
Human Rights at Home

**The rights to housing, water, and political participation in
San Joaquin Valley unincorporated communities**

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EXECUTIVE SUMMARY

Many unincorporated communities in California’s San Joaquin Valley are burdened by low property values, high unemployment, and poverty. These communities often lack basic infrastructure, clean water, and access to social services. Residents are frequently excluded from political decisions that profoundly impact their day-to-day lives. Some of the worst problems include:

- Housing that is unaffordable to community residents, in disrepair, not supported by necessary infrastructure, and often inaccessible to essential social services.
- Contaminated water supplies that expose residents to severe health problems and require them to purchase water they cannot afford.
- Local governments that shut citizens out of municipal elections and other forms of political participation on the basis of property ownership, geography, and race.

Human rights law can be a powerful tool for community members and advocates who are working to improve these conditions. This paper originated in a request from California Rural Legal Assistance to identify applications of human rights law to housing, water, and political participation problems in unincorporated communities. However, it is also part of a larger movement to “bring human rights home”—a movement which has influenced recent Supreme Court decisions, sparked the passage of state and local laws that incorporate human rights standards, and provided rhetorical and moral clout to activists and organizers on issues ranging from the death penalty to women’s rights to disaster relief.

In this paper, we discuss the advantages of international human rights law in working to change water, housing, and political participation conditions in San Joaquin Valley unincorporated communities. Specifically, we illustrate how human rights can be used by advocates and activists to fill in gaps in U.S. law and enhance protection to vulnerable groups:

- Human rights law recognizes that adequate housing is not simply four walls and a roof over one’s head, but also includes the right to infrastructure and access to social services. It also requires that housing units be affordable and equally accessible. U.S. law does not guarantee these rights.
- Under human rights law, individuals have the right to an adequate amount of clean and safe water for personal and domestic uses. Governments must make affordable water accessible without discrimination. U.S. law does not recognize or guarantee these rights.
- Human rights law assures the right to take part in local political processes, including decisions affecting the daily livelihood of community residents. It provides stronger protections than U.S. law, prohibiting unreasonable exclusion from decision making on the basis of race, property ownership, and geography.

Throughout the paper, we illustrate how activists and advocates use a combination of tools—organizing, litigation, reporting, and legislative lobbying—to increase global and local awareness of human rights violations in their communities and to bring about positive change.

INTRODUCTION

“Small places, close to home...are the places where every man, woman and child seek equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”¹

—Eleanor Roosevelt

In the U.S. popular imagination, human rights violations occur elsewhere. When we hear the words “human rights,” we think of the genocide in Rwanda or political prisoners in China, not contaminated drinking water in Home Garden, California. While our government insists that other countries respect human rights, public officials at home are often unaware of human rights obligations or are willing to ignore them. This paper illustrates the meaning of human rights in “small places, close to home,” bringing human rights home to unincorporated communities in the San Joaquin Valley.

We build on the work of a growing number of activists and advocates who are using human rights to organize, wage court battles, lobby to change the law, and bring local and global attention to abuses in their communities. They are achieving considerable success:

- Community advocates and activists use the language of human rights to energize and focus their organizing. The United Workers Organization, a group founded by homeless day laborers, used the language of human rights to successfully pressure the Baltimore Orioles to pay stadium workers a living wage.
- Activists and lawyers persuade courts to use human rights standards to interpret domestic law. The Supreme Court recently referred to major international treaties in decisions limiting the death penalty for juveniles and the mentally retarded, and affirming gay rights.
- Advocates succeed in lobbying state and local governments to enact laws recognizing and protecting human rights. The cities of San Francisco and New York passed ordinances implementing the International Convention on the Elimination of Discrimination Against Women.
- Advocates use human rights to draw international attention to issues ranging from affordable housing, to family violence, to disaster relief. The Inter-American Commission on Human Rights recently agreed to hear a case on U.S. failure to provide effective police protection to domestic violence victims.

California Rural Legal Assistance (CRLA) requested the International Human Rights Law Clinic at Berkeley School of Law² to identify how a human rights framework may assist advocates and activists working to improve conditions in San Joaquin Valley unincorporated communities. In particular, we focus on three areas CRLA identified as priorities for unincorporated communities: affordable, safe housing and related infrastructure, clean and affordable water, and political participation.

BRINGING HUMAN RIGHTS HOME TO UNINCORPORATED COMMUNITIES

The phrase “human rights” refers to the idea that all individuals have basic rights stemming from inherent human dignity, equality, and liberty. Human rights are universal; they apply equally to each person regardless of economic and social status or country of residence. They are also interdependent. For example, without the ability to meaningfully participate in the political process, citizens cannot hold their governments accountable for failing to fulfill their rights to water and housing. Finally, human rights are inherent to the individual. Although a government may fail to protect human rights, it cannot take them away.

As part of a broader strategy grounded in the conditions in unincorporated communities, a human rights-based approach offers three advantages over U.S. law. First, while U.S. law generally only requires that the government not violate the rights of its citizens, international law also obligates governments to protect and fulfill human rights. Human rights law requires governments to act to protect the human rights of individuals from interference by third parties; a government that recognizes the right to freedom from discrimination may pass a law prohibiting the use of minimum income requirements by landlords as discriminatory. In addition, governments must take positive steps to guarantee that individuals are able to realize their most basic human rights. For example, one step toward fulfilling the human right to water could be funding the construction of plants to treat contaminated water in poor communities.

Sources of International Human Rights Law

There are three sources of international human rights law that activists and advocates can use to press for positive change:

- **Binding treaties** are the strongest source. The U.S. Constitution recognizes treaties, along with laws passed by Congress, as the “supreme law of the land.” Treaties are binding on national, state, and local governments. The United States has signed and ratified three treaties, which cover civil and political rights, discrimination, and torture.³
- **Customary international law** is an unwritten code of moral conduct that has become law through consistent practice over many years in many places. Examples of practices that are widely recognized as violating customary international law include genocide, torture, and systematic racial discrimination.
- **World opinion** includes the laws, advisory opinions, and foreign policies of other countries. Although courts cannot base their decisions on world opinion, it can provide strong moral support for the arguments of advocates and activists.

Second, international law’s protections against discrimination generally are stronger than those afforded by U.S. federal law. In most contexts, federal law requires individuals to show that the state or local government intended to discriminate against them on the basis of minority status.⁴ As a practical matter, the requirement of proving intent makes it difficult to enforce the right to freedom from discrimination. International human rights law, in contrast, generally prohibits policies and practices that disproportionately harm minorities, regardless of the intent behind them. Human rights law also protects individuals from discrimination based on statuses generally not recognized under federal law, such as national origin and immigration status. Most importantly, human rights law obligates governments to prioritize the needs of minorities and

other vulnerable groups to ensure they are able to realize their human rights on a basis of equality with others. California anti-discrimination law provides protections in many ways similar to those provided under international law.

Finally, the vocabulary of human rights can be used to reframe issues viewed as purely political questions or social welfare in a way that contributes to advocacy efforts. For example:

- The Poor People's Economic Human Rights Campaign jumpstarted an investigation by the Inter-American Commission on Human Rights into the five-year cap on receipt of welfare benefits established by the 1996 federal welfare law reform.
- Georgia advocates used the rhetorical power of human rights—handing out copies of the Universal Declaration of Human Rights to policymakers and politicians—to successfully advocate for the passage of increased minimum wage laws at the state and local levels.
- The Border Network for Human Rights works on a grassroots level to combat discrimination and violence by the border patrol and other government agencies against non-citizens. The group trains community leaders to document human rights abuses and educates undocumented people and their allies about international human rights.

