Mr. Chairman,

Greetings. On behalf of the American Indian Law Alliance, a non-governmental organization in consultative status with the United Nations Economic and Social Council, and our founder and President who also serves as the North American Regional Representative to the UN Permanent Forum on Indigenous Issues, we welcome you to the original territory of our ancestors. We appreciate the Administration’s outreach to the New York City Native American community in soliciting information and recommendations in preparations for the Universal Periodic Review process.

We call upon the government of the United States of America (USA) to act in due haste to endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which was adopted by 143 member nations of the UN General Assembly on September 13, 2007, and currently only Canada, New Zealand and the USA standing against it.

Mr. Chairman, we have entered a new age – a time of reflection and correcting the wrongs of previous eras. Let us set forth on a positive pathway together. Thousands of Native Peoples here in the US, and indeed throughout the world, stood up with trust and faith in the Administration’s message of equity for all.

Therefore, we respectfully make the following recommendation:

The immediate adoption by the USA of the UN Declaration on the Rights of Indigenous Peoples to advance the collective and human rights and the right to self-determination of Native Peoples.

Thank you, Mr. Chairman.
Written Statement of National Advocates for Pregnant Women  
U.S. State Department Universal Periodic Review Consultation  
Columbia University – February 26, 2010

At age 15, R.G., an African-American girl in Mississippi, became pregnant. In November 2006, just one month after her sixteenth birthday, she suffered a stillbirth. Instead of offering care or support to cope with the loss, instead of offering education to help her understand what she experienced, medical personnel notified the police. R.G. was then arrested and charged – as an adult – with murder for having experienced the stillbirth. The State of Mississippi alleged that R.G. “feloniously, willfully and unlawfully ... and enlisting a deprived heart” murdered her child, claiming, without any medical or scientific support, that her drug use caused the stillbirth.

Last year in South Carolina, J.C., who was eight months pregnant, became despondent when the father of her baby threatened to leave her. In an apparent suicide attempt, she jumped out of a fifth floor window. An awning broke her fall. Despite numerous injuries, including a broken pelvis, J.C. survived. Nevertheless, she lost the pregnancy. J.C. was arrested and charged with homicide by child abuse. Held for months without bail, J.C. eventually pleaded guilty to manslaughter to avoid a murder conviction or years in jail while she challenged the charges.

Increasingly, pregnant women and girls who experience stillbirths or other health problems are being denied their inherent dignity and human rights. National Advocates for Pregnant Women has documented hundreds of cases involving the policing and punishment of pregnant women and new mothers. Many of these cases involve pregnant women who were not able to overcome a drug problem in the short length of a pregnancy. Other cases, however, involve women who have been arrested because, while pregnant, they refused cesarean surgery, did not get to the hospital quickly enough on the day of delivery, were in a dangerous location, refused a court-ordered physical examination, fell down a flight of stairs, or experienced a depression severe enough to lead to a suicide attempt.

Low-income women and women of color are disproportionately targeted for arrest and other forms of punishment and state control. These cases are brought under the guise of advancing the rights of the “unborn” and have the effect of diminishing the dignity and personhood of pregnant women. These cases rest on the claim that unborn children are entitled to a healthy environment and healthy birth, while the women who carry them are not guaranteed health care, education, or a safe and healthy environment.

Both South Carolina and Mississippi are at the bottom in terms of infant mortality rates. Nationwide, the infant mortality rate among African-Americans is double the rate among whites. The high rates of infant mortality are attributed to lack of access to prenatal care...
as well as general lack of access to health care, healthy foods and safe environments. For example, there is only one drug treatment facility in Mississippi that admits pregnant teenagers. This facility is a three and a half hour drive from R.G.’s home.

R.G. and J.C. represent a disturbing trend in the U.S. of violating the human rights of pregnant women. The Universal Declaration of Human Rights, Article 25, section 1 states – “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including ... medical care and necessary social services.” Policies of arrest and punishment undermine rather than advance this goal. R.G., J.C. and many other women have been denied this standard of living.

UDHR, Article 11, section 2 states “No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.” There is no written statute declaring that a woman who experiences a stillbirth – for any reason – can be held criminally liable.

UDHR, Article 25, section 2 states “Motherhood and childhood are entitled to special care and assistance.” Certainly neither R.G. nor J.C. received any special care or assistance. Rather, they were arrested and charged with a crime that carries a life sentence for those convicted. We can point to other sections of the UDHR and to other treaty obligations as well, all of which remind us that R.G. and J.C.’s human rights and inherent dignity were violated.

These cases are ongoing. Just this week NAPW learned of two new arrests. Countless other women in the United States have lost custody of their children or have been subjected to intrusive state scrutiny based on something the government claims they did or did not do while pregnant. These cases make clear that in its treatment of pregnant women, the United States is an outlier in the world.

What can we do to improve human rights in the U.S.?

- First, we must make clear that women, upon becoming pregnant, may not become subject to special penalties or state interventions.
- Second, we ask the United States ensure that every person has access to health care that includes comprehensive reproductive health care as well as drug treatment and mental health care.

Pregnant women and women who have suffered miscarriages and stillbirths, like all other people, deserve dignity and freedom from the fear that their pregnancies will become the basis for an arrest.
To Whom It May Concern:

There are four issues concerning resident rights in public housing that were brought to the attention of the United Nations Special Rapporteur on Housing and must also be considered in the UPR.

1. Public Housing Residents in the United States must do forced Community Service as a condition of their tenancy, QHWRA Act of 1998. Every underemployed adult from age 19 through 62 must do this service in addition to paying rent or their family will be permanently evicted. This is a violation of the 13th and 14th Amendments to the US Constitution that prohibits slavery.

2. The Trepass Law prohibits relatives from visiting each other in public housing developments. Those residents are forced to sign stipulations that give PHA's (Public Housing Authorities) the right to search apartments 24/7 to see if there are any visits from prohibited relatives at any time. If a visit is discovered, the entire family is evicted. This is a violation of the 5th amendment of the US Constitution.

3. NYC Public Housing Authorities refuse to recognize succession rights again severing the rights of the family.

4. We need a public defender in Housing Court similar to the free public defenders in Criminal Court. We need a Civil Gideon.

Dr. John Derek Norvell  
Concerned Citizens of Greater Harlem  
NYC  
2/26/2010
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF RICHMOND

SAEED SHABAZZ and BERNADETTE SHABAZZ and all PRESENT, PAST AND FUTURE TENANTS, THEIR SUCCESSORS, PRESENT, PAST and FUTURE,

Plaintiffs-Tenants, -against-

NEW YORK CITY HOUSING AUTHORITY, THE CITY OF NEW YORK, CITY MARSHALL OF THE CITY OF NEW YORK, INCLUDING BUT NOT LIMITED TO THE AFOREMENTIONED DEFENDANTS,

Defendants.

SUMMONS and VERIFIED COMPLAINT IN CLASS ACTION

To: NEW YORK CITY HOUSING AUTHORITY
   THE CITY OF NEW YORK
   CITY MARSHALL
   ALL DEFENDANTS

From: MARK T. COSTANTINO, ESQ.

MARK T. COSTANTINO
Attorney for Plaintiffs
131 Silver Lake Road-Suite 304
Staten Island, New York 10301
646-247-5128
INDIVIDUAL VERIFICATION

STATE OF NEW YORK

COUNTY OF RICHMOND

SAEED SHABAZZ, being duly sworn, deposes and says:

Deponent is a plaintiff in the within action and has read the foregoing COMPLAINT and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein alleged upon information and belief, and those matters deponent believes to be true.

Sworn to before me this day of January 2010

SAEED SHABAZZ

NOTARY PUBLIC
INDIVIDUAL VERIFICATION

STATE OF NEW YORK    }
    }
COUNTY OF RICHMOND    }

BERNADETTE SHABAZZ, being duly sworn, deposes and says:

Defendant is a plaintiff in the within action and has read the foregoing COMPLAINT and knows
the contents thereof; the same is true of defendant's own knowledge, except as to the matters
therein alleged upon information and belief, and those matters defendant believes to be true.

Sworn to before me this
day of January 2010

______________________________  BERNADETTE SHABAZZ

______________________________  NOTARY PUBLIC
TWENTY EIGHTH  That Plaintiffs and its class have all suffered damages as a result of the negligence wilful maliciousness, fraudulent inducements and deceptive business practices of the Defendants.

WHEREFORE, Plaintiffs and their class,

1.  Demand judgment on its cause of action against the Defendants on their claim in an unspecified amount to be determined upon trial together with interest, costs, disbursements and attorney fees.

2.  Demand judgment in the class action for compensatory and punitive damages in an amount to be determined at Trial, together with costs, interest, disbursements and legal fees for this action and for such other and further and equitable relief which as to the Court may be deemed just and proper.

Dated: January 29, 2010
Staten Island, New York

Yours, etc.

MARK T. COSTANTINO

By: _____________________________
   MARK T. COSTANTINO
TWENTY SECOND   Defendants in a knowing and wilful manner have secretly conspired to ignore their obligations with regard to the respective personal rights of the Plaintiffs pertaining to the rights of succession, senior citizenship and disability.

TWENTY THIRD    That the Defendants in their ordinary course of business, knowingly and intentionally fail to advise tenants of public housing who are basically unaware and uneducated as to their rightful entitlements and the dire consequences resulting from such unawareness.

TWENTY FOURTH   That numerous instances exist with regard to members of the class being deprived of their personal rights and real property by the deceptive and conspirational machinations of the defendants.

TWENTY FIFTH    That these Defendants intentionally, wilfully, maliciously and fraudulently by omitting to explain and make accessible to the unknowledgeable tenant the dire repercussions and consequences of their requirements and their rights have fraudulently placed the tenant and/or Plaintiffs in a detrimental and untenable position.

TWENTY SIXTH    That the Defendants pursue such a course of fraud and inducement on a daily and continuous basis.

TWENTY SEVENTH That as a result of the Defendants’ fraudulent and conspirational inducements and deceptive business practices the unwary Plaintiffs have suffered deprivation of their property, mental distress and massive depressiveness and are compelled to live in disgrace and ignomy.
FOURTEENTH  That the claims or defenses of representative parties are typical of the claims or defenses of the class.

FIFTEENTH  That the representative party will fairly and adequately protect the interests of the class; Counsel is experienced in class representation in mass tort litigation.

SIXTEENTH  That a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

SEVENTEENTH  That upon information and belief the Defendants engage in a business that monitors, administers, supervises, controls, manages and regulates the public housing system for the City of New York.

EIGHTEENTH  Defendants have exclusive, extensive, control and supervision of all tenants and occupants of each individual premise located in said public housing.

NINETEENTH  Defendants have knowingly, wilfully and negligently failed and omitted to advise Plaintiffs of their rights to be successors in interest and all their legal obligations pertaining thereto.

TWENTIETH  Defendants have knowingly, wilfully and negligently failed and omitted to advise and inform the Plaintiff, SAEED SHABAZZ, of his rights as a senior citizen tenant.

TWENTY FIRST  Defendants have knowingly, wilfully and negligently failed and omitted to advise and inform the Plaintiff, BERNADETTE SHABAZZ, of her rights as a disabled person.
EIGHTH That Plaintiff, SAEED SHABAZZ, is 65 years of age and as such is a senior citizen and is entitled to special consideration.

NINTH That Plaintiff, BERNADETTE SHABAZZ, the legal wife of Plaintiff, Saeed Shabazz, is a recipient of Social Security Disability Benefits and as such is entitled to special consideration under and in accordance with the American Disability Act.

TENTH That Defendants have intentionally, wilfully, unethically, maliciously, recklessly, negligently, conspirationally, fraudulently and deceitfully failed and omitted to properly advise the unknowing Plaintiffs of the legal repercussions that would affect them by the violation of their legal rights such as the deprivation of their Property Rights and their right to Due Process of Law under the Constitution of New York State and the United States of America.

ELEVENTH That pursuant to Article 9 of the CPLR, the named Plaintiffs herein institute and prosecute this action not only on behalf of themselves but also on behalf of all individual public housing tenants who are senior citizens, disabled persons and who may be entitled to rights as successors in interest, disabled persons or senior citizens whether past, present or future similar to those allegations contained in this complaint.

