

NOVEMBER 12-13, 2020

# STRATEGY MEETING: REALIZING THE RIGHTS TO FOOD, HEALTH AND HOUSING IN THE U.S.



**HOSTED BY:**

The University of Miami School of Law Human Rights Clinic and  
Cardozo Law Institute in Holocaust and Human Rights

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# BACKGROUND

The Vienna Declaration of 1993 states that “**All human rights are universal, indivisible and interdependent and interrelated.**” While this is the global consensus, the United States (U.S.) has consistently rejected social and economic rights, such as the rights to food, health, and housing. This disregard has had far-reaching consequences for millions of people in the U.S. afflicted by hunger and food insecurity, chronic homelessness, and significant barriers to healthcare.

On November 12–13, 2020, the University of Miami School of Law’s Human Rights Clinic and Cardozo Law Institute in Holocaust and Human Rights hosted a two-day strategy meeting focused on strengthening social and economic rights in the U.S. Specifically, this meeting brought together advocates and scholars to share strategies and experiences for realizing the rights to housing, health, and food and to explore opportunities for collaboration. The meeting further provided a platform to explore cross-cutting issues, including exchanging legal tools and models for transformation, challenging corporate power and financialization of basic services, shifting narratives, fostering unusual collaborations, and disrupting the system.



## THURSDAY, NOVEMBER 13: REFLECTIONS WELCOME REMARKS

**Jocelyn Getgen Kestenbaum** (Associate Professor of Clinical Law and Director of the Cardozo Law Institute in Holocaust and Human Rights) kicked off the meeting by welcoming the participants and situating the conversation in the broader political context. Jocelyn noted the importance of the current moment as across the world, societies are starting to reject popular nationalism and fascist tendencies. The cultural shift provides some joy and hope as it is responsive to advocacy for a more equitable and just future. However, there is still a lot of work ahead and advocates must continue working to dismantle barriers and structures of oppression.

Jocelyn then discussed how violations of social and economic rights can lead to atrocity crimes. Specifically, deprivation of the rights to food, health, and housing compounded by discrimination can cause atrocities like chronic starvation, homelessness, and needless death. Jocelyn further thanked the Miami Law School students for their contributions to the meeting, noting the value of up-and-coming practitioners who can strategize new tactics and build on past efforts to advance social and economic rights in the U.S.

Jocelyn ended her remarks with a land acknowledgement, recognizing that New York City and the Benjamin N. Cardozo School of Law sit on Lenapehoking, providing a connection to the land’s history and an awareness of Indigenous presence and rights.

# AGENDA REVIEW

**Tamar Ezer** (Acting Director and Lecturer in Law with the Human Rights Clinic at the University of Miami School of Law) and **Denisse Córdova Montes** (Acting Associate Director and Lecturer in Law with the Human Rights Clinic at the University of Miami School of Law) thanked participants for their attendance and introduced the meeting agenda. They explained that the first half of the meeting would consist of short topical panels on the rights to food, health, and housing. Panels were designed for advocates from each of these fields to share strategies, lessons, achievements, and challenges, and set the scene for the second half of the meeting, which would focus on cross-cutting issues and opportunities for future collaboration. Finally, the meeting would conclude with a panel discussion on the documentary film PUSH, which investigates the increasing unaffordability of housing in cities, featuring Leilani Farha, the former United Nations (UN) Special Rapporteur on adequate housing.

# MATERIALS REVIEW

**Mary Miller, Jessica Santos, and William Talley** (Legal Interns with the Human Rights Clinic at the University of Miami School of Law) introduced the meeting materials: the meeting's agenda, a compiled list of biographies of all participants and organizers, a series of factsheets on the rights to food, health, and housing and how those issues intersect with racial justice and COVID-19, and the United States' Universal Periodic Review (UPR) report for 2020.

### What is the right to health?

- The most comprehensive statement of the "right to health" can be found in the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, Article 12. It sets out "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."
- See also **International Convention on the Elimination of All Forms of Racial Discrimination**, Article 5(e) (iv); **Convention on the Elimination of All Forms of Discrimination Against Women**, Articles 10(f) and 12; **Convention on the Rights of the Child**, Article 24.
- The **Committee on Economic, Social and Cultural Rights**, the UN body monitoring compliance with the ICESCR, has provided detailed guidance on implementing the right to health (**General Comment 14**).

### What does the right to health mean?

- A right to health care that is available, accessible, acceptable, and quality
- A right to the underlying determinants of health, including civil and political rights
- A right to participate in health-related decision-making at the community, national, international levels

**NOTE: THIS IS NOT A RIGHT TO BE HEALTHY.**

### What are the components of the right to health?

- 1. AVAILABILITY** of health facilities, goods, and services.
- 2. ACCESSIBILITY** of health facilities, goods and services. This includes:
  - Non-discrimination
  - Physical accessibility
  - Economic accessibility/affordability
  - Information accessibility

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### What is the right to food?

- The most comprehensive statement of the "right to food" is found in the **International Covenant on Economic, Social, and Cultural Rights (ICESCR)**, article 11. It describes the right of everyone to "an adequate standard of living for himself and his family, including adequate food, clothing and housing." Article 11 also explicitly recognizes "the fundamental right of everyone to be free from hunger."
- See also the **Universal Declaration of Human Rights (UDHR)**, Article 25(c); **Convention on the Rights of the Child (CRC)**, Articles 24(2) and 27(2); **Convention on the Rights of Persons with Disabilities (CRPD)**, Articles 28(f) and 28(g); **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, Articles 12(2) and 14(2); **FAO Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security**; **UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP)**.
- The **Committee on Economic, Social and Cultural Rights**, the UN body charged with monitoring compliance with ICESCR, has provided detailed guidance on implementing the Right to Food (**General Comment 12**).