These examples illustrate that advocates and activists can use their creativity and passion to harness the moral power of human rights to generate positive change. Human rights law provides a powerful language in which activists and advocates can speak about conditions in

International Human Rights Organizations

In response to the atrocities of World War II, the United Nations adopted the Universal Declaration of Human Rights (UDHR) in 1948 to provide a common human rights standard for all countries and all people. The Declaration proclaims two general kinds of rights—civil and political rights and economic, social, and cultural rights—and recognizes their interdependence. These rights were later defined in two separate treaties—the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Later human rights treaties deal with issues such as racial discrimination, torture, discrimination against women, and the rights of children.

Each international human rights treaty has a committee that monitors government compliance with the rights protected in it. The United States is required to submit human rights reports to several such committees.¹ Advocacy groups increasingly use the reporting process as an opportunity to question the U.S. government's human rights record at home before an international audience.

In addition to the UN system, Europe, the Americas, and Africa each have regional human rights instruments and monitoring mechanisms, including human rights courts. The Inter-American Commission and Court of Human Rights monitor and enforce human rights in the Americas. The Inter-American Commission is the only human rights body that has the power to consider petitions against the United States. Advocacy groups have filed petitions before the Inter-American Commission on behalf of death row inmates, detainees at Guantanamo Bay, immigrants in deportation proceedings, and victims of domestic violence.

these communities. This language may help bring about changes in law and policy that will benefit the unincorporated communities.

THE RIGHT TO ADEQUATE HOUSING

“Everyone needs a place where he can live with security, with dignity, and with protection against the elements. Everyone needs a home.”⁵

—Nelson Mandela

Residents of unincorporated communities in the San Joaquin Valley have a human right to adequate housing: housing that is safe and affordable; housing that is supported by necessary infrastructure, such as functioning sewage systems and safe roads, and accessible to jobs and necessary social services; housing that promotes the security and dignity of its inhabitants. For many residents of unincorporated communities, this right is unrealized. This section describes the right to adequate housing under human rights law. We examine conditions in unincorporated communities and related domestic laws through the lens of the human right to adequate housing. In particular, we focus on three key components of this right: affordability, accessibility to essential infrastructure and necessary social services, and freedom from housing discrimination. Finally, we illustrate how a coalition of activists in Chicago is successfully using the human rights framework to challenge the demolition of public housing.

Housing Rights in International Human Rights Law

Although not recognized under U.S. law, the right to adequate housing is firmly established in human rights law. Adequate housing was first mentioned in the Universal Declaration of Human Rights and has been included in many international human rights treaties since. These treaties recognize the right to adequate housing and prohibit housing discrimination. They also obligate governments to promote housing rights and prioritize vulnerable segments of the population—including women, children, and migrant workers—in allocating resources for housing. Foreign countries also recognize the right to adequate housing in their laws and court decisions.⁶ For example, South Africa’s Constitutional Court recently declared: “There can be no doubt that human dignity, freedom and equality, the foundational values of our society, are denied those who have no...shelter.”⁷

The most important guidance on the right to adequate housing is provided in General Comment Four of the UN Committee on Economic, Social and Cultural Rights, which describes the basic government duties with regard to adequate housing. The comment states that governments must demonstrate they are taking measures sufficient to realize the right to adequate housing for every individual “in the shortest possible time in accordance with the maximum of available resources.”⁸ Such measures include providing residents access to legal remedies and funding for the development of low-income housing. Moreover, governments must prioritize the needs of individuals living in unfavorable conditions—policies and legislation must not “benefit already advantaged social groups at the expense of others.”⁹ Finally, governments may not make new laws and policies that lead to a decline in living and housing conditions, such as cutting funding for housing or passing laws that weaken protections for tenants.

Housing Rights in San Joaquin Valley Unincorporated Communities

The right to affordable housing

In San Joaquin Valley unincorporated communities, there is a severe shortage of affordable, habitable housing. Those unable to find affordable housing live in unsafe and overcrowded conditions, including garages, yards, porches, trucks and cars, and plywood lean-tos. What little affordable housing exists is often poorly maintained, threatening the health and safety of its inhabitants.

California and federal laws protect individual rights and provide counties and towns with the authority to take steps to ensure the provision of affordable housing and eliminate barriers to its development. Federal and state governments provide funding for low-income housing.¹⁰ In addition, California laws remove barriers to the development of affordable housing and provide incentives to local governments to approve affordable housing developments.¹¹ For example, the housing element statutes require that local governments, in their general plans for development, identify sites for future low-income housing that are properly zoned and have adequate public services and facilities. Despite these protections, neither California nor the federal government recognizes individuals' right to adequate, affordable housing and individuals deprived of access to adequate housing due to government funding cuts have no legal recourse. The United States has even gone so far as to oppose recognition of housing rights in international forums.

Under human rights law, in contrast to domestic law, residents of unincorporated communities have a right to affordable housing and the government has an obligation to prioritize their needs in allocating resources. International human rights law recognizes that the human right to housing applies to every individual, regardless of income, and imposes a duty on governments to provide access to housing for those who could not otherwise afford it. The cost of housing must not be so high that it threatens or compromises the fulfillment of other basic needs, such as food and health care—a significant problem in unincorporated communities, where poverty rates are high and housing is usually the single largest household expense.

Moreover, international law does not permit governments to reduce the level of access to affordable housing that individuals already enjoy. In recent years, funding for affordable housing has declined as housing costs have increased, resulting in increased homelessness and long waits for subsidized housing in the San Joaquin Valley. Across the United States, only about one in three families eligible for rental assistance currently receives it, and twenty-eight million Americans have housing affordability problems. Although international law allows governments much flexibility in how they protect the right to affordable housing, such cuts would not be considered permissible in a human rights framework. Human rights law requires governments to devote their maximum available resources to fulfilling the need for affordable housing, and give priority to the neediest in providing funding for housing. This means that a wealthy country such as the United States must devote considerable resources to enabling individuals to realize the right.

The right to infrastructure and social services

Many unincorporated communities in the San Joaquin Valley lack basic infrastructure, such as safe drinking water, adequate waste disposal and sewage systems, paved roads, sidewalks, and street lighting. Few have public parks or other safe places for children to play outdoors. Public transit does not serve these communities, and jobs are scarce. Emergency and fire services are often severely deficient, and police inadequately patrol these communities, resulting in high crime rates. Residents of neighboring towns use unincorporated communities as garbage dumps.

In general, county and city governments have broad discretion to approve plans for developing housing and related infrastructure. Infrastructure and services to unincorporated communities primarily are funded through sales taxes, property taxes, and other locally raised revenues. San Joaquin Valley communities do not qualify for federal funds to assist unincorporated communities with infrastructure development due to the narrow way in which the government defines communities eligible for aid.¹² Unsurprisingly, local governments often ignore the pressing needs of unincorporated communities for infrastructure and social services in favor of erecting new developments. For example, in its last general plan, Tulare County designated a number of rural communities “non-sustainable,” meaning the county is unwilling to invest in improving conditions there. Meanwhile, county planners are negotiating with a private developer to build a 36,000 acre, 10,000 home planned community in what is currently open space.

The government’s failure to use its maximum available resources to provide affordable housing, essential infrastructure, and access to necessary social services are violations of a single, fundamental right—the human right to adequate housing. The human right to adequate housing includes the right to essential infrastructure. At a minimum, essential infrastructure includes safe water for drinking and sanitation, energy for cooking, heating and lighting, means of garbage disposal, and drainage and sewage systems—infrastructure which is often deficient in unincorporated communities. Human rights law also obligates governments to provide social services, including emergency services, healthcare services, schools, and childcare centers. While most residents of unincorporated communities have access to these services, they are often of poorer quality than those provided to residents of nearby communities.

Furthermore, the expense and inconvenience of accessing services that are far away may effectively deny these services to poor households in rural communities. Under human rights law, governments must ensure all people equal access to essential services. The failure of federal, state, and local governments to give priority to bringing essential infrastructure and social services to San Joaquin Valley unincorporated communities violates the international human right to adequate housing.

