



Toward Economic and Social Rights in the United States: From Market Competition to Public Goods

Joint Submission to the UN Human Rights Council

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Submitted in April 2010
Second edition October 2010

Endorsed by

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Images on cover

(from left to right):

Los Angeles Right to Housing Collective's human right to housing action, L.A. City Hall, March 30, 2010
Families and Friends of Louisiana's Incarcerated Children press conference, Baton Rouge, LA, April 2010
Vermont Workers' Center's "Healthcare is a Human Right" May Day Rally, May 1, 2009
Coalition of Immokalee Workers (CIW) protest against Burger King in Miami, November 2007
United Workers march for a human rights zone in the Inner Harbor, Baltimore, April 2009

Preface

This report on economic and social rights in the United States was originally submitted to the United Nations by the National Economic and Social Rights Initiative (NESRI) along with seven collaborators and over 40 endorsers. It was developed in April 2010 as part of the United Nation's Universal Periodic Review of the United States' human rights record.

The Universal Periodic Review (UPR) is a new human rights monitoring mechanism of the United Nation's Human Rights Council. Every four years, the UPR assesses how each of the 192 UN Member States adhere to human rights standards under the Universal Declaration of Human Rights, the UN Charter, various human rights treaties, voluntary commitments, and applicable international law.

The first Universal Periodic Review of the United States took place in November 2010. The Human Rights Council considered the U.S. government's own report regarding human rights in the United States, along with comments from other Member States, as well as reports from UN bodies and 103 non-governmental organizations, among them this report submitted by NESRI and its allies.

The version presented here includes additional case studies but otherwise remains largely unchanged from the original submission. The report raises serious and ongoing structural issues about the state of economic and social rights in the United States.

We thank all contributors and endorsers.

For more information on the UPR, visit the UN's website:
<http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>

About NESRI

In partnership with communities, NESRI works to build a broad movement for economic and social rights, including health, housing, education, and work with dignity.

Based on the principle that fundamental human needs create human rights obligations on the part of government and the private sector, NESRI advocates for public policies that guarantee the universal and equitable fulfillment of these rights in the United States.

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Table of Contents

I	Introduction: Economic and Social Rights in the United States	1
	<i>Privatizing a City: The Case of New Orleans, Louisiana</i>	2
II	The Failure to Protect Economic and Social Rights in the United States: Impact and Barriers	
	The Human Right to Education	3
	<i>FFLIC: Fighting for the Human Right to Education in New Orleans</i>	6
	The Human Right to Health Care	7
	<i>The Vermont Workers' Center: Fighting for the Human Right to Health Care</i>	10
	The Human Right to Housing	11
	<i>The Campaign to Restore National Housing Rights: Fighting for the Human Right to Housing</i>	14
	The Human Right to Work with Dignity	15
	<i>United Workers: Fighting for the Human Right to Work with Dignity</i>	18
	The Human Right to Social Security	19
III	Recommendations for Actions by the United States Government	22
	Endnotes	24

I Introduction: Economic and Social Rights in the United States

The United States has not yet fully recognized economic and social human rights, including the rights to education, health, housing, work, and social security, nor does it protect and fulfill these rights. This human rights denial negatively impacts the entire population, as documented in this report by evidence of poor educational outcomes and school pushouts; high morbidity and mortality rates and lack of access to health care; increasing evictions, displacement and lack of affordable housing; poor working conditions and low wage levels; high income inequality and poverty rates and lack of adequate social safety nets.

To explain this dramatic failure to meet people's fundamental needs - in a country as rich as the United States - this report examines key normative and structural barriers to protecting economic and social rights in the United States. Firstly, the United States largely relies on poorly regulated market mechanisms to satisfy fundamental needs, and treats the core goods, services, and infrastructure necessary for human well-being only as market commodities rather than public goods. Over recent years the United States has seen an ever increasing disdain for the public sector, combined with a shift from direct public service provision to market competition, epitomized in proposed or existing "voucher" schemes for schools, health care, and housing. Yet this report presents evidence that markets have failed to provide essential services for everyone on an equal basis. Secondly, where government policies have intervened in markets, it has largely been to the benefit of wealthier population groups and private corporations. Allocation of tax benefits and direct subsidies has been redistributive upwards instead of downwards, increasing rather than mitigating inequities. Thirdly, political culture and public policies in the United States cast human needs as private matters, and promote individual responsibility as a solution to problems arising from socio-economic determinants and persistent structural racism. This disproportionately hurts disadvantaged population groups, particularly low-income people and communities of color, yet the entire population suffers when the principle of collective action for the collective good is abandoned in favor of individual competition.

The United States government has committed to upholding the Universal Declaration of Human Rights, further defined by international human rights treaties that require the implementation of national strategies for education, health, and housing.¹ Governments must allocate resources in an equitable and cost-effective way to realize the rights to adequate, affordable, and accessible education, housing, and health care for everyone, irrespective of income or any other factors unrelated to needs. Moreover, human rights treaties obligate governments to realize everyone's right to an adequate standard of living and social protection, including through policies that achieve full employment with fair wages and dignified working conditions and guarantee the basic resources necessary for a life with dignity. The United States has signed - and should ratify - the International Covenant on Economic, Social and Cultural Rights,² which commits it to refrain from acts that would defeat the object and purpose of that treaty. Yet this report presents evidence of the increasing impoverishment, exclusion, and even criminalization of people who are unable to compete in ever expanding markets that have commercialized the most fundamental human needs. This evidence challenges the prevailing normative and policy paradigms that assume that rights can be realized solely as by-products of a competitive marketplace.

Privatizing a City: The Case of New Orleans, Louisiana

“There was a second storm. We call this the dry storm,” New Orleans native Kawana Jasper testified in 2009. Displaced when the City Council slated her public housing development for demolition, Jasper was one of thousands of New Orleanians who lived through the “dry storm:” the swift, radical privatization of public goods - including housing, education, and health care - in the wake of the 2005 hurricanes Katrina and Rita. For many policymakers, the storms’ aftermath signaled a window of opportunity to cut back public services and leave the city’s poorest to compete on the market. For residents, it marked the first stage in the permanent loss of public ownership over the means to satisfy their fundamental needs.

On December 20, 2007, the New Orleans City Council unanimously voted to demolish 4500 public housing units and subsidize mixed-income private developments instead, with only a proportion of apartments designated for the forcibly evicted public housing residents. This measure outsourced the ownership and management of public housing to private firms. With developers free to select their tenants, many former public housing residents were excluded. Ineligible residents were issued housing vouchers, a rental subsidy for apartments on the private market. Yet in a city with scarce affordable housing stock and insufficient regulation against discrimination in the housing market, many former public housing residents - overwhelmingly poor people of color - were forced to take the voucher and leave their native city behind.

While developers engaged in a land grab after New Orleans officially abandoned public housing, public education advocates complained of their own “educational land grab.” Within months of the devastation, a prominent conservative economist had seized upon the “tragedy” as an “opportunity”¹ for a sweeping agenda of privatizing public education. Before most of the city’s poorest residents had even returned, the state had taken drastic actions to dismantle the New Orleans public school system: firing all teachers and staff and creating a new, reorganized system focused on publicly funded but privately run charter schools.

Families with children previously enrolled in public schools were issued vouchers to find charter schools on the private market. Just as in the housing market, however, charter schools - often located in more highly resourced neighborhoods - enjoyed the discretion to set admissions standards for students. Children who failed to meet these standards either remained in the shrinking New Orleans Public School District or were placed in the Recovery School District, established to take control of public schools that were labeled as “failing.” This led to a severely inequitable, tiered educational system.

The city’s abandonment of human rights principles was mirrored in its disinvestment in public health care, exemplified by the closure of the city’s main public hospital: Charity Hospital. Before the hurricanes, approximately 90% of uninsured New Orleanians - primarily poor people of color - sought health care from two public hospitals, with Charity serving the majority of these residents. When the city closed its oldest, most accessible, and most dependable public hospital, it sent a signal that not only could its most vulnerable residents go homeless and undereducated, but untreated in their gravest illnesses as well.

New Orleans’ experience is not unique; it is only an accelerated version of a pattern seen in communities across the country. Everywhere people are witnessing governmental disinvestment in public services that secure economic and social rights, combined with a transfer of public resources to private sector companies that sell essential services only to those who can afford them.

