thematic issues. The 2009 mission of the Special Rapporteur on the Right to Adequate Housing brought the Rapporteur to six cities across the country, five of which we had held our regional trainings in (see Sec. 2 above), enabling us to engage the base we had trained in a tangible opportunity to bring the international human rights world into the heart of their communities. This allowed grassroots leaders in each of these cities to more deeply engage their partners in using human rights for accountability locally, shining an international spotlight on local issues. And with our coordination at the federal level, we reflected those local issues in meetings with federal officials that could help all our causes, including criminalization of homelessness.

Other meetings with Rapporteurs: Each October, all the Rapporteurs come to the U.S. to present their annual and thematic reports to the U.N. General Assembly in New York City. Through our advocacy, many of these thematic reports included

relevant standards concerning the criminalization of homelessness (see Sec. 4), and we invited the Rapporteurs to Washington, D.C. to meet with the federal officials we were cultivating to continue our education and advocacy with them.

Universal Periodic Review: Fortunately for us, the U.S.’s first Universal Periodic Review (UPR) took place one year after the Housing Rapporteur’s visit, enabling us to revisit her recommendations and hold the government accountable for progress (or lack thereof) in the year since her visit. The State and Justice Departments coordinated consultations across the country in advance of the UPR, and as a result of the organized base we had in place, a State Department official stated “We have heard more about housing than you would believe in these sessions. If I had to pick the number one human rights issue brought to the U.S., it would be housing.”¹⁵ Each of these consultations was important in that they included not only State Department officials, but representatives of HUD, Justice, and other domestic agencies, providing us with further contacts in these agencies who had at least a basic understanding of what the UPR process (and human rights standards) was about.

“We have heard more about housing than you would believe in these sessions. If I had to pick the number one human rights issue brought to the U.S., it would be housing.”

- David Sullivan, U.S. State Department

As noted above (see Sec. 4), with our advocacy, the U.S. accepted the UPR recommendations on protecting the rights of homeless persons. The State and Justice Departments took the lead in creating the Equality Working Group (EWG) to follow up on all the UPR recommendations, including ours. The EWG brings together at least one official from each agency that would be involved in the implementation of the recommendations in periodic meetings. However, because the scope of these meetings covers all the UPR recommendations, they often provide little time for detailed discussion of any individual issue. So,

while using the EWG meetings as an entry point to make contact with the officials, we did not view this as the only opportunity. We capitalized on the contacts made through the consultations and EWG meetings to hold follow up meetings with HUD, DOJ, and other officials to link specific advocacy demands to the general language from UPR recommendations (see Sec. 7).

Treaty reviews: Leading into the recent round of treaty reviews, we were able to get a question on criminalization of homelessness in the Human Rights Committee’s List of Issues presented to the U.S. government in advance of the review. We took this opportunity to say to officials at USICH, HUD, DOJ, and State, “You know this question is coming your way, let’s have a meeting to discuss your response—both what we’d want you to say to the Committee, and what we believe you need to *do* if you want to credibly claim a positive record.” We presented our issue, along with a list of seven clear recommendations at a meeting we co-organized with the USICH for some of its key member agencies. At this meeting, we engaged the USICH to follow up with its member agencies on these recommendations. This was a key turning point in our advocacy. In the past, it had been us working to hold the government accountable to our demands; now it was the USICH working with us and reaching out to its member agencies. Following the Human Rights Committee’s strong observations, we held further follow up meetings and calls with USICH and other agencies to continue to press them to implement the recommendations, both with them as part of the EWG and in individual agency meetings.

It is not any one meeting that made the difference, but the repeated interaction with HUD, USICH, DOJ and other agencies, consistently engaging them through the human rights framework, that slowly built their familiarity with, and sense of accountability to, the standards (see Sec. 7). But once the shift happened, we now see USICH independently quoting human rights standards in its own materials. We are changing the baseline of the policy conversation, and can begin to work on a higher level of advocacy.

