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

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I. Economic and Social Rights in the United States: Normative Framework

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

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

The U.S. government has obligations conferred by the Universal Declaration of Human Rights and by international human rights treaties¹ to implement national strategies for education, health, and housing that allocate resources in an equitable and cost-effective way to realize the rights to adequate, affordable and accessible education, housing, and health care for everyone, irrespective of income or any other factors unrelated to needs. Moreover, the government has an obligation to realize everyone's right to an adequate standard of living and social protection, including through policies that achieve full employment with fair wages and dignified working conditions and guarantee the basic resources necessary for a life with dignity. The U.S. has signed the International Covenant on Economic, Social and Cultural Rights, which commits it to refrain from acts which would defeat the object and purpose of that treaty. Yet this report presents evidence of the increasing impoverishment, exclusion, and even criminalization of people who are unable to compete in ever expanding markets that have commercialized the most fundamental human needs. This evidence challenges the prevailing normative and policy paradigms that assume that rights can be realized solely as by-products of a competitive marketplace.

II. The Failure to Protect Economic and Social Rights in the U.S.: Impact and Barriers

1. The Right to Education

Among the spectrum of social and economic rights, only the right to education has received some formal recognition in the United States, primarily in state constitutions.² Consequently, primary and secondary schools are largely public and free, although post-secondary education is treated as a privilege with increasingly high fees attached. The United States scores poorly on access and quality indicators, with the lowest ranking of 28 high-income countries measured for secondary school enrollment math and science

test performance.³ Around 1.3 million children drop out of school each year,⁴ more than 3.3 million are suspended and 102,000 expelled.⁵ High stakes testing, lack of adequate funding, and zero-tolerance discipline policies, including jail-like environments with armed police officers, deprive many children of their right to education and dignity and push young people out of school.

The U.S. education system is highly stratified, grounded in a competition-based achievement model that is increasingly pursued through privatization – such as the creation of publicly funded but privately run charter schools – while public schools in low-income communities and communities of color suffer from underfunding, overcrowding, and forced closures. More than half of African American male students and more than one third of Latino male students do not complete high school on time,⁶ exemplifying severe educational disparities.⁷

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

Public schools are largely funded through local property taxes, with schools in poorer communities receiving less money. For example, in 2005, school districts serving the highest concentration of poor students received on average \$938 less per student than wealthy districts, and districts serving the highest concentration of people of color received around \$877 less than predominantly White districts.⁸ These gaps have increased significantly over recent years;⁹ in fact, geographic borders of school districts are often intentionally drawn to prevent the sharing of a high tax base with surrounding communities. Because of such systemic funding disparities and related student segregation, the same economic barriers that give rise to complex needs among students from poorer communities prevent schools from addressing those needs. In California, for example, only 35% of core classes in schools with high poverty rates were taught by qualified teachers.¹⁰

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

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

Public education funding has been increasingly channeled towards charter schools, including those operated by private, for-profit companies. This is exacerbating a two-tier system that leaves many disadvantaged children behind. It has further undermined the fragile funding base of public schools, led to the closure of public schools or their conversion into charters, and used public subsidies to prop up private, often for-profit businesses that lack accountability and are disconnected from the communities they are located in. Charter school operators raise additional revenue, pay high salaries, and make a profit by employing practices such as selecting top students. While officially prohibited, there is evidence that Charters deter higher-needs applicants by neglecting to offer special education services, language assistance, and free school lunches, and even by bullying and threatening students, as revealed, for example, by investigations in New Orleans.¹¹ Charter schools operated by private corporations also intensify racial and economic segregation within an already stratified system.¹²

The public promotion of private, market-based approaches is not limited to charter schools or to private school vouchers. In Los Angeles, for example, public schools have been put out to bid for private management contracts, relinquishing public control and oversight.¹³ Such privatization reduces accountability to elected school boards, local communities and their children's needs.

