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How a *Human Rights* Framework Can Help Turn the Tide in *Public Housing Litigation*



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For public housing residents threatened with displacement, international human rights arguments can leverage additional support in both the courtroom and the community. The struggle of the Cabrini-Green Local Advisory Council, a public housing residents' organization, and their attorneys at the Legal Assistance Foundation of Metropolitan Chicago in litigation against the Chicago Housing Authority (CHA) is an example of the value of incorporating human rights in legal aid advocacy.

The Cabrini-Green Housing Development and CHA's Plan for Transformation

In 2000 the CHA released a ten-year, \$1.6 billion "plan for transformation" to revitalize Chicago's public housing.¹ At the time the CHA owned about 38,000 units of public housing.² The massive proposal involved demolishing more than 18,000 units and rehabilitating or newly constructing about 25,000 units.³ The CHA intended to convert the majority of Chicago's high-rise public housing developments into mixed-income communities; this meant that only a portion of the redeveloped units would be inhabited by public housing residents.⁴ The result would have been a net loss of about 13,000 public housing units.⁵

Cabrini-Green, a seventy-acre development near wealthy, desirable neighborhoods such as the Gold Coast and Lincoln Park, was the plan's centerpiece.⁶ From the developers' perspective the location was ideal for mixed-income communities that would be composed of no more than 30 percent public housing, with the balance set aside for market-rate housing and "affordable" rental housing targeted to the working poor.⁷ Despite Cabrini-Green's hard-to-shake reputation for violence and drug use, townhomes in North Town Village, a \$70 million CHA mixed-income development near Cabrini-Green, sold out even before they were built.⁸

Although the CHA had planned for Cabrini-Green's destruction, many residents did not want to move. Louise Gates, for example, had lived in the same CHA building for over twenty years and could walk her children to and from school each day. Veronica Campbell had lived in the same CHA building for nineteen years; her 18-year-old daughter was well adjusted, and her grandson attended the local day care center.

¹WHERE ARE POOR PEOPLE TO LIVE? 3 (Larry Bennett et al. eds., 2006).

²*Id.* at 93.

³*Id.* at 102.

⁴Complaint for Declaratory and Injunctive Relief ¶ 1, *Cabrini-Green Local Advisory Council v. Chicago Housing Authority*, No. 04 C 3792, 2008 WL 4679364 (N.D. Ill. May 30, 2008).

⁵WHERE ARE POOR PEOPLE TO LIVE?, *supra* note 1, at 102. The loss of 13,000 units meant a loss of about 2 percent of total rental housing in Chicago—over one-third of the public housing stock (*id.* at 93).

⁶David Kohn, *Tearing Down Cabrini-Green*, 60 MINUTES, Feb. 11, 2009, <http://bit.ly/oietOO>.

⁷The affordable rental units are below-market flat rent units, typically funded by federal low-income housing tax credits, targeted to families making no less than 60 percent of the area median income.

⁸Kohn, *supra* note 6.

Yvonne Clay, who had lived in the same CHA building for twenty-one years, had loved ones in the community, and she felt safe in her apartment building.⁹

As part of the plan, CHA's authoritywide residents' organization, the Central Advisory Council, and the CHA signed a relocation rights contract that required the CHA, before relocating public housing families, to make a good-faith effort to negotiate with residents a written memorandum of agreement "with respect to the redevelopment process." The contract also provided that the Local Advisory Council would be part of a working group that would participate in the design of detailed plans for replacement housing and social services. By 2004, however, the Local Advisory Council realized that the CHA was not going to live up to its end of the bargain. Nine buildings in two sections of Cabrini-Green had been slated for demolition before the CHA had attempted any good-faith negotiations with the council or submitted any plans for working-group approval. Instead the CHA served 300 families with notices to vacate the buildings in 180 days, with no plans for redevelopment in sight.¹⁰

The Local Advisory Council, working with attorney Richard Wheelock of the Legal Assistance Foundation, began to plan for litigation. Residents wanted phased relocation. They felt that the CHA should build first on already vacant land, relocate families into the new units, and only then demolish the vacated buildings and begin the next phase of construction. Residents knew, as did the CHA from past experience, that those who moved before replacement housing was built would be relocated to the poorest, most racially segregated parts of the city.¹¹ Worse still, they would be far from friends and relatives, their children's schools, and the support networks that kept them connected.

Grounding the Fight to Protect Cabrini-Green Families in the Human Right to Housing

As preparation for the lawsuit was under way, the Chicago Coalition for the Homeless identified the implications that CHA's plans had for homelessness in the city. Laurene Heybach, director of the Chicago Coalition for the Homeless' Law Project, had attended the first national forum on the human right to housing, organized by the Ford Foundation and the National Law Center on Homelessness and Poverty. There Heybach realized that destroying public housing without providing adequate replacement housing units presented clear violations of the human right to housing. When Heybach returned to Chicago, she learned that public housing residents had already begun organizing around the internationally recognized right to housing.¹² However, the plan's violation of human rights had not yet been articulated as a powerful legal cause of action.