The right to non-discrimination in housing development

San Joaquin Valley localities sometimes discriminate against minorities and low-income people in their planning decisions. For example, the City of Modesto’s incorporation practice has created unincorporated, predominantly Latino islands surrounded on all sides by the city. By

refusing to incorporate these areas, Modesto denies residents of these unincorporated areas the essential infrastructure and social services enjoyed in the city that surrounds them on all sides.

Federal and California law contain broad protections against housing discrimination. The Supreme Court has held that the Fourteenth Amendment to the U.S. Constitution bars intentional discrimination in zoning.¹³ Federal law further prohibits publicly funded agencies from discriminating on the basis of race and national origin.¹⁴ The federal Fair Housing Act bars discrimination in the sale, rental, and financing of housing, and does not require proof of intentional discrimination.¹⁵ California law provides even stronger protections, prohibiting discriminatory land use practices that create obstacles to affordable housing, and barring discrimination by local authorities on the basis of income, in addition to race and national origin.¹⁶ Significantly, in California it is illegal for local governments to take actions that disproportionately harm low-income housing developments or potential minority or low-income occupants of such developments, regardless of local government actors' intent.¹⁷ Moreover, California law incorporates the definition of discrimination found in human rights law, although the validity of the statute is in dispute.¹⁸

While U.S. law, and particularly California law, contains strong protections against discrimination in housing and development, international anti-discrimination law further obligates governments to guarantee minorities full and equal enjoyment of housing rights. This entails prioritizing the needs of minorities in allocating resources as well as ensuring access to decision-making processes. In the San Joaquin Valley, this might mean actively involving residents of unincorporated communities in local planning. It might also mean requiring governments to provide essential infrastructure and social services to marginalized minority communities before providing them to new developments. The inclusion of a human rights definition of discrimination in California law, though its validity is disputed, may lend strength to campaigns to force local governments to acknowledge their responsibility to fulfill the housing rights of unincorporated communities.

Chicago Public Housing Residents Advocate for the Right to Adequate Housing

The right to adequate housing is receiving increasing attention from international bodies and advocates in the United States and around the world. One leader in this movement is the Chicago Coalition to Protect Public Housing (CCPH), a group of public housing tenants and advocates that formed in 1996 in response to a federal law mandating the destruction of 18,000 public housing units in Chicago. From the beginning, CCPH built its campaign to save Chicago public housing around the human right to adequate housing.

CCPH uses the human right to adequate housing to reframe public debate, pressure local officials, and attract national and international attention to its campaign. For example, the coalition successfully lobbied Cook County to pass a resolution recognizing the human right to housing, and submitted a report to the UN Human Rights Committee outlining the human rights consequences of the demolition of public housing. In 2004, CCPH invited Special Rapporteur Miloon Kothari—a UN expert who reports on the right to adequate housing in various countries—to visit Chicago. Kothari praised CCPH's work in exposing housing rights violations and educating and empowering public housing tenants. He urged public officials to

“rethink their plans regarding the housing future of Chicago based on close consultation with people of all incomes and consistent with the international human rights obligations of the United States.”¹⁹

In 2004, CPPH, along with a coalition of other groups, appeared before the Inter-American Commission on Human Rights to testify about the lack of affordable housing in the United States. Advocates argued that the United States does not devote sufficient resources to the realization of the right to adequate housing. They offered evidence that the U.S. government has cut funding for affordable housing, failed to enshrine the right to adequate housing in enforceable legislation, and failed to prioritize the needs of the most vulnerable. While the Commission cannot order the U.S. government to build affordable housing, the hearing was a step toward reframing the public debate on housing in the United States, in which poor people are too often represented as unworthy recipients of public aid. Homeless and low-income people had the opportunity to present their testimony within a human rights framework—a framework that recognizes the right to adequate housing.

THE RIGHT TO WATER

“Contaminated water jeopardizes both the physical and social health of all people. It is an affront to human dignity.”

—Kofi Annan²⁰

The twin problems of contaminated and expensive water deprive residents of San Joaquin Valley unincorporated communities of their human right to this natural resource. Water pollutants, including nitrates and arsenic, cause diseases that are particularly dangerous to pregnant mothers, newborn babies, and young children. Improving the quality of water increases its cost, which could make water unaffordable for many residents of unincorporated communities.²¹ In this section, we identify how human rights law applies to water conditions in the San Joaquin Valley. We begin by describing the right to water in international human rights law. Next, we examine governments’ failure to address water contamination resulting from naturally-occurring pollutants, agricultural pesticides, and inadequate systems for wastewater treatment and disposal. We then discuss the impact of the high cost of water on access to water for basic domestic needs, such as drinking, cooking, and sanitation. We conclude with the story of a group in Bolivia that used a human-rights based strategy in its successful campaign to gain community control of the local water system.

Water Rights in International Human Rights Law

Although U.S. law contains some protections for water rights, international human rights law provides more effective safeguards of the right to water. International law recognizes that the fundamental human rights to life, health, and well-being depend on access to sufficient amounts of clean water. The human right to water is explicitly recognized in international treaties and is widely accepted by world opinion. Several countries have recognized the right to water in their

national constitutions and through court decisions.²² International conferences on water rights reflect that the human right to water is a priority for many countries around the world.

Under human rights law, countries are responsible for ensuring all people within their borders have access to an adequate supply of clean water. Human rights law requires governments to coordinate the efforts of national, regional, and local authorities in order to respect, protect, and fulfill the right to water. Governments must not violate water rights, must prevent abuse of water resources by third parties, and must make concerted efforts to promote access to water. Moreover, human rights law requires that governments prioritize the water needs of the most vulnerable, such as women and children. The greater a country's resources, the greater its obligation to ensure every individual equal access to affordable, safe water.

Water Rights in San Joaquin Valley Unincorporated Communities

The right to clean water

Water in San Joaquin Valley unincorporated communities has high levels of salinity, trace elements, and pesticides. Wells become contaminated by nitrates from pesticide-saturated soil if dug too shallow, or by arsenic from bedrock if dug too deep.²³ Nitrate contamination adversely affects children's health and puts newborn infants at risk of deformities, serious illness, and even death.²⁴ Inadequate sanitation systems further contaminate water supplies, with poorly maintained septic tanks that overflow during rains and clog roads with raw sewage. The combination of contaminated water and the lack of sewers and drainage systems causes a level of disease in San Joaquin Valley unincorporated communities more typical of developing countries.

U.S. law addresses water quality issues but does not provide effective remedies for the contamination problems faced by unincorporated communities. The water quality protections provided in the federal Clean Water Act (CWA) apply to surface water, which is mostly used for agricultural purposes in the San Joaquin Valley, and do not directly cover groundwater—the main source of water for household use in unincorporated communities. The federal Safe Drinking Water Act (SDWA) requires authorities to provide consumers with information on the source, quality, and safety of their drinking water, as well as prompt notification of any violation of drinking water regulations. While it covers groundwater, the SDWA does not apply to the private residential wells from which most residents of unincorporated communities obtain their water. Water quality protections provided by the SDWA and California law often are not effectively enforced in the San Joaquin Valley.²⁵

International human rights law requires governments to protect individuals from the adverse health effects of poor water quality. This means governments must provide communities with an adequate supply of water, taking into account health, climate, and work conditions. The amount of clean water must also be sufficient for sanitation and personal hygiene. If these conditions are not met, governments must progressively expand sanitation and water services. This must be done by prioritizing rural areas and deprived urban areas and paying close attention to the needs of women and children. By these standards, the poor water quality in many San Joaquin Valley unincorporated communities violates the human right to water.

The right to affordable water

Affordable water is a pressing concern for the residents of many unincorporated communities. In these communities, the cost of clean water is often prohibitive. Residents must pay heavily for any improvement in water quality, making clean piped water inaccessible to many communities. Wells, which are often contaminated, do not offer a feasible alternative to piped water. In several communities, residents are forced to travel to buy jugs of water or to pay for trucked water to meet their basic domestic needs.