“Those who do not support public education, health care, and housing will continue to turn all of our country into the Lower Ninth Ward unless we stop them.”

Bill Quigley, Center for Constitutional Rights

¹ Milton Friedman, “The Promise of Vouchers,” *Wall Street Journal*, December 5, 2005.

II The Failure to Protect Economic and Social Rights in the United States: Impact and Barriers



The Human Right to Education

Among the spectrum of social and economic rights, only the right to education has received some formal recognition in the United States, primarily in state constitutions.³ Consequently, primary and secondary schools are largely public and free, although post-secondary education is mainly treated as a privilege with increasingly high fees attached. The United States scores poorly on access and quality indicators, as the lowest ranking of 28 high-income countries measured for secondary school enrollment as well as math and science test performance.⁴ Around 1.3 million children drop out of school each year,⁵ more than 3.3 million are suspended and 102,000 expelled.⁶ Lack of adequate funding, high stakes testing, and

zero-tolerance discipline policies, including jail-like environments with armed police officers, push young people out of school and deprive them of their right to education and dignity.

The education system is highly stratified, grounded in a competition-based achievement model that is increasingly pursued through privatization - such as publicly funded but privately run charter schools - while public schools in low-income communities and communities of color suffer from underfunding, overcrowding, and forced closures. More than half of African American male students and more than one-third of Latino males do not complete high school on time,⁷ exemplifying severe educational disparities.⁸



Ensure equity: eliminate funding disparities by ending schools' dependence on local property taxes

Public schools are largely funded through local property taxes, with schools in poorer communities receiving less money. For example, in 2005, school districts serving the highest concentration of poor students received on average \$938 less per student than wealthy districts, and districts serving the highest concentration of people of color received around \$877 less than predominantly White districts.⁹

These gaps have increased significantly over recent years;¹⁰ in fact, geographic borders of school districts are often intentionally drawn to prevent the sharing of a high tax base with surrounding communities. Because of such systemic funding disparities and related student segregation, the same economic barriers that give rise to complex needs among students from poorer communities prevent schools from addressing those needs. In California, for example, only 35% of core classes in schools with high poverty rates are taught by qualified teachers.¹¹

Limited federal funds for schools are increasingly disbursed through competitive grant-making, not according to socio-economic needs. Moreover, instead of leveraging these funds to meet human rights obligations, the government's rules have inadvertently incentivized an increase in school pushout to meet federal performance standards. To ensure that all children can achieve their best, resources must match the needs of the students served, not generic test scores or the wealth of the local population.



Provide public goods: preserve education as a public good and stop privatization where it exacerbates stratification and segregation

Public education funding is increasingly channeled toward privately-run charter schools, including those operated by for-profit companies. This exacerbates a two-tier system that leaves many disadvantaged children behind. It further undermines the fragile funding base of public schools, leading to the closure of public schools or their conversion into charters, and diverts public funds to prop up private businesses that lack accountability and are disconnected from the communities in which they are located. Charters raise additional revenue, pay high salaries, and make a profit by using practices such as selecting top students. Evidence shows that they deter higher-needs applicants by neglecting to offer special education services, language assistance, and free school lunches, and even by bullying and threatening students, as revealed by investigations in New Orleans.¹² Charters operated by private corporations have also been found to intensify racial and economic segregation within an already stratified system.¹³

The public promotion of private, market-based approaches is not limited to charters or to private school vouchers. In Los Angeles, for example, public schools have been put out to bid for private management contracts, relinquishing public control and oversight.¹⁴ Such privatization reduces accountability to elected school boards, local communities and their children's needs.



Ensure universality: end school pushout and provide positive learning environments for all

The growing reliance on the private market to fix the ailing education system correlates with a focus on individual merit rather than social needs. To appear successful, schools are incentivized to attribute poor academic performance to individual students and push them out whenever possible. Although the pushout crisis arises directly from schools' failure to meet needs, the responsibility is shifted to individual students. A negative selection process lies at the heart of an education system based on competition instead of the full development of all children. The price is paid in terms of human lives, relinquishing the right to education of those students who 'fail' to make it.

No strategy is in place to ensure that all children receive an education when pushout or school closures leave students without access to an adequate school. On the contrary, many children end up in the juvenile

or criminal justice system instead, propelled by a 'school-to-prison pipeline' that results in a three times higher incarceration rate of males who drop out of school compared to those who graduate.¹⁵

The United States has betrayed the public education promise of a quality education for all, and instead incentivized the creation of a separate and unequal education system divided along racial and class lines. Education is no longer treated as a common public good, yet competition and choice have failed to create benefits for the population as a whole. Poor educational outcomes, diminished community control, drastic funding cuts in states' budgets, and vanishing professional opportunities even for those deemed 'successful' demonstrate that an overly competitive approach hurts all children and highlights the need for a universal, human rights-based national education strategy.



Banner in support of actions by the Dignity in Schools Campaign-Los Angeles, as part of the National Week of Action on School Pushout, October 12, 2010



FFLIC: Fighting for the Human Right to Education in New Orleans

The denial of human rights in New Orleans' school system has evoked strong responses from community-based organizations such as Families and Friends of Louisiana's Incarcerated Children (FFLIC), a statewide organization of family members and friends of those targeted by the juvenile justice system. FFLIC has been fighting back against privatization, criminalization, and school pushouts, using a community-centered and anti-racist organizing model to engage in struggle from the street level to the state level. To achieve justice for young people in New Orleans and Louisiana, FFLIC's actions are guided by the principles of human rights, full participation, and solidarity.



Families and Friends of Louisiana's Incarcerated Children (FFLIC) press conference on their "Pushed Out" report, Baton Rouge, LA, April 2010

In the 2008-2009 school year, FFLIC documented the perspectives of low-income students and parents of color through surveys of 95 public school students and interviews with parents and advocates about their experiences with schools in Louisiana. The data revealed a human rights crisis in New Orleans schools. Thousands of students had been pushed out of school through the increased use of harsh, zero-tolerance approaches to discipline and security in New Orleans' tiered school system. The privately-run charter schools were found to exclude and push out students with special needs and behavioral challenges through admissions processes, transfers, coercion, and inappropriate expulsions.

Armed with the evidence from this investigation, FFLIC has demanded greater public accountability over charter schools, parent and community approval before public schools can be converted into charters, and the return of all New Orleans' schools to local control. FFLIC won state legislation for additional teacher training to help address the pushout problem, and is currently drafting legislation for a new state discipline statute which could reduce the number of children being pushed out of school through unjust suspensions and expulsions. FFLIC is committed to continue the fight until every child's right to education is realized in a unified, fully accountable school system that treats education as a public good for all.

**"Since Katrina we have a three tier school system—
charters, regular education, and the streets."**

Ashana Bigard, a parent and advocate with FFLIC



The Human Right to Health Care

The United States does not recognize the human right to a system of health protection. Health care is treated as a commodity, not as a right and a public good. The United States lacks a national health strategy to address inequities in access to and quality of care, and largely ignores the social determinants of health.¹⁶ This has resulted in comparatively poor health outcomes and severe health disparities.¹⁷

The United States is the only high-income country without a universal health care system, even after recent reform efforts. 101,000 people are estimated to die each year because of the way the health system is organized,¹⁸ and 45,000 deaths per year are attributed to the lack of health insurance.¹⁹ Yet having insurance coverage does not guarantee access to care: at least

25 million people are underinsured and likely to forgo care due to deductibles and co-pays.²⁰ The United States also has fewer doctors and nurses than many other high-income countries,²¹ and a less developed primary care infrastructure.²² Consequently, the United States has some of the worst health outcomes among high-income countries, including high infant mortality and low life expectancy rates,²³ despite spending more than twice as much on health care as any other country.²⁴

In contrast to comparable high-income countries, the United States has a highly commercialized, market-based system that relies predominantly on for-profit, private health insurance companies propped up by substantial public subsidies. The role of the insurance industry, coupled with for-profit hospitals and multinational drug companies, will be consolidated and expanded under the health reform law of March 2010.²⁵ Rather than transitioning to a social insurance model, access to care will continue to depend on a person's ability to pay rather than their health needs. As long as this system of market incentives prevails, severe shortcomings in the availability, acceptability, and quality of care cannot be adequately addressed.