TWELFTH That upon information and belief the class is so numerous that joinder of all members, whether otherwise required or permitted, is impracticable.

THIRTEENTH That there exist questions of law and/or facts common to the class which predominate over any questions affecting only individual members.
associated with or involved with renting, leasing, managing, supervising, controlling, disposing of, maintaining and administrating the Public Housing within the City of New York.

THIRD That at all times hereinafter mentioned, the Defendants are Public Corporations authorized and approved to do business under the Laws, Rules and Regulations of the City and State of New York.

FOURTH That at all times hereinafter mentioned the Defendant, the City Marshall of the City of New York manages, supervises, controls and administers the eviction of tenants who reside in the public housing of the City of New York provided by the Defendants herein.

FIFTH That at all times hereinafter mentioned, Defendants have surreptitiously been part of an illegal conspiracy of machinations to deceive, defraud and deprive the Plaintiffs and the class of tenants past, present and future who collectively reside in the public housing by renting, leasing, managing, supervising, disposing of, maintaining and administrating said public housing.

SIXTH That Plaintiffs have been tenants at the aforementioned premises since 2004.

SEVENTH That Plaintiff, Saeed Shabazz acquired their rights to occupy said premises as a successor in interest through the prior blood related tenant of said premises his brother, STEVEN EUGENE CLARKE, by residing with him as a primary resident, providing emotional and financial commitment and interdependence to STEVEN prior to his death.
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF RICHMOND

SAEED SHABAZZ and BERNADETTE SHABAZZ and all
PRESENT, PAST AND FUTURE TENANTS, THEIR
SUCCESSORS. PRESENT, PAST and FUTURE,

Plaintiffs-Tenants,

-against-

VERIFIED COMPLAINT
IN
CLASS ACTION

NEW YORK CITY HOUSING AUTHORITY, THE
CITY OF NEW YORK, CITY MARSHALL OF THE
CITY OF NEW YORK INCLUDING BUT NOT
LIMITED TO THE AFOREMENTIONED DEFENDANTS

Defendants.

Plaintiffs, complaining of the Defendants, by their attorney, MARK T.

COSTANTINO, ESQ., respectfully state and and allege, upon information and belief:

FIRST That at all times hereinafter mentioned, the plaintiffs, SAEED
SHABAZZ and BERNADETTE SHABAZZ are residents of the County of Richmond, City and
State of New York, residing at 820 Henderson Avenue, Apartment #08E, Staten Island, NY
10310.

SECOND That upon information and belief, the Defendants are all
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF RICHMOND

SAEED SHABAZZ and BERNADETTE SHABAZZ and all PRESENT, PAST AND FUTURE TENANTS, THEIR SUCCESSORS, PRESENT, PAST and FUTURE,

Plaintiffs-Tenants

-against-

NEW YORK CITY HOUSING AUTHORITY, THE CITY OF NEW YORK, CITY MARSHALL OF THE CITY OF NEW YORK, INCLUDING BUT NOT ENTER LIMITED TO THE AFOREMENTIONED DEFENDANTS,

SUMMONS

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in the above captioned action and to serve a copy of your Answer on the Plaintiffs’ attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. The United States of America, if designated as a Defendant in this action, may answer or appear within sixty (60) days of service hereof. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

RICHMOND COUNTY IS HEREBY DESIGNATED AS THE PLACE OF TRIAL. THE BASIS OF THE VENUE IS THE RESIDENTS OF THE PLAINTIFFS AT 820 HENDERSON AVENUE, STATEN ISLAND, NEW YORK.

Dated: January 29, 2010
Staten Island, New York

By: ________________________________
MARK T. COSTANTINO, ESQ.
Attorney for Plaintiffs
131 Silver Lake Road-Suite 304
Staten Island, New York 10301
646-247-5128
Sexual Abuse Behind Bars: A Human Rights Crisis in New York Detention Facilities

Testimony of Cynthia Totten
Program Director, Just Detention International

Prepared for the New York UPR Human Rights Consultation Criminal Justice Panel

February 26, 2010
Good afternoon, and thank you to the U.S. State Department and the other agencies represented here today for convening this consultation in connection with the United States’ participation in the UN Human Rights Council’s Universal Periodic Review. I am a Program Director with Just Detention International (JDI).

Formerly known as Stop Prisoner Rape, JDI is an international human rights organization, and the only U.S. organization exclusively dedicated to ending sexual violence in detention. All of JDI’s work takes place within the framework of international human rights laws and norms. Specifically, we work to ensure government accountability for prisoner rape; to transform ill-informed public attitudes about sexual violence in detention; and to promote access to resources for those who have survived this form of abuse. All of these efforts are guided by the expertise of men, women, and children who have endured sexual violence behind bars and who have been brave enough to share their experiences with us.

I. Sexual Abuse in U.S. Detention Facilities

Sexual abuse behind bars is a widespread human rights crisis in prisons, jails, and juvenile facilities across the U.S. According to the best available research, 20 percent of inmates in men’s prisons are sexually abused at some point during their incarceration.¹ The rate for women’s facilities varies dramatically from one prison to another, with one in four inmates being victimized at the worst institutions.²

In a 2007 survey of prisoners across the country, the U.S. Department of Justice’s Bureau of Justice Statistics (BJS) found that 4.5 percent (or 60,500) of the more than 1.3 million inmates held in federal and state prisons had been sexually abused in the previous
year alone.\(^3\) A BJS survey in county jails was just as troubling; nearly 25,000 jail
detainees reported having been sexually abused in the past six months.\(^4\)

In its recent survey of youth in juvenile detention, the BJS found that a shocking
12.1 percent—almost one in eight—of youth reported being abused at their current
facility in the past year. In the worst facilities, the rate was as high as 30 percent.\(^5\) A 2005
BJS study of sexual abuse reported in adult prisons and jails found that young inmates
were at heightened risk for abuse in these facilities as well.\(^6\) Although the Juvenile Justice
and Delinquency Prevention Act prohibits detaining juveniles with adults except in very
limited circumstances,\(^7\) this protection does not apply to youth who are prosecuted as
adults.\(^8\)

II. Focus on Sexual Abuse in New York Corrections Facilities

Sexual abuse of prisoners—a human rights crisis in facilities across the country—
pervades New York detention facilities as well. For example, two of the five New York
state prisons included in the 2007 BJS survey of inmates in state and federal facilities had
rates of abuse substantially higher than the national rate. At Wende Correctional Facility,
in Erie County, 6.4 percent of inmates surveyed reported having experienced sexual
abuse within the preceding 12 months. At Great Meadow Correctional Facility in
Comstock, the rate was 11.8 percent.\(^9\)

Very high rates of abuse have also been documented in New York jails: at both
the Franklin County Jail and New York City’s Rose M. Singer Center, more than seven
percent of jailed inmates surveyed as part of the BJS’ 2007 national survey reported that
they had experienced sexual abuse within the preceding six months, compared with a
national rate of more than three percent.\(^10\)
As in other parts of the country, gay and transgender inmates in New York corrections facilities are at a disproportionately high risk of sexual abuse. Take the case of a transgender woman whom I shall refer to using her initials, "D.W." From May through October 2008, while incarcerated at the Shawangunk Correctional Facility, a men’s prison in Ulster County, D.W. experienced ongoing sexual harassment and abuse at the hands of another inmate. Because of her assailant’s threats, D.W. feared for her safety and felt that it was too dangerous to report the abuse.

When D.W. eventually decided she had no choice but to report the abuse, she hoped that corrections officials would immediately take steps to ensure her safety, provide treatment for the physical injuries she had suffered during the most recent sexual assault, and conduct a thorough investigation. Instead, in violation of agency policy, D.W. was charged with a disciplinary infraction for having engaged in a sexual act, based on the investigating officer’s flawed impression that the sexual conduct between D.W. and the assailant was “more consensual than it was... rape.”

As we hear in letters Just Detention International receives from inmates around the nation every week, incidents like these are far from rare. Corrections officials often conflate homosexuality and transgender identity with consent to rape, contributing to an environment in which sexual abuse thrives, and in which vulnerable inmates are left with nowhere to turn.

As evidenced by the Amador case, a class action lawsuit brought on behalf of women inmates who were sexually abused by male staff while incarcerated in New York prisons, such abuse by corrections officials continues to be rampant in the state’s detention facilities. Moreover, that case underscores that even when inmates have the
courage to come forward—including when multiple instances of abuse by the same official have been reported—it is rare that appropriate administrative and criminal sanctions are imposed. One of the defendants in *Amador* had multiple prior complaints lodged against him year after year; only when a woman inmate had sperm on her shirt after being forced to perform oral sex was he terminated from employment and criminal charges finally brought.\textsuperscript{14}

**III. The U.S.' Obligation to Address Sexual Abuse Behind Bars**

The sexual assault of prisoners, whether perpetrated by corrections officials or by other inmates, amounts to torture under international law. Torture is prohibited by Article 5 of the Universal Declaration of Human Rights, along with international conventions and treaties, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)\textsuperscript{15} and the International Covenant on Civil and Political Rights (ICCPR),\textsuperscript{16} both of which have been ratified by the U.S.

In 2006, the CAT Committee and the Human Rights Committee reviewed U.S. compliance with the CAT and the ICCPR respectively. Both committees recognize sexual violence in detention as part of their mandate and have identified it as a serious problem in the U.S. The CAT Committee commended certain U.S. initiatives, including the enactment of the Prison Rape Elimination Act of 2003, which calls for a “zero-tolerance” standard for rape in U.S. detention facilities.\textsuperscript{17} However, the Committee detailed numerous concerns with U.S. policy and practice, including the failure to prevent sexual abuse of gay and transgender inmates and the failure to investigate instances of prisoner rape in a prompt and transparent manner.\textsuperscript{18}
The Human Rights Committee also commended the adoption of PREA, but expressed concern that male officers continue to have full access to women’s detention quarters.\textsuperscript{19} The Committee also noted its concern about widespread hate crimes committed against lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals, including by law enforcement.\textsuperscript{20}

IV. Recommendations

Rape is not an inevitable part of prison life. On the contrary, when effective policies are in place and fully implemented, sexual violence can be prevented. In December 2010, the human rights record of the U.S. will be reviewed during a Universal Periodic Review (UPR), at which point the Office of the High Commissioner on Human Rights will call upon the U.S. to specify what actions it has taken to improve the human rights situation and to overcome challenges to the universal enjoyment of human rights. With the UPR examination approaching, JDI calls on the U.S. to fulfill its international human rights obligations by taking the following measures:

- Ratify the Optional Protocol to the Convention Against Torture, a critical tool in improving external oversight of detention facilities.

- Implement fully the Convention Against Torture (CAT) and the ICCPR, including by permitting Article 22 communications under the CAT.

- Adopt swiftly the standards for preventing, detecting, responding to and monitoring sexual abuse behind bars developed pursuant to the Prison Rape Elimination Act of 2003.

These actions will help restore U.S. standing as a human rights leader and significantly improve safety for the incarcerated adults and children at risk of sexual violence in New York and around the nation.

Thank you.


8 42 U.S.C. § 5633 (a) (13), (14). State delinquency agencies that fail to comply with this and other requirements within the Juvenile Justice and Delinquency Prevention Act will lose their federal funding.

9 Three states consider 16 year olds to be adults as a matter of law; 10 states define 17 year olds as adults, and all states have provisions within their criminal justice laws allowing for youth who commit certain crimes and/or have prior contacts with the juvenile and criminal justice systems to be treated as adults. See Christopher Hartney, National Council on Crime and Delinquency, Fact Sheet, Youth Under Age 18 in the Adult Criminal Justice System (2006).

10 Supra, note 3 at p. 18.

11 Supra, note 4 at p. 2.


13 Id. at 4.

14 Sexual abuse against youth in New York juvenile facilities has also been well-documented. See HUMAN RIGHTS WATCH & THE AMERICAN CIVIL LIBERTIES UNION (ACLU), CUSTODY AND CONTROL: CONDITIONS OF CONFINEMENT IN NEW YORK'S JUVENILES PRISONS FOR GIRLS 63-64 (2005).