ACTION STEPS

- Invite Rapporteurs to conduct a mission visit to the U.S.
- Capitalize on Rapporteurs’ annual presence in New York to invite them, hopefully in the context of a relevant thematic report you have worked on, to meet with you and agency officials to discuss implementing the recommendations from their reports.
- Utilize the Universal Periodic Review consultation processes to develop initial contacts with agency officials, but make sure to follow up with independent meetings outside the consultation context, both before, and especially after the Review. Take the general language of the recommendations and tell the agencies specifically what you will be holding them accountable for when the review comes up again four years later.
- Utilize all aspects of the treaty review process—the questions in the list of issues, the review itself, and the Concluding Observations—as opportunities to have further conversations with agency officials.
- Be opportunistic—make the connections, then use them persistently and consistently!

6

BUILD COMPLEMENTARY STANDARDS

In addition to work at the federal level, the Law Center has actively engaged with other opportunities to increase public awareness of human rights standards and make them part of the policy discourse. This includes working with national and local organizations.

As lawyers, we at the Law Center understand the importance of the role the American Bar Association plays in informing conversations among lawyers, who may be serving in policy-making branches of government or as part of the judiciary. In 2012, as a result of our work on this issue and participation and discussion of it at the ABA Commission on Homelessness and Poverty, we were invited by the Commission to work with it to draft a resolution affirming the ABA's support for the human right to housing. While the resolution went through many drafts before it passed in August 2013, we ensured the final text included a recommendation that governments actually implement the human right to housing through increased funding and planning, and preventing infringement of the right.¹⁶ Through the report attached to the resolution we even more clearly laid out the specifics of what implementing the right would mean domestically. Having this resolution from the leading mainstream legal organization gives our human rights cause adds legitimacy with lawyers to whom we talk at the federal and local level.

Also in August 2013, we drafted and passed a resolution at the International Association of Official Human Rights Agencies (IAOHRA) in partnership with our HuRAH Campaign colleagues at Columbia Law School's Human Rights Institute and the Seattle and Los Angeles Human Relations Commissions.¹⁷ IAOHRA is the national association of state and local human rights commissions, engaged in crucial nondiscrimination advocacy and enforcement in many states and cities across the country. Although

“human rights” is in their commissions' names, in many cases their knowledge of human rights standards is minimal, though there is a growing core of members seeking to use human rights standards as part of their own accountability strategies. The resolution specifically condemns criminalization of homelessness on human rights terms and calls for local commissions to engage their public officials in advocacy against criminalization and for constructive alternatives, such as homeless bills of rights. We have since used this resolution in engaging local human rights commissions with the issue of criminalization in their communities.

The Law Center has also supported the passage of local resolutions or planning documents referring to the human right to housing. In 2003, we helped partners at the Chicago Coalition for the Homeless and Coalition to Protect Public Housing pass a resolution in the Cook County Board of Supervisors declaring housing a human right. That resolution was subsequently used to help protect state funding for subsidized housing.¹⁸ In 2005, we worked with Beyond Shelter and the Los Angeles Coalition on Hunger and Homelessness to include the human right to housing as an element of Los Angeles' Ten-Year Plan to End Homelessness.¹⁹ In 2011, the Madison City Council and Dane County Board of Supervisors both passed resolutions calling housing a human right.²⁰ In 2012, coming out of the OCCUPY Eugene movement, the Law Center helped include human rights references in the Opportunity Eugene Plan to address homelessness.²¹ And later that year, following the visit of the U.N. Special Rapporteur on the Right to Water and Sanitation, California passed a law declaring water a human right.

ACTION STEPS

- Work with relevant national associations to pass resolutions addressing your issues as human rights issues to build awareness and promote broader credibility and acceptance of the human rights framework.
- Work with local partners to integrate human rights standards into local bills, resolutions, or other policy documents.

Create Local Human Rights Champions:

Columbia's Human Rights Institute has issued guidance on working with state and local level actors on human rights implementation. The Eugene Human Rights Commission has made homelessness one of its key issues, and has actively participated in local discussions, citing human rights standards. Eugene Mayor Kitty Piercy published an article in the US Mayors magazine discussing the applicability of CERD and other human rights standards in her city, and the importance of it to, among other issues, criminalization of homelessness. Despite some positive steps, Eugene continues to pursue criminalization enforcement strategies, but local advocates continue to hold the city accountable using human rights strategies.