Provide public goods: replace the private health insurance industry with a publicly financed and administered national health plan

The United States is alone among high-income countries in continuing a business model of health insurance where market imperatives take precedence over health protection. Insurance corporations profit only if people use little or no care, and lose money with every treatment people receive. Thus incentivized, the five largest insurers made a combined profit of \$12.2 billion in 2009.²⁶ Yet each year, 700,000 families go bankrupt by trying to pay for their health care, even though three quarters of them are insured.²⁷ Despite new regulations for insurance companies in the 2010 health law, market incentives to deny care will continue, as the government lacks the power to ensure that premiums are returned to the pool of policyholders in the form of health services. The new law also fails to increase the accountability of privatized, investor-owned hospitals, even though data shows that for-profit hospitals provide lesser quality care, and less care to the poor, than non-profit and public facilities.²⁸ Pressures to maximize revenue through

an overuse of medical technology, as suggested by a high rate of cesarean sections, can add to health risks and violate a patient's right to participation. For example, 25% of women who had a c-section reported feeling pressured by their health provider to use this procedure.²⁹

International evidence shows that commercialized health systems, where access depends on payment and service delivery reacts to market incentives, have poorer health outcomes and use resources less efficiently than public systems.³⁰ This is confirmed by health outcomes in the United States, which improve once patients turn age 65 and start participating in the public Medicare program.³¹ To realize the right to health care for all, the government should provide a national, publicly financed insurance plan, such as Medicare, to the entire population, and thus treat health care as a public good shared equitably by all.

Ensure universality: provide a universal public health insurance plan that entitles everyone to comprehensive and equal high quality health care


The exclusion of many millions of people from access to coverage and care will continue under the 2010 health law, with 23 million uninsured people predicted by 2019.³² The system will remain highly stratified with separate tiers for different categories of people receiving different levels of care. The level and quality of care a person gets depends on how they access the system, with wealthier, White, and employed people enjoying better access than others. Yet individuals are routinely blamed and even penalized for being in poor health,³³ while systemic barriers and determinants of health are discounted.

The basis of the U.S. health system still rests in individual payment for care, with little acceptance of risk and income solidarity. While other high-income countries have highly redistributive systems, funded collectively through cross-subsidization with a common pool that includes all, the United States offers only residual public programs for certain groups. To ensure that everyone has access to the health care they need, the government should guarantee the same



Vermont Workers' Center's "Healthcare is a Human Right" May Day Rally, May 1, 2009

comprehensive level of care, including reproductive health care, for everyone in a universal public insurance plan.



Ensure equity: finance health care equitably through broad-based taxation, and ensure the equitable distribution of health infrastructure in all communities

The government provides a range of subsidies to private insurance corporations, including through a tax exemption of employer-sponsored health insurance valued at \$132.6 billion in 2006.³⁴ The 2010 health law is projected to channel around \$447 billion over ten years to insurers through tax credits for the purchase of private coverage.³⁵ While these public subsidies are intended to make health care more affordable, they effectively perpetuate the inequities inherent in a for-profit system, where the market limits access according to payment, coverage amount and source, and location.

At the same time, pressures are growing on the health safety net, which serves especially inner city and rural areas, where the population is too poor or spread-out to make market provision viable. Public hospitals in inner cities are closing or being privatized,³⁶ and many rural areas suffer from an attrition of doctors, dentists, and reproductive health services.³⁷ To enable an equitable sharing of costs and benefits, including an equitable distribution of the country's vast health care resources, the government should move from tax-funded subsidies for special interests to broad-based tax-funding of a universal system that serves all needs.

“We really need to stop thinking of health care as a for-profit venture and start treating it as a right and a public good.”

Peg Franzen, President, Vermont Workers' Center



The Vermont Workers' Center: Fighting for the Human Right to Health Care

A pioneering grassroots campaign for the human right to health care has made Vermont the first U.S. state mandated by law to establish a health care system based on human rights principles. For the past two years the Vermont Workers' Center, a community-based workers' rights organization, has led a statewide campaign for universal and equitable health care. The *Healthcare Is a Human Right Campaign* was formed in 2008, and in May 2010 the Campaign's signature human rights principles - universality, equity, accountability, transparency, and participation - were enshrined in a new law that commits the state of Vermont to design and implement a health care system based on these standards.

The Campaign kicked off with volunteers going into communities and talking with hundreds of Vermonters about health care. People from different regions and diverse backgrounds shared their experiences of suffering from a lack of access to care, often caused by financial barriers. The Campaign then held a series of human rights hearings across the state, putting the health care system on trial. Many people came forward to testify how the market-based system had failed to meet their health care needs. By documenting these human rights violations in a video and a report - *Voices of the Vermont Healthcare Crisis* - the Workers' Center was able to reach out to even more people and set up organizing committees in all regions.



Vermont Workers' Center's "Healthcare is a Human Right" May Day Rally, 2009

Grounded in community-based mobilization, the Campaign's mass organizing efforts - collecting surveys, postcards and petition signatures, and holding an annual May Day rally - have directly engaged over 7,000 Vermonters and indirectly reached a far wider segment of the population through grassroots-driven, volunteer-led media strategies. The Workers' Center has also used the human rights framework to forge solidarity among different groups and struggles, including through collaborations with progressive labor unions (especially nurses' unions), faith community groups, and disability rights organizations.

As the Campaign developed the critical mass capable of changing what was considered "politically possible," it started pushing state legislators to action. Representatives were invited to attend public accountability sessions across the state and asked to use human rights principles as guidance for health care reform in Vermont. During the 2010 legislative session, a People's Team had a daily lobbying presence on the floor of the Statehouse, blogging about their progress and sending advocacy alerts to activists in legislators' constituencies.

Throughout its efforts, the Campaign kept the focus on a principled approach to reform. This was particularly remarkable when compared to the federal health reform debate taking place at the same time. While the national discussion remained stuck in a market-based approach, the *Healthcare is a Human Right Campaign* emphasized that health care must be provided as a public good shared by all. Vermont's new health care law, which ultimately passed with overwhelming majority, reflects this approach by explicitly recognizing health care as a public good.

The process of designing a new system is underway, with a single payer model in the mix. The law requires implementation to begin no later than July 2012. The Vermont Workers' Center is keeping up the pressure to ensure that the promise of universal, equitable health care becomes a reality. They hope that their model of rights-based grassroots mobilization offers inspiration for activists elsewhere who seek to turn health care from a market commodity into a public good.



The Human Right to Housing

The United States treats housing as a commodity, not as a human right and fundamental need of all. U.S. policies fail to provide safe and decent housing for everyone, a goal set by the Housing Act of 1937. There is no national strategy to address the severe lack of affordable, adequate housing,³⁸ which has led to millions of foreclosures, displacement, and homelessness. All these disproportionately affect low-income communities, where people of color are overrepresented.³⁹ Even prior to the current crisis, the number of households facing serious affordability constraints rose by 33% between 2000 and 2007.⁴⁰ Homelessness has become a structural feature of society,⁴¹ yet public housing is being demolished across the country.



Ensure equity: reinvest in public housing and equitable, public development, instead of subsidizing private developers

Government policies have created the current housing crisis - which precipitated the 2008 global financial crisis - through deregulating mortgage lending, disinvesting in public housing and other affordable housing programs, and distributing plentiful public resources inequitably. Over the past three decades funding for the Department of Housing and Urban Development (HUD) - responsible for overseeing national housing policy, including affordable housing programs - decreased from \$83 to \$29 billion.⁴² At the same time, the tax code was changed to privilege homeownership over rental housing, thus disadvantaging lower-income people. Almost 25% of renters with incomes under \$20,000 spend a third or more of their income on housing costs, compared to just over 7% of homeowners with the same low income.⁴³ Between 1983 and 2005, public subsidies to homeowners through the mortgage interest tax deduction increased from around \$35 billion a year to over \$120 billion a year.⁴⁴ The United States now spends over three times as much each year on tax breaks for homeowners than on all affordable housing programs combined, including the Section 8 voucher⁴⁵ and public housing programs.⁴⁶ As the value of this tax deduction increases with the value of the mortgage, wealthier people benefit more; in fact over 55% of this subsidy is given to 12% of owners with incomes above \$100,000.⁴⁷ This means public monies go to those who least need it, while the urgent housing needs of lower-income people remain unmet. Insufficient public monies for addressing homelessness focus on temporary shelters and assistance, and thus serve as no more than a charitable afterthought to a crisis created by inequitable housing policies.