U.S. law does not require that the government provide access to clean, affordable water. The U.S. Constitution does not protect individuals' right to water. While the California Constitution refers to the right to water, the provision only mandates effective utilization and management of California's streams and natural waters, and does not protect ground water—the source of household water in San Joaquin Valley unincorporated communities.

A human rights perspective asks us to consider that San Joaquin Valley unincorporated communities are located in the richest agricultural area of the richest country in the world, yet suffer from a lack of affordable, clean water for basic human needs.²⁶ In assessing the affordability of water, international law takes into account the impact of indirect costs, such as the labor and travel time necessary to collect water.²⁷ Residents of unincorporated communities who must travel to buy water are the very individuals who can least afford to spend that time and money. In effect, the government's failure to supply many unincorporated communities with affordable, clean water results in indirect costs that deny their residents access to an adequate supply of clean water for household needs, violating their human right to water. Human rights law obligates governments to assure that clean water is provided to those unable to pay.²⁸ In the context of the San Joaquin Valley, this could mean that governments are required to adopt low-cost techniques and technologies for filtering arsenic and nitrates out of the groundwater, enact appropriate pricing policies, and provide subsidies to those unable to pay for water.

Bolivian Citizens Demand the Right to Water

“Rights are not given. Rights are won. Nobody is going to fight our fight. We struggle together for what is just, or we tolerate the humiliation of bad government.”²⁹

—Coalition for the Defense of Water and Life

The Coalition for the Defense of Water and Life made this statement as part its organizing efforts. The Coalition is a collective of workers' organizations, water committees, cooperatives, and irrigators in Cochabamba, a city in central Bolivia which organized around the human right to water. Although Bolivia's water supply is plentiful, Cochabamba had long suffered from lack of water. By 1999, the demand for water far exceeded the capacity of the city's public water system. A corrupt public water board contributed to the shortage. Then the Bolivian government handed over control of the water service to a private association, resulting in a dramatic increase in the cost of water. Residents organized to oppose the rate hikes and the privatization of the water system.

From the beginning, the Coalition used a human rights framework to protest the government's refusal to recognize its responsibility to provide an adequate supply of affordable water. One of the Coalition's initial steps was to draft the “Regional agreement about water provision,

defense of the popular economy, pacific cohabitation, and respect for human rights.” The Coalition used human rights standards to mobilize its members, criticize the government, and evaluate its internal power dynamics.

Months of protests forced the Bolivian government to break the privatization agreement, and the residents of Cochabamba celebrated an improved local water system. According to the Coalition, this victory simultaneously secured respect for the right to participate in political decisions affecting their lives and the right to water. The local public water system is now run by representatives from the Coalition, community leaders, and members of the local government and demonstrates a workable alternative to water privatization.

THE RIGHT TO POLITICAL PARTICIPATION

“In the final analysis it doesn't really matter what the political system is.... We don't need perfect political systems; we need perfect participation.”³⁰

—César Chávez

For residents of unincorporated communities in the San Joaquin Valley, the right to political participation is frustrated by a combination of geographic, financial, and racial factors. Community residents struggle to have their voices heard on issues affecting their day-to-day lives due to issues ranging from the disproportionate influence of agrobusiness over water boards to discrimination in drawing political boundaries. This section focuses on three ways in which residents of unincorporated communities are disenfranchised, examining each first through the lens of domestic law and then from an international human rights perspective. We first explore the issue of discrimination in decisions by cities about annexing unincorporated communities. We then concentrate on “special districts”—political bodies that exclude community members from participating in decision making regarding essential services such as water and fire protection. Finally, we consider how San Joaquin Valley towns exercise control over services for nearby unincorporated communities whose residents have no right to vote in municipal elections. We conclude with a description of how advocates for New Orleans residents displaced by Hurricane Katrina are using a human rights framework to assert their right to participate in decisions about rebuilding.

Political Participation Rights in International Human Rights Law

The ability to take part in the political process is a fundamental right under domestic and international law. Although the right to political participation is not explicitly protected in the U.S. Constitution, Supreme Court decisions have accepted it as an integral part of our nation's democracy. International treaties also expressly entitle citizens to take part in public affairs.³¹ In addition, customary international law, as reflected in international instruments and domestic practices of other countries, recognizes the ability to partake in government decision making as a basic human right.

The meaning of the right to political participation differs depending on context. It may include the right to vote or be consulted, the right to receive information, and access to litigation. Human rights law obligates governments to refrain from interfering with participatory rights, protect

these rights from private interference, and take positive steps to incorporate the perspectives of all citizens into the political process. International law generally protects the right to involvement in municipal and regional decision making, as well as national elections. The right to participate is not absolute; however, under international human rights law, it cannot be restricted without a legitimate government interest unrelated to national origin or race.

Political Participation Rights in San Joaquin Valley Unincorporated Communities

Freedom from discrimination in the annexation process

The San Joaquin Valley is experiencing significant growth, and the provision of municipal services has developed unevenly. Discrimination in the annexation process—through which growing towns absorb neighboring unincorporated communities into their municipal bounds—denies unincorporated communities equal access to participation in decisions about essential services and infrastructure. Preliminary research shows that often poor minority communities remain unincorporated while more affluent, majority white communities are annexed.

It is unclear whether domestic law protects against discrimination in the annexation process. Under U.S. law, unincorporated communities have no specific right to be annexed. However, federal anti-discrimination law prohibits cities from considering race when determining which areas to annex. Although California law provides stronger protection than federal law, it is an open question whether state anti-discrimination laws apply to the annexation process given that unincorporated communities have special funding and tax structures.

Generally speaking, international human rights law contains stronger anti-discrimination protections than domestic law. First, international law protects groups on the basis of national origin and other factors that federal law often does not take into account. Second, international law prohibits government policies or practices that have a discriminatory outcome, unless the government policy is objective and reasonable.³² The precise meaning of “objective and reasonable” is unclear and varies from one cultural and national context to another. Nevertheless, the decisions of UN treaty-monitoring committees suggest that very few government justifications are acceptable, and that drawing municipal lines based on race or national origin is generally prohibited. However, a human rights framework may have disadvantages in the context of discriminatory annexation practices. International law sometimes provides stronger protections for individuals than it does for groups. For example, to raise a successful discrimination claim under international law, individual residents of an unincorporated community may have to show that a nearby city’s failure to annex their community deprived them of equal voting power – a difficult standard to meet.

The right to equal representation

Residents of San Joaquin Valley unincorporated communities are denied the right to take part in decisions that impact their lives through property-based and residence-based voting systems. Below, we discuss U.S. law relevant to each type of system, and then explain international human rights standards common to both.

Property-based voting

Special districts, also known as direct benefit assessments, often limit the ability of residents of unincorporated communities to participate in local decision making. Designed to circumvent bureaucracy at the county level, these districts provide targeted services such as water, sewage, police, and fire protection to areas in need. Despite their goal of government responsiveness, special districts often disenfranchise the populations to which they provide services. Many districts have property-based electoral systems that only allow businesses or wealthy landowners to vote, depriving the vast majority of low-income residents of the right to elect representatives who make decisions that profoundly affect their daily lives.

Under domestic law, it is unclear if special districts that rely on property-based voting systems are legal. Whether a U.S. court would consider a particular special district board constitutional would depend on a number of specific facts, such as the local tax structure, the functions of the board, the role of businesses, and the scope of services provided.³³

Residence-based voting

Unincorporated communities are sometimes disenfranchised by the powers exercised by neighboring towns. Nearby towns may control community police and fire protection, zoning and public works, and have the power to take land from unincorporated communities to build electric and gas plants, waterworks, waste processing plants, power lines, and public parks. Residents of unincorporated communities cannot hold city officials accountable because they cannot vote in city elections.