7

FOLLOW UP, FOLLOW UP, FOLLOW UP

In all, it took the Law Center more than a decade of consistent work, with perhaps three to five significant meetings a year, and many follow up calls in between, to achieve the beginnings of a level of comfort with the human rights framework that we see at USICH and DOJ now, and that may also be emerging at HUD. It is not easy, but it is not complicated. It requires persistence and creativity in making opportunities to discuss these issues with policy makers.

While international reviews and meetings with the Equality Working Group are the larger scale events to which we anchor our advocacy, it is the every-day one-on-one phone calls and small group follow up meetings in between the major events that actually make change happen. In the words of Sarah Paoletti, the US Human Rights Network’s Senior Coordinator for the UPR and ICCPR review processes, after each phase of advocacy with the international bodies concluded, “And now the real work begins.”

Again, this is nothing revolutionary. Hundreds, if not thousands, of meeting requests with federal officials are made every day. But because we as domestic human rights advocates are building a new model of human rights advocacy each day, and because we are often stretching beyond our traditional job capacities to incorporate the exciting work of international reviews or larger meetings with federal officials in a human rights context, we must not forget we need to do our regular, smaller scale advocacy as well.

The larger scale federal consultations, such as those in the context of the UPR or regular meetings of the Equality Working Group are extremely limited forums, often only allowing non-governmental participants two or three minutes to make a presentation and agency representatives similarly brief time to respond. If advocates limit their interactions with the government

officials to these forums, they will almost certainly remain frustrated with their inability to make their full case or to get an adequate response. It is critical for advocates to break out of a reactive approach that accepts the insufficient space for dialogue at these meetings and into a proactive approach of using the contacts from those meetings to actively develop opportunities for further, fuller conversation.

As described in this case study, we are cultivating federal officials’ understanding of our issues as human rights issues through our policy reports, through their participation in our own training events, and through their participation in the Equality Working Group and UPR consultations. But it is our ongoing meetings and opportunistic creation of new meetings, such as those with Rapporteurs on their thematic reports, or using the Human Rights Committee’s List of Issues, through which we keep returning to the human rights framework, building familiarity and acceptance over the long term.

ACTION STEPS

- Follow up, follow up, follow up. Do not wait for the next treaty review or Equality Working Group meeting—use the contacts you have and make your own opportunities to meet.



Get Cards:

JoAnn Kamuf Ward, Columbia Law School Human Rights Institute, and Jeremy Rosen, Law Center, collect contact information from federal government officials so they can follow up after a consultation.

8

DOCUMENT YOUR SUCCESS TO MAKE MORE SUCCESS

Among the smaller, everyday correspondences we have with federal officials are those in which we create our own echo chamber to reinforce the acceptance of the human rights framework we want to convey.

There are probably few advocates reading this guide who have not received multiple copies of emails or press releases lauding each successive small victory of human rights implementation we have been able to achieve at the federal level. Our purpose in doing this is to actively model a strategy for success.

We are also sending these messages to all of our internal governmental contacts and contacts at the international level to use positive reinforcement to promote further steps. For example, in 2012, following the release of USICH's *Searching Out Solutions* report which stated criminalization of homelessness may be a violation of our human rights obligations, we sent notice of this to our colleagues at the DOJ, HUD, and State, because sometimes even the agencies who should know about other governmental reports are not aware of them. We also sent the language to the Rapporteurs on Housing, Water & Sanitation, and Extreme Poverty, each of whom had recently commented on the criminalization of homelessness, and asked them to welcome the report and recognition of human rights standards in their own press release, which they did.²² We then sent that press release back to USICH, DOJ, HUD, and State, showing them that where they take steps in the right direction, we will work to make sure they get credit for that, just as much as we will hold them to account if they take steps with which we disagree. Since then, the Rapporteurs have incorporated references to the USICH's work in other reports, and again, each time, we promote and reinforce back within the government agencies.²³