17 Id. at Article 19 of the Convention, CAT/C/USA/CO/2, at ¶¶§ 9, 32 (citing the Prison Rape Elimination Act, 42 U.S.C. §15601, et seq.).

18 The concerns about sexual violence raised by the Committee Against Torture are detailed further in a "shadow report" that Just Detention International (then called Stop Prisoner Rape) submitted to the Committee. See Stop Prisoner Rape, In the Shadows: Sexual Violence in U.S. Detention Facilities (2006).


20 Id. at ¶ 25. To learn more about the specific dangers of LGBTQ detainees, see Just Detention International, Fact Sheet, LGBTQ Detainees Chief Targets for Sexual Abuse in Detention (2009).
Connie Crothers – Written Statement

On a freezing cold Sunday night, January 20th, about two hundred of us, all of us artists, some of us with children, were standing out on the sidewalk in front of the building in shock, wondering what was going on. Police cars cordoned off the block; fire trucks lined the block on both sides of the street. 475 Kent Avenue was filled with policemen and firemen. We were told to vacate within six hours and then the building would be “sealed”; we would not be able to return. Without any warning—given just six hours—we would be homeless and have no livelihood. When this proved impossible, we were given an extension—two more days to evacuate (one of these days was a holiday, Martin Luther King Day). Some tenants did vacate their apartments by that deadline. Most could not. We were given another extension—vacate by the following Sunday. Many residents, including myself, removed valuable items and left the rest in the premises. Then the building was closed. We could not enter without first going to the Brooklyn office of the Fire Dept., filling out and notarizing an affidavit and being approved for access for a limited amount of time, for specified reasons, such as removal of property for the purpose of vacating the premises.

475 Kent became something of a cause celebre. It was covered in the New York Times in several feature articles, and in other newspapers across the country; it was covered on major network television news. Episodes from the evacuation were posted on YOUTUBE. A website was created, 475kent.com.

When the Fire Dept. closed the building, they did so for a very urgent reason. There was a fire hazard in the basement of the building—stored grain—in a matzo factory. Firemen said we were living over a potential bomb. The grain could spontaneously combust. The stand pipes and the Siamese connections, which enable the firemen to draw water from the building to combat fire, were missing or broken. The entrance, an open stairwell, would become a corridor of fire. The back exit was blocked.

The building owner took the grain out of the building within three days and we thought we might go back into our units. Then the Fire Department came back with a second demand—to reactivate the existing sprinkler system, or install a new one. This work commenced right away; we couldn't know how long it would take. Tenants volunteered their time and expertise, assuming responsibility for the plans and some of the work demanded by this job. The Fire Dept. presented a list of many more items that had to be fixed.

Tenants unequivocally supported the Fire Dept. and fully appreciated that their action was vital and absolutely necessary. Having said that, we were shocked and baffled by the way the action was carried out. The stored grain and the defunct sprinkler system had been existing conditions. The Fire Dept. inspects the building every year and they had seen all of this. Why didn't they take action sooner? I was told by a fireman that they had warned the owner many times and decided, when he didn’t respond to their warnings, just to evacuate the building. When they reached this decision, after waiting so long, why couldn't they have notified us, perhaps given us an evacuation schedule? Why couldn’t the tenants re-enter their spaces after the danger was defused, and be on premises while the rest of the work was being done? (Many tenants, some of them renowned in their artistic fields, have installations—which they need in order to do their work—built right into the walls, ceilings and floors of their units.)

All of the demands made by the Fire Dept. were be met, and we again live in the building. However, reoccupancy might require that the Dept. of Buildings issue a Certificate of Occupancy. This could take quite a bit more time. Perhaps we will be able to use our spaces only as commercial spaces, living elsewhere. Few of us can afford this, especially with New York City rents being what they are. Rental increases could make the rents too high for many of us. So, even though the building has been brought up to code and even if it receives a Certificate of Occupancy, we might not be able to afford to remain.

The 475 Kent Avenue situation will inevitably recur elsewhere. There are hundreds of buildings in this city like 475 Kent Avenue—buildings that are not zoned for living, where artists live and work,
because the rents are under market and therefore affordable for artists. Many of them are vacated factories or warehouses, structures that have not been maintained, perhaps for years, which harbor ongoing and sometimes unnoticed or unidentified hazards. When the City takes action, it responds by evacuations in an emergency, or by toughening zoning laws or tougher enforcement of existing zoning laws. All this has the effect of forcing artists to leave the City.

Instead of letting such situations reach this point, where lives are in imminent danger, or of inadvertently following a course which winds up being dismissive or punitive towards artists, the City could honor its own standards of housing safety by providing to artists safe, affordable and legal live/work spaces.

For awhile, the City sponsored the Artists in Residence (A.I.R.) program; this has been discontinued. Those artists who qualified in the past can remain in their spaces, but there is no more new certification. Other housing alternatives--Westbeth, Manhattan Plaza--no longer accept applications.

I wrote a Proposal for a building for musicians about a year ago to present, whenever possible, to interested people and initiate a collaborative process. Sculptor Deborah Masters expanded the core proposal to an outline for a multi-arts cultural center. Such a building complex would ensure that artists would remain here to do the innovative artistic work that has made New York City the creative crucible that has been recognized worldwide for many decades. Art is a major factor in the City’s identity, as well as the City’s cultural and economic health.

So, 475 Kent Avenue is far more than just one building, emptied of its artists, who could do their work there and form a thriving community because of this building and how it functioned for them. It is, ultimately, New York City itself and all New Yorkers who love their City. This is true for all cities, all villages and towns, everywhere there are artists. It is imperative that this problem be addressed. Housing for artists is a human right.

--Connie Crothers
475 Kent Avenue Evacuation
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Testimony of Michael Kane  
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To the United Nations Special Rapporteur on Adequate Housing

National Housing Policy Lunch Briefing  
October 26, 2009

Thank you for this opportunity to share our thoughts with you on housing policy in the United States. We would like to focus our testimony today on affordable, federally-subsidized rental housing stock and the emerging crisis of global rental markets, due to speculation and over-leveraging of that housing stock.

Three types of rental housing assistance. Today, the US government supports three types of subsidized rental housing assistance through HUD, aiding about five million families. This is approximately one-fourth the number who qualify for housing subsidy assistance, based on families who pay excessive rent burdens (defined in the USA as more than 30% of household income spent on rent) and/or live in overcrowded or substandard housing.

Rental Vouchers. Of the five million assisted, approximately two million receive rental “vouchers,” which they can utilize in the market with landlords willing to accept them. Known as “Section 8” vouchers after a section of the US housing law which created it in 1974, this program pays landlords a guaranteed amount for rent, while tenants pay 30% of their household income. Tenants must have household incomes less than 50% of the area median income to qualify for Section 8 assistance.

Public Housing. A second type of rental housing assistance program is known as “public housing”. Created in 1937, HUD’s Public Housing program subsidizes the operating costs for about 1.3 million apartments built and owned by Local Housing Authorities in each major city. Public housing tenants in the US are typically very low income people: most earn less than 30% of the median income in their areas. About 40-50% of public housing tenants are elderly or handicapped households paying minimal rents for their government-owned apartments.

Privately-owned, HUD-subsidized. The third major HUD-subsidized housing sector consists of privately-owned, HUD-subsidized multifamily housing complexes which receive either operating and/or capital subsidies and guarantees as incentives for private owners to build and maintain affordable housing for lower income people. Approximately 1.7 million families live in these buildings. About half are elderly or handicapped, most earn less than 50% of the median income, but some earn up to 95% of the median income. These buildings were constructed between 1966 and 1983, and are usually newer and in better condition than the older “public housing” stock.

Social housing stock under attack. For the past decade, HUD and Congressional housing policies have eroded the supply of federally-subsidized affordable rental housing. In the Public Housing sector, US housing policy has promoted the HOPE VI demolition and reconstruction program since 1992, aimed tearing down ill-conceived high-rise family housing developments which racially segregated low-income minorities in the post-World War II
era. More than 120,000 units of Public Housing have been demolished under HOPE VI since its inception. In their place, fewer than 40,000 new units of “mixed income” housing have been built, and few of these have been affordable to the low-income tenants whose homes were destroyed. HOPE VI also promotes privatized management and redevelopment by private-sector investors, whose for-profit goals are fundamentally at odds with social housing and will only lead to institutionalized conflicts in the future.

In the privately-owned HUD-assisted apartment sector, owners (mostly large, national corporations) have begun to take advantage of the time-limited subsidy contracts which began to expire in the late 1980’s, twenty years after the buildings were initially constructed. Since 1996, when Congress repealed a program which had slowed down the rate of owners opting out of federal subsidies, the US lost more than 300,000 units affordable to low-income families through conversion to unregulated high market rents in “hot” real estate markets, primarily the East and West Coasts and “gentrifying” neighborhoods in between, according to the National Housing Trust.

The National Alliance of HUD Tenants (www.saveourhomes.org) has been organizing tenants in this sector since 1992, but has been unable to find Congressional support for regulating owners’ ability to opt out and not renew expiring subsidy contracts. The Bush Administration made matters worse by converting subsidy contracts tied to the buildings into tenant-based “vouchers” at every opportunity, further eroding the subsidized housing stock. In response, NAHT won a Congressional amendment in December 2005 to require sale by HUD of buildings under its control with subsidies tied to the buildings to help preserve affordable housing.

Ownership concentration and privatization

Since the early 1980’s, ownership of privately-owned HUD apartment complexes has become increasingly concentrated into the hands of large corporate owners, operating nationally or regionally. In 1981, Congress adopted tax code changes proposed by the Reagan Administration which made occupied HUD housing eligible for reinvestment and “resyndication” (sale of new tax shelters). As a result, in the early 1980’s many individual or small corporate owners were bought out by a small number of national companies or wealthy investors, such as the National Housing Partnership, Meridian Group, Bruce Rozette or Alan Bird. Although exact data is unavailable, NAHT estimates that fewer than 20 investment groups owned more than half the HUD housing in America by 1986, when the tax laws were changed again.

In the early 1990’s, HUD housing became a target for Real Estate Investment Trusts (REITS), a form of stock-driven investment in USA real estate markets taking advantage of both favorable tax laws and stock markets to assemble investment capital. The emergence of REITS sparked another round of purchases and ownership concentration in the HUD housing sector. For example, the Apartment Investment Management Company (AIMCO), a Denver-based REIT with ties to the right wing of the Republican party, formed in 1994, today owns or manages approximately 400,000 apartments in 49 states, of which 115,000 are HUD subsidized housing—fully 7% of the HUD housing in the country.

Because REITS are driven to maximize returns in the short run (AIMCO pays stock bonuses to top managers to encourage this, as Enron did in the USA energy industry), tenants are concerned that companies will “opt out” of HUD subsidy contracts in “tight” market areas and convert to high-rent housing. In response, NAHT has coordinated national campaigns and at one point opened up a direct dialogue with AIMCO, which the company dropped last year.
So far, there are few examples of non-United States global corporations investing in HUD housing. However, in HUD foreclosure auctions in New York City, global investment groups from Hong Kong and other regions have bid on HUD properties. Given the imperatives of the global market, it is only a matter of time before ownership of HUD housing goes global.

To date, there is also little evidence that HUD housing owners like AIMCO plan to expand outside the US. However, some US private investment funds are actively converting “social” housing into condominiums or high market rental uses in Germany (Fortress and Morgan Stanley), Italy (Carlyle Group), and other countries. Efforts to legalize REITs in England and Germany should be viewed as part of this trend.

**Radical cut-backs erode public support of housing programs.** De-funding housing programs results in failing housing projects, which in turn results in decreasing public support. While the subsidized housing stock has gradually eroded over the past decade, for most of the 1990’s Congress at least added new Section 8 Vouchers to HUD’s third subsidized rental housing sector. By 2003, more than two million families received some form of Voucher assistance, up from about 1.6 million at the start of the decade.