U.S. law provides little protection against this type of disenfranchisement. Cities are legally permitted to exercise powers over unincorporated communities without allowing their residents to vote in municipal elections. The domestic perspective is that residents are adequately protected by participation in county, state, and federal elections, so it is unnecessary to guarantee the right to vote in city elections.

International law

Exclusionary electoral systems are viewed more skeptically under international human rights law than under domestic law. Although human rights law does not guarantee the specific right to participate in municipal elections, it does protect the right to take part in decisions affecting ones' livelihood, including development and urban planning. Other countries increasingly incorporate public feedback in urban planning, local budgetary matters, and resource management. Laws depriving citizens of the right to vote for local decision making bodies on the basis of land ownership or income would seem to violate the human right to participation.

Human rights law guarantees the right to vote by universal suffrage, and requires governments to take steps to ensure the participation rights of marginalized and vulnerable groups. Governments

may not deny citizens the vote on the grounds of property. Human rights law requires that governments grant refugees and internally displaced persons the right to participate in local affairs in the communities from which they fled. This suggests that property ownership or residence within a particular geographic area is not a permissible precondition to political participation under international law. Finally, various international bodies and foreign states recognize the right to political participation of non-citizen legal permanent residents.³⁴ This suggests that international opinion is increasingly rejecting a hierarchical system of participation rights in favor of the basic principal that individuals should be able to participate equally in political decisions on matters which affect them.³⁵

Finally, international law protects the right of all citizens to be a part of political processes relating to resource management and the environment, if not through elections, then through other informal channels. Racial and ethnic minorities and indigenous groups, whose land is often exploited by private entities and insufficiently protected by government regulation, are often given additional protections. This suggests that residents of unincorporated communities, who suffer the effects of pollution, pesticides, and nitrate-contaminated water supplies, have a particularly strong claim to the right to participation in local decision making processes impacting natural resources and the environment.

Hurricane Katrina: Activists Organize Around the Right to Return

Hurricane Katrina devastated New Orleans, displacing over half of the city's population, and disproportionately affecting poor African Americans. Since the disaster, many New Orleans residents have not been able to return. Displaced residents and their advocates are using international law to ensure their voices are heard.

International law provides individuals displaced by disasters with specific protections, including the right to return home and the right to participate in matters which affect them. International advocates use the Guiding Principles of Internal Displacement—which the U.S. has officially agreed to abide by—to argue that countries must pay particular heed to vulnerable groups and entitle displaced persons to vote, participate in public affairs, and be consulted in a language they understand. In the context of Katrina, this means the government has the duty to provide displaced people information about city planning, and allow them to shape public housing and infrastructure policy, taking care to ensure the racial and cultural character of communities are protected.

Advocacy and activist groups, as well as think tanks and universities, are using these rights to aid the displaced through litigation, legislative lobbying, organizing, and bringing international attention to Katrina victims. For example:

- Groups filed reports with the UN Human Rights Committee cataloging how New Orleans residents were being disenfranchised post-Katrina. The reports argued that all individuals—regardless of immigration status—should be able to participate in decisions affecting their lives.
- Advocates appeared in front of the Inter-American Commission and requested the Commission investigate abuses—including the failure of the Mayor of New Orleans to consult those displaced by the storm—through on-site investigations in displaced

communities.

- Groups used the right of return in a lawsuit against the U.S. Department of Housing and Urban Development, challenging the agency's plan to demolish four public housing projects and demanding full participation of displaced persons in decisions impacting public housing.

CONCLUSION

This paper contributes to the process of bringing human rights home to unincorporated communities in the San Joaquin Valley. The conditions in unincorporated communities—including the lack of access to adequate housing, clean and affordable water, and political participation—are human rights violations, not the inevitable result of poverty. Residents of unincorporated communities and their advocates can use human rights law to bring conditions in these communities to the attention of the international community, generating political and legal pressure on local, state, and federal officials. Moreover, human rights law can be used to expose and fill gaps in the legal protections U.S. law provides to residents of these communities. We hope that human rights advocacy will prove to be an effective tool for community members and advocates who are pressing for positive change in unincorporated communities.

NOTES

¹ Eleanor Roosevelt, First Lady, United States, In Your Hands, Address Delivered at the UN on the Tenth Anniversary of the Universal Declaration of Human Rights (Mar. 27, 1958).

² This document was written by Cortelyou Kenney, Melinda Pilling, Mallika Sarkaria, interns with the International Human Rights Law Clinic, under the direction of Clinical Instructor Roxanna Altholz.

³ The United States has signed and ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on the Elimination of All Forms of Discrimination (ICERD), and the Convention Against Torture (CAT). In addition, the United States has signed but not ratified three other treaties. These are the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

⁴ An important exception to this rule is the Fair Housing Act, which bars discrimination in the rental, sale, and financing of housing based on race and national origin, among other statuses.

⁵ Nelson Mandela, *Foreword*, in NATIONAL PERSPECTIVES ON HOUSING RIGHTS xvii (Scott Leckie ed., 2003).

⁶ The constitutions of over sixty countries contain reference to housing rights, and the courts of many countries recognize the right to adequate housing either as a right in itself or an essential component of the right to an adequate standard of living.

⁷ *S. Africa v. Grootboom*, 2000 (11) BCLR 1169, ¶ 23 (CC) (S. Afr.) In this case, a group of squatters successfully challenged the South African government's failure to provide them with basic shelter. The court found that the government had violated its constitutional obligation to take reasonable steps with regard to fulfilling the human right to housing by not providing adequate assistance to those in desperate need of help. As a result, most South African localities now set aside funding in their budgets for assisting those in desperate need.

⁸ Human Rights Commission, General Comment No. 4, Art. 11(1) (Sixth session), U.N. Doc. E/1992/23 (1991).

⁹ *Id.*

¹⁰ The United States Department of Housing and Urban Development (HUD) provides financial assistance for housing to low-income households through subsidy programs. These include "tenant based" subsidies (commonly referred to as "Section 8 vouchers") which are distributed to residents, "project based" subsidies which are given to landlords who rent to low-income tenants at affordable rates, and public housing. In California, the Department of Housing and Community Development provides grants and loans to support the development of low-income housing, including housing for agricultural workers.

¹¹ See CAL. GOV. CODE §§ 65589.5. (West 2007) (requiring towns and counties to approve low-income housing developments, absent a few exceptions), 65589.9 (requiring local water and sewer districts to prioritize service hook-ups to projects that help meet a community's low-income housing need), 65915-16 (requiring local governments to provide development incentives to projects with a prescribed minimum percentage of affordable units), § 65920 et seq. (requiring cities and counties to adhere to a timeline for making a decision on applications for permits); CAL. CIV. PROC. CODE § 529.2 (West 2007) (permitting courts to require persons suing to halt affordable housing projects to post a bond and pay attorneys fees); and CAL. PUB. RES. CODE §§ 21080.14 (exempting certain urban affordable housing developments from CEQA), and 21080.10 (providing similar exemptions for farmworker housing).

¹² HUD funding is limited to communities that meet the following definition: "an identifiable community, outside of a Metropolitan Statistical Area with a population exceeding one million, that is within 150 miles of the U.S.-Mexico border in Arizona, California, New Mexico, and Texas and that has a lack of potable water supply, inadequate sewage systems, and a shortage of decent, safe, and sanitary housing." In addition, HUD requires communities to have been in existence prior to 1990.

¹³ See *Vill. of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252 (1977) (holding that zoning ordinance that effectively excluded racial minorities did not violate Equal Protection Clause because plaintiffs failed to show discriminatory intent on behalf of Village).

¹⁴ See Title VI of the 1964 Civil Rights Act, 42 U.S.C §§ 2000d-2000d-7 (2007).

¹⁵ See Title VIII of the 1968 Civil Rights Act (Fair Housing Act), 42 U.S.C. §3601- §3639 (2007).

¹⁶ See CAL. GOV. CODE § 12900 et seq. (West 2007).