C. *Ensure universality: end school push-outs and provide positive learning environments*

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

No strategy is in place to ensure that all children receive an education when pushout or school closures leave students without access to an adequate school. On the contrary, many children end up in the juvenile or criminal justice system instead, propelled by a direct 'school to prison pipeline' that results in a three times higher incarceration rate of youth who drop out of high school.¹⁴

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

2. The Right to Health Care

The United States does not recognize the human right to a system of health protection. Health care is treated as a commodity, not as a right and a public good. The U.S. lacks a national health strategy to address the severe inequities in access to and quality of care, and largely ignores the social determinants of health.¹⁵ Violations of the right to health are reflected in comparatively poor health outcomes and extreme health disparities.¹⁶

The United States is the only high-income country without a universal health care system, even after recent reform efforts. 101,000 people are estimated to die each year because of the way the health system is organized,¹⁷ and 45,000 deaths per year are attributed to the lack of health insurance.¹⁸ Yet having insurance coverage does not guarantee access to care: at least 25 million people are underinsured and likely to forgo care due to high deductibles and co-pays.¹⁹ The U.S. also has fewer doctors and nurses than other high-income countries, and a less developed primary care infrastructure.²⁰ In international comparison, the U.S. has some of the worst health outcomes among high-income countries, including high infant mortality and low life expectancy rates, despite spending more than twice as much on health care as any other country.²¹

In contrast to comparable high-income countries the U.S. has a highly commercialized, market-based system that relies predominantly on for-profit, private health insurance companies propped up by substantial public subsidies. The role of the insurance industry, coupled with for-profit, investor-owned hospitals and multi-national drug companies, will be consolidated and expanded under the health reform law passed in March 2010. Rather than transitioning to a social insurance model, access to care will continue to depend on a person's ability to pay rather than their health needs. As long as this system of market incentives prevails, severe shortcomings in the availability, acceptability, and quality of care cannot be adequately addressed.

A. *Provide public goods: replace the private health insurance industry with public financing and administration of a national health insurance plan*

The U.S. is alone among comparable high-income countries in continuing to promote a business model of health insurance in which market imperatives take precedent over health protection. Insurance corporations profit only if people use little or no care, and lose money with every treatment people receive. Thus incentivized, the five largest insurers made a combined profit of around \$12 billion in 2009.²² Yet each year, 700,000 families go bankrupt by trying to pay for their health care, even though three quarters of them are insured.²³ Despite new regulations for insurance companies in the 2010 health law, market incentives to deny care will continue, as the government lacks the power to ensure that premiums are returned to the pool of policyholders in the form of health services. Similarly, the new law does not increase the accountability of investor-owned hospitals, even though data shows that for-profit hospitals provide lesser quality care than non-profit and public facilities.²⁴ Pressures to maximize revenue through an overuse of medical technology, as suggested by a high rate of cesarean sections, can add to health risks and violate a patient's right to participation. For example, 25% of women who had a c-section reported feeling pressurized by a health provider to have a c-section.²⁵

International evidence shows that commercialized health systems, where access depends on ability to pay and service delivery responds to market incentives, have poorer health outcomes and use resources less efficiently than public systems.²⁶ This is clearly evident in the United States., where outcomes for patients improve once they turn 65 and become eligible for the publicly funded Medicare program.²⁷ To realize the right to health care for all, the government should provide a national, publicly financed insurance plan, such as Medicare, to the entire population, and thus treat health care as a public good shared equitably by all.

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

The exclusion of many millions of people from access to coverage and care will continue under the 2010 health law, with 23 million people predicated to remain uninsured.²⁸ The system will remain highly stratified with separate tiers for different categories of people receiving different levels of care. The level and quality of care a person gets depends on how they access the system, with wealthier, White, and employed people enjoying better access than others. Yet individuals are routinely blamed and occasionally penalized for being in poor health, while systemic barriers to care are discounted and the context of people's lives ignored as a determinant of health.

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

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

The government provides a range of subsidies to private insurance corporations, including through a tax exemption of employer-sponsored health insurance valued at \$132.6 billion in 2006.²⁹ The 2010 health reform law is projected to channel around \$447 billion over ten years to insurers through tax credits for the purchase of private coverage.³⁰ While these public subsidies are intended to make health care more affordable, they also perpetuate the inequities inherent in a for-profit system, where the market limits access according to payment, coverage source, and location. This approach fails to address increasing pressures on the health safety net, which serves especially inner city and rural areas, where the population

is too poor or spread-out to make market provision viable. Public hospitals in inner cities are closing due to budgetary constraints,³¹ and many rural areas suffer from an attrition of doctors, dentists, and reproductive health services.³² To enable an equitable sharing of costs and benefits, including an equitable distribution of the country's vast health care resources, the government should move from tax-funded subsidies for special interests to broad-based tax-funding of a universal system that serves all needs.