However, beginning in 2003, the Bush Administration attempted to cut this program by seeking, for the first time, inadequate funding to renew all Section 8 contracts when they expired. In response, NAHT and its allies (including the Center for Budget and Policy Priorities, the National Low Income Housing Coalition, and the National Coalition for the Homeless) have organized major campaigns to persuade Congress to restore the funds. (Since 2003, NAHT has organized press conferences in several cities each year in October, as part of International Housing Rights Day called by the Habitat International Coalition and the International Union of Tenants). In response, Congress added $900 million to Bush’s budget request for fiscal year 2004, and $1.6 billion in 2005, blocking Administration proposals to cut 250,000 families in 2005 and 600,000 by 2010—fully 30% of the families receiving Vouchers.

Despite this Congressional support, the Administration managed to cut 160,000 families from the Voucher roles by administrative means in 2004-2005. Although the Administration’s budget for 2006 restored some of these cuts and fully funded Section 8 for fiscal year 2006, conservatives on Capitol Hill have changed the funding formula to local Authorities to a “dollar based” rather than “people based” calculation. This change makes it easier for Congress and HUD to cut program funds in the future, shifting painful budget decisions—and the blame—to local government agencies.

**RECOMMENDATIONS**

Congress and the new Administration have begun to address the nation’s long deferred crisis in affordable housing. The Economic Stimulus bill includes billions needed for low-income housing assistance, solving a critical shortfall of $2.8 billion in the project-based Section 8 program, which was NAHT’s top priority campaign last year. The Administration has requested an additional 15% increase in the HUD budget for FY 2010.

In 2007-2008, Congress passed a national Housing Trust Fund bill and enacted protections sought by NAHT for renters in buildings receiving assistance under the TARP bailout bill. In 2008, the House passed legislation addressing Hurricane Katrina, Public...
Housing and Section 8 Voucher reforms. In the Senate, progress has been slower because any one Senator can block action unless 60 votes are in place to close off debate, making it more difficult to pass needed reforms. With a new climate in Washington, **NAHT’s goal is to win action on the following priorities in the 2009-2010 legislative session:**

1) **Enact a National Right of First Purchase in the Preservation Bill.** Congressman Barney Frank has drafted a comprehensive “Preservation” bill which includes virtually all of NAHT’s legislative agenda. NAHT testified in support of the bill at a June 2008 hearing. However, some owner groups strongly oppose NAHT’s top priorities. **Tenants are urged to contact Congress to keep these NAHT priorities in the bill:**

   a) **Enact a National First Right of Purchase for Tenants and Nonprofit Groups.** NAHT’s top priority is to restore national regulations to preserve at-risk housing. More than 360,000 affordable apartments have been lost since Congress dismantled the Title VI Preservation Program in 1996.

   A national Right to Purchase would give local governments, tenant organizations and nonprofits working with them the right to purchase at-risk buildings from current owners, if they can assemble funds to buy them at market value and refinance with affordable housing subsidies, such as HUD’s Section 8 Mark Up to Market Program.

   b) **Empower Tenants as Partners with HUD.** NAHT’s proposals would give tenants **Access to Information,** including owner and management information, annual project operating budgets, HUD subsidy contracts with owners, HUD Management Reviews, and management contracts. NAHT also supports provisions to require posting of REAC scores and Section 8 Opt Out or Renewal Notices on the internet.

   NAHT has also proposed legislation to **allow tenants to withhold their portion of Section 8 rent into an escrow fund,** to be matched by HUD withholding its portion of the rent, when HUD has found an owner to be in violation of Housing Quality Standards or HUD program requirements, **including tenants’ Right to Organize.** The legislation would also enable city governments or 10% of the residents to trigger a HUD inspection.

   NAHT has also proposed legislation to **make tenants and their organizations “third party beneficiaries” of Section 8 and HUD mortgage contracts,** with the power to sue to enforce them.

   c) **Eliminate federal preemption of local tenant protections (Section 232 of LIHPRA).** The now-defunct Title VI Preservation Act (LIHPRA) includes an archaic provision (Section 232) which prohibits state or local regulation of rents for buildings which were once eligible for the Title VI Preservation Program, dismantled in 1996. Congress should clarify that Section 232 (federal “preemption” of local controls) does not prevent state and local governments from protecting tenants in their communities.

   d) **Support Other NAHT priorities in the Preservation Bill.** The current draft bill includes a variety of Troubled Housing Reforms sought by NAHT since 1994, requiring preservation of substandard HUD housing undergoing foreclosure and disposition by HUD. The bill also includes other consensus reforms supported by NAHT and a wide range of industry groups. Congressional staffers have suggested that as much as 40-50% of these provisions, consisting of discretionary HUD policies, could be dropped now that HUD’s leadership is more likely to support preservation. NAHT opposes this approach, and instead supports keeping the current draft of the bill (including the Right to Purchase and other NAHT priorities) intact.
to direct HUD to preserve at risk housing whenever possible, in order to save time that would otherwise be lost in a major rewrite of the bill.

2) Take action to stop “predatory equity” investors in rental housing. NAHT affiliates in high market areas like New York, San Francisco and Boston are reporting a disturbing trend of “predatory equity” investors buying up low income rental housing and saddling them with excessive debt, which promotes further speculation. As many as 70,000 affordable apartments in New York City are at risk of disinvestment and foreclosure due to over-leveraging and irresponsible lending practices. The majority are occupied by lower income families who are extremely vulnerable and at risk of massive displacement. A recent Deutsche Bank report predicts a global collapse of the overleveraged multifamily residential housing sector in the near future.

Recently, Sen. Schumer, Rep. Velasquez and Rep. Rangel (D-NY) wrote Treasury Secretary Timothy Geithner and HUD Secretary Shaun Donovan to create a Multi Family Preservation Program (MFPP) that will assist with de-leveraging and stabilizing this housing stock and protecting hundreds of thousands of at-risk low income renters nationwide. NAHT seeks similar letters from other Members of Congress, including leaders and members of the House Financial Services and Senate Banking Committees, addressed to the Administration.

As in the Single Family Foreclosure Prevention program, participation in the proposed MFPP should be a necessary condition for lenders who receive TARP or other federal assistance. Briefly, the program should require lenders to reduce over-leveraged loans to “fair market value”; require physical inspections where debt does not meet fair market standards, trigger foreclosure for substandard properties; require long term use agreements with HUD or local governments to ensure long term financial health and affordability for buildings in exchange for debt forgiveness; and select financially viable long term owners with responsible and enforceable underwriting standards.

In addition, NAHT urges Congress to consider legislation establishing government trusteeship of at-risk multifamily residential housing in the event of a market collapse, similar to the Resolution Trust Corporation created by Congress in response to the collapse of the Savings and Loan industry in the 1980’s.

3) Resources for tenant empowerment. In 2007, the House Financial Services Committee voted unanimously to report out HR 3965, the Mark to Market Reform Act, with the “Green Amendment” language sought by NAHT to require HUD to distribute the $10 million annually currently authorized by Congress in Section 514 of the Multifamily Assisted Housing Reform and Affordability Act (MAHRAA) for tenant organizing assistance.

The Green Amendment would require HUD to award funds to qualified citywide or statewide nonprofit groups with at least a two year track record organizing the unorganized tenants in their areas. It would direct HUD to immediately refund about 15 prior Outreach and Training Grantees with no or cleared audit findings for multi-year grants in their areas, at a cost of about $6-7 million. It would also direct HUD to enter into an Interagency Agreement for $1 million with the Corporation for National and Community Service to restore the national VISTA Volunteer program, to be co-sponsored with NAHT. The Amendment would also correct the defects in HUD’s TRIO design, and provide mini-start up grants in new areas and back-up technical assistance grants to other groups.

Because of the urgent need, NAHT seeks immediate passage of the Green
Amendment by the Senate and House in the next authorizing bill that moves through the Congress, such as the Mortgage Foreclosure assistance bill or the Preservation Bill. If passed, the Green Amendment will get out resources for tenant organizing to the most qualified groups much faster and more reliably than HUD’s “TRIO” grant program.

4) Ratify the ICESCR Treaty to affirm the Right to Adequate Housing. Signed by President Carter and transmitted to the Senate in 1978, the International Covenant on Economic, Social and Cultural Rights (ICESCR) has not yet been ratified (the US Constitution requires a vote by 2/3 of the Senate for a treaty to be ratified and therefore legally binding on the US government). The treaty defines the Right to Adequate Housing as well as the rights to food, health, education and social security as fundamental human rights. Thus far, 159 nations have ratified the treaty; the US is the only major “1st world” country that has not ratified it.

Not only will ratification affirm the our nation’s commitment to supporting human rights, it will serve as a strong legal and policy basis for future human rights based legislation, such as assuring our people of their Right to Adequate Housing by a variety of program and policy tools.

In the House, NAHT seeks co-sponsors for a nonbinding Sense of the House resolution to be re-filed by Rep. Lewis (D-GA) urging Senate ratification of the ICESCR and several other human rights treaties (including women’s, labor and children’s rights) to build support, especially on the House Foreign Affairs Committee.
New York UPR Human Rights Consultation, Employment and Labor Panel  
Statement from Kristi Barnes, New York Jobs with Justice

I’d like to comment on the impact our local and federal economic policy has on the realization of our human rights here in New York City.

In our country’s current economic crisis, it’s more apparent than ever that the right to decent work is not being met and our county’s efforts to stimulate employment and strengthen social supports to stem rising poverty of the unemployed, underemployed and the fully employed are falling short.

Wall Street-driven development and its addiction to cheap labor and exploitative working conditions helped fuel the real estate bubble that brought our economy to the brink of collapse. As New York City was rezoned and remade, middle class industrial jobs left and were replaced by low paying jobs in the service sector. If New York City were a country, it would be the second most unequal in the world, second only to Namibia in income disparity between rich and poor.

Economic policy in New York City and State has contributed to the disparity and resulted in taxpayers subsidizing big business, instead of creating good jobs and strengthening our communities. Attempts to target job creation efforts in low-income areas where there’s the greatest need have been failures. The two largest economic development programs, Industrial Development Agencies (IDAs) and Empire Zones, spend over a $1 billion taxpayer dollars a year, but often subsidize businesses that don’t create any new jobs, create poverty-wage jobs, or even cut jobs.

IDAs in New York are now channeling money from the federal stimulus to local projects, but without regard to the prevailing wage and minority contracting targets required at the federal level. In downtown Brooklyn, a real estate developer was awarded more than $20 million in tax breaks and financing which funded minority job loss and a mall development that will create temporary construction jobs and about 100 poverty-wage retail jobs. There’s no guarantee of either living wages or jobs for displaced workers.

The money intended to provide good jobs for our citizens is not reaching them. In violation of the Universal Declaration of Human Rights, our government has turned away from its responsibility to ensure "decent work" by failing to enforce labor standards and failing to use taxpayer dollars to increase employment and the availability of decent work.

We recommend job creation and economic development policy that ensures job standards, accountability, and transparency at all levels of government, and includes direct job creation programs instead of over-reliance on employer tax breaks to stimulate the economy. Job creation efforts should be targeted at the unemployed, underemployed, and in distressed neighborhoods.

The US also has a human rights obligation to supplement the wages and benefits employers provide to the extent necessary to ensure that all workers and their families are able to sustain a decent standard of living. We recommend the government start with extending social supports like unemployment insurance, COBRA health care benefits, TANF and food assistance. These actions will have an immediate positive impact on those who most need support, and will help bring us into alignment with our human rights principals in the long-term.
To whom it may concern,

On snowy February 26th, 2010 I was amongst those who witnessed with pleasure the joint –overdue- initiative to have communities and voters be consulted by the Department of State. Within a Human Rights context, the consultation took into account the UN report on the review of the housing situation in the country. A practice that supposedly is at the base of a Democracy but that often is factored out of the political decision making process. My testimony on our housing situation follows.

Having been living in Harlem for 11 years, I have witnessed the gentrification process occur under the Predatory Equity unsustainable epidemic wave. In this process, our building – 1890 7th Ave, NYC 10026- has been one of the many bought by a Predatory Equity landlord: Tahl-Propp Equities. A Landlord amongst several others who practices an unsustainable business model. A model which is at the root of a growing social problem in many communities around the country. A model that factors out the human component of the equation. Callous disregard of basic human dignity and rights, however, often comes to burden, in one way or another, the long term budget of any state.