### What does the right to food mean?

- "The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement." It is "inextricably linked to the inherent dignity of the human person."
- It is different from **food security**. Food security is a precondition for the full enjoyment of the Right to Food, but food security is not a legal concept and does not impose legal obligations.
- Intertwined with the Right to Food is **food sovereignty**. UNDROP defines food sovereignty as the right of people to "participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures." The rights to land, seeds, and biodiversity, which are very important for the full realization of the right to food, are also recognized in UNDROP.
- The Right to Food is intertwined with civil and political rights, such as people's ability to exercise their right to political participation in their food system. Violations of the right to food are intertwined with structural discrimination on the basis of race, gender, and socioeconomic status, because hunger and malnutrition disproportionately affect people of color, women and children, and the poor.

**NOTE: The Right to Food is NOT the same as a right to be fed or have enough calories to survive.**

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### What is the right to housing?

- The most comprehensive statement of the right to housing is found in the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, Article 11. It describes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."
- See also **Universal Declaration of Human Rights**, Article 25(c); **International Convention on the Elimination of All Forms of Racial Discrimination**, Article 5(e)(ii); **Convention on the Elimination of All Forms of Discrimination Against Women**, Article 14(2); **Convention on the Rights of the Child**, Article 27(3).
- The **Committee on Economic, Social and Cultural Rights**, the UN body charged with monitoring compliance with ICESCR, has provided detailed guidance on implementing the right to housing (**General Comment 4**).

### What does the right to housing mean?

- The Right to Housing is "the right to live somewhere in **security, peace and dignity**." It should be secured to "all persons irrespective of income or access to economic resources," it refers not just to housing, but to "adequate housing."
- NOTE: THIS IS NOT MERELY A RIGHT TO SHELTER.**
- IT ALSO DOES NOT REQUIRE THAT THE GOVERNMENT PROVIDE A HOUSE TO EVERY PERSON FREE OF CHARGE. RATHER, THE GOVERNMENT MUST TAKE STEPS TO ENSURE ALL PEOPLE ARE ABLE TO HOUSE THEMSELVES WITH DIGNITY.

### What are the components of the right to housing?

- 1. LEGAL SECURITY OF TENURE:** Guaranteeing legal protection against forced eviction, harassment, and other threats.
- 2. AVAILABILITY OF SERVICES:** Facilitating essential for health, security, comfort, and well-being.
- 3. AFFORDABILITY:** Keeping the financial costs of housing at such a level that the satisfaction of other basic needs is not threatened or compromised.

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# INTRODUCTIONS AND SUPPORTING NETWORKS

**Chris Grove** (Executive Director of ESCR-Net), and **JoAnn Kamuf Ward** (Director of the Human Rights Institute's Human Rights in the U.S. Project at Columbia Law School) facilitated participant introductions. This session highlighted a few of the key networks, campaigns, and coalitions represented by meeting participants, including:

- [Bringing Human Rights Home Lawyers' Network](#)
- [Coalition for Human Rights in Development](#)
- [Demos](#)
- [ESCR-Net](#)
- [Partners for Dignity & Rights](#)
- [Poor People's Campaign](#)
- [US Human Rights Network](#)
- [Worker-Driven Social Responsibility Network](#)



The discussion elicited some key issues and questions for collective exploration during the meeting. Topics included: ensuring grassroots leaders, rather than outside actors, are leading efforts to enact local change; connecting land rights in rural areas to housing rights; linking climate justice, economic justice, and human rights; sustaining the right to mental health as an extension of the right to physical health; and motivating funders to support these issues. Participants further surfaced the need to address the extremes of capitalism, structural racism, and patriarchy.

Chris shared some of the lessons he has learned throughout his time with ESCR-Net that have helped him to foster collaborations across advocacy communities and work to build a global movement to realize human rights. First, he noted the importance of advocates discussing and establishing core political commitments or principles. Second, he discussed the idea of creating “horizontal” spaces where everyone involved can bring their different experiences and expertise towards collectively building a shared analysis of global conditions and articulating strategies. Finally, he underscored the need for attendees to realize that they cannot shortcut the difficult work of building meaningful relationships of trust, mutual support, and solidarity.

In breakout rooms, the participants reflected on the following questions: What is one key principle or practice that makes sustainable collaborations effective? And, in the current political climate, what is one opening for building collective power to advance human rights? Participants emphasized the need for genuine power sharing, as well as administrative support for sustainable collaboration and the building of collective power.

# RIGHT TO HOUSING PANEL

**Nahal Zamani** (Director of Movement Building at Demos) moderated the Right to Housing panel. Nahal noted that each of the panelists' work has "mainstreamed" housing rights advocacy, as well as "connected it to a lot of other movements in a very thoughtful way."

The panel began with discussion on how the right to housing landscape has shifted. **Rob Robinson** (Volunteer at Partners for Dignity and Rights) shared a moment of transformation, when he realized that, "If you're going to fight for the right to housing, the relationship to land has to shift." This emerged during a trip to Brazil with WhyHunger, where he learned that the Brazilian Constitution recognized land as serving a social function and has a fundamental purpose. "Land has to be growing food or providing housing for people, and that wasn't the fundamental way we thought about our relationship [to land in the U.S.]" He spoke about avenues to implement this idea, such as the Community Land Trust Model, a form of permanently affordable housing in which a community-controlled organization retains ownership of the land and sells or rents the housing on that land to lower-income households. This model was not traditionally discussed, but now, "it seems to be at the forefront of conversations and groups are actively working now to build community land trusts clean across the U.S." Community land trusts include the Dudley Street Initiative in Massachusetts and Cooper Square in New York. Rob conceded that while there are challenges involved in reimagining relationships to land, "folks are now receiving land and receiving land in perpetuity to start to think about different models."