3. The Right to Housing

The United States treats housing as a commodity, not as a human right and fundamental need of all people. Government policies fail to provide safe and decent housing for everyone, a goal identified by the U.S. Housing of Act of 1937. There is no national strategy to address the severe lack of affordable, adequate housing, which has led to millions of foreclosures, displacement, and homelessness. All these disproportionately affect low-income communities, where people of color are overrepresented.³³ Even prior to the current crisis, the number of households facing serious affordability constraints rose by 33% between 2000 and 2007.³⁴ Homelessness has become a structural feature of U.S. society, with a sharp increase in the number of homeless families,³⁵ yet public housing is being demolished across the country.

A. Ensure equity: move from stop-gap funding and subsidies for private developers to reinvesting in public housing and equitable, public development

Government policies have created the current housing crisis – which precipitated the 2008 global financial crisis - through loosening financial regulations of mortgage lending, disinvesting in public housing and other affordable housing programs, and distributing plentiful public resources inequitably. Since the early 1980s funding for the Department of Housing and Urban Development (HUD) – responsible for overseeing national housing policy, including affordable housing programs – decreased from \$83 to \$29 billion.³⁶ At the same time, the tax code was changed to privilege homeownership over rental housing, thus disadvantaging lower-income people. Almost 25% of renters with incomes under \$20,000 spend a third or more of their income on housing costs, compared to just over 7% of homeowners.³⁷ Between 1983 and 2005, public subsidies to homeowners through the mortgage interest tax deduction increased from around \$35 billion a year to over \$120 billion a year.³⁸ The U.S. now spends over three times more each year on tax breaks for homeowners than on all traditional, affordable housing programs combined, including the Section 8 voucher³⁹ and public housing programs.⁴⁰ As the value of this tax deduction increases with the value of the mortgage, wealthier people benefit more; in fact over 55% of this subsidy goes to 12% of owners with incomes above \$100,000.⁴¹ This means public monies go to those who least need it, while the urgent housing needs of lower-income people remain unmet. Insufficient public monies for addressing homelessness focus on temporary shelters and assistance, and thus serve as no more than a charitable afterthought to a crisis created by inequitable housing policies.

Over 100,000 public housing units have been lost to demolition and privatization since 1992.⁴² The UN Special Rapporteur on the Right to Adequate Housing has called for an immediate moratorium on the demolition and disposition of public housing, and particularly condemned the disastrous impact of the demolition policy in New Orleans,⁴³ where public housing residents are fighting forced evictions. Public housing budget cuts have prevented the construction of new housing for almost three decades, resulting in such shortages that many cities have closed their waiting lists.⁴⁴ Those remaining in public housing face stigmatization and punitive policies; for example, unemployed public housing residents are required to complete mandatory community service, yet homeowners who benefit from tax breaks have no such requirement.

Public subsidies are increasingly offered to private developers, for example through low-income housing tax credits (LIHTC). Yet only 11% of these privately developed units are targeted at those earning less than 30%

of the Area Median Income.⁴⁵ Given the divestment from public housing programs, LIHTC subsidies are effectively the only remaining publicly supported housing production program. Yet, they fail to reach the poorest households and primarily benefit private enterprises whose bottom line requires charging the highest possible rents.⁴⁶

B. *Provide public goods: moratorium on privatizing public housing and on foreclosures; prohibit housing speculation; adopt and promote sustainable and equitable development codes*

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

The market-based treatment of housing as property has also driven unsustainable private development in new locations that lack services, food, and transportation. Low-income home owners as well as Section 8 renters have been displaced to speculative, sprawling developments at the edges of towns, incentivized by lax development codes. This has also led to new patterns of racial segregation, with urban gentrification forcing people of color into suburbs that lack basic amenities. Unsurprisingly, areas without restrictions on such speculative developments have been hardest hit by the foreclosure crisis.⁴⁷ Local, state and federal governments have serviced market interests by relinquishing oversight, rather than securing sustainable housing where it is most needed.

C. *Ensure universality: provide adequate and affordable housing for all who need it and guarantee security of tenure*

While the U.S. government dedicates significant resources to supporting homeownership and private development, these investments have hampered rather than furthered the human rights obligation of meeting the housing needs of all. Preferential treatment is given to the acquisition of private property by individuals and businesses who can afford it, rather than supporting housing as a public good, based on a common need shared by everyone. Housing is traded in a highly stratified marketplace, with public subsidies for owners over renters, for the housed over the homeless, and for property taxpayers over recipients of housing assistance. Housing policy debates do not even consider universal housing akin to universal education or health care. Multiple strategies and alternatives to individual property ownership are disregarded, even though good practices exist with community-owned land trusts and mutual housing associations, which meet housing needs by removing themselves from market pressures. These models exemplify what the government's human rights obligations require across society: to provide adequate and affordable housing for all who need it.