Lack of services and bad repairs

No consistency and lack of heat and hot water (dubious maintenance of the boiler, use of low grade heating oil), problematic elevator service (considered a “death trap” by a technician), poor cleaning and maintenance of the building, malfunctioning buzzers, seldom communication/response from Manhattan North Management (management company), appointments consistently missed with no follow up or justification. Management, when reached, or when threatening, uses unacceptable and insulting language and accusations. Interaction with Management is a continued labyrinthic ordeal which corresponds to a deliberate and systematic strategy of disengagement and displacement.

Supers (we’ve had a stream of them) not living in premises (28 units), are mostly unresponsive due to being stressed by management and by the sheer incapacity to deal with the amount of work attributed. Many urgencies had to be addressed by fireman and police sent by 311 as the super did not respond/was not present. Shoddy work, unreasonable and scattered patching is the rule in this building. Work is performed by unskilled and careless workers often supervised by very stressed and disrespectful contractors that, also pressured by the management, create unnecessary conflicts with the tenants. Materials used are cheap, construction in the apartments often leads to collateral damage from the supposed “fixing”. Apartments are seldom maintained according to housing code.

Lack of Security & Hazardous conditions

When the building entrance door has been disabled or vandalized, repairs took days to be done. We have a history of assault at gun point and a stabbing inside the building at our entrance lobby. This history goes hand in hand with the reputation our building got as an “easy spot”. The roof alarm has been dysfunctional for years, allowing drug addicts and others to use it as a hangout. Also, an unlit scaffolding around the building (put up for over 5 years when no work was done, except during the 5th year and presently gone), attracted all kinds of shady characters and illegal transactions. The front light to the outside entrance to the building has intermittently been out for years.

Numerous leaks (some, years old) and water infiltrations plague the building and go unchecked and unaddressed leading to walls peeling and ceilings collapsing. Poor radiator’s maintenance and mold (inside and outside the walls) are an issue in many apartments. Fire escapes haven't been properly scraped and treated for rust (C code violation) since, at least, 1998. A judge presiding one of the tenants cases, came to the building and ordered it done ASAP (going on three years!) to no avail. Mice, rats, bed bugs and roaches are constant. Neglected holes in walls allow pests to move freely from apartment to apartment and from the streets up. Particularly striking is the “Day care center” located in the basement (hence absence of community room or laundry room as once existed). Toddlers are potentially dealing with rat encounters as their playground is conveniently located on the alley below the garbage area and the commercial spaces vacant for years. One wonders about the sanitary legality of this.
Harassment & Endangered Affordability

The tenants with the lowest rent are systematically harassed by the management, and no work is ever performed in their apartments, unless ordered by a City agency. Older tenants have been offered insulting, ridiculously low sums to vacate apartments and are treated disrespectfully. Imaginary debts and late fees are asked by the management and become the basis of many unfounded court proceedings. This constant confusing mismanagement of accounting records (and the loss of payments in the office) systematically materializes in legal action notices or threats of eviction.

As an example, “out of the blue” fees are charged to tenants who paid for repairs, with the authorization of the management, and are later asked to reimburse the money they withdrew from their rents and charged with late fees. Other threats of eviction have been based on possession of washing machines. Tenants in the building for decades are –only now- accused of being the cause for water pressure problems, whereas recently renovated apartments have them provided by the management. In general, every aspect of the relationship between owner/management and tenants has manifested clear patterns of harassment. One that in military terms would be considered “constant, low intensity warfare”.

Exclusive Development

Tahl Propp Equities tried to convert the building into condos, unsettling all the tenants for months, then dropped it with no justification. No insider’s price was offered at the time. Apartments of older rent controlled/rent stabilized tenants successfully harassed to leave were vacated and have been turned to market rate. A few others were completely gutted (causing many months of disarray and collateral damage to the building and apartments around it) and were covered with a marble façade and top notch appliances covering the ailing infrastructure below. The persistence of vacant apartments and commercial spaces for many months and years make one wonder about what “profit” logic is being practiced vis-a-vis the overrated mortgages on the building. Equally bewildering is the neglect from the Lenders’ part regarding Landlord’s accountability. Presently we have: 2/28 apartments vacant; 3/4 commercial spaces vacant.

Local/ State/ Federal Agencies enforcement of the law

Pending code violations follow irregular criteria patterns; court action stipulations, existing laws and rules are not always uniformly enforced. From our many years going to court we witness how Landlords benefit from the leniency of enforcement.

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The “wear and tear” factor Predatory Equity promotes takes a toll on the every day life of tenants. It is not only draining but it is also a very real and considerable part of the tensions created between the incoming tenant diversity “taking over” and the existing community. Enduring community diversity requires an equitable and integrated access to housing. The nature of the experience of long term tenants of a community under “rehabilitation” has to be taken into consideration. Especially, when it falls upon these tenants the struggle and the burden to fight for the right to proper habitability and (e)quality of life. Some have been going to court for years; others, for one reason or another, can’t even “afford” to fight for their rights. Housing affordability is an important structural platform for sustainable, lasting diversity.

Given the dimension of the problem, we have formed a coalition of tenants – HTATP – Harlem Tenants Against Tahl-Propp (23 buildings in Harlem alone). We have been working with the laudable support of Tenants & Neighbors and UHAB – The Urban Homesteading Assistance Aboard. Under the scope of this coalition we have denounced and contested Tahl-Propp’s actions and entitlement to their “conquistadors” presumptions. We are part of the ever growing civil society movement which shall not buy into the “luxury condominium trend”. The economic crisis the country and the world have been struggling with is only but the tip of the iceberg. A major social crisis is undergoing as a result of lack of foresight and profoundly unsustainable business practices with repercussions in all realms of human life.

May government officials take this opportunity to embrace the joint efforts and take into consideration the human basic rights of a livelihood with dignity.

Sincerely hopeful for human rights justice, Ana Martins
The denial of the human right to health care in the United States
Presentation notes, UPR consultation, New York City, February 26, 2010
Anja Rudiger Ph.D., National Economic and Social Rights Initiative (NESRI)

Health care is a human right
- Everyone has an equal right to get the health care they need. This requires a health system that works to protect people’s health, guaranteed by the government. (UDHR, CERD, ICESCR, General Comment 14)

A health check up for the U.S.:
- Evidence that health outcomes are poorer than in most other high-income countries: e.g. the U.S. has a higher infant mortality rate and lower life expectancy than comparable countries. (WHO 2007, Commonwealth Fund 2007)
- 45,000 people die each year simply because they have no health insurance (American Journal of Public Health 2009)

Barriers to receiving needed health care:
- Around 50 million people do not have health insurance. Over half of them are African Americans. (Center for American Progress 2009)
- Of those who are insured, at least 25 million are underinsured. They often forgo care because of high deductibles and co-pays. (Commonwealth Fund 2008)
- U.S. has fewer doctors and nurses than other high-income countries. (WHO 2007)
- Hospitals and doctors are disproportionately located in wealthier areas
  → Up to 101,000 unnecessary deaths a year because of the way health care is organized in the U.S. (Health Affairs 2008)
  → Despite the highest health care costs in the world, the U.S. government has failed to meet its human rights obligation to respect, protect and fulfill everyone’s right to a system of health protection.
  → People in the U.S. are denied their right to health care.

Why is the U.S. such an outlier in the international context?
- Health care is treated as a commodity, not as a human right.
- Market-based system: the U.S. is the only high-income country that treats care as commodity instead of a public good. The U.S. is the only high-income country that doesn’t have universal health insurance. The U.S. is the only high-income in which the government has not taken the initiative to pool all risks, cross-subsidize costs, and guarantee access to care according to people’s health needs.
- Market imperatives take precedent over health protection. E.g. private insurance industry: they make money if people don’t use health care, and they lose money every time someone gets treated. That is the wrong incentive.
  → In the last year, the five largest insurance companies made a combined profit of around $12 billion. (HH5 2010)
  → The flipside of that is that 700,000 families go bankrupt each year just by trying to pay for their health care – even through three quarters of them are insured. (Health Affairs 2006)
This is unacceptable under international human rights standards, which say that health care must be accessible, available, acceptable and of good quality for everyone, on an equitable basis, everywhere in the country. (GC 14)

**The principle of universal access**

*Human Rights Principle:*
- Everyone must have equal and automatic access to comprehensive, quality care, guaranteed throughout our lives.

Access must be free of barriers, including cost barriers.

*Reality Check:*
- Health care services are not there for everyone’s benefit, unlike schools and fire departments, which are public goods.
- Instead, most people have to buy access to care, if they can afford it. But for many, costs are a key barrier. E.g. two thirds of all bankruptcies stem from medical costs. (American Journal of Medicine 2009)

**The principle of equity and non-discrimination in access**

*Human Rights Principle:*
- Everyone must get health care appropriate to their needs, and share costs according to their means.
- No one must be excluded, receive fewer or poorer services, or more limited insurance coverage, on the basis of income, race, ethnicity, immigration status, age, gender, or any other factor.

*Reality Check:*
- Markets work by excluding those who cannot pay or who are not deemed profitable. Our health care market limits access according to payment, coverage source, and location – all unrelated to health needs.
- The U.S. has a highly stratified system with separate tiers for different categories of people receiving different levels of care. What care you get depends on how you’re able to access this system. Those who are well-off, white, male, young or employed have better access to care, and usually better health outcomes, than others. This is a clear violation of human rights.
  - E.g. rights of people of color are violated: 10 year survival rate of people with cancer: 60% for Whites, 48% for African Americans. (SEER cancer statistics, also Office of Minority Health)
  - E.g. women’s right to non-discrimination is violated through increasingly restricting those services only women use: reproductive health care.
  - Severe barriers to access reproductive health care particularly disadvantage poor and low-income women, because Medicaid prohibits funding for abortions. Current reform proposals even prohibit most private insurers from covering abortions.
  - Title X family planning clinics are seriously underfunded, leaving many low-income women without access to family planning.

**The principle of universal, equitable availability of infrastructure and services**

*Human Rights Principle:*
- Resources must be allocated equitably, guided by health needs.
Reality Check:
- Especially in inner city and rural areas where poor people and people of color live, health needs remain unmet.
- In a market-based system, providers are necessarily located where the most money can be made.
- Public hospitals are closing in areas where they are most needed.
- U.S. already ranks lowest among high-income countries in its primary care infrastructure. Projected shortage of 44,000 primary care doctors within the next 15 years. (WHO, Health Affairs 2008)

The principle of equal high-quality care
Human Rights Principle:
- Everyone has the right to equal high-quality care.

Reality Check:
- In a market-based system, hospitals and doctors are incentivized to use expensive procedures and devices, because those generate revenue. This does not necessarily improve health outcomes.
  - E.g. childbirth: the U.S. has one of the highest rate of C-Sections (32%, as opposed to a WHO recommended 5-15%), yet also the highest rate of maternal mortality among high-income countries (13 in 100,000). Amnesty International is about to publish a report on this violation of women’s right to health.

Recommendations to the U.S. Government for ensuring universal, equitable access to health care
1. Provide a publicly financed and administered health insurance plan for every person in the U.S., guaranteed and continuous through a person’s life. → principle of universality

2. Finance this social insurance plan equitably, through progressive taxation, so that access to health care no longer depends on the ability to pay → principle of equity

3. Start a democratic health care reform process that meets the human rights standards of participation and accountability.
   - Government has no mandate from the people for continuing the business model of health insurance and using public monies to create more consumers of private insurance products. Such reforms would leave many millions out and be unsustainable. (NESRI 2009, 2010)
   - Instead, the government needs to engage with the largest grass-roots movement for universal health care that this country has seen: give serious consideration to Medicare for All, single payer health insurance proposals. Stop criminalizing those who practice civil disobedience to demand the human right to health care and start a democratic process to meet human rights obligations.