Around 200,000 public housing units have been lost to demolition and privatization since 1995.⁴⁸ The UN Special Rapporteur has called for an immediate moratorium on the demolition and disposition of public housing and explicitly condemned the disastrous impact of the demolition policy in New Orleans,⁴⁹ where public housing residents are fighting forced evictions. Public housing budget cuts have prevented the construction of new housing for almost three decades, resulting in such shortages that many cities have

closed their waiting lists.⁵⁰ Those remaining in public housing face stigmatization and punitive policies; for example, unemployed public housing residents are required to complete mandatory community service, yet homeowners who benefit from tax breaks have no such requirement.

Public subsidies are increasingly channeled to private developers, for example through low-income housing tax credits (LIHTC). Yet only 11% of these privately developed units are targeted at those earning less than 30% of the Area Median Income.⁵¹ Given the divestment from public housing programs, LIHTC subsidies are effectively the only remaining publicly supported housing production program. Yet they fail to reach the poorest households and primarily benefit private enterprises whose bottom line requires charging the highest possible rents.



Picture the Homeless demands that New York City use vacant properties to house extremely low-income people, September 2010

Provide public goods: enact a moratorium on privatizing public housing and on foreclosures, and adopt sustainable and equitable development codes

U.S. housing policy is increasingly pursuing a complete privatization of public housing, coupled with a commercialization of housing needs. The trend toward converting public into private housing, outsourcing management of public housing to private contractors, and selling public land to private developers at discount rates has channeled public resources to private corporations, leaving low-income renters at their mercy. The few resources targeted at affordable housing assistance, such as Section 8 vouchers and subsidies for private housing developments, often contribute to displacing poor people by forcing them into the competitive, private housing market. While Section 8 was expected to foster social mobility, the vouchers are usually insufficient to pay market rents, and leave recipients in mixed-income housing struggling with living expenses in higher cost areas. Severe income differentials prevent poorer people from living side-by-side with those who can afford to treat housing as real estate.

The market-based treatment of housing as property has also driven unsustainable private development in new locations that lack services, food, and transportation. Low-income homeowners as well as Section 8 renters have been displaced to speculative, sprawling developments at the edges of towns, incentivized by lax development codes. This has also led to new patterns of racial segregation, with urban gentrification forcing people of color into suburbs that lack basic amenities. Unsurprisingly, areas without restrictions on such speculative developments have been hardest hit by the foreclosure crisis.⁵² Local, state, and federal governments have serviced market interests by relinquishing oversight, rather than securing sustainable housing where it is most needed.



Ensure universality: provide adequate and affordable housing for all who need it

While the U.S. government dedicates significant resources to supporting homeownership and private development, these investments have hampered rather than furthered the human rights obligation of meeting the housing needs of all. Preferential treatment is given to the acquisition of private property by individuals and businesses who can afford it, rather than supporting housing as a public good, based on a common need shared by everyone. Housing is traded in a highly stratified marketplace, with public subsidies for owners over renters, for the housed over the homeless, and for property taxpayers over recipients of housing assistance.

U.S. housing policy debates do not even consider universal housing akin to universal education or health care. Multiple strategies and alternatives to individual property ownership are disregarded, even though good practices exist with community-owned land trusts and mutual housing associations, which meet housing needs by removing themselves from market pressures.⁵³ These models exemplify what the government's human rights obligations require across society: to provide adequate and affordable housing for all who need it.

“Housing is a human right—a right that can neither be outsourced nor commodified, and is ensured in proportion to our willingness to fight for it.”

Holly Krig, Chicago Anti-Eviction Campaign



The Campaign to Restore National Housing Rights: Fighting for the Human Right to Housing

The Campaign to Restore National Housing Rights (CRNHR) is a coalition of community groups, organizers, and housing residents calling on the government to reclaim its historic commitment to provide adequate housing for everyone. CRNHR embraces a human rights vision that regards housing as a fundamental human need, not just a commodity sold on the real estate market. By exposing and fighting systemic problems in U.S. housing policies, the campaign seeks to provide human rights-based solutions to end massive displacement, homelessness, and the lack of affordable housing. The campaign is led by grassroots organizations from across the country: Chicago Anti-Eviction Campaign, the Los Angeles Community Action Network, May Day New Orleans, Northeast Pennsylvania Organizing Center, and Picture the Homeless, New York City.



Chicago Anti-Eviction Campaign holds a press conference after their defense of a Cabrini Green public housing resident from eviction, November 2009

In 2009 the Campaign helped co-coordinate a visit from the United Nations Special Rapporteur on the Right to Adequate Housing, which resulted in a powerful report to the UN that strongly condemned violations of the human right to housing in the United States. The report mirrored the Campaign's demand for an immediate moratorium on all demolitions of public housing and for increased funding for long-term affordable housing not subject to market vagaries. This international attention helped mobilize communities across the country against the government's continued push for the privatization of all remaining public housing, which undermines the goal of affordable housing for all.

In May 2010 the Department of Housing and Urban Development (HUD) announced a plan that represents the most comprehensive national step towards privatization. The legislation, the Preservation, Enhancement, and Transformation of Rental Assistance Act (PETRA), would allow HUD to subcontract with private landlords for the provision of "public" housing and use public housing units as collateral to raise funds for capital improvements. In other words, PETRA calls for the transformation of public goods into real estate commodities. By moving the ownership of public housing into private hands, this plan threatens to displace many families living in public housing, as it would incentivize landlords to remove tenants to off-site replacement housing. With the last public housing unit gone, the only truly affordable housing in the United States would disappear, as would any accountability for meeting the housing needs of poor people. To protest this imminent threat, CRNHR's members have travelled to Washington, DC, to testify about how passage of this legislation would disrupt their lives and devastate their communities.

One of those grassroots member organizations, the Chicago Anti-Eviction Campaign, has been fighting evictions and displacement linked to the privatization of public housing by organizing Chicago residents and communities to resist the sell-offs and demolitions of their homes. The Anti-Eviction Campaign began when residents of the Cabrini Green Public Housing Complex came together to fight the eviction of a resident, and it has since expanded to a citywide campaign that promotes solidarity among public housing residents and foreclosed-upon families facing eviction and displacement. At its core, the Campaign is calling for a moratorium on all economically motivated evictions. Inspired by South African human rights activists, in its first action the Campaign formed a human chain around the home of a resident threatened by a forced eviction and invited the media as witnesses. This temporarily deterred the police and contributed to spreading the vision of housing as a human right. The Campaign has since helped hundreds of people stay in their homes, not only by fighting against demolitions but also by taking a broader view and forging solidarity with homeowners and renters affected by foreclosures. Recognizing that the disinvestment in public housing cannot be separated from the real estate market's inability to supply affordable, adequate housing for all, both the Chicago campaign and the CRNHR seek to unite low-income communities in the fight for housing as a human right.



The Human Right to Work with Dignity

The United States treats work and employment as individual obligations rather than rights, situated almost entirely in the domain of the private marketplace. With only minimal regulation of wages and working conditions and no commitment to securing employment for all, the prevalence of exploitative, subsistence-only jobs combined with persistent unemployment deprives many people of their right to work with dignity. Market imperatives for lowering labor costs to increase profitability dominate employment policy. People's needs are commodified into demands for consumption, and their role as workers and producers is subordinated to that of consumers. Despite promoting work as an obligation for all, workers' rights are accorded less legitimacy and protection than consumers' rights.