4. The Right to Work with Dignity

The United States treats work and employment as individual obligations rather than rights, situated almost entirely in the domain of the private marketplace. With only minimal regulation of wages and working conditions and no commitment to securing employment for all, the prevalence of exploitative, subsistence-only jobs combined with persistent unemployment rates deprive large population sections of their right to work with dignity. Market imperatives for lowering labor costs to increase profitability dominate

employment policy in the U.S. People's needs are commoditized into demands for consumption, and their role as workers and producers is subordinated to that of consumers. Despite promoting work as an obligation for all, workers' rights are accorded less legitimacy and protection than consumers' rights.

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

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

Successive governments have failed to guarantee a living wage to all workers. For about 30 years, wages have stagnated for the lower half of wage earners, while the top 1% of earners enjoyed a net income gain of 176%.⁴⁸ Women on average still earn less than men,⁴⁹ and people of color earn less than Whites.⁵⁰ The minimum wage has now fallen to about 35% of average wages,⁵¹ and a quarter of all jobs do not pay enough to lift a family of four out of poverty.⁵² The minimum wage should be raised to a guaranteed living wage -if necessary supplemented by adequate benefits and cash transfer programs directly to workers – as well as indexed to the cost of living and extended to all workers in all occupations. Workers who are currently denied a minimum wage include tipped workers,⁵³ domestic workers, farmworkers, and, when calculated pro rata, many workers in seasonal occupations.

The U.S. fails to provide and enforce legal protections for many basic rights at work, which has encouraged extreme cases of abuse that are symptomatic of, yet hidden in, a sea of workplace violations. For example, the Coalition of Immokalee Workers (CIW), a grassroots farmworker organization, has uncovered consistent use of coercion and violence by agricultural employers in Florida and has aided in the investigation of six successful federal prosecutions for forced labor and slavery.⁵⁴ To secure human rights in every workplace, it is essential not only to remove legal exemptions applying to high-violation occupations, but to raise the floor of protections for all workers, for example through adopting laws to ensure paid sick leave, equal pay for women, and the right to unionize. No worker should be punished or criminalized for claiming their human rights, and all should be guaranteed an equal status in the workplace, regardless of occupation.

B. Provide public goods: cooperate with workers' groups to hold corporations accountable, and to develop and enforce employment regulations

Employment policies in the U.S. are largely market-driven and respond to the market dominance of large corporations that wield significant power in driving down wages and working conditions in the entire supply chain. Another source of corporate power is the recognition of corporations as rightsholders under the legal doctrine of 'corporate personhood,' which has been used to defend companies against workers' rights cases.⁵⁵ Yet grassroots workers' groups seek to hold corporate 'rightsholders' accountable for violations of *human* rights. For example, through its agreement with retail corporations, the CIW has introduced a human rights based monitoring program to ensure that produce is harvested under fair labor conditions and that independent monitoring is conducted with the participation of the workers themselves. United Workers, a grassroots organization of low-wage workers in Baltimore, has similarly demanded that large private developers enter into a binding human rights agreement to require their business tenants to pay a living wage and provide dignified working conditions for all workers.

The absence of public oversight in high-violation industries has precipitated the lowering of standards in the labor market as a whole. The few existing legal protections against workplace violations are not adequately enforced.⁵⁶ Yet work with dignity is a public obligation, not a market obstacle, and corporate ‘rights’ must not be allowed to trump workers’ human rights.

C. Ensure equity: place human rights conditions on subsidies for private job creation and private development; increase direct public jobs creation based on human rights principles

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

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

5. The Right to Social Security

In the United States the human right to social security, which ensures the basic resources necessary for a life with dignity, is not sufficiently protected. Social policies assume that a basic income can be generated from work, and fail to provide adequate supports to meet fundamental needs and prevent poverty. The U.S. has far greater income inequality than all Western democracies,⁵⁷ and the second-lowest rate among OECD countries for reducing inequality through public cash transfers.⁵⁸ Consequently, the official poverty rate in 2008 was 13.2%,⁵⁹ but around 30% of the population lacks an adequate income to meet basic needs.⁶⁰ As a result, around 58 million people face either food or energy insecurity, or both.⁶¹ Poverty has been thoroughly racialized and feminized, with 24.7% of African Americans and 14.5% of women living below the federal poverty level, compared to 10.5% of Whites.⁶²