The DOJ is beginning to promote the developing model of human rights implementation we are working on with the USICH. In April 2014, after long advocacy by the ACLU, the Columbia Human Rights Institute, the University of Miami Human Rights Clinic, and others, the DOJ Office of Violence Against Women hosted a meeting with officials from several agencies to discuss how they could better implement the human rights norms these advocates have developed concerning law enforcement's affirmative responsibility to protect women from violence. The DOJ invited the Law Center and USICH to present its work to spark a brainstorming session within the agencies on how they could similarly begin to talk, and do, human rights internally and externally. And of course, we encouraged our USICH partners to document (and get more attention to) the event by writing a blog for their own site about their participation, which included "three reasons to address homelessness as a human rights issue!"²⁴

Further, in late 2014, the HUD Office on Special Needs Assistance Programs reached out to us to get our help on guidance addressing criminalization with their grantees. Among our contributions was getting the guidance to state that USICH's *Searching Out Solutions* emphasizes a human rights approach to ending homelessness and points out that criminalization measures are not aligned with this approach.²⁵ Again, while it simply quotes another agency's statement, HUD has now incorporated this human rights reference into its own materials, an important step forward, and one we can build on, using this as evidence of their use of human rights standards.

ACTION STEPS

- Take each small victory and trumpet it through formal press releases and informal communications to your contacts, making sure agency contacts get as much positive feedback as possible when they do something right.
- Document your own history with blogs, articles, and reports to help others learn from your victories and mistakes.



The Law Center has not limited itself to traditional media, but has actively sought to create its own record of its human rights advocacy by producing daily reports from Geneva during its advocacy there. Some of these videos have gotten thousands of views, more deeply connecting what happens in Geneva to what happens in the U.S. And as with all our advocacy, we make sure these videos go to all of our contacts in the governmental, non-governmental, and funding fields. See: <http://youtube.com/nlchp>.

9

MAKE THE RIGHTS REAL

As noted above, human rights standards are often very general, and it takes significant work to get from “the right to adequate housing” or “freedom from cruel, inhuman and degrading treatment” to “HUD needs to include a question about criminalization of homelessness on its next funding application.” And as discussed in Section 4, it took the Law Center some time to move from an effort to bring issues of housing and homelessness generally to the attention on international human rights bodies to a more focused approach targeted specifically at getting USICH, HUD, and DOJ to increase their attention to criminalization, and to take very specific steps to address it.

There are multiple paths to making human rights real—legislation, administrative policy, and litigation. We have been careful along the way to include elements that will help us in each of these forums in our asks at the international level. We have obtained language condemning the criminalization of homelessness as “cruel, inhuman, and degrading treatment”—strong language, one step below torture, that we have used in testimony against proposed criminalization ordinances at the local level. As noted above, this language further supports Constitutional safeguards, such as the Eighth Amendment protection against cruel and unusual punishment, and we hope to use the human rights language to advance our litigation strategy. Lastly, we complemented the standard setting with the recommendations for specific actions the federal government can take to move beyond rhetoric and put teeth into discouraging criminalization. By moving that level of specificity, we believe we have increased our chances for achieving an important victory.

Strategic focus is critical, and it must take into account the environment within which advocacy is undertaken. Currently, a focus on federal administrative action makes strategic sense. While our goal of ensuring

the human right to housing for all requires increased resources for housing through legislative action, at this point it is not strategic to focus our efforts at getting international recommendations to support pending legislation—at least not at the federal level. Those recommendations would not add significantly to the chances of success of passing such legislation, and indeed, might trigger backlash from some members of Congress. State and local level legislative advocacy may be more promising but should be evaluated strategically with attention to the environment in the particular state or locality. Similarly, as we build our litigation strategy, we will be strategically evaluating jurisdictions. Administrative advocacy can be stymied by unfriendly individuals, but there is now a core group of repeat players within the federal government who are at least somewhat aware of human rights processes and standards. With further cultivation, such as that described in Section 2, and with persistent advocacy, such as that described in Sections 5 and 7, these officials currently offer the greatest chance of success.