(Sources available upon request)
NY UPR CONSULTATION, FEBRUARY 26th, 2010

STATEMENT OF
THE CENTER FOR COMMUNITY ALTERNATIVES, INC

The Equal Employment Opportunity Commission has stated as a matter of policy that considering criminal history records when such records are not related to the employment has an impermissible disparate impact on people of color because of the widely documented racial disparities in the criminal justice system. Is there any consideration of turning that policy into law, such to make it unlawful discriminatory practice as a matter of law to discriminate against people solely on the basis on a criminal record? Also, based on research by Blumstein and others that show that after only a few years (4-8), people with criminal records are at NO greater risk than the general population to commit a crime. Is there any consideration of a law that would prohibit public and private employers from considering criminal history information beyond the point of relevancy (no more than 8 years)?

Submitted By:
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Good afternoon Ladies and Gentlemen.

My name is Colin Roach. I apologize for not making this trip in person. Certain circumstances were beyond my control; however, my written statement shall convey my experience in civil detention.

After spending 2 years and 3 months in two separate immigration facilities (South Texas Detention Complex in Pearsall, Texas, and Port Isabel Detention Center in Los Fresnos, Texas TX), it is clear that the immigration process is umbrillered on political and career aspirations, along with the monetary gains of businesses.

The Mandatory Detention construction and ultimate application, so far as I have seen, serves and gives life to blatant human rights violation and due process violations. Many people I have meet in civil detention, with no criminal records especially, have lost their entire social existence, the right to be with their families and friends, the right to promote and seek advancement with respect to their businesses—businesses that actually provide the bread for the table. Even those of us who have criminal records and made the necessary constructive steps to lead a productive life are suffering at the hands of Mandatory Detention. There is this thing called “paying your debt to society.” Where is that umbrella?

It is clear that the Department of Homeland Security and the Immigration Customs Enforcement Agency must be held accountable for the abuse in immigration detention. The power that is given to the DHS/ICE must not go unchecked. History has shown us very clearly again and again that unchecked human authority in almost any position is like an addictive drug in use by people finally overdosing on it. By the time a microscope is placed over it for view: PANDEMIC.

I spent 19 months at the South Texas Detention Complex (STDC), where I have witnessed the most abuse in almost every arena. I have seen ICE and SECURITY officers physically beat detainees until they bleed—detainees who had pending appeals with the Board of Immigration Appeals (BIA), taken from the dorms all hours of the day or night, then to return bruised and battered, forced to sign or fingerprint deportation/removal contracts. Officers would take special advantage of our indigenous brothers from the South and Central American Nation States. Pretty much those of us, who are not well versed with the English language from whatever Nation State, would suffer at the hands of the duplicate Jesus[es] if you catch my drift?!
I have been to Solitary confinement 10 times between both facilities. Most would attribute such with bad behavior on my part, but quite the contrary. Being somewhat well-versed in the English language also put you at a disadvantage as well. Being foreign to this Nation, we are all presumed uneducated among other demeaning lenses we are viewed through. And once you exercise what little intelligence you have, that will work against you as well. I spent close to 60 days in Solitary confinement for being two places at the same, despite the clear evidence of me not committing the detention violation: a dorm full of witnesses, log in and log out books, plus unit officers. As a result, this information was given to Immigration Judge Glen McPhaul, and I was denied cancellation of removal in violation of even BIA precedent cases, e.g. Matter of Joseph interim decision # 3398, Sec VII, paragraph 1. There is much more to say. I hope I can have that opportunity in the near future.

I must say that my initial transfer from New York and New Jersey to Texas made this whole experience horrifying. No or limited contact with family and close friends, no means of accessing legal representation. No legal representative contracted by ICE in the whole of Texas would take any cases involving a criminal detainee. In my 2 years and 3 months, some said no point blank, some never responded and the others were strangers to the truth.

In conclusion, Mandatory Detention must be eliminated, and detention must be used only as a last resort. Surly there are many community societal-based alternatives to civil detention and the embarrassing ankle bracelets. The Department of Homeland Security addressed better, smarter, and cheaper alternatives themselves. With respect to the undocumented workers in a separate arena, give them work authorization that would create the needed revenue the State and Federal Governments are always complaining they don’t have. Well, there it is. I do hope that what little I have said in writing can be of some help to this most pressing issue.

Truthfully,

Colin Roach
Testimony of Conrad Williams

Thank you New York UPR Human Rights Consultation Host Committee for granting me the opportunity to speak to you about my experiences in the United States Juvenile Justice System.

I am a seventeen year old Caribbean Male. I was arrested at the age of fifteen. I was sentenced to two years of probation for my crime and ordered to comply with the requirements of the Center for Community Alternatives (CCA) Client Specific Planning Program. When I was initially arrested I was homeless. My family and I were barely surviving. CCA served as an outlet for me to escape my depressed circumstances. CCA offered me hope, food, and support. Through CCA I completed my first internship program, obtained my first position as a peer leader and recognized my potential. Today, I have not re-offended. Instead, I have successfully completed the CCA program and I have less than a month left of probation. CCA also taught me how to advocate for myself and others. CCA taught me my rights and helped me to understand the complexities of the juvenile justice system. The tools I learned from CCA have been invaluable as I have witnessed numerous injustices. I have seen the disparate treatment that youth of color receive by police officers. I have witnessed police officers run down and arrest a black youth for jumping the subway turnstile, where a white person is only issued a ticket. In my neighborhood youth are stopped and searched by police for walking down the street in a group. I too have been subjected to what I believe is “over policing”. I have been stopped by police and searched for simply walking in a group. As a result of my participation in CCA programs, I now have the knowledge to stand up for what’s right and advocate on behalf of myself and others.
UPR Consultation
2.26.10

Testimony of Fabio Leonardo

Thank you New York UPR Human Rights Consultation Host Committee for granting me the opportunity to speak to you about my experiences in the United States Juvenile Justice System.

I am a sixteen year old Hispanic American Male. At the young age of sixteen I have been arrested three times. My first arrest occurred two years ago when I was 14 years old. The arrest occurred in school, during school hours. New York City Police (NYPD) Officers burst into my classroom and handcuffed me in front of all of my classmates. They (the Police Officers) alleged I committed a crime off of school property three days prior. At no time during my arrest was I read my Miranda Rights, nor was I provided an opportunity to speak with my mother or an attorney prior to being interrogated. As a result of that arrest, I was sentenced to two years probation. My second arrest occurred in a New York City Subway Station. During the arrest, the arresting NYPD Officer pushed me and sprayed mace in my eyes. I was then handcuffed and taken to the police precinct. I was formally indicted for a crime. However, the Court dismissed all charges against me. My third arrest occurred in March of 2008. As a result of my third arrest, the presiding judge ordered that I participate in the Center for Community Alternatives (CCA) Youth Advocacy Project. The Center for Community Alternatives, or CCA for short, is an alternative to incarceration program that provides youth the opportunity to remain in their communities while being monitored for curfew and school compliance. CCA provides me with one on one support, life skills workshops and a variety of after school programming opportunities. My participation in CCA has truly changed my life for the better. I have improved my grades. I went from barley passing my classes to achieving an 82 grade point average. I have also improved my relationship with my mother, successfully completed an internship program, I am currently applying for youth employment and I will successfully complete my two years of probation in less than a month. CCA fostered my improvements by helping me to establish goals and to realize my potential. My CCA case manager has helped me understand my past poor choices and has equipped me with the knowledge to make better decisions. I can truly say I have learned valuable life lessons through my participation in CCA and I am focused on continuing to improve my life and the lives of others.

As a result of my progress in the CCA program, the Assistant District Attorney’s (ADA) Office has requested that I receive two months of detention for my last charge. The presiding judge wants to give me five years probation. That would mean that at age sixteen I will have been sentenced to a total of seven years probation (two years being completed as a result of my first arrest). It is my hope that I receive a lesser sentence as I recognize my mistake and have paid for them and learned from them.
Testimony of Jesus Rosa

Thank you New York UPR Human Rights Consultation Host Committee for granting me the opportunity to speak to you about my experiences in the United States Juvenile Justice System.

I am a sixteen year old Hispanic American Male. At the young age of sixteen I have been arrested twice. My first arrest occurred when I was fifteen years old. I was walking from a party with a group of my friends, when a police car stopped us, searched us and told us that we were being arrested because we fit the description of people that committed a crime. We were all handcuffed, brought to the police precinct, booked and sent to Riker’s Island. When we arrived at Riker’s Island, we were stripped searched and placed in cells with other youth. I remained in Riker’s Island for a month before the Court dropped all charges against me. To this day, I feel like I was punished for a crime I did not commit. The second time I was arrested, I was with a friend. The police officers handcuffed and brought us to the police precinct. My friend and I were then booked, interrogated and then handcuffed to a chair. I was handcuffed with my arm raised to the top part of the chair. For three days my friend and I were handcuffed to the chair. We were un-handcuffed only to go to court and use the restroom. We were provided with one sandwich a day. My mother attempted to visit me on all three days, but the police officers told her she was not allowed to see me. I remember waking up each day thinking I had been dreaming that all of this was happening to me. I hope that no one else has to experience what I experienced those three days.
Statement To:

New York Universal Periodic Review (UPR)
Human Rights Consultation

Testimony on:
Affordable Housing Preservation
and Protection of Tenants

By:

Judy Montanez
Executive Board Member
National Alliance of HUD Tenants;
Mitchell Lama Resident Coalition;
NY City-Wide PIE (Protection, Incentives, Enforcement) Campaign
Castleton Park Tenants Association Co-Chair – Staten Island

February 26, 2010
Housing is a basic human right. We need to encourage practices that improve and protect the quality of life of the homeless, poor, and middle income people. People are fighting to have their basic rights enforced - renewing their lease, adding family members to the lease which protects members for succession rights and illegal evictions. We need to make sure that tenants will be protected no matter what happens and the best way to do that is to ensure that Federal Regulations are established with tenants’ human rights in mind and not vested interests of specific groups, and to ensure that the business of the Senate and government is carried expeditiously with honesty and integrity. We need federal funding to prevent housing agencies from shifting units to tenants with higher incomes because they can be charged higher rents, despite the fact that they have less, and from cutting back in security and maintenance. We also need to be concerned about the demolition of housing units without secure methods for tenants to find temporary housing. It usually takes longer than expected to rebuild, renovate buildings than anticipated and tenants who move out temporarily are lost in the shuffle as keeping track of them is difficult.

The ML housing stock is at risk of becoming extinct. In 1955 Governor Averill Harriman signed into law a bill sponsored by Senator MacNeill Mitchell and Assemblymen Alfred Lama to encourage the building of moderate income housing (Chapter 407, Laws of 1955). Hence the beginning of the rise HUD multifamily ML subsidized coops and rental developments. The original ML program explicitly prohibited dissolution; there was no stipulation for owners to buy out of the affordable program. In 1957 a provision appeared allowing buyout after 35 years with provisions. In 1959 Governor Rockefeller passed law which gave no thought to the negative impact on tenants. He created a law that allowed housing companies to buy out and be free of all ML restrictions after 15 years of occupancy, eliminated the required consent of supervising agencies for the buyout, as well as return of surplus cash or property. In 1960 the minimum period for buyout was increased to 20 years for projects occupied after May 1959. Then in 1961 all provisions relating to governmentally aided housing in NYS, including Mitchell Lama and similar programs, were consolidated into the Private Housing Finance Law (McKinney’s Laws of NY, Book 41). There, the buyout provisions are set forth in three
paragraphs in Article 2, Section 35, where they remain unchanged to the present day.\textsuperscript{2}

In NYC, over 44,000 units of Mitchell-Lama (ML) housing in the city have been lost as a result of prepayment of mortgages which allows the owners to opt out of the ML affordable housing program.

I live in a ML HUD multifamily subsidized development. I am the co-chair of the Castleton Park Tenants Association at Staten Island, a 454 family unit that is fighting to stay in affordable housing. I would have been homeless many times over if I did not live in a ML complex. I moved in paying fair market rent in 1975 until 1980. I was laid off in 1980, went on unemployment for 6 months making me eligible for Section 8, when I was re-employed, my rent returned to fair market rate. In 1995 I became disabled, lost my pension and job and was approved for social security benefits. I paid basic market rent until I became eligible for Section 8. Anywhere else, I would have lost my home.