The U.S. makes limited benefits available in a very selective way, for special eligible groups only. The sole universal benefit is mandatory public retirement insurance through the tax-funded Social Security program of 1935, which only provides income near the federal poverty level. Employment related benefits are difficult to claim and inadequate to meet needs, yet few benefits exist independent of work, apart from a growing Supplemental Nutrition Assistance Program (known as food stamps). Since the legal right to welfare was ended in 1996 and replaced by Temporary Assistance for Needy Families (TANF) for women with children, the number of recipients has decreased by a third to around 5 million.⁶³

A. Ensure universality: provide a basic income and job guarantee for everyone, through an automatic universal basic income and a public jobs creation program

Securing the basic resources for a life with dignity is treated as an individual responsibility in the U.S., and poverty is seen as a personal rather than a social problem. The culture of self-reliance is promoted by selective benefits policies that segregate the poor into special groups defined by eligibility criteria and a demeaning application process. They draw a line of demarcation between people whose taxes pay for

benefits and those who receive them. This stigmatizes and marginalizes poor people, and violates their dignity and liberty, for example through compulsory work requirements as a condition of welfare and housing benefits. Enrollment in benefits programs is actively discouraged, to the point where "applying for welfare is a lot like being booked for a crime," and punishing people for disapproved behavior with a withdrawal of benefits is commonplace.⁶⁴ At the same time, cash assistance programs, which allowed people to determine their priority needs, have almost entirely been replaced by material assistance, such as food stamps, which patronize the poor by paternalistically dictate needs.

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

The selective and segmented nature of social policy in the U.S. contributes to the lack of solidarity for those with greater need for social protection. This makes benefits programs less effective and less sustainable. In short, programs only for poor people are poor programs⁶⁵ and should be replaced with universal measures that not only tackle poverty but foster the economic and social inclusion of all. The lack of adequate social protection keeps wages low for the majority population, which in turn increases the need for income support. To end this vicious cycle, selective benefits programs should be turned into a universal system of social protection that provides guaranteed protection against common risks, through a universal basic income, while also giving targeted support to the most disadvantaged.

B. *Ensure equity: change social benefits and taxation policies to ensure a strong redistributive effect*

Public expenditures for social protection, which include both tax expenditures and traditional social programs, fail to redistribute resources to the poor. The sizable tax subsidizes of employer pension plans, employer sponsored health insurance, and homeowner mortgage interest are all weighted to benefit higher-income people.⁶⁶ With regard to pensions, for example, lower-paid workers and even those excluded from their employers' pension plans effectively help pay for a federal tax subsidy of more than \$100 billion per year that primarily benefits higher-paid employees and business owners. By comparison, resources for those with more serious needs are small. Maximum TANF benefits in 30 states amount to less than 30% of the federal poverty line.⁶⁷ Unemployment insurance benefits only replace 35% of an average weekly wage, and prior to the recession just 37% of unemployed people received those benefits. Although low-wage workers are twice as likely as higher earners to become unemployed, they are only one third as likely to collect benefits.⁶⁸

The tax code in general replicates this regressive approach. For example, while the average income of the richest 400 individuals grew from \$263.3 million in 2006 to \$344.8 million in 2007, their effective tax rate fell from 17.17% in 2006 to 16.62% in 2007. This is primarily due to the preferential rate for capital gains and stock dividends, which are taxed at a top rate of 15% instead of the (already low) top rate of 35% that applies to other income of the very rich.⁶⁹

C. *Provide public goods: end and reverse the privatization of social benefits services and public utilities*

The U.S. has increasingly privatized the administration and delivery of social services. Yet the \$1.5 billion business of using private TANF contractors has led to a lack of public oversight,⁷⁰ and the role of private companies in determining people's eligibility for benefits raises serious accountability questions. Processing delays and caseworker shortages have already harmed poor people.⁷¹

The push towards privatization and commercialization has also increased the populations' energy and water insecurity. The negative impact of privatizing energy and water utilities include price increases and

higher disconnection and shut-off rates, which have culminated in a number of deaths.⁷² Dependency on investor-owned water utilities has increased,⁷³ yet a low-income community in Highland Park, MI, has been fighting privatization and demanded that water be treated as a public good, shared by all, rather than handed over into private ownership.