*"If you're going to fight for the right to housing, the relationship to land has to shift."*

**Eric Tars** (Legal Director at the National Homelessness Law Center (NHLC)) explained that when he arrived at the NHLC in the mid-2000's, "We weren't talking about the right to housing at the national level." In contrast, today, right to housing legislation has been introduced in Congress, and both Connecticut and California are considering steps to recognize housing as a right at state level. NHLC has strategically engaged with the international human rights system, starting with UN Special Rapporteurs and moving on to the treaty bodies and then the Human Rights Council to shape international standards, and trigger meetings at the federal level to identify avenues to implement these standards.



Eric described NHLC's legal strategy to advance the right to housing. Looking at successful cases referencing human rights in U.S. courts, and the Supreme Court in particular, the NHLC noticed that they often linked a discussion of human rights to the Eighth Amendment's prohibition against cruel and unusual punishment. This prohibition has an analogue in the international system, providing for freedom from "cruel, inhuman, and degrading treatment or punishment" (CIDT). To leverage this link, NHLC decided to frame punishment for basic life sustaining conduct like sleeping or eating as a violation of CIDT as a way to get international human rights standards into domestic jurisprudence. However, Eric importantly noted: "Our ultimate strategy is not to protect the right of people to sleep on the streets; our ultimate goal is to get people into housing. However, we were so far from that right in the U.S. that we said, if we can at least get people to agree that it is wrong to punish somebody for not having a home, then that is step one. And, then step two is getting people to understand that it is also the duty of the state to provide adequate housing."

Eric recounted the story of *Martin v. Boise* as an example of NHLC's successful use of international human rights in advocacy with the U.S. government. As part of engagement with UN Special Rapporteurs, treaty body reviews, and Universal Periodic Review, the NHLC convened meetings with federal officials, including from the Department of Justice (DOJ). In preparation for a review of U.S. compliance with the Convention Against Torture (CAT), Eric and the NHLC had the opportunity to present steps that the U.S. could take in order to prohibit the criminalization of homelessness. Specifically, the Eric requested that the DOJ intervene in pending litigation in support of the contention that the criminalization of life-sustaining activities in public violated human rights standards and constituted "cruel and unusual punishment" under the Eighth Amendment. After this meeting, Jonathan Smith (Head of the DOJ's Civil Rights Division) approached Eric and said: "I think we can do this." The DOJ authored a brief making this point in *Martin v. Boise* (*Bell v. Boise* at the time). The DOJ's brief immediately generated significant media attention, and the Ninth Circuit accepted the DOJ's and NHLC's position. Subsequently, the City of Boise appealed to the Supreme Court, which turned down their petition for certiorari, leaving the Ninth Circuit decision intact and generating jurisprudence that is persuasive beyond the Ninth Circuit. The result: "There are people who are sleeping more safely tonight than they were before this decision, and I can trace that active improvement back to the human rights advocacy that we did."

Eric, moreover, noted a cultural shift with the right to housing now featured in mainstream conversations and media: "Just the fact that we're having mainstream political conversation about housing as a human right indicates that the landscape has shifted." Additionally, he believed that the impacts of COVID-19 and the recent racial justice awakening in the wake of the murders of George Floyd and others have "changed the baseline of the conversation where people are talking about the need for fundamental reforms in this country, and disrupting the systems that exist in a way that provides an opening for an alternative framework."

***"There are people who are sleeping more safely tonight than they were before this decision, and I can trace that active improvement back to the human rights advocacy that we did."***

Rob pointed to the need to bring international human rights tools to communities. He has found working with both leading scholars in academia, as well as advocates "on the ground," to be critical to "moving the needle and doing the work in an impactful way." Rob has thus been able to connect his past experience as an individual who experienced homelessness with theory and a systemic analysis and to develop insight into potential paths to transform existing structures. Moreover, his relations to those in the legal field have enabled him to engage in advocacy, while being assured of legal support when needed. Additionally, Rob discussed his work in light of COVID-19 and advocating for temporary hotel accommodations for the unhoused population. He noted that COVID-19 has undoubtedly exacerbated housing problems and has posed a particular danger to people with no possibility of sheltering in place, exposing government failures and lack of social infrastructure to a broader audience. "People can't shelter in place if they don't have a place--if they don't have a home."

***"People can't shelter in place if they don't have a place--if they don't have a home."***





Panelists then discussed the current eviction moratorium, commenting on the need for social change and that current government policies are simply not enough. Rob provided some suggestions for change, including holding rent strikes to pressure the government to provide tenants with greater support and extend the eviction moratorium to for a full year after the official end of the pandemic. Additionally, Eric noted the transformative work done by advocates and practitioners with the money provided to them by the CARES Act, such as hotel accommodations for people experiencing homelessness—regardless of COVID-19. **Sandra Contreras** (Lead Organizer at Goddard Riverside Law Project) commented on how American society has grown to accept the unacceptable burden-shifting of complex problems to corporate landlords. With the increasing financialization of housing, we have large, global corporate actors entering the scene. “We need a politics of refusal to create the political will for change.”

***"We need a politics of refusal to create the political will for change."***

Finally, panelists turned to the need to shift the harmful narrative that homelessness is a choice. Eric admitted that addressing this persistent narrative is probably the most challenging part of his advocacy. However, if society is able to get beyond this narrative and engage in a discussion of the merits, criminalization of homelessness fails because is both ineffective and costly. “We have this engrained myth in this country that people can lift themselves up by their bootstraps, that if you work hard in this country, you will get ahead.” However, the corollary is that if one is not “ahead,” then it must be because one did not try hard enough, and this somehow becomes sufficient to punish a person with deprivation of basic necessities.

***"Political education is vital to changing narratives."***

While advocates continue to grapple with this harmful narrative, litigation has helped push this effort forward. One of the premises is that “homelessness is not an immutable characteristic, but a temporary status. People don’t have a choice. You shouldn’t be punished for needing to sleep.” Another component of the harmful narrative around housing is the false depiction of the “deserving poor person,” indicating that some poor people are not deserving. It needs to be affirmed that “all human beings deserve at least some basic, adequate place to sleep at night.”