Ensure universality: guarantee a living wage, with dignified working conditions for all

Finding and keeping work is seen as an individual responsibility, and making a living is correlated with a willingness to work hard. The disregard for the economic and social context in which employment opportunities arise and market forces dictate wages and workplace conditions leaves the United States without a national strategy for full, secure, and regulated employment. Instead, a growing trend of increasingly informal and temporary work without benefits, obtained through temp agencies or contracting agreements, has reduced the availability of stable, well-paid work. Long labor supply chains free employers of any responsibility for the workers at the end of the chains. Corporations increasingly treat their workforce as an expendable commodity. Since the 1980s government policies have refused to pursue full employment as a social goal, and have almost entirely refrained from undertaking direct job creation programs.

Successive governments have failed to guarantee a living wage to all workers. For the last 30 years, wages have stagnated for the lower half of wage earners, while the top 1% of earners enjoyed a net income gain of 176%.⁵⁴ Women on average still earn less than men,⁵⁵ and people of color earn less than Whites.⁵⁶ The minimum wage has fallen to about 35% of average wages,⁵⁷ and a quarter of all jobs do not pay enough to lift a family of four out of poverty.⁵⁸ The minimum wage should be raised to a guaranteed living wage - if necessary supplemented by adequate benefits and cash transfer programs directly to workers - as well as indexed to the cost of living and extended to all workers in all occupations. Workers who are currently denied a minimum wage include tipped workers,⁵⁹ domestic workers, farmworkers, and, when calculated pro rata, many workers in seasonal occupations.

The United States fails to provide and enforce legal protections for many basic rights at work, which has encouraged extreme cases of abuse that are symptomatic of, yet hidden in, a sea of workplace violations. The Coalition of Immokalee Workers (CIW), a grassroots farmworker organization, has uncovered consistent

use of coercion and violence by agricultural employers in Florida and has aided in the investigation of six successful federal prosecutions for forced labor and slavery.⁶⁰ To secure human rights in every workplace, it is essential not only to remove legal exemptions for high-violation occupations, but to raise the floor of protections for all workers, for example through adopting laws to ensure paid sick leave, equal pay for women, and the right to unionize. Workers must not be punished or criminalized for claiming their human rights and should be accorded an equal status in the workplace, regardless of occupation.



Coalition of Immokalee Workers (CIW) protest against Trader Joe's, New York City, August 19, 2010

Provide public goods: hold corporations accountable, and adopt and enforce human-rights based employment regulations

Employment policies in the United States are largely market-driven and respond to the market dominance of large corporations that wield significant power in driving down wages and working conditions in the entire supply chain. Another source of corporate power is the recognition of corporations as rightsholders under the legal doctrine of 'corporate personhood,' which has been used to defend companies against workers' rights cases.⁶¹ Yet grassroots workers' groups seek to hold corporate 'rightsholders' accountable for violations of human rights. For example, through its agreement with retail corporations, the CIW has introduced a human rights based monitoring program to ensure that produce is harvested under fair labor conditions and that independent monitoring is conducted with the participation of the workers themselves. United Workers, a grassroots organization of low-wage workers in Baltimore, has similarly demanded that large private developers enter into a binding human rights agreement to require their business tenants to pay a living wage and provide dignified working conditions for all workers.

The absence of public oversight in high-violation industries has precipitated the lowering of standards in the labor market as a whole. The few existing legal protections against workplace violations are not adequately enforced.⁶² Yet ensuring work with dignity is a public obligation, not a market obstacle, and corporate 'rights' must not be allowed to trump workers' human rights.



Ensure equity: place human rights conditions on subsidies for private development, and increase direct public jobs creation

Government policies actively distribute public resources to the corporations they largely fail to regulate and monitor. Numerous tax incentives and direct public subsidies are given to the corporate sector, including the agricultural, retail, and service industries, in which violations of workers' rights are pervasive. Federal, state, and local subsidies, as well as development rights on public lands are provided in addition to the tax benefits corporations already enjoy. Yet no human rights conditions are tied to the receipt of subsidies, nor is corporate compliance with existing laws adequately monitored. Consequently, public resources are used to secure the revenues of corporations rather than the needs and rights of workers, thereby serving private interests rather than the common good.

Public investment in job creation must be targeted and accountable. The direct creation of public jobs is more transparent and accountable than transfers of public monies to the private sector for diffuse economic development purposes. At a minimum, public subsidies and incentives, as well as direct public contracts with private businesses, must include transparent conditions and enforceable standards to ensure that jobs are created that provide living wages, adequate benefits, and safe, dignified working conditions.

**“All the public money spent on tourism rather than the people who live here—
you’d think the city would invest in the workers.”**

Worker at Houlihan’s, Baltimore Inner Harbor Restaurant



United Workers: Fighting for the Human Right to Work with Dignity



United Workers march for a human rights zone in the Inner Harbor, Baltimore, April 2009

The United Workers Association is a human rights organization formed in 2002 by day laborers in an abandoned firehouse-turned-shelter in Baltimore. Although the founding members had jobs, they were forced to live in a homeless shelter because their wages were insufficient to pay rent and buy food. They turned to the language of the United Nation's Universal Declaration of Human Rights to articulate their goal of securing economic and social rights for workers like themselves. United Workers are acutely aware of the human rights violations their members experience on a daily basis due to the fact that in the United States one can work - even hold down two jobs - yet still not make enough to meet a family's fundamental needs of housing, food, and health care.

The experience of this injustice led to United Workers' first campaign, Living Wages at Camden Yards, which sought to increase the wages of stadium cleaners at Camden Yards, a baseball stadium in downtown Baltimore. Since the stadium workers were considered day laborers, Maryland's living wage ordinance did not apply to them. In Maryland, like much of the United States, even where there are laws protecting workers' rights, they often exclude certain types of workers or remain unenforced. But United Workers were successful: after a three year struggle, intervention by the governor, and the threat of a hunger strike, the campaign won a wage increase for Camden Yards day laborers, from the poverty wages of \$4.50 an hour to the Maryland living wage of \$11.30 an hour.

With this victory under their belt, United Workers moved on to the next big task: improving working conditions at the Inner Harbor, a large tourist-oriented development in Baltimore. The private developer, Cordish Company, had been given a low-rent lease by the City of Baltimore for public land in the harbor area. The city charged minimal rent because the land was meant to be developed for the benefit of the community. Instead, United Workers discovered that the developer had created a poverty zone on this public land, rife with human rights violations such as poverty wages, sexual harassment, and other employment practices undermining workers' human dignity. United Workers have demanded that the developer sign a 15 year human rights agreement that would hold the developer accountable for the human rights conduct of all its vendors and business tenants, requiring them to respect workers' rights, including the right to be paid a living wage, and the rights to health care and education.

United Workers seek to ensure that this leased public land becomes a human rights zone, where the success of the private businesses profiting from the development creates decent jobs for local workers and thus benefits the local community.

"We are the backbone of the Inner Harbor. Without us there wouldn't be an Inner Harbor. We should be treated as human beings and get the respect that we deserve."

Leonard Gray, Worker at the Inner Harbor



The Human Right to Social Security

In the United States the human right to social security, which ensures the basic resources necessary for a life with dignity, is not sufficiently protected. Social policies assume that a basic income can be generated from work, and fail to provide adequate supports to meet fundamental needs and prevent poverty. The United States has far greater income inequality than other high-income countries,⁶³ and the second-lowest rate among OECD member states for reducing inequality through public cash transfers.⁶⁴ Consequently, the official poverty rate in 2009 was 14.3%.⁶⁵ In addition, around 30% of the population lacks an adequate income to meet their needs.⁶⁶ As a result, 58 million people face either food or energy insecurity, or both.⁶⁷ Poverty has been thoroughly racialized and feminized, with 25.8% of African Americans and 13.9% of women living below the federal poverty level, compared to 9.4% of non-Hispanic Whites and 10.5% of men.⁶⁸

The United States makes limited benefits available in a very selective way, for special eligible groups only. The sole universal benefit is mandatory public retirement insurance through the tax-funded Social Security program of 1935, which only provides income near the federal poverty level. Employment related benefits are difficult to claim and inadequate to meet needs, yet few benefits exist independent of work, apart from a growing Supplemental Nutrition Assistance Program (known as food stamps). Since the legal right to welfare was ended in 1996 and replaced by Temporary Assistance for Needy Families (TANF) for women with children, the number of recipients has decreased by a third to around 2 million.⁶⁹



Ensure universality: provide an automatic basic income and a job guarantee for everyone

Securing the basic resources for a life with dignity is treated as an individual responsibility, and poverty is seen as a personal rather than social problem. The culture of self-reliance is promoted by selective benefits policies that segregate the poor into special groups defined by eligibility criteria and demeaning application processes. Such policies draw a line of demarcation between people whose taxes pay for benefits and those who receive them. This stigmatizes and marginalizes poor people, and violates their dignity and liberty, as do compulsory work requirements imposed as a condition of welfare and housing benefits. Enrollment in benefits programs is actively discouraged, to the point where “applying for welfare is a lot like being booked for a crime,” and punishing people for disapproved behavior with a withdrawal of benefits is commonplace.⁷⁰ At the same time, cash assistance programs, which allow people to determine their priority needs, have largely been replaced by material assistance, such as food stamps, which patronize the poor by paternalistically dictating needs.

