



# THE RIGHT TO HOUSING

## in the United States



### WHAT IS THE RIGHT TO HOUSING?

The human right to housing is the right to live in adequate shelter in security, peace, and dignity. The right to housing is not merely having a roof over one's head; rather, it requires an accessible habitable space that fulfills the basic needs of humans to personal space, security, adequate lighting and ventilation, safe infrastructure, protection from weather, and adequate location with regard to work and basic facilities — all at a reasonable cost. The right to housing is integrally linked to other human rights. Without a right to housing, many other basic human rights will be compromised including the right to family life and privacy, the right to freedom of movement, the right to assembly and association, the right to health and the right to development. The right to housing is guaranteed under numerous United Nations documents including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

### DOES U.S. LAW RECOGNIZE THE RIGHT TO HOUSING?

The United States Constitution does not mention the right to housing. The United States has ratified (formally incorporated into domestic law) the Convention on the Elimination of all forms of Racial Discrimination (CERD) which guarantees respect for the right to housing.<sup>2</sup> A number of United States laws also partially address the right to housing. The Fair Housing Act guarantees the right to non-discrimination in housing on the basis of race, sex and other protected categories.<sup>3</sup> The Americans with Disabilities Act guarantees similar rights for disabled persons, requiring landlords, for example, to make reasonable accommodations to ensure access for all.<sup>4</sup> Through Section 8 housing choice vouchers, public housing, and a variety of other programs, the government attempts to address the housing needs of vulnerable populations. In addition, the McKinney-Vento Homeless Assistance Act provides various services to the homeless.<sup>5</sup>

### IS THE U.S. FULFILLING THE RIGHT TO HOUSING?

While many United States laws partially address the right to housing, federal programs have been severely under-funded.<sup>6</sup> On any given night in the United States, about 750,000 people<sup>7</sup> are homeless<sup>8</sup> and 3.5 million Americans experience homelessness over the course of a year.<sup>9</sup> Despite popular perception, almost half of the homeless population in the United States is made up of families.<sup>10</sup> These families are difficult to identify because they are more likely to sleep in a car or a tent than to go to a shelter.<sup>11</sup> However, the number of homeless people only tells part of the story. The 4.8 million people who are living “doubled up” with friends or family<sup>12</sup> as well as the unusually high numbers of 25-34 year olds who are living with their parents for economic reasons<sup>13</sup> both point to the severity of the housing crisis in the United States.

#### Housing Availability in the U.S.

Many public and private programs assist families and individuals in finding and securing housing. However, demand nationally far exceeds the supply. Waiting lists for subsidized housing programs are extensive.<sup>14</sup> Today the average wait for a Section 8 voucher<sup>15</sup> is 35 months<sup>16</sup> and approximately 1.2 million households are living in public housing.<sup>17</sup> Native Americans living on reservations face similar hardships. For example, the waiting list for tribal housing is long and overcrowding is inevitable.<sup>18</sup> Since the 1970s, the United States has seen a trend of steadily decreasing federal funding for housing assistance.<sup>19</sup> The federal budget for 2011 included \$2.1 billion of budget cuts for the Department of Housing and Urban Development (HUD) and budget cuts of \$605 million for public housing.<sup>20</sup> However, in 2012, the Obama Administration awarded \$1.9 billion to public housing authorities in all 50 states, including the District of Columbia, Guam, Puerto Rico and the United States Virgin Islands.<sup>21</sup> This award is most welcome, especially considering there has been no significant new public housing construction in the past 25 years.<sup>22</sup> Low income households that try to find unsubsidized rental units face stiff competition. In United States cities, there are almost 5 “very low-income” households<sup>23</sup> for every 3 units considered affordable at that income category.<sup>24</sup>

#### Housing Affordability in the U.S.

Affordable housing is defined as housing that is priced at or below 30% of the gross income of a household.<sup>25</sup> Anything priced higher than that is considered unaffordable. Still, some families have no choice but to pay more than they can afford for housing. Six million families are spending more than 50% of their income on rent each month.<sup>26</sup> In 2011, families with two full-time minimum wage workers can not afford a two-bedroom apartment,<sup>27</sup> and one-bedroom homes are also out of reach for low-wage workers.<sup>28</sup> In the home buying market, predatory lending can hurt certain groups' access to credit.

#### HOUSING MUST BE:!

**AVAILABLE** – Services, materials, facilities, and infrastructure must be available. Adequate housing should have sustainable access to safe drinking water, energy, sanitation, washing facilities, food storage, refuse disposal, drainage, and emergency services.

**AFFORDABLE** – The cost of housing should not compromise the satisfaction of other basic needs.

**HABITABLE** – Inhabitants must be ensured adequate space and protection against the cold, heat, rain, wind, or other threats to health or structural hazards.

**ACCESSIBLE** – Everyone should have access to adequate housing. Disadvantaged groups such as the elderly, children, the physically and mentally disabled, HIV-positive individuals, victims of natural disasters and other groups should be ensured some degree of priority consideration in housing.

**ADEQUATELY LOCATED** – Housing must be situated so as to allow access to employment options, health care services, schools, childcare centers, and other social facilities.