***"Homelessness is not an immutable characteristic, but a temporary status. People don't have a choice. You shouldn't be punished for needing to sleep."***

Rob highlighted that “political education is vital to changing narratives.” He noted that prior to his experience with homelessness, he had a clear understanding of different economic systems. Since then, he has engaged in self-education, establishing a relationship with academic scholars. He stated, “If I want to see a different world and understand how we could have a different economic system, I have to understand the one that we are currently involved in.” Rob further discussed the role of direct action and civil disobedience in leading to change. Eric pointed to the example Moms for Housing, whose direct actions went viral and enabled systemic change in the policy arena.





# RIGHT TO FOOD PANEL

This panel, focused on the promotion of the right to food and the fight against hunger and food insecurity in the United States, was moderated by **Alison Cohen** (Senior Director of Programs at WhyHunger).

It began with a broad overview of the nascent struggle for the right to food in the U.S., particularly compared to the trajectory of the fight for the rights to housing and health. Alison noted that COVID-19 has exposed the question at the center of realizing the right to food in the U.S.: do we continue to promote a food charity model, or do we hold our government accountable for failing to address the root causes of hunger and malnutrition? "The private charitable emergency feeding system in the U.S. is the largest and most sophisticated in the world; this fact is in and of itself a key barrier to realizing the right to food." Historically, the U.S. food system has never been able to meet the demand or even make a dent in the rate of food insecurity, which has hovered between 11 and 12 percent of the population over the past 30 years. Even before the pandemic, 37 million Americans were struggling to get enough food on the table, while four out of five workers lived paycheck to paycheck. Now, another 25 million may be added to that total in the coming year because of the pandemic.

Alison highlighted that "COVID-19 is heightening this persistent poverty crisis and allowing folks around the world to see—and many Americans for the first time to experience—the deep contradictions in our food and social welfare systems." She further stated that the resulting uneven distribution of wealth hits women, children, Black, Indigenous and People of Color (BIPOC) communities in the U.S. the hardest. Alison argued that it is time to go beyond "business as usual," and change the way in which advocacy is conducted. Currently, hunger advocates in the U.S. defend existing and inadequate government nutrition assistance, while the average American citizen must seek out private charitable organizations to meet the needs of hungry families. The panelists then shared state-level advocacy, legislative, and political education strategies needed to address the right to food.

**Heather Retberg** (Farmer at Quill's End Farm in Maine) spoke about Maine's legislative efforts to include the right to food in the state's constitution, which advocates have actively pursued for several years. In Maine, farmers, advocates, and legislators worked together to include the right to food in the state constitution. Through their work on the ground, advocates gained a better sense of how people feel about the issues and what they need from their representatives which informed efforts to amend the constitution. It was necessary, as Heather explained, to develop a new vocabulary used by academia and within the government, just to ensure that advocates' efforts on the ground were viable.



**"COVID-19 is heightening this persistent poverty crisis and allowing folks around the world to see—and many Americans for the first time to experience—the deep contradictions in our food and social welfare systems."**

Heather noted that *"the right to food movement is about reclaiming the definition of who we are and what we do, increasing and maintaining access to food from farms for people in our communities, keeping the traditional food ways open, and keeping relationships alive."* This shared work has led to ongoing efforts to amend the state constitution to include the right to food.

**Craig Hickman** (Former Representative in Maine's State House of Representatives and Maine State Senator) added to Heather's discussion of state-level advocacy efforts. He described his own struggles with Maine's laws and how ineffective policies have hampered his efforts as a farmer.

Some laws, he explained, have kept him from growing and selling food locally. Because of these frustrations, Craig ran for the Maine legislature on a platform promoting the right to food and food sovereignty. During the strategy meeting, he read a speech that he had previously presented to the state legislature in support of LD 795, an amendment to the Maine constitution that would enshrine the right to food in state law. Craig emphasized in this speech that the right to food would not, as some critics worried, result in indentured servitude or the destruction of industries, but instead would create greater access to wholesome and adequate food for all people in Maine. He stressed that ***“enshrining the right to food in the Maine constitution is ultimately about freedom of choice, access to nourishing food, food sovereignty and self-sufficiency, freedom from hunger, and our basic fundamental right to work out our own nutritional regimen free from unnecessary interference.”*** Speaking on advocacy generally, Craig pointed to the strategies necessary to create policy. It is important, he explained, to make connections with those holding power and direct their attention to the issues facing underserved citizens. Although this process is easier in smaller states like Maine than larger states, it is still a challenge.

Finally, **Smita Narula** (Professor of International Law at Pace Law School) highlighted that “shared messaging and collective action in policymaking and legislation is important to advance economic and social rights in the U.S.” She began by highlighting that messaging around the right to food in the U.S. is very place-based and must take into account the specific political context. Smita stressed that “in the U.S., the right to food can serve as a broad umbrella that brings together sustainability, food security, food justice, racial justice concerns, and access to land into one narrative.”

***“Shared messaging and collective action in policymaking and legislation is important to advance economic and social rights in the U.S.”***

***“In the U.S., the right to food can serve as a broad umbrella that brings together sustainability, food security, food justice, racial justice concerns, and access to land into one narrative.”***

She then discussed the importance of shared policy networks for the promotion of a right to food framework in the U.S. by describing how corporations and wealthy political operatives have used their own network the American Legislative Exchange Council (ALEC) to influence the direction of American law. ALEC, like many other policy networks, allows participants to write their own policy proposals which are then transmitted to lawmakers. ALEC and the lawmakers coordinate to draft a proposal acceptable to both sides, and the lawmaker will then put the proposal forth as a bill in his/her legislative body, often the U.S. Congress. Smita identified ALEC as a dangerous and harmful source of corporate power in American politics, feeding statutory language friendly to corporate America into law and depriving everyday Americans of full representation by their government. Smita then discussed the idea of an “Anti-ALEC” organization that would be composed of advocates for collective and positive rights across the country. Such a network might not be able to compete with ALEC’s money and resources but it would be an important step in unifying advocates and putting more forward-thinking policy onto legislature floors around the U.S. An Anti-ALEC network would also serve to better coordinate progressive lawmaking between the municipal, state, and federal levels. On a related note, Jocelyn Getgen Kestenbaum mentioned the use of shadow budgets in human rights advocacy. These hypothetical budgets allow lawmakers to see the potential financial impact of positive and collective rights within the budgetary constraints of their respective jurisdiction. Like shadow reports, shadow budgets could be an important and useful tool in persuading lawmakers to propose and vote for human rights policy.