Make the Government A Partner in Making the Rights Real:

As highlighted in Section 8, the ACLU, working in conjunction with many other advocates, partnered with the Department of Justice Office of Violence Against Women to host a “brainstorming” session with its own staff and staff of partner agencies to consider how to implement human rights standards they had developed through advocacy with the treaty bodies, Inter-American Commission on Human Rights, and Universal Periodic Review. At the meeting, once educated on the standards and possibilities, agency officials enthusiastically proposed numerous ideas to help further integrate human rights into the agency’s work. Advocates are continuing to follow up with the DOJ, and a follow up meeting is planned for early 2015 to discuss progress.

ACTION STEPS

- Map out carefully what changes are necessary to obtain victory on your issue: is it legislation, administrative action, or judicial interpretation of the law? Are there multiple routes to the same end or initial steps in one area that could benefit longer term goals in others? What standards or recommendations could be developed at the international level to add to the likelihood of success in obtaining any of those?
- In particular, examine what federal administrative action might make an impact on your success, and gear your advocacy toward achieving it. Even if this may not fully address the violations, it may be a stepping stone toward further success.

10

HOLD THE FEDERAL, STATE, AND LOCAL GOVERNMENTS ACCOUNTABLE

International human rights standards and mechanisms are tools to an end. For the Law Center, the goal is not getting international recommendations, it is ensuring that the rights and dignity of homeless people are protected, and, ultimately, that no one experiences homelessness at all. So even if we are able to achieve federal funding incentives to discourage criminalization of homelessness, our work is not complete. We will then need to monitor its implementation to see if it is achieving the goal of reducing criminalization and making homeless persons' lives better.

If not, we will use domestic strategies to ensure this information is flowing to HUD and advocating that they strengthen the incentives. If they fail to take these steps, then we will use both domestic and international accountability mechanisms—the Rapporteurs, the treaty bodies, the UPR—to draw attention to the failure and generate further recommendations for action, and, as Section 7 recommends, follow up, follow up, follow up.

We will not have to repeat every one of the above steps, and can start at a higher level of advocacy both due to our own experience and that of the agencies we will be advocating with. But we will return to the same process of visioning the right, laying a new base if we need to, using the standards and mechanisms internationally and domestically, building complementary standards, following up, and documenting our successes to push in the direction we need to go.

Moreover, we will do so as part of the Human Rights at Home Campaign, which is seeking to further create

accountability structures which will benefit all who are working on domestic human rights implementation. This includes institutionalizing the role of the Equality Working Group as an inter-agency body devoted not just to facilitating reporting to international bodies, but holding member agencies, and state and local governments, accountable to implementing their recommendations; creating a national human rights institution that can hear claims of human rights violations and make recommendations for action; and implementing a plan of action that will respond to recommendations the treaty bodies have already made.

ACTION STEPS

- Keep on working until your community is fully enjoying the rights you vision for them!
- Join the Law Center and other leaders of the Human Rights at Home Campaign to create human rights government structures so that human rights becomes an active and ongoing aspect of our policy conversation at the federal, state, and local level!

CONCLUSION

The National Law Center on Homelessness & Poverty has made unprecedented progress amongst federal agencies in getting USICH to take a vocal human rights approach to criminalization of homelessness. While our case study of human rights implementation is not yet complete, we have reason to hope that we will succeed in achieving a specific change in federal policy that will be an important step in turning localities away from criminalization and towards housing instead. Once we achieve that victory, and provide the necessary education and follow up in communities, we can start documenting on-the-ground impact of our human rights advocacy.

Moreover, with the adoption of human rights language, frameworks and standards by USICH and HUD, we have fundamentally altered the baseline of the conversation and created new opportunities for discussing human rights standards domestically; this alone is a major victory. So while change is never quick enough, particularly for those who are experiencing first-hand human rights violations on the streets of America, we believe we are on the cusp of a rising wave of increasingly sophisticated domestic human rights activism that will have increasing impact in the years to come. We hope this guide is a step in building that wave, and we look forward to sharing in your successes as we all move toward a human rights-accountable future.