¹⁷ See CAL. GOV. CODE § 65008 (West 2007).

¹⁸ CAL. GOV. CODE § 8315; but see *C & C Constr., Inc. v. Sacramento Mun.*, 2004 Cal. LEXIS 12012 (Cal. 2004) (holding statute unconstitutional).

¹⁹ Miloon Kothari, Special Rapporteur on Adequate Housing, UN Commission on Human Rights, Solidarity Statement (2004), available at <http://www.hlrn.org/violation/Chicago%20rapporteur.pdf>.

²⁰ The Secretary-General, *Message on World Water Day*, delivered to the World Health Organization (Mar. 22, 2001), available at www.worldwaterday.org/wwday/2001/news/msgun.html.

²¹ For example, it is estimated that the monthly cost of water and sewage in Home Garden will rise by about \$46/household after the new arsenic filtration system becomes operational (based on conversation with Judy Horn, community organizer).

²² South Africa, Colombia, Ecuador, Ethiopia, Kenya, Philippines, Uruguay, and Zambia are some of the countries that have included the right to water in their constitution. Other countries that do not recognize the right explicitly have nevertheless upheld its validity through their courts. For example, the Indian Constitution does not afford a right to water, but in *Subhash Kumar v. State of Bihar*, the Indian Supreme Court held that the right to life was a fundamental right under Article 21 of the constitution, and it included the right to enjoyment of pollution-free water and air.

²³ Arsenic can cause skin damage, circulatory system problems and/or may increase risk of cancer. It is also very expensive to filter arsenic from water. In Tulare County, 41 percent of wells tested in 2002-06 had nitrate levels at or above the drinking water standard.

²⁴ Infants below the age of six months may become extremely sick or die if they consume water with excess nitrates and do not receive proper medical care.

²⁵ At the state level, the principal law governing water quality in California is the Porter-Cologne Water Quality Control Act of 1969, which requires the filing and evaluation of a report before the discharge of waste that might affect state waters. The Act applies to both surface and ground water. However, the Act has not been adequately enforced. The Community Water Center in Tulare County noted increasing groundwater contamination, lack of protection of domestic uses, and the absence of a program for implementation of water quality objectives for the Tulare Lake Basin.

²⁶ The U.S. government has resisted accepting water as a human right, reflecting its traditional antipathy to socio-economic rights. In June 2007, the U.S. government asserted that, “The United States does not share the view that a ‘right to water’... exists under international human rights law.” Views of the United States of America on Human Rights and Access to Water, Submitted to Office of United Nations High Commissioner for Human Rights June 2007, <http://www.ohchr.org/english/issues/water/contributions/UnitedStatesofAmerica.pdf>. Despite U.S. resistance, the UN, after considering over 90 consultations from countries and organizations around the world, concluded that the access to safe drinking water and sanitation is a human right, necessary to sustain life and health.

²⁷ According to World Health Organization guidelines, collection time for 20 liters of water should not exceed 30 minutes. Longer collection times result in lower water consumption.

²⁸ For example, in the South African case of *Residents of Bon Vista Mansions v. S. Metro. Local Council*, 2002 (6) BCLR 625 (W) (S. Afr.) residents of Bon Vista Mansions claimed the Local Council had unlawfully discontinued their municipal water supply for lack of payment. The court held that the citizens’ constitutional right to water was violated because the Council’s procedures for disconnection were not fair and equitable. Specifically, the court was concerned with the lack of reasonable termination notice. However, the court went further to say that, even in the event of nonpayment, service could not be terminated if the person proved that she was unable to pay.

²⁹ Marcela Olivera & Jorge Viaña, *Making Human Rights Work in a Globalizing World*, HUM. RTS. DIALOGUE, June 19, 2003, available at http://www.cceia.org/resources/publications/dialogue/2_09/articles/938.html.

³⁰ United Farm Workers, Education of the Heart: Quotes by Cesar Chavez, http://www.ufw.org/_page.php?menu=research&inc=history/09.html.

³¹ Nevertheless, U.S. courts have held that the ICCPR is not self-executing and expressly refused to strike down electoral practices based upon it.

³² The American Convention provides a list of factors which can be considered in applying the “objective and reasonable” standard, including: “age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.” Although nothing closely matches annexation, instances of unreasonable government actions include blanket disenfranchisement of prisoners, stripping pre-trial prisoners of voting rights, and nations that deny proportional representation to certain populations despite laws on the books requiring otherwise. One examples of a reasonable restrictions is barring the candidacy of individuals with conflicts of interest.

³³ The Supreme Court has held that special districts can be legally valid, so long as they have a special limited purpose and target a specific segment of the community. Generally, districts that provide public services such as schools, housing, transportation, utilities, or roads are not valid. However, subsequent rulings by federal and California courts have upheld special districts serving large segments of the community where the primary purpose of the districts was commercial.

³⁴ One in four nations allows legal permanent residents to vote. Countries with high immigrant populations are particularly likely to afford permanent residents the right to vote.

³⁵ One caveat: some international bodies allow deviation from electoral norms in the case of “sparsely populated administrative entit[ies].” However, it this criterion is not clearly defined and may be inapplicable to unincorporated islands within municipal boundaries or located near municipal lines.

BIBLIOGRAPHY

Sources of U.S. Law

Cases

Alexander v. Sandoval, 532 U.S. 275 (2001).
Atkins v. Virginia, 536 U.S. 304 (2002).
Ball v. James, 451 U.S. 355 (1981).
Botsford v. City of Norman, 354 F.2d 491 (10th Cir. 1969).
C & C Constr., Inc. v. Sacramento Mun., 2004 Cal. LEXIS 12012 (Cal. 2004).
City of Cuyahoga Falls v. Buckeye Comm. Hope Found., 538 U.S. 188 (2003).
Comm. Concerning Cmty. Improvement v. City of Modesto, 2007 U.S. Dist. LEXIS 61195 (E.D. Cal. 2007) (Civ-F—04-6121).
Forsyth Citizens Opposing Annexation v. City of Winston-Salem, 312 S.E.2d 517, cert. denied, 469 U.S. 802 (1984).
Gomillion v. Lightfoot, 364 U.S. 339 (1964).
Holt Civic Club v. City of Tuscaloosa, 439 U.S. 60 (1978).
Igartua-De La Rosa v. United States, 417 F.3d 145 (2005).
Larkins v. City of Denison, 683 S.W.2d 754 (Tex. Ct. App. 1984).
Lawrence v. Texas, 539 U.S. 558 (2003).
Memphis Light, Gas & Water Div. V. Craft, 436 U.S. 1 (1978).
Not About Water Comm. V. Solano County Bd. of Supervisors, 95 Cal. App. 4th 982 (1st Dist. 2002).
Perkins v. Matthews, 400 U.S. 379 (1971).
Richmond v. United States, 422 U.S. 358 (1975).
Roper v. Simmons, 543 U.S. 551 (2005).

S. California Rapid Transit District v. Bolen, 1 Cal. 4th 654 (1992).
Salyer Land Co. v. Tulare Lake Basin Water Storage, 410 U.S. 719 (1973).
Sherman v. Maui, 191 Fed. Appx. 535 (9th Cir. 2006).
United States v. Pleasant Grove, 479 U.S. 462 (1987).
Vill. of Arlington Heights v. Metro. Housing Dev. Corp., 429 U.S. 252 (1977).
Washington v. Davis, 426 U.S. 229 (1976).
Wesberry v. Sanders, 376 US 1 (1964).
Wilkerson v. City of Coralville, 478 F.2d 709 (8th Cir. 1973).