# RIGHT TO HEALTH PANEL

**Cindy Soohoo** (Professor of Law and Co-Director of the Human Rights and Gender Justice Clinic at the City of New York School of Law) moderated the Right to Health Panel.

**Ben Palmquist** (a Program Director at Partners for Dignity & Rights) first identified two main threats to realizing the right to health in the U.S: corporate power and exclusionary politics. He said that industries fiercely resist progressive change and that exclusionary politics have been used to label certain individuals as less deserving of rights and access to healthcare. Ben discussed previous wins how over the last ten years, including Act 48 which was passed in Vermont in 2011 and has since created momentum for advocates in other states. Act 48 recognizes the imperative for a universal, publicly funded healthcare system and adopts a human rights framework, including equality, transparency, accountability, and participation. While Vermont has yet to fully finance and implement this law, it nevertheless serves as a model for other states and helped transform national politics. Act 48 has helped shift the paradigm from healthcare as a commodity to a right and a new majoritarian consensus, which has forced an examination of our problematic healthcare system, where individuals are unable to obtain basic insurance coverage. There is opportunity to continue to build on this.

**Pilar Herrero** (attorney with the U.S. Human Rights team at the Center for Reproductive Rights) spoke of the importance of connecting the human rights framework to local solutions. The human rights framework can provide a means to address U.S. exceptionalism and hold the U.S. accountable for reproductive health violations. ***“Government underinvests in health services perceived to be only needed by women. Moreover, government intrusions into these spheres are entirely normalized.”*** Pilar mentioned the existence of carve-outs to health benefits, which restrict the right to access sexual and reproductive services, ultimately chipping away at the right over time. She noted that over the last few years, there has been a huge increase in attention to the high rates of maternal mortality amongst Black women.

Black advocates have used the human rights framework to politicize disparities in maternal mortality as a social justice issue and challenge the narrative of personal responsibility. There are now a number of state and federal bills addressing maternal mortality. Advocates have also had two major wins in the U.S. Supreme Court dealing with abortion access, indicating that wins are still possible even in dark times. Of course, many challenges still lie ahead with anti-choice federal judges selected by the Trump administration, the global gag rule, and the use of COVID-19 to increasingly marginalize reproductive health services.



Regarding potential opportunities for positive change, Ben shared that because so many people are currently mobilized and paying attention to politics, they are starting to connect the dots between systemic problems such as structural racism and denial of healthcare and housing. A multi-racial movement is developing across geographies. There is further opportunity for scholars and advocacy organizations to connect and work hand in hand. Thus, ***“there is potential for democratizing power and building public consensus to advance the right to health through participatory human rights assessments, documentation, and budgeting. This move towards greater people power can help chip away at corporate power and exclusionary politics, where people are at the whims of insurance companies.”***

Regarding opportunities to advance reproductive health, Pilar discussed Maternal Mortality Review Committees (MMRCs), which evaluate individual cases of maternal deaths and try to figure out if these were preventable and how we can learn from them. These boards create a local mechanism where the government health department is supporting community members and stakeholders to come together and efficiently problem solve.

In response to a question by Rob Robinson on how to deal with financial barriers, Ben responded that financial roadblocks are always a struggle, particularly with austerity politics, and that there is no easy solution. Ben noted that the government plays a critical role in financing needs so although there is a fundamental distrust in the government, advocates need to address this distrust head on and build a politics that reaffirms collective rights and responds to collective needs with collective solutions.

**Jamie Wood** (Public Health Practitioner in Health Care, Criminal Legal System, and Drug Policy Reform) asked about legal or rights-based remedies that might exist to address racial disparities in the healthcare systems. Pilar noted that because these problems are structural and institutional, the U.S.'s current legal framework is insufficient. She discussed how medical malpractice, which focuses on individual cases and practitioners, has not been a useful tool to fix these issues. "We need radical transformative change in how we view government obligations around healthcare in order to address current racial disparities in basic threshold access to care."

***"We need radical transformative change in how we view government obligations around healthcare in order to address current racial disparities in basic threshold access to care."***

***"The reproductive justice framework is a human rights framework developed and articulated by women of color who are most impacted by the injustices in the healthcare system...We need to center the perspectives of those who are having the most difficult and experiencing the most violations."***

Finally, Smita asked the panelists to speak to opportunities for using the international human rights framework to advance a framing of healthcare issues which is especially resonant for BIPOC communities. Pilar began by explaining: "The reproductive justice framework is a human rights framework developed and articulated by women of color who are most impacted by the injustices in the healthcare system." She emphasized, "We need to center the perspectives of those who are having the most difficulty and experiencing the most violations." Along the same lines, Ben stated that racism and structural oppression are very clear and that bringing together those who are directly impacted is key. He said that there are ways to build a universal sense of commonality that is essential to transforming politics and breaking down racial divides.

## REFLECTIONS AND NEXT STEPS

During this time, the participants had an open discussion and brainstormed cross-cutting issues for focused discussion and potential joint work. Denisse Córdova Montes, Tamar Ezer, and JoAnn Kamuf Ward then organized participant suggestions into five overarching topics for group work on day two: Transforming the Legal Landscape, Challenging Corporate Power & Financialization of Basic Services, Shifting Narratives, Fostering Unusual Collaborations, and Disrupting the System.