GLOSSARY

Federal Strategic Plan to Prevent and End Homelessness: A statement of intent issued by the United States Interagency Council on Homelessness that provides a framework for eliminating and preventing homelessness in the United States. The Plan is the first of its kind issued by the federal government and calls for inter-agency cooperation toward the goal of eliminating most forms of homelessness in the United States by 2020.

HEARTH Act of 2009 (The Homeless Emergency and Rapid Transition to Housing Act): The HEARTH Act reauthorizes and amends the McKinney-Vento Act and includes several significant changes designed to assist an increasing number of homeless individuals and families with making the transition to stable housing. The HEARTH Act expands the federal definition of “homeless” to include some who are living in motels or who are doubled-up in the homes of friends and family members if they meet certain other criteria. The Act also redirects resources toward homelessness prevention, creates the Rural Housing Stability Program, and includes a mandate to promote constructive alternatives to the criminalization of homelessness.

Human Rights Council: The Human Rights Council is an inter-governmental body within the United Nations system. The Council is made up of 47 States that are collectively responsible for strengthening the promotion and protection of human rights around the globe. Its main purpose is to identify human rights violations around the world and make recommendations to address them. Among other mechanisms, it appoints the Special Rapporteurs with various thematic and country-specific mandates and coordinates the Universal Periodic Review. The U.S. joined the Council in 2009.

McKinney-Vento Homeless Assistance Act: A federal law that provides funding on a conditional basis to state agencies, homeless shelters, and programs designed to assist homeless individuals. It established the Inter-agency Council on Homelessness and has been reauthorized several times since it came into force in 1987. Since 2001, the law includes both housing, shelter, and direct assistance programs

and programs to ensure the education of homeless children and youth.

NGOs (Non-Governmental Organizations): An international term for non-profit organizations advocating particular causes.

Special Rapporteurs or Special Procedures: The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The system of Special Procedures is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social. As of October 2014 there are 39 thematic and 14 country mandates. With the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), special procedures undertake country visits; act on individual cases and concerns of a broader, structural nature by sending communications to States and others in which they bring alleged violations or abuses to their attention; conduct thematic studies and convene expert consultations, contribute to the development of international human rights standards, engage in advocacy, raise public awareness, and provide advice for technical cooperation. Special procedures report annually to the Human Rights Council; the majority of the mandates also reports to the General Assembly.

Treaty: An express, international agreement entered into by and between government actors. Ratifying States party to a treaty can be held accountable for non-compliance with its terms under international law.

Universal Declaration of Human Rights: A declaration adopted by the UN General Assembly codifying its signatories’ commitment to human rights for all individuals. These rights include, but are not limited to, the rights to life, liberty, security of person, freedom from slavery, and equality before the law. All rights declared in the UDHR are expressly recognized without regard to sex, race, or gender.

UN-HABITAT Advisory Group on Forced Evictions: The Advisory Group on Forced Evictions

(AGFE) monitors forced evictions on behalf of the UN-HABITAT agency and identifies and promotes alternatives such as in situ upgrading and negotiated resettlement. The members of the Advisory Group are individuals from civil society organizations, local authorities, central government and professionals in developing and developed countries. AGFE conducted a visit to New Orleans and the Gulf Coast in July 2009.

United States Interagency Council on Homelessness (USICH): The United States Interagency Council on Homelessness (USICH) was created by the 1987 McKinney-Vento Act to coordinate the Federal response to homelessness. USICH is an independent agency within the Federal executive branch. The agency currently consists of 19 Federal Cabinet secretaries and agency heads: U.S. Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, Transportation, and Veterans Affairs, Corporation for National and Community Service, General Services Administration, Office of Management and Budget, Social Security Administration, United States Postal Service, and the White House Office of Faith-based and Community Initiatives.

UPR (Universal Periodic Review): Review of the human rights records of all UN member States. A UPR Report is issued every four years detailing the successes and shortcomings of member States, and issuing recommendations for further progress in the noted areas.

(Endnotes)

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