Mr. Laurence Gluck, a predatory Equity Real Estate Developer who owns and/or manages 17 other buildings in NYC & has purchased several NYC commercial properties, placing some of these buildings in foreclosure, is trying to purchase Castleton Park where I live. In 2006, the owner has been trying to prepay the mortgage at Castleton in order to opt out of the ML affordable housing program, to sell to Mr. Gluck who plans to make it market-rate housing.

I and the other Co-Chairperson, Sharon Valentin researched Castleton’s mortgage and to our surprise, found a clause in the mortgage making reference to SECTION 250 Of The NATIONAL HOUSING ACT, (also referred to in legal citation as Title 12 of the United States code, Section 1715z-15. 12 U.S.C. § 1715z-15.) LIMITATION ON PREPAYMENT OF MORTGAGES ON MULTIFAMILY RENTAL HOUSING, a Federal Statue that should have protected Castleton, but instead we found ourselves fighting with HUD and the owners to enforce this statue. This is un-conscionable! To date, we are still waiting for a judge’s ruling. We feel our rights have been violated and the battle in the courts is between a governor’s law that should never have been allowed, especially with mortgages that had specific provisions to preserve affordability and the enforcement of a Federal statute that should take precedent but doesn’t. The US Government must ensure their citizens that regulations and federal statues shall be enforced.

We need the Federal Government to protect our rights, give incentives to owners or buyers to preserve and create permanent affordable housing. We need Federal legislation on the Right to Purchase. There is currently no regulatory provision for buyer and seller converting property. The State and Local courts agree that there should be a federal regulation, but it needs to be dealt with in Washington. If there was a Federal Regulation than the City, HUD, would be able to buy property and restrict conversion, allowing a not for profit preservationist developer to buy it and keep it in affordable housing. Castleton Park in Staten Island NY has a preservationist developer called POAH, ready and willing to purchase the property since 2007, but has no access to the

\textsuperscript{2} Mitchell Lama Residents Coalition (MLRC) November 17, 2004 Reception Booklet. History was adapted from a longer document written by Bob Woolis, deceased, founder of MLRC.
owner Glick - messages are left to no avail, while owner negotiations continue with the predatory Equity developer Mr. Gluck. We demand that the US Government create anti-predatory lending legislation.

We ask the US Government to impose a 1 year (or more) moratorium on the approval of applications for the demolition or disposition of public housing units so that serious conversations can take place to find solutions for the preservation and creation of affordable housing.

The people of US no longer trust government to protect their interests. Raquel Rolnik, Special Rapporteur states in her report of February 12 2010 on adequate housing (Page 19 line 51) “it is estimated that over 800,000 people are homeless on any given night in the United States.” We need change and we need it now, or our homeless figures of 800,000 in the US will more than double or triple within a few years.

We need legislation on all levels city, state and federal. To protect tenants from unaffordable rents and displacement US Congress, Council members, Senate and Assembly people must make a commitment to work towards a goal to begin passing legislation that supports:

- Federal budget that reflects full funding for all HUD Multifamily Subsidized building programs. Funds should provide new incentives for preservation of Multifamily Subsidized buildings and the creation of new permanent affordable housing. Vacant properties can and should be used to fill the gap in affordable housing.
- Amend the ETPA of 1974 – The post 1974 HUD Multifamily Subsidized buildings are not rent controlled, giving incentives to predatory equity real estate developers to buy these buildings by prepaying mortgages allowing them to opt out of the affordable housing programs. The Emergency Tenant Protection Act (ETPA) of 1974 was written and passed to amended the NYC Rent Stabilization Law, and ended the 1971 vacancy decontrol of rent stabilized units. We are currently in another state of emergency and need to protect tenants by doing the same for post ‘74 buildings.
- New York City Department of Housing Preservation should reject and discourage Buyers offering a purchase price that is more than the building is worth
- Real Rent Reform: Our Rent Guidelines Board process is a pure violation of the basic human right to fair and affordable housing regulations. The Legislatures must mandate a number of changes to the Rent Guidelines Board that makes the process fairer for every resident in a rent-stabilized unit. These changes should include denying rent increases for one year for any unit with serious violations; restructure the board to include 3 landlord members, 3 tenant members, and 3 public members, to ensure real people a greater voice in the process. It would require board members to have some knowledge of affordable housing, and Mayoral appointments to the board would have to be approved by the City Council. Most importantly, it would require the use of both income and expense information when determining whether a rent increase is warranted.
• HUD should mandate that management have energy efficient programs.
• HUD to reject sales of buildings to buyers with outstanding code violations
• Grant tax relief for any preservation sales or transfers.
• HUD needs to be more willing to deal with buildings whereby their mortgages have expired and institute the same standard that was used for Starret City.
• Placing all HUD Multifamily Subsidized buildings that are not rent controlled into rent stabilization when they exit their subsidy programs;
• Our government must take action to prevent Mitchell Lama rental buyouts and co-op privatization
• Repeal Urstadt, by reinstating Home Rule. The Urstadt Law is not fair as it takes away the City Council power to decide what is best for New York City and its residents.
• Repeal high rent vacancy decontrol to preserve affordable housing. - In 1993, the State amended the rent regulation laws to permit landlords to deregulate an apartment, allowing rent increases of $2000 or more when the apartment is empty. This rent regulation law gives incentives to unscrupulous landlords to use harassment tactics, illegal evictions, and fraud against tenants until the tenants get so frustrated they move out. A vacant apartment offers an opportunity for landlords to raise rent higher to cover the costs of unsubstantiated renovations without the approval of governing agencies such as DHCR.

The right to housing is indeed everyone’s basic right, but it matters not if we cannot afford the housing. It is my hope that the government will work on instituting these changes as soon as possible. We cannot afford to wait any longer.
My name is Pearl Barkley. As a board member of Thomas Jefferson Houses, a public housing development in East Harlem and as the Coordinating Member of Mothers Against Abusive Policing (MAAP), it is my observation and contention that the policing practices that are carried out in city housing developments violate the following Universal Human Rights,

**Article 3**
Everyone has the right to life, liberty and security of person.

**Article 5**
No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

and

**Article 6**
Everyone has the right to recognition everywhere as a person before the law. These are exhibited by what is known a Operation Clean Halls which opens the way for people who live in public housing to be searched, frisked, and asked for identification although it is not required by law at random. People have been issued trespass tickets right in front of their own homes due to these practices. What is being done in the name of safety by the police is reminiscent of the infamous Black Codes and City Council Person Pete V Jr. has stated "Stop and frisks have been going up for the past three years and the reason is because they work." The Constitution's nice and quaint, but *whatever works*, right?" In lieu of the Shaun Bell tragedy and two deaths of young unarmed Black men in city housing, Nicholas Heyward dead at 13 in 1994 and Timothy Stansbury dead at 19 in 2004 I am asking for relief for all people who are affected by these practices. In ending, for those who think that these young men have received justice, then may the same justice be afforded to you and your families.

The End
We are here this morning to ask the United States government to do something it often asks of other countries but rarely does itself—have the courage to acknowledge its human rights failings and pledge itself to correct them. The failings that the members of this panel in particular are calling to your attention concern the right to work and income security recognized in Articles 22-25 of the Universal Declaration of Human Rights.

What should the United States Government be doing that it is not doing in order to secure these rights? In fairness, the goal of eliminating poverty has occupied a prominent position in American public policy debates at least since the early 1960s, but also in fairness it must be acknowledged that little if any progress has been made in reducing the poverty burden born by disadvantaged population groups in the United States since the early 1970s—over 35
years ago. In the meantime, the policy guidance provided by the Universal Declaration in charting a path to the elimination of poverty has been largely ignored in the United States, even by progressive anti-poverty advocates. The time is past due for the Universal Declaration’s mandates in this area to be taken seriously. Any notion that the United States has found another way of eliminating poverty cannot be taken seriously.

Article 25 of the Universal Declaration proclaims that everyone has the right to an adequate standard of living. To secure this right the Universal Declaration mandates that nations fulfill two obligations. The first is to secure the right to work recognized in Article 23 of the Declaration—thereby guaranteeing everyone who is capable of self-support access to “just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.”¹ The second obligation, recognized in Article 25 of the Declaration, is to guarantee all members of society “security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond [their] control,” with “special care and assistance” provided to mothers and children.²

The latter of these obligations—the duty of governments to provide income support to persons who are unable or not expected to be self-supporting—has received considerable attention from the United States government through the establishment of a variety of social insurance and means-tested income transfer programs. Still, its obligation to provide income security to those persons who need and are entitled to it under Article 25 of the Universal Declaration has been only partly fulfilled due to the inadequacy of benefit levels and overly-restrictive eligibility requirements in many of these programs. It is positively stunning, for

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¹ Universal Declaration of Human Rights, Art. 23(3).
² Id., Art. 25(1)&(2).
example, that fewer than forty percent of the nation’s nearly 15 million unemployed workers are receiving unemployment insurance benefits in the middle of a recession.

As for the right to work, the United States government has effectively abandoned its efforts to secure the right because of concerns that full employment would be inflationary. As a result, the United States economy is burdened by a permanent shortage of jobs. The existence of this shortage is readily apparent during recessions, but smaller shortages persist even at the top of the business cycle. For example, at the end of the economic boom of the 1990s, when the unemployment rate averaged 3.9% in the United States and the Federal Reserve Bank was taking active steps to prevent unemployment from falling further, there were almost a million more active job seekers in the United States than available jobs; and if we include people who were working part time but wanted full-time jobs and persons who wanted jobs but were not actively looking for work, the economy was short approximately 8 million jobs.

The suffering visited on American workers because of the economy’s persistent job shortage is not equally shared. It is born disproportionately by African Americans, Latinos, Native Americans and other disadvantaged population groups such as single parents, individuals with disabilities, former offenders, youthful workers, and less-educated members of the labor force. A straightforward comparison of unemployment rates for these groups shows the existence of the problem but also understates it, because the members of disadvantaged population groups also tend to be overrepresented among involuntary part-time and discouraged workers not counted as unemployed in most government statistics.

The racial and gender composition of these groups and the ineffectiveness of policies designed to equalize employment opportunities among population groups (and hence unemployment burdens as well) compounds the harm to human rights protection caused by the United States government’s toleration of a persistent job gap in its economy. In addition to
violating the equal enjoyment principle applicable to all of the rights recognized in the Universal Declaration, the United States is failing to live up to obligation under the International Convention on the Elimination of All Forms of Racial Discrimination to take steps guaranteeing the members of disadvantaged racial groups “the full and equal enjoyment” of their right to work.

Could the United States government do more to insure job availability, particularly for disadvantaged population groups? A year ago the United States government adopted a $787 billion economic stimulus plan for the express purpose of creating jobs. In fact, very little of that money was actually devoted to job creation. Instead, the plan relied mainly upon subsidies for businesses and consumers, and the multiplier effect of those subsidies, to stimulate private sector job growth. This is a perfectly reasonable way of hastening recovery from a recession, but it’s a slow and inefficient way to create jobs for persons left jobless by the recession. President Obama has always been clear that it would take two years to reach the plan’s 3.5 million job-creation goal, and if you divide those 3.5 million jobs into the initiative’s $787 billion price tag, you discover it’s designed to cost $225,000 per job. That’s an awfully slow and costly way to create a grossly inadequate number of jobs. There currently are nearly 15 million officially unemployed workers in the United States. Another 8 million workers have been forced to accept part-time jobs even though they want full-time work; and 6 million more individuals report that they want jobs even though they aren’t actively looking for work.

But was a better strategy available? The answer is clearly yes. If the same stimulus dollars had been used instead to create jobs for the unemployed—as the United States government did during the 1930s—there would have been more than enough money not only

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5 “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Id., Art. 2.
to reemploy everyone laid off during the current recession, but to secure the right to work of everyone else in the United States who wants to work. I have modeled a generous version of the type of program used by the United States government to create jobs for unemployed workers during the 1930s. The version of the program I modeled would guarantee decent jobs paying prevailing wages to everyone who wants to work in the United States. After taking into consideration the savings in unemployment insurance benefits such a program would generate and the taxes participants would pay on their program wages, it would have cost only about $517 billion to implement the strategy in 2009, compared to the $787 billion price tag of the stimulus plan the government actually adopted.