**CULTURALLY ADEQUATE** – Housing must allow for the expression of cultural identity and diversity of housing.

**SECURE OF TENURE** – Legal protection against forced eviction, harassment and other threats must be available.

#### EVERYONE HAS THE RIGHT TO HOUSING....

*“Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing, medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood circumstances beyond his control.” 25 (1)*

**Universal Declaration of Human Rights (UDHR), 1948.**



## Housing Affordability in the U.S. (continued)

During the 2005 and 2006 housing market boom, African-Americans and Latinos were over 4 times more likely than Whites to receive higher-cost loans made by subprime lenders.<sup>29</sup> This was true even when families had similar income levels and credit scores.<sup>30</sup> Subprime lending has sharply decreased since the 2007 financial crisis. However, communities of color continue to have higher denial rates for conventional lending, ranging from 29% to 60% compared to 12% to 24% denial rates in predominately white neighborhoods.<sup>31</sup> Likewise, Native Americans have higher lender transaction costs and experience longer time for approvals of mortgage lending on reservations.<sup>32</sup>

## Housing Habitability in the U.S.

While much of the housing in the United States is in good condition, many Americans are living in substandard housing. Inadequate living conditions contribute to numerous health problems, particularly in children. Forty-six percent of low-income children suffer from asthma due to exposure from high cockroach allergen levels as compared to 0% for high-income children and 26% for middle-income children.<sup>33</sup> Racial and ethnic minorities are more likely to have inadequate housing as compared to Whites.<sup>34</sup> Blacks and Hispanics account for more than 50% of people with worst case housing needs although they represent about 25% of the total United States population.<sup>35</sup> Blacks are more than twice as likely as Whites to live in homes with incomplete plumbing and Hispanics are more than 3 times as likely.<sup>36</sup> In addition, people living in communities of fewer than 10,000 people do not have access to housing with proper plumbing.<sup>37</sup> On Native American reservations, the situation is even more extreme. Nearly 1 out of 5 Native Americans live in severely crowded reservations lacking essential necessities such as indoor plumbing.<sup>38</sup> One study states that there are about 90,000 homeless or under-housed Native American families.<sup>39</sup> In addition, Native Americans live in substandard housing, where 30% of housing is overcrowded and less than 50% of housing is connected to a public sewer.<sup>40</sup>

## Housing Accessibility in the U.S.

A recent national housing discrimination study found that racial minorities encountered unlawful discrimination at 1 out of every 5 visits to a real estate or rental agent.<sup>41</sup> In particular, racial geographic steering (based largely on comments by agents) takes place in both homes sales and rental markets.<sup>42</sup> In home sales markets, different treatment based on race occurs 17% of the time, and different treatment based on ethnicity occurs 20% of the time.<sup>43</sup> Discrimination against individuals with disabilities is the second most reported type of housing discrimination.<sup>44</sup> This type of discrimination occurs when landlords refuse to make “reasonable accommodation” or simply refuse to rent to physically or mentally disabled individuals.<sup>45</sup> Limited English proficient residents also face significant barriers to obtaining housing due to the lack of interpreter services at city offices and area housing authorities.<sup>46</sup>

## Housing Location in the U.S.

Low-income families may be forced to live in isolated areas, far away from basic services and employment.<sup>47</sup> Native American reservations are sometimes isolated from work opportunities and chances to escape poverty, such as Pine Ridge in South Dakota.<sup>48</sup> The right to adequately located housing also includes the obligation to not pollute the environment where people live. Still, environmental racism occurs in the United States. A 2005 report indicates that race is a strong predictor of the location of hazardous waste facilities.<sup>49</sup> African Americans are 79% more likely than Whites to reside in industrially polluted neighborhoods suspected of posing major health dangers.<sup>50</sup> Out of 9 million people who reside within 1.8 miles of the country’s 413 commercial hazardous waste facilities, over 5.1 million are minorities.<sup>51</sup>

## Housing Cultural Adequacy in the U.S.

In the case of indigenous groups, housing rights include the right to traditional forms of ownership and cultural survival.<sup>52</sup> Historically, Native Americans have been some of the most disadvantaged groups in the United States. However, the United States government’s response to Native American housing issues has failed to consider their cultural needs. For example, to combat the Native American housing crisis, HUD built “cluster housing”<sup>53</sup> on many reservations, which failed to consider Native Americans cultural norms for housing and animal husbandry.<sup>54</sup>

## Housing Security in the U.S.

Many Americans living in public housing are not protected from arbitrary forced evictions. So-called “one strike” laws encourage providers to evict residents of public housing for any criminal activity, a policy which can lead to the eviction of innocent residents for acts that were outside of their knowledge and control.<sup>55</sup> Low-income and minority families also suffer disproportionately from the effects of natural and environmental disasters. For example, before Hurricane Katrina in 2005 the housing situation of low-income people in New Orleans was already insecure due to long-term infrastructural neglect.<sup>56</sup> When the levy system failed, ¾ of all rental units affordable to very low-income households were destroyed.<sup>57</sup>

## U.S. Government Obligations<sup>58</sup>

To ensure the right to housing, the U.S. has the following obligations:

### RESPECT

Governments must not deprive anyone of access to adequate housing and must refrain from taking retrogressive measures that are incompatible with the enjoyment of the right to housing.

### PROTECT

Governments must take measures to prevent individuals or third parties, such as corporations, from interfering in any way with the enjoyment of the right to housing.

### FULFILL

Governments must adopt the necessary measures to achieve the full realization of the right to housing.

### TAKE STEPS

Governments must take steps, to the maximum of their available resources, to achieve progressively the right to housing, based on the resources of the society as a whole, not only the resources within the current budget.

### MEET MINIMUM CORE

Governments must ensure the satisfaction of minimum essential standards and immediately address extreme situations of homelessness.

### NON-DISCRIMINATION

Governments must ensure equity and non-discrimination in access to adequate housing, in order to prevent discriminatory outcomes and effects that nullify or impair the equal enjoyment of the right to housing, whether due to class, race, gender, language, or other factors.

### PROTECT MOST VULNERABLE

Governments must actively reach out to marginalized and excluded people, who face the greatest barriers in realizing the right to housing.

### MONITOR AND REPORT

Governments must monitor and report on the right to housing in relation to both conduct and results, so that they are held accountable for their action and inaction.

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For citations and further information, [discoverhumanrights.org](http://discoverhumanrights.org)



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