# FRIDAY, NOVEMBER 13: *LOOKING FORWARD*

## GROUP WORK DISCUSSIONS

On day two of the strategy meeting, participants participated in one of five groups, deepening discussion and identifying opportunities and intersections.

### TRANSFORMING THE LEGAL LANDSCAPE

This group consisted of Eric Tars, Tamar Ezer, Ben Palmquist, and Jessica Santos. When reporting back to all participants, Jessica Santos identified the group's long-term goals as (1) transforming the legal landscape to focus on community-driven solutions by ensuring that human rights are operationalized and fulfilled in an equitable way and (2) adopting a holistic approach to human rights that include economic, social, and cultural rights. The group identified specific actions, including exchanging legal tools and models, scaling up local initiatives while staying responsive to local community needs, and fostering participatory models that take into account the viewpoints of people most affected by government policies and corporate activity.

The group listed challenges and opportunities highlighted by the impact of COVID-19, including the pending eviction tidal wave, racial disparities in infection rates and access to care, an overburdened healthcare system and workers, problems in the food supply chain, inadequate workers' rights (such as a lack of sick leave, insurance coverage being tied to employment, etc.), job and income loss, hurdles to organizing and collaboration, barriers to sexual and reproductive rights and the reliance on COVID-19 as a pretext to restrict these rights, access to telehealth, and the restrictions on advocates accompanying mothers when giving birth, which particularly impact Black women who are heavily discriminated against in medicine.

Opportunities that arose as a result of COVID-19 included:

- openings to address housing, food, and healthcare issues with political will;
- space for innovation around housing and health, such as hotel accommodations and alternative birthing plans; and

- unparalleled exposure of current systemic problems such as transmission and infection rates in prisons, nursing homes, and hospitals

In light of the 2020 elections, the group identified potential challenges, such as: the rectification of the previous administration's deviation from human rights standards; a potentially right-leaning Senate creating gridlock in Congress and blocking the Biden Administration's efforts; a disinterested and unsupportive public as 49.8% of the electorate did not vote for Biden and could present narrative challenges; and fiscal austerity policies due to significant government spending during the pandemic.

Conversely, some opportunities that have recently emerged are: Biden being the first President-elect to run on a platform that states an affirmative right to housing and health; potential opportunities for more positive engagement with other actors in the international human rights community; and unified efforts by various organizations to push a progressive legislation framework, similar to ALEC's, but with human rights as the goal rather than corporate interests.



The group also identified some intermediate objectives that further long-term goals:

- priorities in the presidential transition team's 100-day objectives;
- passing a comprehensive COVID-19 relief bill;
- pushing right to housing legislation in California and Connecticut;
- amending the Maine state Constitution to include an affirmative right to food; and
- documenting and sharing sample legislation and advocacy strategies through local and state networks

When considering who should be involved in the next steps in achieving the aforementioned goals, the group noted local governments, human rights cities, the “Cities for CEDAW” network, organizing and advocacy groups, scholars, members of the presidential transition team, and directly impacted communities. Finally, the group identified opportunities for re-engagement with the international system and drawing on comparative examples of good practices.

## **CHALLENGING CORPORATE POWER & FINANCIALIZATION OF BASIC SERVICES**

This group consisted of Sarah Saadoun, Jamie Wood, Jocelyn Getgen Kestenbaum, Jackson Gandour, and Mary Miller. First, the group noted that it is important for nations to treat basic services as public goods. If government money used to subsidize companies working in these areas is treated as public money, the government will have an obligation to control prices and access, such as in the case of vaccines and drug pricing, in ways that ensure fair and equal distribution. Further, the group called for the involvement of private sectors in housing, health, and food and to advocate for models that prescribe roles to companies.

Group members then spoke about a long-standing government's instinct to trust companies over people by holding companies accountable and moving away from voluntary approaches. Moreover, in advocating for these rights, they noted that it is vital to monitor any failures by the government and by corporations to deliver.

The group urged attendees to question who is securing government contracts and profiting from those contracts. Group members spoke about public money and the need to change the way society thinks about how the government operates and makes spending decisions. On a final note, they discussed creating collaborative models that greater align with the morals and values that advocates care about.

## **SHIFTING NARRATIVES**

This group consisted of Molly Anderson, Sandra Contreras, JoAnn Kamuf Ward, Alison Cohen, Martha Davis, Jen Zuckerman, Aya Fujimura-Fanselow, and Camryn Smith. Jen began by breaking down three key areas of narrative shifting. First, she pointed to the importance of identifying whose narrative is being shifted. Jen specifically discussed challenging the white-centric narrative. Predominantly white institutions (PWIs) must learn to work alongside activists rather than on behalf of activists, and substantive narrative change must occur within PWIs. Jen emphasized that there needs to be a power analysis when thinking about a narrative and how it is important to dismantle the binaries within these narratives.

Second, Jen discussed narrative change as a precursor to system change. She referred to the dominance of the “bootstraps” mentality and the charity and philanthropic narrative, which have been exacerbated during COVID-19. Third, Jen spoke about the psychology of narrative change and how understanding psychology can help activists reach larger audiences. Connecting to people on a human level can help get a message across, and people are more receptive to stories than talking points and theory. It is also imperative for advocates to understand the narrative frame that each individual might have: what information can get in and what information cannot? Jen explained that for any narrative change to happen, it requires deep individual work and consideration of race, gender, or class. Changing our systems and organizational structures requires changing ourselves.



Heather Retberg spoke about her and Craig Hickman's state-level work in Maine, where their primary goal was to have a conversation around food as a human right. She emphasized how political education and broadening the public's understanding of their rights helps to shift the narrative. Craig added a point on narrative change as it relates to elected officials, noting that it is easier to change the narrative when collaborating with members of the legislature. Policymakers at the table must understand the importance of political education and voting with their own conscience, not solely along party lines.

