

Anticipation and Human Rights

Bruce Tonn
Erin Rose
Three³, Inc.
Knoxville, Tennessee, United States

Abstract

It is as important to recognize and remediate current human rights violations, as it is to anticipate and take proactive actions to ameliorate future violations. This presentation will first provide a brief summary of international human rights law in general and then specifically with respect to housing. It will consider how access to adequate housing facilitates a 'capacity to care' for others, thereby advancing the social contract between people and their government. Then the presentation will explore various global and national trends that we can anticipate will put pressure on the ability of the United States (U.S.) and the EU to meet the housing needs of minority and economically disadvantaged households. Trends that will be considered include: aging of society; increasing cost of and lack of availability of affordable housing; and climate change (i.e., sea level rise, coastal and urban flooding, extreme weather events, droughts, wildfires, internal climate change migrants). Interrelationships between anticipation, human rights, and fields such as foresight planning and housing will be explored. The presentation will provide comparisons between the abilities of one or two countries that have not recognized housing as a fundamental or justiciable human right (the U.S.) versus countries or regions that have, such as those in the EU.

Introduction: Human Rights and Our Capacity to Care

Safeguarding human rights—and the values that underpin them—for future generations is reliant upon achieving human rights standards today. This paper argues that the international human right to housing—as defined under the UN International Bill of Rights—is central to the enjoyment of other rights and serves to bridge the gap between human suffering and human capabilities. Importantly, expansion of these central human capabilities is associated with meaningful social transformation—as capabilities are not only measures of an individual's freedoms and functioning, but their capacity to effect change within the socio-ecological systems they inhabit. It is the position of the authors that the human capacity to effect this type of positive change—for current and future generations—is tethered to what legal scholar, Conor Gearty, refers to as our 'capacity to care'.

The extent of entitlements in housing rights at the domestic level is, in part, a function what Martha Nussbaum defines as a 'social contract' between a national community and its government. The question of what citizens will require of their governments to ensure provisions for all is central to the social contract. This idea is also captured in Gearty's view that values form obligations and subsequent capacity to care. From there we can establish not only what states are obliged to do, but what states ought to do to secure equitable futures, especially given that state sovereignty

protects states from having to implement rights-based housing strategies if they 1.) do not bind themselves to human rights instruments containing right to housing provisions, or 2.) do not infringe other rights, such as through housing policies that discriminate based on a minority or other protected status.

Anticipation and Housing

We argue that commitments to rights-based housing strategies today will not only create equitable outcomes through an increased capacity to care, but will prepare states for future housing needs through foresight planning and other forecasting initiatives undertaken through the development of human-centric national policies and programs. Safe and affordable housing takes time to plan and develop, especially if particular attention is given to current trends ranging from changing demographics (e.g. an aging population) to the expansion of urban gentrification. Populations in most developed countries around the world are rapidly aging and are on fixed or low incomes making the majority of adequate housing unattainable; given a generally low supply of affordable housing. Gentrification—a process where urban neighborhoods undergo significant renovation—is associated with a flux in the community, from long-time residents of mixed economic status to new residents of higher economic status. Many are concerned about where the former will live once gentrification has increased housing costs to unaffordable levels. In the U.S., families forced out of gentrified neighborhoods are essentially on their own. In California, many families are moving into the inner rings of suburbs, where the least expensive and lowest quality housing is present. Because of the balkanization of U.S. municipal government, the inner suburbs are becoming poorer and their property tax bases are inadequate to support major investments in housing and education.

Climate change can be anticipated to seriously impact access to affordable and adequate housing. More frequent and more extreme storms will cause major damage and will likely destroy entire communities and homes. More frequent and extreme heat waves will make homes uninhabitable and increase risks of deaths from thermal stress. Coastal and in-land flooding will also render homes uninhabitable from water damage and mold and mildew. It is anticipated that climate change will result in large in-country migrations and cross-border climate refugees adding to an existing global housing crisis. In the Global North, the impacts of climate change will continue to erode the stock of safe and affordable housing available to economically disadvantaged households. For example, in the U.S., it can be anticipated that more individuals will die in their homes from thermal stress if the U.S. fails to consider adequate and affordable housing as a core human right.

Research Approach

Qualitative methods will be used to build case studies of housing situations in one or two countries that do recognize housing as a human right and one or two countries that do not. For each country, information will be gathered that describe housing conditions, availability of affordable housing, and homelessness over time. A wide range of resources will be accessed, including official government data repositories (e.g., maintained by the U.S. Census Bureau, Scottish Public Housing), international

organizations (e.g., United Nations Special Rapporteur on Housing), and non-governmental organizations (e.g., Habitat for Humanity's international report on homelessness). Research reports on housing will also be tapped (e.g., Harvard University's annual state of the United States' housing report that has been published for the last 30 years). These types of resources will also be used to assess major trends that will affect affordable and adequate housing into the future mentioned above (e.g., recent IPCC reports).

Evidence that could be used to support the contention that a country actively anticipates housing needs will also be collected. This includes the use of trends assessments and scenarios to guide housing policies and programs, changes in governmental budgetary allocations in magnitude and for specific programs and policies, and changes in laws and regulations made to proactively address affordable housing issues. Lastly, key legal cases in the housing sector will be reviewed to assess whether courts are up-holding rights to affordable housing, whether those rights are formally declared by a country or not, and whether risk of violating obligations to the right are considered in policy and resource allocation decision-making.

The cases of countries that have declared that housing is a human right will be qualitatively compared to those that have not. Countries will be compared across a number of factors used to define adequate housing under international standards, such as housing cost burden as percent of income for low-income population, and homelessness per capita. Evidence of anticipation will be also compared.

Concluding Thoughts

It is argued that EU countries will be better prepared to address the threats to safe and affordable housing mentioned above. In the absence of a nationally recognized fundamental or justiciable right to adequate housing, such as is the case in the U.S., the current trends suggest a persisting housing crisis across the globe in the forms of lack of affordable housing and security of tenure, increases in mass evictions, refugee camps, and urban migration as a result of political actions and climate impact. From there we can anticipate that more individuals will be left homeless, that primary wage earners and school-age children will live in worse housing, and will miss more days of work and school due to poor health or location— further widening disparities and resulting in a cascade of other human rights violations.

The view here is that our capacity to care can stabilize a meaningful social minimum and preserve the home as a place where future generations can live in security, peace, and dignity. We conclude that public demand for a solid social contract and 'social minimum'—as guaranteed through a rights-based housing policy—provides members of all generations the human right to what legal scholar, Jeff King, describes as a 'minimally decent life'.