Constitutions & Statutes

California Constitution, art 10, sec. 2.
Cal. Civ. Proc. Code § 529.2 (West 2007).
Cal. Gov't Code §§ 8315, 12900 et seq., 65008, 65580-65589.9, 65751-65761, 65915-16, 65920 et seq. (West 2007).
Cal. Pub. Res. Code §§ 21080.14, 21080.10 (West 2007).
Safe Drinking Water Act Amendments of 1996, Public Law 104-182, U.S. Statutes at Large 110 (1996): 1680, codified at *U.S. Code* 42 (2000), § 300j-18(a)(1).
Safe Drinking Water Act, *U.S. Code* 42 (2006), §§300f-300j.
Title VI of the 1964 Civil Rights Act, *U.S. Code* 42 (2007), §§ 2000d-2000d-7.
Title VIII of the 1968 Civil Rights Act (Fair Housing Act), *U.S. Code* 42 (2007), §3601-§3639.

Voting Rights Act of 1965, U.S. Code 42 (2000), § 1973c.

U.S. Constitution, amend. 14, 19, 23, 24, 26.

U.S. Constitution, art. 6.

Miscellaneous

Cook County Board of Commissioners.
Resolution in Support of Illinois General Assembly H.B. 4100 Concerning a Rental

Housing Support Program.

<http://www.cohre.org/store/attachments/Cook%20County%20Resolution.doc>.

U.S. Department of Housing and Urban Development. *Notice CPD-03-10, Use of HUD Resources to Assist Colonias* (2004).
<http://www.hud.gov/offices/cpd/lawsregs/notices/2003/03-10.pdf>.

Sources of International Law

Treaties and Declarations

African Charter on Human and Peoples' Rights, June 27, 1981, 1520 U.N.T.S. 217; 21 I.L.M. 58 (1982)

American Convention on Human Rights, Nov. 21, 1969, O.A.S.T.S. 36; 1144 U.N.T.S. 143; 9 I.L.M. 99 (1969)

American Declaration on the Rights and Duties of Man, Res. XXX, Final Act of the Ninth International Conference of American States (Pan American Union), Bogota, Colombia, Mar. 30-May 2, 1948

Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13; 19 I.L.M. 33 (1980)

Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989)

International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, S. Exec. Doc. C, 95-2 (1978); 660 U.N.T.S. 195 (1965)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Dec. 18, 1990, 30 I.L.M. 1517 (2003)

International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); 6 I.L.M. 368 (1967)

International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3; S. Exec. Doc. D, 95-2 (1978); 6 I.L.M. 368 (1967)

Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (1948)

General Comments, Resolutions, and Guiding Principles

Committee on Economic, Social and Cultural Rights, General Comment No. 15 (Twenty-ninth session), U.N. Doc. E/C.12/2002/11 (2003)

Council of Europe, Venice Commission, Guidelines on Elections, Doc. No. CDL-AD 23 (Oct. 30, 2002).

[http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)013-e.asp](http://www.venice.coe.int/docs/2002/CDL-AD(2002)013-e.asp)

Guiding Principles of Internal Displacement, Addendum to the Human Rights, Mass Exodus and Displaced Persons Report of Mr. Francis M. Deng, Representative of the Secretary-General, to the UN Human Rights Commission, UN Doc.

E/CN.4/2000/53/Add.2, Annex

Human Rights Commission, General Comment No. 25 (Fiftyseventh session), U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996)

Human Rights Commission, General Comment No. 4 (Sixth session), U.N. Doc. E/1992/23 (1991)

The Secretary-General, Message on World Water Day, delivered to the World Health Organization (Mar. 22, 2001).
www.worldwaterday.org/wwday/2001/news/msgun.html

U.N. Conference on Environment and Development, June 3-14, 1992, Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/5/Rev. (1992)

U.N. Conference on Human Settlements (Habitat II), June 13-14, 1996, The Habitat Agenda: Goals and Principles, Commitments and Global Plan of Action, U.N. Doc. A/CONF.165/L.6/Add.5 (1996)

U.N. Water Conference, Mar. 14-25, 1977, Report of the United Nations Water Conference, U.N. Doc. E/CN. 70/29 (1977)

International Case Law

Debreczeny v. The Netherlands, Communication No. 500/1992, U.N. Doc. CCPR/C/53/D/500/1992 (1995)

Diergaardt et al. v. Namibia, Communication No. 760/1997, U.N. Doc. CCPR/C/69/D/760/1997 (2000)

Gillot v. France, Communication No. 932/2000, U.N. Doc. A/57/40 (2002)

Gorji-Dinka v. Cameroon, Communication No. 1134/2002, U.N. Doc. CCPR/C/83/D/1134/2002 (2005)

Hirst v. United Kingdom (No. 2), Eur. Ct. H.R., (March 30, 2004)

Marshall v. Canada, Communication No. 205/1986, U.N. Doc. CCPR/C/43/D/205/1986 (1991)

Mátyus v. Slovakia, Communication No. 923/2000, U.N. Doc. A/57/40 (Vol. II) at 257 (2002)

Pietraroia v. Uruguay, Communication No. 44/1979, U.N. Doc. CCPR/C/OP/1 (1984)

Statehood Solidarity Comm. v. United States, Case 11.204, Report No. 98/03, Inter-Am. C.H.R., OEA/Ser./L/V/II.114 Doc. 70 rev. 1 at 725 (2003)

Yatama v. Nicaragua, 2005 Inter-Am. Ct. H.R. (ser. C) No. 127 (June 23, 2005).

Foreign Case Law

Residents of Bon Vista Mansions v. S. Metro. Local Council, 2002 (6) BCLR 625 (W) (S. Afr.)

S. Africa v. Grootboom, 2000 (11) BCLR 1169 (CC) (S. Afr.)

Subhash Kumar v. State of Bihar, 1991 A.I.R. 420, 424 (India Sup. Ct. 1991)

Secondary Sources

Books, Chapters and Reports

American Civil Liberties Union, "Brief and Initial Analysis of the United States of the United States Report to the Committee on the Elimination of Racial Discrimination." Brief, American Civil Liberties Union, 2007.

http://www.aclu.org/pdfs/humanrights/cerd_analysis.pdf

American Law Institute. Restatement (Third) of Foreign Relations Law of the United States. St Paul: American Law Institute Publishers, 2004.

Beltran, Elizabeth P. "Water, Privatization and Conflict: Women from the Cochabamba Valley." Global Issues Paper Number 4, Heinrich Böll Foundation, 2004.

http://www.boell.de/downloads/global/GIP%204%20Wasser_engl.pdf

Burgenthal, Thomas, Dinah Shelton, and David P. Stewart, *International Human Rights in a Nutshell*. St. Paul: West Group, 2002.

Burkhart, James A. *Strategies For Political Participation*. Cambridge: Winthrop, 1972.

California Budget Project. "Locked out 2004: California's Affordable Housing Crisis." Report, California Budget Project, 2004.

<http://www.cbp.org/pdfs/2004/lockedout2004.pdf>.

Coalition to Protect Public Housing, "Written Submission of the Coalition to Protect Public Housing in Chicago, Illinois USA to the Human Rights Committee at its 85th Session." Report, Coalition to Protect Public Housing, 2006.

<http://www.ohchr.org/english/bodies/hrc/docs/ngos/coalition.doc>.

Cox, Larry and Dorothy Thomas, eds., *Close to Home: Case Studies of Human Rights Work in the United States*. New York: Ford Foundation, 2004

Edwards, George E. and Dorothea Beane. "International Human Rights Law & Hurricane Katrina: ICCPR Violations by the United States Government." Report, National Bar Association-International Law Section, 2006.

<http://www.ohchr.org/english/bodies/hrc/docs/ngos/nba.pdf>.

Fletcher, Laurel E., Phuong Pham, Eric Stover, and Patrick Vinck, "Rebuilding After Katrina: A Population-Based Study of Labor and Human Rights in New Orleans." Report, International Human Rights Law Clinic, Boalt Hall School of Law, University of California, Berkeley; Human Rights Center, University of California, Berkeley; Payson Center for International Development and Technology Center, Tulane University, 2006.

http://www.hrcberkeley.org/pdfs/report_Katrina.pdf.