A growing emphasis on individual responsibility can even be found with regard to the least stigmatized benefit, employer pension plans that supplement Social Security. Over the last decade, many of those employers still offering pensions have moved from defined-benefit to defined-contribution plans. Pensions have become investment accounts that place the risk for managing retirement savings onto workers, leaving them without guaranteed payouts.

The selective and segmented nature of U.S. social policy contributes to the lack of solidarity for those with greater need for social protection. This makes benefits programs less effective and less sustainable. In short, programs only for poor people are poor programs⁷¹ and should be replaced with universal measures that not only tackle poverty but foster the economic and social inclusion of all. The lack of adequate social protection keeps wages low for the majority population, which in turn increases the need for income support. To end this vicious cycle, selective benefits programs should be turned into a universal system of social protection that provides guaranteed protection against common risks, through a universal basic income, while also giving targeted support to disadvantaged population groups.



United Workers hold a press conference putting Disney-owned ESPN Zone on notice for human rights abuses, Baltimore, June 2010

Ensure equity: change taxation and benefits policies to ensure a strong redistributive effect

Public expenditures for social protection, which include both tax expenditures and direct social programs, fail to redistribute resources to the poor. The sizable tax subsidies for employer pension plans, employer-sponsored health insurance, and homeowner mortgage interest are all weighted to benefit higher-income people.⁷² With regard to pensions, for example, lower-paid workers and even those excluded from their employers' pension plans effectively help pay for a tax subsidy of more than \$100 billion per year that

primarily benefits higher-paid employees and business owners. By comparison, resources for those with more serious needs are small. Maximum TANF benefits in 30 states amount to less than 30% of the federal poverty level.⁷³ Unemployment insurance benefits only replace 35% of an average weekly wage, and prior to the recession just 37% of unemployed people received those benefits. Although low-wage workers are twice as likely as higher earners to become unemployed, they are only one third as likely to collect benefits.⁷⁴

The U.S. tax code replicates this regressive approach. For example, while the average income of the richest 400 individuals grew from \$263.3 million in 2006 to \$344.8 million in 2007, their effective tax rate fell from 17.17% in 2006 to 16.62% in 2007. This is primarily due to the preferential treatment of capital gains and stock dividends, which are taxed at a top rate of 15% instead of the (already low) top tax rate of 35% that applies to other income of the very rich.⁷⁵



Provide public goods: end and reverse the privatization of social services and public utilities

The United States has increasingly privatized the administration and delivery of social services. Yet the \$1.5 billion business of using private TANF contractors has led to a lack of public oversight,⁷⁶ and the role of private companies in determining people's eligibility for benefits raises serious accountability questions. Processing delays and caseworker shortages have already harmed poor people.⁷⁷

The push towards privatization and commercialization has also increased the populations' energy and water insecurity. The negative impact of privatizing energy and water utilities includes price increases and higher disconnection and shut-off rates, which have culminated in a number of deaths.⁷⁸ Dependence on investor-owned water utilities has increased,⁷⁹ with nearly 73 million people now receiving their water from a privately owned or privately-run utility. Yet resistance is growing, too: a low-income community in Highland Park, Michigan, has fought privatization and demanded that water be treated as a public good, shared by all, rather than handed over into private ownership.⁸⁰

III Recommendations for Actions by the United States Government

1. Strengthen the public sector to ensure that the core goods, services, and infrastructure necessary to meet people's fundamental needs are shared as public goods, rather than sold as commodities. This requires defunding market approaches that have failed to meet needs, providing equal access to public goods, and holding private corporations accountable for protecting human rights.

- a. **Education:** preserve education as a public good, invest in public schools based on need, and stop privatization where it exacerbates stratification and segregation
- b. **Health care:** replace the private health insurance industry with a publicly financed and administered national health plan
- c. **Housing:** enact a moratorium on privatizing public housing and on foreclosures, and adopt sustainable and equitable development codes
- d. **Work with dignity:** cooperate with workers' groups to hold corporations accountable, and adopt and enforce human-rights based employment regulations
- e. **Social security:** end and reverse the privatization of social benefits services and public utilities

2. Implement universal policies that include everyone and share costs and benefits equitably. This requires the government to assume responsibility for ensuring that everyone's needs are met, instead of forcing individuals to compete against each other in a marketplace that imposes artificial scarcity on essential goods and services. It also requires revoking divisive market-based incentives when they stigmatize, displace, exclude, or criminalize people.

- a. **Education:** end school pushout and instead provide learning environments that protect dignity, foster children's full development, and ensure a quality education for all children
- b. **Health care:** provide a universal public health insurance plan that entitles everyone to comprehensive, appropriate, and equal high quality health care
- c. **Housing:** guarantee and provide adequate and affordable housing for all who need it, and guarantee security of tenure for everyone (tenants and owner-occupiers)
- d. **Work with dignity:** guarantee a living wage, with dignified working conditions for all
- e. **Social security:** provide an automatic basic income and job guarantee for everyone

3. Ensure the equitable distribution of public resources. This requires the government to invest in communities based on need, and redistribute resources to disadvantaged and underserved populations. It also requires ending tax breaks and subsidies when they primarily serve private, for-profit interests and high earners, and instead implementing a progressive public expenditure and taxation system.

- a. **Education:** eliminate funding disparities by ending schools' dependence on local property taxes
- b. **Health care:** finance health care equitably through broad-based taxation, and ensure the equitable distribution of adequate, accessible health infrastructure and services in all communities
- c. **Housing:** reinvest in public housing and equitable, public development, instead of subsidizing private developers. As a first step, end all demolitions of public housing
- d. **Work with dignity:** place human rights conditions on subsidies for private development, and increase direct public jobs creation
- e. **Social security:** change taxation and benefits policies to ensure a strong redistributive effect

4. Ensure that everyone in the United States is able to participate in the decision-making, resource allocation, and oversight related to how their fundamental needs are met. This must include workers, students, parents, communities, patients, tenants, homeless people, income support recipients, and everyone else. It requires the government to tackle the increasing obstacles to democratic participation. Everyone must be able to organize freely, without fear of exclusion and criminalization.