JoAnn then added that it is important to recognize the personal nature of human rights work. Craig mentioned how artists can help reach people and "flip the script" by expressing new ideas, like human rights issues, to people who do not normally encounter those ideas. Moreover, he stated that people are more likely to engage and be involved in artistic expression than in political or legal theory.

## **FOSTERING UNUSUAL COLLABORATIONS**

This group consisted of Shailly Gupta Barnes, Rob Robinson, Josh Lohnes, Smita Narula, Heather Retberg, Cindy Soohoo, Mihir Mankad, and Craig Hickman. Heather spoke on behalf of the group, which established a long-term goal of working across disciplines to create a more rights-based economy that meets people's most fundamental needs and creates positive human rights environments. She suggested that looking outside the U.S. for ideas and models can be very helpful. For example, Germany has a good model of social democracy which the U.S. tends not to support because of systemic racism which contributes to government failures to address inequities in food, housing, or health.

Craig then spoke about COVID-19 and what the pandemic has taught us. He said the virus has laid the racist structures in the U.S. bare. BIPOC communities are the most affected while the U.S. continues to rely on BIPOC individuals to act as essential workers who conduct the highest risk jobs.

## **DISRUPTING THE SYSTEM**

This group consisted of Christina Wong, Suzanne Babb, Will Talley, and Denisse Córdova Montes. The group identified the long-term goals of ending the exploitation of people and of the planet, and freedom from caste systems that distribute resources unequally and unsustainably. The group pointed to the particular problems facing essential workers, farmers, food workers, and participants in the gig economy. Grassroots movements have been scrambling to fill the gaps, but these organizations do not have adequate resources to keep up. What relief the government has provided has proven largely inaccessible to BIPOC communities. In effect, these communities have received little to no relief from the stresses of the pandemic.

Prior to the U.S. Election in 2020, the group noted, community organizers could raise awareness of human rights, in particular the right to food, to help people understand the significance of their vote. The 2018 midterm elections demonstrated that diversity in Congress is rising, bringing awareness of the issues facing marginalized communities closer to the halls of power. In a Biden administration, the group advocated working to construct a visionary agenda that addresses the structural problems of relief programs so that BIPOC communities can enjoy the benefits that other communities have already been given. But, the group pointed out that an obstructionist Senate would still provide a roadblock. In spite of this, advocacy efforts must work to include regional and international collaborators, especially groups led by Indigenous voices and people of color.

Finally, the group discussed specific policy initiatives that grassroots movements can begin lobbying for and raising awareness of. This includes standard of living protections, such as rent cancellation and raising minimum wages. The group also discussed raising awareness for reforms aimed at the relationship between the State and the people, such as defunding and restructuring police and emergency response departments.

# WRAP-UP

JoAnn Kamuf Ward began by identifying some of the overarching takeaways from the strategy meeting. First, participation matters. Having a shared understanding is extremely important for all of this work, whether it is the right to health, food or housing. Participation is further a critical element of the human-rights based approach. Acronyms for the various pillars of the human-rights based approach include TAUPE, which stands for Transparency, Accountability, Universality, Participation, and Equity; PANTHER, which encompasses Participation, Accountability, Non-discrimination Transparency, Human Dignity, Empowerment, and Rule of Law; and PANEL, which stands for Participation, Accountability, Non-Discrimination, Empowerment, and Linkage to other rights.

Second, advocates need a new approach to define discrimination. The U.S. Constitution and jurisprudence deliberately omits the idea of substantive equality and positive rights. COVID-19 has exposed the fact that the U.S. system was purposefully designed to not meet the needs of all people. Chris Grove emphasized the need to focus on structural inequalities and shift from formal, theoretical equality to real, substantive equality. He suggested re-grounding human rights as emerging from, and ultimately realized through, people's demands for dignity, well-being, and participation for themselves and their communities. As codified in moments of struggle and crisis, human rights standards can be useful legal and political tools. However, these standards are also at some level compromise positions that states were willing to accept.

Pilar Herrero cautioned against pitting human rights and civil rights against each other. When we look at civil rights movements, these are movements for human rights, and their legacy means a lot to communities. It thus makes sense to use civil rights as an opening to bring in human rights domestically. Craig Hickman proceeded to discuss Martin Luther King Jr. and how civil rights were initially linked to economic rights and the civil rights movement aimed at self-determination for Black communities.



Tamar Ezer suggested that international human rights instruments provide a minimum floor on which communities can build. In the U.S. there are so many people who do not know about the Universal Declaration of Human Rights (UDHR), which is a tool that can be used to start conversations on rights. Younger people are often unaware of the human rights system, which the U.S. helped establish after World War II. More political and civil education is needed for people to be aware of this heritage, critically engage with it, and build on existing human rights standards. Smita Narula mentioned that lectures or talks are a good way to spread political education.

Additionally, Craig Hickman noted that the group only briefly touched on policing and that, moving forward, it is essential to address the structural racism in law enforcement. JoAnn said that the U.S. Human Rights Network has been doing a lot of work to address systemic racism in law enforcement.



Heather Retberg highlighted the importance of language and the need to be explicit with our words. As an example, Heather mentioned how in her and Craig's community, they use the term "food self-sufficiency" in a way that translates differently in international documents. Craig suggested that perhaps advocates need some sort of dictionary of terminology. JoAnn noted the importance of engaging with the media and shifting dominant language and approaches to discussing government obligations. Jocelyn stated, ***"We need to move beyond the capitalism-socialism binary and demand a rights-respecting capitalism."***

Finally, JoAnn asked all the participants: Where do we go from here? What opportunities are you most excited about following this meeting? Heather Retberg remarked that it is important to engage in different scales of communication and work across many different facets whether it be legal, academic, or grassroots-based. She then highlighted a key takeaway from the meeting: ***"If you are not doing the internal work and allowing yourself to be challenged by experiences that are different than your own, it is hard to take any structural changes forward because you are operating from a blind spot."*** As far as opportunities go, Heather said that in Maine, a repository of legal tools and models would be very helpful.