III. Recommendations for Actions by the United States Government

- 1. Strengthen the public sector to ensure that the core goods, services and infrastructure necessary to meet people's fundamental needs are treated as public goods, rather than commodities.** Defund market approaches that have failed to meet needs, provide equal access to public goods, and hold private corporations accountable for protecting human rights.
 - a. Education: preserve education as a public good, invest in public schools based on need, and stop privatization where it exacerbates stratification and segregation
 - b. Health care: replace the private health insurance industry with public financing and administration of a national health insurance plan
 - c. Housing: moratorium on privatizing public housing, reinvest in public housing; require banks to put a moratorium on foreclosures; prohibit housing speculation and predatory lending; adopt and promote sustainable and equitable development codes
 - d. Work with dignity: cooperate with workers' groups to hold corporations accountable, and to develop and enforce employment regulations
 - e. Social security: end and reverse the privatization of social benefits services and public utilities

- 2. Implement universal policies that include everyone and share costs and benefits equitably.** The government must assume responsibility for ensuring that everyone's needs are met, instead of forcing individuals to compete against each other in a marketplace that imposes artificial scarcity on meeting fundamental needs. Revoke divisive market-based incentives when they stigmatize, displace, exclude or criminalize people.
 - a. Education: end school push-outs and instead provide learning environments that protect dignity, foster children's full development, and ensure a quality education for all children
 - b. Health care: provide a universal public health insurance plan that entitles everyone to comprehensive, appropriate and equal high quality health care
 - c. Housing: guarantee and provide adequate and affordable housing for all who need it, and guarantee security of tenure for everyone (tenants and owner-occupiers)
 - d. Work with dignity: guarantee a living wage, with dignified working conditions for all
 - e. Social security: provide a basic income and job guarantee for everyone, through an automatic universal basic income and a public jobs creation program

- 3. Ensure the equitable distribution of public resources.** The government must invest in communities based on need, and redistribute resources to disadvantaged and underserved populations. End tax breaks and subsidies when they primarily serve private, for-profit interests and high earners and instead implement a progressive taxation system.
 - a. Education: eliminate funding disparities by ending schools' dependence on local property taxes
 - b. Health care: finance health care equitably through broad-based taxation, and ensure the equitable distribution of adequate, accessible health infrastructure and services in all communities

- c. Housing: move from stop-gap funding and subsidies for private developers to reinvesting in public housing and equitable, public development. As first steps, end all demolitions of public housing, preserve safe, quality public housing, and restore funding of HUD.
- d. Work with dignity: Place human rights conditions on subsidies for private job creation and private development; increase direct public jobs creation based on human rights principles
- e. Social security: change social benefits and taxation policies to ensure a strong redistributive effect

