

Cruel, inhuman and degrading: US called out by UN

UN lobs harsh language against United States and its practice of criminalizing the homeless

BY JEREMY ROSEN
CONTRIBUTING WRITER



Jeremy Rosen is Policy Director at the National Law Center on Homelessness & Poverty. The NLCHP is a leader in the movement to prevent and end homelessness. To achieve its goal, the Law Center uses three main strategies: policy advocacy, public education and impact litigation.

My organization, the National Law Center on Homelessness and Poverty, works to end homelessness in the United States. As the Law Center's policy director, most people would expect me to be pounding the pavement here in Washington, D.C. – lobbying the administration and Congress for the funding and policy changes we need to ensure that every person in this country has safe, decent, affordable housing. However, people probably wouldn't expect me to spend a week in Geneva, Switzerland, lobbying at the United Nations. But I did – and let me tell you why.

The purpose of the trip was to highlight criminalization of homelessness at the United Nations Human Rights Committee's review of U.N.ited States compliance with the International Covenant on Civil and Political Rights (ICCPR). Thanks to the Law Center's advance advocacy, criminalization was made part of the Committee's "list of issues" to be discussed at the review, forcing the U.S. government to respond in its own report. The Law Center then issued a shadow report laying out the case for criminalization being a treaty violation.

In Geneva, I pressed the Human Rights Committee to find that criminalization of homelessness in the U.S. violates Article VII of the Covenant, which prohibits cruel, inhuman, and degrading treatment. Committee Member Walter Kaelin asked the U.S. delegation a question about criminalization as cruel, inhuman and degrading treatment – straight from our report. And while the delegation responded with tepid platitudes, the Committee was taking our advocacy very seriously – the chair, Sir Nigel Rodney, indicated that criminalization would be one of the top issues for the Committee to address in its Concluding Observations – the Committee's findings and recommendations to the U.S. government.

Sure enough, on March 27, the Committee's report came out and it was a doozy. The Concluding Observations recognized criminalization as cruel, inhuman and degrading, and noted concern

that the practice is still routine. It also called on the U.S. to "engage with state and local authorities to: (a) abolish criminalization of homelessness laws and policies at state and local levels; (b) ensure close cooperation between all relevant stakeholders including social, health, law enforcement and justice professionals at all levels to intensify efforts to find solutions for the homeless in accordance with human rights standards; and (c) offer incentives for decriminalization and implementation of such solutions, including providing continued financial support to local authorities implementing alternatives to criminalization, and withdrawing funding for local authorities criminalizing the homeless."

Now you might say so what, the U.N. is always telling the U.S. government that it's doing things wrong, but does our policy ever change? Well, I'll tell you just why this matters. First, the language is strong. In international law, "cruel, inhuman and degrading" is language typically used to describe torture. By using that language to describe homelessness, the U.N. has made a bold statement about just how poorly homeless people are treated in this country. Don't buy it? Think of Jerome Murdough, a homeless veteran who recently baked to death in a Rikers Island cell after having been arrested for trespassing in a public housing building so he could find a warm place to sleep. If that wasn't cruel, inhuman, and degrading, what is? Maybe the case of James Boyd, an Albuquerque man recently confronted by police for illegal outdoor camping. Despite being unarmed, he was shot to death.

This language will also help us seek policy change. While criminalization measures are implemented at the local level, HUD has significant influence on cities across the country – thanks to all the money it doles out. We're currently working with HUD to find ways to ensure that communities making the morally right and cost effective choice to provide housing are rewarded, while communities adopting criminalization ordinances risk the loss of certain federal funds. We're also working with the Department of Justice, which can

investigate systematic criminalization as discrimination based on race or disability. Justice can also file amicus briefs in court; briefs that argue that criminalization is unconstitutional under the 8th Amendment, as cruel and unusual punishment. Sounds a lot like the "cruel, inhuman and degrading" language used by the U.N., doesn't it? That U.N. language will backstop legal arguments opposing criminalization. We've also learned that some of the money Justice gives local police forces goes to hire officers who then criminalize homelessness; our advocacy will make sure this never happens again.

And finally, the U.N. report will also benefit advocacy by local groups fighting criminalization policies and practices. Rhetoric and framing are powerful tools. Groups like the Western Regional Advocacy Project and LA-CAN have joined the Law Center in using the human right to housing framing in support of their work, which includes efforts to pass homeless bills of rights. Criminalization efforts are antithetical to the realization of the right to housing. Would a mayor or City Council member seeking to ban camping or food sharing want to be called on the carpet for passing legislation that would allow the police to essentially torture homeless residents of the city? I don't think so.

Human rights advocacy won't end homelessness today, tomorrow or next week. But it provides a strong framework for the movement to end homelessness in this country. Don't forget one lesson learned from the civil rights movement, when international pressure is strong, the U.S. government will often feel compelled to make concessions.

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More information about the National Law Center on Homelessness and Poverty, and a link to the UN Human Rights Commission report, is available at www.nlchp.org

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