The performance of governments in securing economic and social human rights is supposed to be evaluated in light of the material resources available to the government. This caveat usually is invoked when assessing the efforts of governments in poor countries to secure rights that are beyond their means, but a corollary of the principle can and should be applied to wealthy countries. When it can be shown that the resources a government has devoted to securing a particular right would afford dramatically better protection for the right if they were used in a different way, the government should be deemed to have an obligation to justify its policy choices.

If the government’s justification is that political considerations prevented it from adopting a more effective strategy for securing the right in questions, the government’s duty to promote better protection of human rights—spelled out in Articles 55 and 56 of the United Nations Charter and in the Proclamation paragraph of the Universal Declaration—should obligate it to undertake a concerted education campaign among its citizenry to promote greater respect for the human rights that political considerations are preventing it from securing.
Stated bluntly, given the political constraints that prevent the United States government from securing the right to work and income security of all Americans, the government should at the very least pledge itself to educate the American people concerning their right to a decent job and to income security when they can’t work—and it should further pledge itself to educate its citizenry concerning its continuing failure to secure those rights owing to the political opposition of individuals and interest groups opposed to acknowledging the rights in question.

Membership on the Human Rights Council not only obligates a government to promote human rights abroad. The first obligation of Council members should be to strive with all the resources available to them to correct their own human rights failings.

**RECOMMENDATIONS**

(1) That the United States government acknowledge both its ability and its obligation to create enough jobs to guarantee decent employment for everyone who wants to work and to provide enough income support to guarantee a decent standard of living for everyone who cannot or is not expected to be wholly self-supporting.

(2) That the United States government undertake a planning and design initiative devoted to the identification of policies and programs suitable for implementation in the United States and capable of fully securing the right to work and income security recognized in the Universal Declaration of Human Rights.

(3) That the United States government undertake a concerted educational campaign to inform the American people of (a) their right to work and income security, and (b) the United States government’s ongoing failure to secure those rights owing to the
political opposition of individuals and interest groups opposed to acknowledging the rights in question.

(4) That the United States government honor its special obligation to secure the equal enjoyment of the right to work and income security of members of disadvantaged population groups (including in particular disadvantaged racial minorities and women) by pledging itself to achieve targeted reductions in disparities between the employment rates, unemployment rates and poverty rates of these groups and of the American people in general, relying on direct job-creation initiatives targeting disadvantaged population groups if necessary to achieve the reductions in question.
United Confederation of Taíno People
“A Unified Taíno Nation”

Office of International Relations and RegionalCoordination

Contact: Roberto Borrero – Múkaro Agueibána

Friday, February 26, 2010

UCTP UPR Submission on the Examination of the United States

In anticipation of the Universal Periodic Review of December 2010, the United Confederation of Taíno People submits the following to call attention to issues facing the indigenous Taíno People of Borikén (Puerto Rico). The Confederation calls particular attention to the need to reform laws, regulations, guidelines, polices, and practices at the federal, state, and local levels which currently serve to violate the Human Rights of Taíno People of Borikén (Puerto Rico).

• Lack of Formal Recognition Violates Human Rights

The Taíno People are Indigenous Peoples of the island of Borikén (Puerto Rico) and other Caribbean island nations. Despite repeated attempts to demonstrate their historical ties as Indigenous Peoples of the island now under plenary authority of the U.S.,¹ the Taíno have not been formally recognized by the Commonwealth of Puerto Rico or by the United States federal government. Moreover, even if the Commonwealth of Puerto Rico were to recognize the Taíno Native people, the Taíno would still be denied the rights and protections afforded to Native Americans (federally recognized American Indian tribes of the continental U.S., Alaska Natives, and Native Hawaiians).²

These discriminatory practices by the United States and the Commonwealth of Puerto Rico clearly violate the Treaty of Paris, the ICERD, the UN Declaration on the Rights of Indigenous Peoples, and other human rights instruments resulting in the gross discrimination and denial of the Taíno ability to exercise the following rights: the right to equality under the law; religious freedom; consultation; free prior and informed consent; protection of and access to sacred, ceremonial, village and burial sites; cultural resource protections; and the repatriation of ancestral remains, sacred and funerary objects.

¹ The Insular Cases determined Puerto Rico is an unincorporated territory in deference to Congress’ plenary power over the Island noting in, Downes v. Bidwell that “the Island of Porto Rico [sic] is a territory appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution . . . .” In this same decision, Justice Brown voices concern over Puerto Rican racial identity, “[I]f [the Island’s] inhabitants do not want to become . . . citizens of the United States, their children thereafter born, whether savages or civilized, are such, and entitled to all the rights, privileges and immunities of citizens. If such be their status, the consequences will be extremely serious. Indeed, it is doubtful if Congress would ever assent to the annexation . . . . There are certain principles of natural justice inherent in the Anglo-Saxon character, which need no expression in constitutions or statutes to give them effect or to secure dependencies against legislation manifestly hostile to their real interests.”

² Legislation such as the Indian Reorganization Act, the Alaska Native Claims Settlement Act, and the Proposed Akaka Bill and its accompanying Apology Bill are sources for the US recognition of these respective communities. Ultimately, all laws and policies pertaining to Indigenous Peoples living within the United States require formal federal recognition in order to exercise and benefit from them. No such laws or policies have ever been extended to the Taíno.

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The U.S. Government Violates U.S. Federal Policy

Deplorably, since the U.S. does not recognize the Taino as "Native Americans" of Puerto Rico, they are omitted from U.S. Federal laws designed to protect indigenous cultural and spiritual properties. Taino are consistently denied access to their ceremonial grounds and burial sites. Local, federal, state and government agencies have refused to consult with Taino community representatives when ancient sacred sites and Ancestral human remains are found during construction and other projects. These discriminatory practices are violations of U.S. Federal Law such as the Archeological Resources Protection Act (ARPA) and the National Historic Preservation Act (NHPA).

Formal Recognition Not Required for U.S. Compliance with National and International Standards

CERD Treaty Provisions, relevant recommendations of the CERD Committee and HRC Committee Conclusions and Recommendations as well as the United Nations Declaration on the Rights of Indigenous Peoples do not require a States' formal recognition of Indigenous Peoples in order to apply these international standards. The NHPA as well as NPS Management Policies § 1.12 Native Hawaiians, Pacific Islanders, and Caribbean Islanders, are also applicable to the Taino at the Federal Level.

The Taino people have actively sought and worked on a grassroots level for decades to assert their right to equal treatment as Indigenous Peoples whose pre-Columbian origins are rooted in Puerto Rico, a land and territory under United States’ control. To date, those efforts have been ignored. Taino rights to consultation, free prior informed consent, freedom of religion, access to and protection of sacred, ceremonial, village and burial sites, and the repatriation of ancestral remains continue to be violated.

The UCTP Office of International Relations and Regional Coordination, the UCTP Boriken Liaison Office and its Boriken member organizations El Consejo General de Tainos Borincanos and the Areito Jara Guatukan del Caney de Orocovis recommend that the U.S. be questioned on:

- Their failure to comply with its obligations to the indigenous Taino of Puerto Rico as stipulated in international human rights instruments as well as the Treaty of Paris (Article X, Treaty of Paris) with regard to the free exercise of their religion;
- Their destruction, desecration of, and denial of access to, Taino sacred areas in Puerto Rico;
- Their failure to consult in good faith with the Taino People of Borikén (whether or not the Peoples affected are "recognized" by the United States) and the failure to acquire their free, prior, and informed consent with regard to matters that directly affect their interest.
The “great recession” has created dire circumstances for many working families in our country. Unemployment is at its highest level since the 1930s with 15 million people out of jobs. Some economists forecast that unemployment will rise into 2011. Long-term unemployment has hit a record high. Nearly 40% of unemployed Americans—over 6.1 million workers—have been unemployed for six months or longer.

The recession has highlighted fault lines in our labor and employment laws and structural inequalities in our labor protection systems that exclude certain sectors of workers and discriminate against others, subjecting them to increased exploitation in workplace.

The Universal Periodic Review process is an opportunity to hold up these inequalities against the ruler of the Universal Declaration of Human Rights so that we can work towards building a more just and fair economy and democratic society.

I will provide in broad strokes conditions and human rights violations faced by workers in the U.S., especially in this time of “great recession.”

According to the 2007 data, 7.5 million people are working but living at or below the poverty level. However, black and Latino workers are more than twice as likely as their white counterparts to be among the working poor. Women who are supporting their family are more than twice as likely as their male counterparts to be working, but poor. Black women have the highest incidence of poverty.

In this recession, unemployment is hitting communities of color harder than the general populations. While average unemployment is 9.7%, it is 60% higher for blacks, at the rate of 16.5%, almost a third higher for Latinos at 12.6%, and below average for Asians.

The Universal Declaration of Human Rights is instructive in the current moment where we need an aggressive policy to alter the living and working conditions for workers in the U.S.

The Universal Declaration of Human Rights stipulates that “everyone has the right to work.”

Lawrence Mishel, president of the Economic Policy Institute pointed out in his recent testimony to Congress that we need to fill roughly 11 million jobs to restore us to pre-recession unemployment rate. In line with the UDHR assurance of “just and favorable conditions of work,” we need federally funded programs that create jobs, and importantly good jobs with wages that will lift working families out of poverty and uphold core labor standards. We need to ensure that these programs target those communities, predominately communities of color, that have been hit the hardest in the recession.

As we see as another fundamental tenet in the UDHR, we need to protect those who are directly impacted by the recession by extending UI benefits through 2010. 1.2 million workers face a cut off of their UI in the month of March alone. States further need to modernize the system to include more of the unemployed at fairer rates.
Among the structural inequalities, we begin with the exclusion of certain sectors from core labor protections. The UDHR extends to all workers the right to join and form a union to protect their labor rights and interests. However, agricultural workers, who are overwhelmingly immigrants, and at least 1.8 million domestic workers, who are largely women of color, are denied this fundamental right by being excluded from the National Labor Relations Act. Farm workers and domestic workers face further exclusion as they are left out of unemployment and workers compensation insurance in many states.

Home health care workers are fully excluded from the minimum wage. Tipped workers earn only $2.13 per hour, while the federal minimum wage is $7.25 per hour. In addition, workers are improperly denied basic labor protections and benefits under our expansive definition of “independent contractors,” facilitating employers to misclassify their employees as independent contractors.

Millions of immigrants who have left their home countries in search of work and migrated to the US are subject to officially-sanctioned discrimination and unredressed workplace abuses. A 2002 US Supreme court excludes unauthorized immigrants from monetary remedies for unlawful retaliation in a union organizing context. Some federal and state laws and judicial decisions have limited these workers’ rights to workers’ compensation, to compensation for workplace discrimination and to rehabilitation in the case of disabling injuries.

In the international human rights context, “everyone” means everyone. As the United States has acknowledged to the United Nations, our country is still recovering from its history of slavery – “Subtle, and in some cases overt, forms of discrimination against minority individuals and groups continue to plague American society, reflecting attitudes that persist from a legacy of segregation, ignorant stereotyping, and disparities in opportunity and achievement.”

If we are to be a nation truly respectful of human rights, we must make sure that all workers have an equal chance at prosperity. We must include all industries and all workers in systems of workplace protection. Some of the recommendations include:

- Issue clear guidance that makes explicit the need for a firewall between the enforcement of labor and employment law and the enforcement of immigration law. Specifically: re-enact the MOU between the DOL-DHS on enforcement of labor and employment laws for undocumented workers;

- Reissue clear EEOC guidelines on the rights of undocumented workers (restore the EEOC guidance that had been rescinded post-Hoffman),

- Reissue the Operating Instruction 287 3a. which to guard against immigration enforcement when there is an ongoing labor dispute;
➢ facilitate transnational justice through development of clear guidance/regulations (through DOL and DHS) regarding parole for individuals seeking to enforce labor and employment rights after having returned to their home country but who need to be in the US to pursue litigation, workers compensation claims, etc.

➢ To pass federal legislation to afford undocumented workers the same set of rights and protection as documented workers (in particular the right to monetary remedies in for unlawful retaliation in a union organizing context)

➢ In developing guest worker programs, ensure that migrant workers are treated not as labor commodities, but as possessors of fundamental human rights.