Endnotes

- ¹ See especially the International Covenant on Economic, Social, and Cultural Rights, and General Comments 4, 6, 12, 13, and 14.
- ² For details on this recommendation, see the compilation of civil society submissions to the UPR; U.S. Human Rights Network, *Universal Periodic Review Joint Reports, United States of America*, August 2010, pp. 27-40.
- ³ Global Rights, *The Justiciability of Economic, Social, and Cultural Rights in the U.S.: Domestic Implementation of the Right to Equal Education*, October 2004, http://www.globalrights.org/site/DocServer/Final_Right_to_Education__11.12.pdf?docID=1363.
- ⁴ Susan Randolph, Sakiko Fukuda-Parr, & Terra Lawson-Remer, "Economic and Social Rights Fulfillment Index: Country Scores and Rankings," *Journal of Human Rights*, forthcoming 2010.
- ⁵ Alliance for Excellent Education, *The High Cost of High School Dropout*, August 2009, <http://www.all4ed.org/files/HighCost.pdf>.
- ⁶ Dignity in Schools, *School Discipline and The Pushout Problem*, Fact sheet 2009, http://www.dignityinschools.org/files/DSC_Pushout_Fact_Sheet.pdf.
- ⁷ The Schott Foundation for Public Education, *Yes We Can: The Schott 50 State Report on Public Education and Black Males*, 2010, <http://blackboysreport.org/bbreport.pdf>.
- ⁸ For further evidence of how the United States violates provisions under CERD, see *Universal Periodic Review Joint Reports*, pp. 249-262.
- ⁹ Carmen G. Arroyo, *The Funding Gap*, The Education Trust, January 2008, http://www.closingtheachievementgap.org/cs/ctag/download/resources/75/FundingGap2007.pdf?x-r=pcfile_d.
- ¹⁰ U.S. Department of Education, National Center for Education Statistics, *Inequalities in Public School District Revenues*, 1998; U.S. General Accounting Office, *School Finance: Per Pupil Differences between Selected Inner City and Suburban Schools Varied by Metropolitan Area*, 2002, <http://www.gao.gov/new.items/d03234.pdf>.
- ¹¹ Gail L. Sunderman & Jimmy Kim, *Teacher Quality: Equalizing Educational Opportunities and Outcomes*, Civil Rights Project, Harvard University, 2005 <http://www.eric.ed.gov/PDFS/ED489184.pdf>.
- ¹² FFLIC/NESRI, *Pushed Out: Harsh Discipline in New Orleans and Louisiana Public Schools*, April 2010, http://www.nesri.org/fact_sheets_pubs/Pushed_Out_Report.pdf.
- ¹³ Erika Frankenberg et al., *Choice without Equity: Charter School Segregation and the Need for Civil Rights Standards*, The Civil Rights Project, January 2010, <http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/choice-without-equity-2009-report/frankenber-choices-without-equity-2010.pdf>; Gary Miron et al., *Schools Without Diversity: Education Management Organizations, Charter Schools, and the Demographic Stratification of the American School System*, The Great Lakes Center for Education Research & Practice, February 2010, http://greatlakescenter.org/docs/Policy_Briefs/Miron_Diversity.pdf.
- ¹⁴ Larry Aubry, "Blacks Not Part of Public School Choice Plan," *Los Angeles Sentinel*, July 2009, <http://www.lasentinel.net/Blacks-Not-Part-of-Public-School-Choice-Plan.html>.
- ¹⁵ Andrew Sum et al., *The Consequences of Dropping Out of High School*, Center for Labor Market Studies, Northeastern University, October 2009, http://www.clms.neu.edu/publication/documents/The_Consequences_of_Dropping_Out_of_High_School.pdf.
- ¹⁶ This section focuses on health care, while the social determinants of health are addressed throughout this report.
- ¹⁷ Racial health disparities, manifest in higher rates of morbidity and mortality, are specifically addressed in a UPR report on health disparities; see *Universal Periodic Review Joint Reports*, pp. 71-82.
- ¹⁸ Ellen Nolte & Martin McKee, "Measuring The Health Of Nations: Updating An Earlier Analysis," *Health Affairs* Vol. 27, No. 1, 2008, 58-71.
- ¹⁹ Andrew P. Wilper et al., "Health Insurance and Mortality in US Adults," *American Journal of Public Health* Vol. 99, No. 12, December 2009.
- ²⁰ Cathy Schoen et al., "How Many Are Underinsured? Trends Among U.S. Adults, 2003 and 2007," *Health Affairs*, June 2008.
- ²¹ WHO, *World Health Statistics 2009*, http://www.who.int/whosis/whostat/EN_WHS09_Full.pdf; OECD Health Data 2009, <http://www.oecd.org/dataoecd/46/2/38980580.pdf>.
- ²² Cathy Schoen et al., "A Survey of Primary Care Physicians in 11 Countries, 2009: Perspectives on Care, Costs, and Experiences," *Health Affairs*, November 2009, 1171-1183.
- ²³ WHO, *supra* note 21.
- ²⁴ Karen Davis et al., *Mirror, Mirror on the Wall: An International Update on the Comparative Performance of American Health Care*, The Commonwealth Fund, May 2007.
- ²⁵ The Patient Protection & Affordable Care Act (H.R. 3590), signed by the President on March 23, 2010.
- ²⁶ U.S. Department for Health and Human Services, *Insurance Companies Prosper, Families Suffer: Our Broken Health Insurance System*, 2010, <http://www.healthreform.gov/reports/insuranceprospers/index.html>.
- ²⁷ David Himmelstein et al., "MarketWatch: Illness And Injury As Contributors To Bankruptcy," *Health Affairs*, February 2005; David Himmelstein et al., "Discounting The Debtors Will Not Make Medical Bankruptcy Disappear," *Health Affairs*, February 2006.
- ²⁸ Bruce Landon et al., "Quality of Care for the Treatment of Acute Medical Conditions in US Hospitals," *Archives of Internal Medicine*, Vol. 166, 11/25, 2006; Kamal Desei et al., "Public Hospitals: Privatization and Uncompensated Care," *Health Affairs*, March/April 2000.

- ²⁹ Amnesty International, *Deadly Delivery: The Maternal Health Crisis in the USA*, 2010.
- ³⁰ Maureen Mackintosh & Meri Koivusalo (eds.), *Commercialization of Health Care: Global and Local Dynamics and Policy Responses*, 2005; see also WHO, *Closing the Gap in a Generation: Health Equity through Action on the Social Determinants of Health*, 2009, http://www.who.int/social_determinants/thecommission/finalreport/en/index.html.
- ³¹ J. Michael McWilliams et al., "Health of Previously Uninsured Adults After Acquiring Medicare Coverage," *Journal of the American Medical Association* Vol. 298, No. 24, December 2007, 2886–94.
- ³² Congressional Budget Office, March 20, 2010, <http://www.cbo.gov/ftpdocs/113xx/doc11379/Manager'sAmendmenttoReconciliationProposal.pdf>.
- ³³ See for example, Harald Schmidt et al., "Carrots, Sticks, and Health Care Reform — Problems with Wellness Incentives," *New England Journal of Medicine*, December 30, 2009.
- ³⁴ Office of Management and Budget, *Analytical Perspectives, Budget of the United States Government, Fiscal Year 2007*, 2006, Tables 19–2 and 19–3.
- ³⁵ Physicians for a National Health Program, *Pro-Single Payer Doctors: Health Bill Leaves 23 Million Uninsured*, March 22, 2010, <http://pnhp.org/news/2010/march/pro-single-payer-doctors-health-bill-leaves-23-million-uninsured>.
- ³⁶ Shaila Dewan & Kevin Sack, "A Safety-Net Hospital Falls Into Financial Crisis," *The New York Times*, January 8, 2008, <http://www.nytimes.com/2008/01/08/us/08grady.html>. See also: Opportunity Agenda, *Dangerous and Unlawful: Why Our Health Care System Is Failing New York Communities and How to Fix It*, 2006; and Jan Moller, "Health care facing huge changes in Louisiana," *The Times-Picayune*, March 28, 2010, http://www.nola.com/politics/index.ssf/2010/03/health_care_facing_huge_change.html.
- ³⁷ The United States faces a projected shortage of up to 44,000 primary care doctors within the next 15 years; see Jack M. Colwill et al., "Will Generalist Physician Supply Meet Demands Of An Increasing And Aging Population?" *Health Affairs*, May/June 2008. See also new qualitative research in Montana supported by the Montana Human Rights Network, <http://www.nesri.org/programs/Lewis&ClarkCountyPresentation.pdf>.
- ³⁸ For evidence of the lack of affordable housing see, for example, U.S. Department of Housing and Urban Development, *Affordable Housing Needs 2005: Report to Congress*, May 2007, <http://www.huduser.org/Publications/pdf/AffHsgNeeds.pdf>; and Low Income Housing Coalition, *Preliminary Assessment of American Community Survey Data Shows Housing Affordability Gap Worsened for Lowest Income Households from 2007 to 2008*, November 2009, <http://www.nlihc.org/doc/Prelim-Assess-Rental-Affordability-Gap-State-Level-ACS-12-01.pdf>.
- ³⁹ For further evidence of racial disparities in housing submitted to the UPR, see *Universal Periodic Review Joint Reports*, pp. 263-278.
- ⁴⁰ Douglas Rice & Barbara Sard, *The Effects of the Federal Budget Squeeze on Low-Income Housing Assistance*, Center for Budget and Policy Priorities, February 2007, 2, <http://www.cbpp.org/files/2-1-07hous2.pdf>.
- ⁴¹ Martha R. Burt, *What Will It Take To End Homelessness*, Urban Institute, 2001, http://www.urban.org/UploadedPDF/end_homelessness.pdf; on the current increase in homelessness, see Barbara Sard, *Number of Homeless Families Climbing Due To Recession*, Center for Budget and Policy Priorities, January 2009, <http://www.cbpp.org/cms/index.cfm?fa=view&id=2228>.
- ⁴² This decrease took place between 1978 and 2006; see Western Regional Advocacy Project, *Without Housing: Decades of Federal Housing Cutbacks, Massive Homelessness, and Policy Failures*, [2006]. By 2008 HUD's budget had increased slightly to \$35.2 billion.
- ⁴³ Overall, around 45% of all renters spend a third or more of their income on rent, compared to around 30% of homeowners. U.S. Census Bureau, 2006–2008 American Community Survey 3-Year Estimates, http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2008_3YR_G00_S2503&-ds_name=ACS_2008_3YR_G00_&-_lang=en&-redoLog=false&-format=&-CONTEXT=st.
- ⁴⁴ Alyssa Katz, *Our Lot: How Real Estate Came to Own Us*, 216, 2009.
- ⁴⁵ The Section 8 voucher program allows low-income families to rent apartments in the private market through a government subsidy.
- ⁴⁶ See "The Effects of the Federal Budget Squeeze," *supra* note 40 at 2; and also Christopher Howard, *The Hidden Welfare State: Tax Expenditures and Social Policy in the United States*, 28, 1997.
- ⁴⁷ *Without Housing*, *supra* note 42.
- ⁴⁸ Center for Budget and Policy Priorities, *Policy Basics: Introduction to Public Housing*, December 2008, <https://www.cbpp.org/cms/index.cfm?fa=view&id=2528>.
- ⁴⁹ Report of the Special Rapporteur on adequate housing, UN Human Rights Council, Thirteenth Session, 12 February 2010, 13, http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.20.Add.4_en.pdf.
- ⁵⁰ See "Policy Basics," *supra* note 48.
- ⁵¹ State HFA Factbook, *2008 National Council of State Housing Agencies Annual Survey Results*.
- ⁵² Timothy Egan, "Slumburbia," *The New York Times*, February 10, 2010, <http://opinionator.blogs.nytimes.com/2010/02/10/slumburbia/?hp>.
- ⁵³ See, for example, Winton Pitcoff, *Affordable Forever: Land Trusts Keep Housing Within Reach*, National Housing Institute: Shelterforce Online, January/February 2002, <http://www.nhi.org/online/issues/121/LandTrusts.html>; and <http://www.nhtinc.org/ice.php>.