Gonzalez, Alicia, Marlene Bengiamin, and John Capitman, "Home Garden Community Assessment." Report, Central Valley Health Policy Inst., CSU Fresno, March 2007.

http://www.csufresno.edu/ccchhs/documents/CVHPI_HG.pdf.

Grace, Jeremy. "The Electoral Rights of Conflict Forced Migrants: A Review of Relevant Legal Norms and Instruments." Discussion Paper Number 1, Participatory Elections Project, 2003.

Kothari, Miloon. "Solidarity Statement." Report, Special Rapporteur on Adequate Housing UN Commission on Human Rights, 2004.

<http://www.hlrn.org/violation/Chicago%20rapporteur.pdf>.

Mandela, Nelson, "Foreword," in *National Perspectives on Housing Rights*. Edited by Scott Leckie. New York: Martinus Nijhoff, 2003.

Millennial Housing Commission. "Meeting our Nation's Housing Challenges." Report, Millennial Housing Commission, 2002. <http://govinfo.library.unt.edu/mhc/MHCReport.pdf>.

Nowak, Manfred, U.N. Covenant on Civil and Political Rights: CCPR Commentary. Arlington: N.P. Engel, 1993.

United Nations Human Settlements Program, Office of the High Commissioner of Human Rights. "Part IV: National Legislation on Housing Rights," in *Housing Rights Legislation: Review of International and National Legal Standards*. Nairobi: United Nations Human Settlements Program, Office of the High Commissioner of Human Rights, 2002.

United States. "Views of the United States of American on Human Rights and Access to Water: Submitted to the Office of the United Nations High Commissioner for Human Rights." Report, U.S. Government, 2007. <http://www.ohchr.org/english/issues/water/contributions/UnitedStatesofAmerica.pdf>

Weiwei, Li. "Equality and Non-Discrimination Under International Human Rights Law." Research Notes, Norwegian Centre for Human Rights: University of Oslo, 2004. <http://www.humanrights.uio.no/forskning/publ/rn/2004/0304.pdf>.

Periodicals

Avritzer, Leonardo. "New Public Spheres in Brazil: Local Democracy and Deliberative

Politics," *International Journal of Urban and Regional Research* 30 (2006): 623-637.

Bram, Adam N. "Public Participation Provisions Need Not Contribute to Environmental Injustice." *Temple Political and Civil Rights Law Review* 5 (1996): 145-167.

Campbell, Melanie L. "Right of Return Means Access to the Ballot, Access to Neighborhoods, and Access to Economic Opportunity." *Harvard Journal African American Public Policy* 12 (2006): 29-38.

Cho, Hanah. "Stadium Crews Get Raise." *The Baltimore Sun*, September 7, 2007. <http://www.baltimoresun.com/business/bal-bz.cleaners07sep07,0,6339831.story>

Foscarinis, Maria. "Realizing Domestic Social Justice through International Human Rights (Pt. 2), Advocating for the Human Right to Housing: Notes from the United States." *New York University Review of Law and Social Change* 30 (2006): 447-481.

Goulet, Denis. "Participation in Development: New Avenues." *World Development* 17 (1989): 165-178.

Inniss, Lolita Buckner. "A Domestic Right of Return?: Race, Rights, and Residency in New Orleans in the Aftermath of Hurricane Katrina." *Boston College Third World Law Journal* 27 (2007): 325-373.

Jimenez, Sarah. "Tulare Co. OKs New Land Zone: Supervisors Tackle Large-Scale Development with Amendment to the County's General Plan." *Fresno Bee*, September 26, 2007. <http://www.fresnobee.com/local/sv/v-printerfriendly/story/148494.html>.

Leavitt, Noah. "International Human Rights Violations Here in the U.S.: A U.N. Visit to Chicago's Cabrini-Green Housing Project." *FindLaw*, May 6, 2004. <http://writ.news.findlaw.com/leavitt/20040506.html>.

------. "The U.S. Government's Flawed Response to Hurricane Katrina: Why It Should Be Viewed as a Human Rights Failure, and What the Consequences of That Could Be." *FindLaw*, Mar. 3, 2007.

<http://writ.news.findlaw.com/leavitt/20060307.html>.

Lozner, Stacy Laira. "Diffusion of Local Regulatory Innovations: The San Francisco CEDAW Ordinance and the New York City Human Rights Initiative." *Columbia Law Review* 104 (2004): 768-800.

Mukhija, Vinit and Paavo Monkkonen. "Federal Colonias Policy in California: Too Broad and Too Narrow." *Housing Policy Debate* 17 (2006): 755-780.

Olivera, Marcela and Jorge Viaña. "Making Human Rights Work in a Globalizing World." *Human Rights Dialogue*, June 19, 2003.

http://www.cceia.org/resources/publications/dialogue/2_09/articles/938.html.

Rosenberg, Ronald H. "The Changing Culture of American Land Use Regulation: Paying For Growth with Impact Fees." *SMU Law Review* 59 (2006): 177-263.

Sokolow, Allan D. "Caring for Unincorporated Communities." *California County*, March/April 2000.

<http://www.sanlorenzoexpress.com/unincorp.htm>.

Steiner, Henry J. "Political Participation as a Human Right." *Harvard Human Rights Year Book* 1 (1988): 77-134.

Symposium, "Environmental Justice: Access to Clean Drinking Water." *Hastings Law Journal* 57 (2006): 1367-1386.

Tilove, Jonathan. "Can the Battle Cry of Katrina's Diaspora Be Made the Law of the Land?" *Newhouse News Service*, January 3, 2006.

<http://www.feralscholar.org/blog/index.php/2006/01/03/katrina-right-of-return/>

Warren, Mark E. "What Can Democratic Participation Mean Today?" *Political Theory* 30 (October 2002): 677-701.

Wilkinson, Paul. "Public Participation in Environmental Management: A Case Study." *Natural Resources Journal* 16 (1976): 117-135.

Zirin, Dave. "Cleaning Up After the Orioles." *The Nation*, September 4, 2007.

<http://www.thenation.com/doc/20070910/zirin>.

Unpublished Sources

California Rural Legal Assistance. "Central Valley Unincorporated Communities: Communities in Crisis." Memorandum, 2006. Unpublished manuscript on file with authors.

Earnest, David C. "Noncitizen Voting Rights: A Survey of an Emerging Democratic Norm." Paper, Annual Convention of the American Political Science Association, Philadelphia, August. 28-31, 2003.

Community Water Center to Anthony Toto, Regional Water Quality Control Board, Central Valley Region. Aug. 31, 2007. Letter on file with authors.

Anderson, Michelle Wilde. "Cities Inside Out: Race, Poverty and Exclusion at the Urban Fringe." Forthcoming article, 2007. Manuscript on file with authors.

Electronic and Non-traditional Sources

California Environmental Protection Agency. "State Water Resources Water Quality Control Board." <http://www.waterboards.ca.gov/gama/voluntary.html#tulare>.

Roosevelt, Eleanor. "In Your Hands." U.N. Address, Tenth Anniversary of the Universal

Declaration of Human Rights, New York,
March 27, 1958.

Environmental Protection Agency.

“Drinking Water Contaminates.”

[http://www.epa.gov/safewater/contaminants/
index.html#mcls](http://www.epa.gov/safewater/contaminants/index.html#mcls).

Office of the United Nations High
Commissioner for Human Rights. “OHCHR
Study on Human Rights Obligations Related

to Equitable Access to Safe Drinking Water
and Sanitation.”

[http://www.ohchr.org/english/issues/water/
index.htm](http://www.ohchr.org/english/issues/water/index.htm).

United Farm Workers. “Education of the
Heart- Quotes By Cesar Chavez.”

[http://www.ufw.org/_page.php?menu=research
&inc=history/09.html](http://www.ufw.org/_page.php?menu=research&inc=history/09.html).