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

ENDNOTES

- ¹ International Covenant on Economic, Social and Cultural Rights, and General Comments 4, 6, 12, 13, and 14.
- ² The Justiciability of Economic, Social, and Cultural Rights in the U.S.: Domestic Implementation of the Right to Equal Education, Global Rights, October 2004 http://www.globalrights.org/site/DocServer/Final_Right_to_Education__11.12.pdf?docID=1363
- ³ Susan Randolph/Sakiko Fukuda-Parr/ Terra Lawson-Remer, , Economic and Social Rights Fulfillment Index: Country Scores and Rankings, Journal of Human Rights, forthcoming 2010.
- ⁴ Alliance for Excellent Education (2009). The High Cost of High School Dropout. <http://www.all4ed.org/files/HighCost.pdf>
- ⁵ Dignity in Schools - FACT SHEET: School Discipline and The Pushout Problem, http://www.dignityinschools.org/files/DSC_Pushout_Fact_Sheet.pdf
- ⁶ Given Half a Chance: The Schott 50 State Report on Public Education and Black Males, The Schott Foundation, 2008. <http://www.blackboysreport.org/files/schott50statereport-execsummary.pdf>
- ⁷ See the Education cluster report for evidence of how the U.S. violates provisions under CERD.
- ⁸ Carmen G Arroyo. The Funding Gap. The Education Trust. January 2008
- ⁹ *Inequalities in Public School District Revenues*, U.S. Department of Education, National Center for Education Statistics, 1998; *School Finance: Per Pupil Differences between Selected Inner City and Suburban Schools Varied by Metropolitan Area*, U.S. General Accounting Office, 2002.
- ¹⁰ Sunderman, Gail L. and Jimmy Kim. Teacher Quality: Equalizing Educational Opportunities and Outcomes. (Civil Rights Project, Harvard University, 2005).
- ¹¹ FFLIC/NESRI, Pushed Out: Harsh Discipline in New Orleans and Louisiana Public Schools, 2010, 42f.
- ¹² http://greatlakescenter.org/docs/Policy_Briefs/Miron_Diversity.pdf and <http://www.civilrightsproject.ucla.edu/news/pressreleases/CRP-Choices-Without-Equity-report.pdf>
- ¹³ <http://www.lasentinel.net/Blacks-Not-Part-of-Public-School-Choice-Plan.html>
- ¹⁴ Caroline Wolf Harlow, "Education and correctional populations," Bureau of Justice Statistics, 2003.
- ¹⁵ This section will focus on health care, while the social determinants of health are addressed throughout this report.
- ¹⁶ Racial health disparities, manifest in higher rates of morbidity and mortality, are specifically addressed in a separate UPR report on health disparities. For example, the 10 year survival rate of people with cancer is 60% for Whites, 48% for African Americans. (SEER cancer statistics, also Office of Minority Health)
- ¹⁷ Nolte/ McKee, "Measuring The Health Of Nations: Updating An Earlier Analysis," Health Affairs, 27, No. 1 (2008), 58-71.
- ¹⁸ A. Wilper et. al., Health Insurance and Mortality in US Adults, American Journal of Public Health | December 2009, Vol 99, No. 12.
- ¹⁹ Cathy Schoen, Sara R. Collins, Jennifer L. Kriss, and Michelle M. Doty, [How Many Are Underinsured? Trends Among U.S. Adults, 2003 and 2007](#), in: *Health Affairs*, June 2008.
- ²⁰ WHO 2007
- ²¹ K. Davis, C. Schoen, S. C. Schoenbaum, M. M. Doty, A. L. Holmgren, J. L. Kriss, and K. K. Shea, Mirror on the Wall: An International Update on the Comparative Performance of American Health Care, The Commonwealth Fund, May 2007
- ²² HHS 2010
- ²³ Health Affairs 2006
- ²⁴ Landon/ Normand/ Lessler/ O'Malley/ Schmaltz/ Loeb/ McNeil, "Quality of Care for the Treatment of Acute Medical Conditions in US Hospitals", Archives of Internal Medicine, Vol. 166, 11/25, 2006.
- ²⁵ Amnesty International, Deadly Delivery: The Maternal Health Crisis in the USA (2010)
- ²⁶ Mackintosh, M. and M. Koivusalo (eds.), *Commercialization of Health Care: Global and Local Dynamics and Policy Responses*, UNRISD and Palgrave: 2005.
- ²⁷ McWilliams/ Meara/ Zaslavsky/ Ayanian, "Health of Previously Uninsured Adults After Acquiring Medicare Coverage," Journal of the American Medical Association, December 2007, 298(24), 2886-94.
- ²⁸ CBO
- ²⁹ Office of Management and Budget, *Analytical Perspectives, Budget of the United States Government, Fiscal Year 2007* (Washington: U.S. Government Printing Office; 2006): Tables 19-2 and 19-3.
- ³⁰ <http://pnhp.org/news/2010/march/pro-single-payer-doctors-health-bill-leaves-23-million-uninsured>
- ³¹ The New York Times, "A Safety-Net Hospital Falls Into Financial Crisis," January 8, 2008. See also: Opportunity Agenda, Dangerous and Unlawful: Why Our Health Care System Is Failing New York Communities and How to Fix It, 2006.
- ³² The U.S. faces a projected shortage of 44,000 primary care doctors within the next 15 years, Health Affairs 2008. See also new qualitative research in Montana supported by the Montana Human Rights Network: <http://www.nesri.org/programs/Lewis&ClarkCountyPresentation.pdf>
- ³³ See the Housing cluster report for evidence of the government's failure to meet its obligations under CERD.
- See: Committee on the Elimination of Racial Discrimination, Concluding Observations, CERD/C/USA/CO/6, Feb. 2008. (citation from cluster report). Available at <http://www1.umn.edu/humanrts/CERDConcludingComments2008.pdf>
- ³⁴ <http://www.cbpp.org/files/2-1-07hous2.pdf> p. 2
- ³⁵ <http://www.cbpp.org/cms/index.cfm?fa=view&id=2228>
- See also <http://www.nlchp.org/program.cfm?prog=5>
- ³⁶ WRAP report
- ³⁷ Overall, around 45% of all renters spend a third or more of their income on rent, compared to around 30% of homeowners. http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2008_3YR_G00_S2503&-ds_name=ACS_2008_3YR_G00_&-lang=en&-redoLog=false&-format=&-CONTEXT=st
- ³⁸ "[B]etween 2006 and 2010, Congress's economists calculate, the home mortgage interest income tax deduction will grant more than \$400 billion to the nation's homeowners." Alyssa Katz, Our Lot: How Real Estate Came to Own Us, 216, Bloomsbury (2009).
- ³⁹ The Section 8 voucher program allows low-income families to rent apartments in the private market through a government subsidy.
- ⁴⁰ Spec. Rap., 19., and <http://www.cbpp.org/files/2-1-07hous2.pdf> p. 2. See also Christopher Howard, The Hidden Welfare State: Tax Expenditures and Social Policy in the United States 28 (1997).
- ⁴¹ WRAP report
- ⁴² http://www.nesri.org/fact_sheets_pubs/Right_to_Housing_1.pdf, <https://www.cbpp.org/cms/index.cfm?fa=view&id=2528>