- ⁵⁴ Peter B. Edelman, "Changing the Subject: From Welfare to Poverty to a Living Income," *Northwestern Journal of Law and Social Policy*, Vol. 4, Winter 2009, <http://www.law.northwestern.edu/journals/njlsp/v4/n1/2/2Edelman.pdf>.
- ⁵⁵ The median income of women working full time, year round in 2008 was 77% of the median income of their male counterparts. National Women's Law Center, *Poverty Among Women and Families, 2000-2008: Recession Deepens Poverty*, September 2009.
- ⁵⁶ U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2008*. See the UPR submissions on the right to work and on labor rights for further evidence of disparities in wages, working conditions, access to employment, and right to unionize; *Universal Periodic Review Joint Reports*, pp. 193-220.
- ⁵⁷ National Employment Law Project, *Building a Good Jobs Economy*, November 2008, http://www.nelp.org/page/-/Federal/NELP_federal_agenda.pdf?nocdn=1.
- ⁵⁸ Edelman, *supra* note 54.
- ⁵⁹ E.g. waitresses, whose poverty rate is three times the average rate; see Rajesh D. Nayak & Paul K. Sonn, *Restoring the Minimum Wage for America's Tipped Workers*, National Employment Law Project, August 2009, http://nelp.3cdn.net/f6df4ed353601d4c50_x6m6iy650.pdf.
- ⁶⁰ Oxfam America, *Like Machines in the Fields: Workers without Rights in American Agriculture*, March 2004.
- ⁶¹ See http://www.reclaimdemocracy.org/walmart/claims_dueprocess_rights.php.
- ⁶² See Annette Bernhardt et al., *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*, Center for Urban Economic Development/National Employment Law Project/UCLA Institute for Research on Labor and Employment, 2010.
- ⁶³ The United States ranks 73rd in the world according to the UN's Gini index; *United Nations Human Development Report 2009*, <http://hdrstats.undp.org/en/indicators/161.html>.
- ⁶⁴ Center for Economic and Social Rights, *United States of America*, Fact Sheet No. 11, 2010, <http://www.cesr.org/downloads/USA%20Web%20final.pdf>.
- ⁶⁵ U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2009*, <http://www.census.gov/prod/2010pubs/p60-238.pdf>.
- ⁶⁶ Edelman, *supra* note 54.
- ⁶⁷ United States Department of Agriculture, *Food Security in the United States: Key Statistics and Graphics*, http://www.ers.usda.gov/Briefing/FoodSecurity/stats_graphs.htm; The National Energy Assistance Directors' Association (NEADA), *Record Number of Households Receive Energy Assistance Shut-Offs Exceed 4.3 Million Households in 2009*, December 2009, <http://www.neada.org/communications/press/2009-12-18-PressRelease.pdf>.
- ⁶⁸ U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2009*, <http://www.census.gov/prod/2010pubs/p60-238.pdf>; National Women's Law Center, "NWLC Analysis of New Census Data Shows Substantial Increase in Women's Poverty, Decline in Health Insurance Coverage, No Improvement in Wage Gap," September 16, 2010.
- ⁶⁹ One in five "welfare leavers" has become disconnected from any means of support; with around 1 million single mothers and 2 million children poor enough to qualify for support but not receiving it. See Sharon Parrott & Arloc Sherman, Center for Budget and Policy Priorities, TANF at 10, August 2006, <http://www.cbpp.org/cms/?fa=view&id=600>.
- ⁷⁰ Peter Edelman & Barbara Ehrenreich, "Why Welfare Reform Has Failed," *The Washington Post*, December 6, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/04/AR2009120402604.html>.
- ⁷¹ The phrase was coined by Wilbur J. Cohen; cited in Eugene Steuerle & Jon M. Bakija, *Retooling Social Security for the 21st Century: Right and Wrong Approaches to Reform*, 1994, <http://www.urban.org/books/retooling/chapter2.cfm>.
- ⁷² See also Christopher Howard, *supra* note 46.
- ⁷³ Peter Edelman & Barbara Ehrenreich, *supra* note 70.
- ⁷⁴ National Employment Law Project, *supra* note 57.
- ⁷⁵ Capital gains made up 66.3% of income for this group in 2007, up from 62.8 % in 2006. David Cray Johnston, "Tax Rates for Top 400 Earners Fall as Income Soars, IRS Data," *Tax Notes*, February 22, 2010, <http://www.tax.com/taxcom/features.nsf/Articles/0DEC0EAA7E4D7A2B852576CD00714692?OpenDocument>.
- ⁷⁶ United States General Accounting Office, *Welfare Reform: Interim Report on Potential Ways to Strengthen Federal Oversight of State and Local Contracting*, April 2002, <http://www.gao.gov/new.items/d02245.pdf>.
- ⁷⁷ Mary R. Mannix et al., "Public Benefits Privatization and Modernization: Recent Developments and Advocacy," *Clearinghouse Review: Journal of Poverty Law and Policy*, Vol. 42, No. 1-2, May-June 2008.
- ⁷⁸ NEADA, *supra* note 67; Tom Eley, "DTE, Wall Street profit from utility shutoffs," March 18, 2010, <https://wsws.org/articles/2010/mar2010/dtes-m18.shtml>.
- ⁷⁹ National Association of Water Companies, <http://www.nawc.org/resources/documents/pwsp-quick-facts.html>.
- ⁸⁰ The Highland Park Human Rights Coalition, supported by the Michigan Welfare Rights Organization, <http://mwro.org/HPHRC.htm>.



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