Lastly, Tamar thanked all the participants and emphasized how each brought a unique perspective critical to making the strategy meeting discussions so rich.

# RESOURCES

## MEETING MATERIALS

- Meeting Agenda: <https://miami.box.com/s/rkjdx7i5yvqg8lyx62hd1l4zonkkpqe>
- Participant Bios: <https://miami.box.com/s/cbd9efvdb8qwxzz5gyfv3basc37fd2c8>
- Factsheets
  - The Rights to Food, Health, and Housing: (English): <https://miami.box.com/s/v8rypfaqyhoul5385ri85rdrtv2qkgh> and (Spanish): <https://miami.box.com/s/xnffuftzzszj37ftxbmny087bkmxhfb2>
  - What is the Right to Food in the U.S.: <https://miami.app.box.com/s/7hcv7d6ydaq6ca699ibe9eqb7vptw1>
  - Addressing the Impact of COVID-19 on People Experiencing Homelessness: <https://miami.app.box.com/s/neb02gohomjcuzdmya3ivvuxl7dj4edf>
  - A Racial Justice Response to Homelessness: <https://miami.app.box.com/s/p3b5g6xoaw05lbcxnfhou6fx557c5krw>
- United States Universal Periodic Review Report 2020: <https://www.state.gov/wp-content/uploads/2020/11/US-report-on-UPR-13-Aug-2020.pdf>

## GENERAL

- Partners for Dignity & Rights “A New Social Contract” Report: A project report with the goal of generating dialogue on how we will build a new bottom up understanding of ourselves as a country that can inform and shape our most important collective decisions and shared assumptions: <https://dignityandrights.org/wp-content/uploads/2018/05/ANSC-Report-Web-102320.pdf>
- Local Progress: a movement of local elected officials advancing a racial and economic justice agenda through all levels of government: <https://localprogress.org/who-we-are/about-us/>
- Columbia Law School State and Local Implementation of Human Rights: <https://web.law.columbia.edu/human-rights-institute/human-rights-us/state-and-local-implementation>
- Put People First! Pennsylvania: an organization that aims to give voice to everyday people who are struggling to meet their basic needs in Pennsylvania:
  - <https://www.putpeoplefirstpa.org/who-we-are/>
  - [https://www.youtube.com/watch?v=i9lD9\\_IAGaM&t=66s](https://www.youtube.com/watch?v=i9lD9_IAGaM&t=66s)
- Community-Rooted Organizations: Enhanced Accountability and Capacity Building for Community Development: an essay analyzing the use of “community-rooted approach” to advocacy: <https://metropolitiques.eu/Community-Rooted-Organizations-Enhanced-Accountability-and-Capacity-Building.html>

## RIGHT TO FOOD

- Nourishing Change, Fulfilling the Right to Food in the U.S.: [https://chrgi.org/wp-content/uploads/2016/09/130527\\_Nourishing-Change.pdf](https://chrgi.org/wp-content/uploads/2016/09/130527_Nourishing-Change.pdf)
- U.S.-based right to food advocacy organization: <https://thehungergap.org/>
- Duke Sanford, World Food Policy Center, Research Brief: Identifying and Countering White Supremacy Culture in Food Systems: <https://wfpc.sanford.duke.edu/reports/identifying-and-countering-white-supremacy-culture-food-systems>

## RIGHT TO HEALTH

- Submission on racial disparities and COVID-19: <https://www.hrw.org/news/2020/06/10/human-rights-watch-testimony-us-house-representatives-ways-and-means-committee#>
- Report on COVID-19 vaccines and treating healthcare as a public good: <https://www.hrw.org/report/2020/10/29/whoever-finds-vaccine-must-share-it/strengthening-human-rights-and-transparency>
- Article on participatory democracy to advance health: <https://dignityandrights.org/resources/health-democracy-article/>

## RIGHT TO HOUSING

- Model emergency legislation to protect the right to housing in light of the COVID-19 pandemic and the resulting economic crisis and an accompanying briefing paper: [https://www.make-the-shift.org/wp-content/uploads/2020/12/ji-covid\\_housing\\_report-housing\\_legislation-2020\\_12\\_07.pdf](https://www.make-the-shift.org/wp-content/uploads/2020/12/ji-covid_housing_report-housing_legislation-2020_12_07.pdf)
- Displacement Vulnerability and Mitigation Tool: <https://miami.app.box.com/s/t989o71nww48vftjxenaqfx64nswcwx7>; Description of Tool at <https://www.law.miami.edu/academics/clinics/environmental-justice-clinic-resources-contributions>
- Panel discussion on the PUSH documentary on the increasing unaffordability of housing in cities: [https://drive.google.com/file/d/17Iv9lQem6FIV\\_pX6Kk0MqdQ\\_Rjb32vgD/view?usp=sharing](https://drive.google.com/file/d/17Iv9lQem6FIV_pX6Kk0MqdQ_Rjb32vgD/view?usp=sharing)

## SHIFTING NARRATIVES

- Brett Davidson, The Role of Narrative Change in Influencing Policy, <http://askjustice.org/2016/06/04/the-role-of-narrative-change-in-influencing-policy/#:~:text=The%20role%20of%20narrative%20change%20in%20influencing%20policy,nu mber%20of%20donors%20have%20funded%20narrative%20change%20projects>
- Brett Davidson, Storytelling and Evidence-Based Policy: Lessons from the Grey Literature, Palgrave Communications (2017), <https://www.nature.com/articles/palcomms201793>
- Example of an artist/political educator: <https://www.youtube.com/watch?v=iXl1QJRqPD8>
- Network exploring the human rights implications of intellectual property laws: ASK Justice (African Scholars for Knowledge Justice): <https://askjustice.org/>
- Cardozo Law's guide to inclusive legal instruction: <https://go.yu.edu/cardoza/lawteachingguides>

## PARTICIPANTS