⁴³ http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.20.ADD.4_AEV.pdf Page 13

⁴⁴ <http://www.cbpp.org/files/policybasics-housing.pdf>;

⁴⁵ State HFA Factbook: 2008 NCSHA Annual Survey Results

⁴⁶ http://www.knowledgeplex.org/programs/hpd/pdf/hpd_1002_cummings.pdf

⁴⁷ <http://opinionator.blogs.nytimes.com/2010/02/10/slumburbia/?hp>

⁴⁸ <http://www.law.northwestern.edu/journals/nlisp/v4/n1/2/2Edelman.pdf>

⁴⁹ The median income of women working full time, year round in 2008 was 77% of the median income of their male counterparts. NWLC, Poverty Among Women and Families, 2000-2008: Recession Deepens Poverty, September 2009

⁵⁰ U.S. Census Bureau, Income, Poverty, and Health Insurance Coverage in the United States: 2008. See the UPR cluster report on the right to work for further evidence of disparities in wages, working conditions, and access to employment.

⁵¹ http://www.nelp.org/page/-/Federal/NELP_federal_agenda.pdf?nocdn=1

⁵² <http://www.law.northwestern.edu/journals/nlisp/v4/n1/2/2Edelman.pdf>

⁵³ E.g. waitresses, whose poverty rate is three times the average rate. http://nelp.3cdn.net/f6df4ed353601d4c50_x6m6iy650.pdf

⁵⁴ Like Machines in the Fields: Workers without Rights in American Agriculture, Oxfam, America, March 2004

⁵⁵ http://www.reclaimdemocracy.org/walmart/claims_dueprocess_rights.php

⁵⁶ Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities (2010)

⁵⁷ The U.S. ranks 73rd in the world according to the UN's Gini index; United Nations Human Development Report 2009, accessed at <http://hdrstats.undp.org/en/indicators/161.html>

⁵⁸ CESR fact sheet:

⁵⁹ U.S. Census Bureau, Income, Poverty, and Health Insurance Coverage in the United States: 2008

⁶⁰ <http://www.law.northwestern.edu/journals/nlisp/v4/n1/2/2Edelman.pdf>

⁶¹ United States Department of Agriculture: Food Security in the United States: Key Statistics and Graphics, accessed at http://www.ers.usda.gov/Briefing/FoodSecurity/stats_graphs.htm; NEADA stats

⁶² 2006-2008 American Community Survey, "Percent of People Below Poverty Level in the Past 12 Months."

http://factfinder.census.gov/servlet/STTable?_lang=en&-redoLog=true&-format=&-CONTEXT=st

⁶³ One in five former recipients ultimately became disconnected from any means of support. <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/04/AR2009120402604.html>

⁶⁴ <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/04/AR2009120402604.html> Urban Institute - check

⁶⁵ Cohen and Friedman 1972: 55; e.g. at <http://www.urban.org/books/retooling/chapter2.cfm>.

⁶⁶ Christopher Howard, The Hidden Welfare State: Tax Expenditures and Social Policy in the United States

⁶⁷ <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/04/AR2009120402604.html>

⁶⁸ http://www.nelp.org/page/-/Federal/NELP_federal_agenda.pdf?nocdn=1

⁶⁹ Capital gains made up 66.3% of income for this group in 2007, up from 62.8 percent in 2006.

<http://www.tax.com/taxcom/features.nsf/Articles/ODECEAA7E4D7A2B852576CD00714692?OpenDocument>

⁷⁰ <http://www.gao.gov/new.items/d02245.pdf>

⁷¹ Clearinghouse REVIEW Journal of Poverty Law and Policy n May-June 2008

⁷² <http://www.neada.org/communications/press/2009-12-18-PressRelease.pdf>; <https://wsos.org/articles/2010/mar2010/dtes-m18.shtml>

⁷³ <http://www.nawc.org/resources/documents/pwsp-quick-facts.html>