The Chicago Coalition for the Homeless allied with Cabrini-Green activists to conduct training sessions on the human right to housing. Wheelock attended and was quickly persuaded that the Local Advisory Council's complaint against the CHA should raise the human right to housing. The Legal Assistance Foundation and the Chicago Coalition for the Homeless entered into a partnership to protect Cabrini-Green residents against forced eviction and to frame the struggle as a fight for international human rights. This approach also helped enlist other community organizations in the struggle, among them the Coalition to Protect Public Housing and the Jewish Council on Urban Affairs.

On June 3, 2004, the Local Advisory Council filed suit in federal court; the council charged the CHA with fair housing violations for forcibly relocating

⁹Complaint for Declaratory and Injunctive Relief, *supra* note 4, ¶¶ 16–18.

¹⁰*Id.* ¶¶ 3, 4.

¹¹*Id.* Relocation entailed usage of the Chicago Housing Authority's Housing Choice Voucher Program, with financial limitations that would necessarily move residents into segregated communities on the west or south side of Chicago.

¹²Telephone Interview with Laurene Heybach, Director of the Law Project, Chicago Coalition for the Homeless (June 15, 2011). Visit the website of the National Law Center on Homelessness and Poverty for more information and resources on the right to housing, including a manual for housing rights advocates in the United States (<http://bit.ly/78Yjxr>).

families to poor, segregated areas of the city where they would be removed from support networks of family and friends. The complaint also charged the CHA with violating the residents' relocation rights protected by both federal law and the relocation rights contract.¹³ The complaint cited international human rights law violations, though not included as separate counts, to provide a lens through which the court might judge the domestic law violations.¹⁴ The plaintiffs argued that "[i]nternational law underscores the gravity of violations of CHA residents' domestic rights under federal and contract law and sets forth substantive limitations on forced relocation, particularly of persons in protected groups, and is essential to the proper interpretation and application of these domestic rights."¹⁵

Raising international human rights law allowed the Cabrini-Green residents to present their struggle for human rights not only before the court but also before the broader Chicago community and on a national level. On the day the Local Advisory Council filed its complaint the council and its community allies held at Cabrini-Green a press conference that attracted both local and national media. The next day the *New York Times* reported that "[r]esidents of a dilapidated housing project who have been told to leave it in 180 days under a redevelopment plan say relocation *violates their human rights*, a contention that the city housing authority denies."¹⁶ Shifting the debate to human rights was an effective strategy that communicated the residents' message more effectively to the wider community, putting greater pressure on the housing authority to address the council's concerns.

On July 1, 2004, when Judge William Hibbler issued a temporary restraining order staying the evictions, the Local Advisory Council won its first victory in what would be a six-year struggle.¹⁷ Over the six years the case was before the court, Judge Hibbler served as a mediator to assist the parties in negotiating, building by building, relocation plans that offered families other apartments in the same neighborhood, including brand-new units built as part of the plan for transformation. Two memoranda of agreement were negotiated to guide this phased relocation. The case was voluntarily dismissed in 2009 after the second memorandum was executed, with the right to bring the matter back to court if the agreement was violated.¹⁸

We at the Legal Assistance Foundation learned important lessons from the Cabrini-Green experience. Framing public housing residents' struggle as a battle for international human rights helped recruit community allies. The approach expanded the Local Advisory Council's audience to include the broader community, creating more support; generated increased media interest; empowered the council to articulate its position in easily understood human rights terms rather than the "legalese" of courtroom battles that too often shift the focus from the client to the attorney; and increased dramatically the pressure on the housing authority, which as a state actor was particularly sensitive to charges of human rights violations. Most of all, the human rights perspective helped the court interpret the applicable domestic law more broadly. We hope other legal aid advocates will take advantage of these lessons as well.

¹³Complaint for Declaratory and Injunctive Relief, *supra* note 4, ¶¶ 6–9.

¹⁴See *id.* ¶¶ 47–49 (citing international treaties recognizing the human right to housing: the Universal Declaration of Human Rights, to which the United States is a party and was principal drafter; the International Covenant on Economic, Social, and Cultural Rights, to which the United States is a signatory; and the Convention on the Elimination of All Forms of Racial Discrimination, to which the United States is bound). For more information on international sources of the human right to housing and their domestic implications, see generally Maria Foscarinis et al., *The Human Right to Housing: Making the Case in U.S. Advocacy*, 38 CLEARINGHOUSE REVIEW 97 (July–Aug. 2004).

¹⁵See Complaint for Declaratory and Injunctive Relief, *supra* note 4, ¶ 50.

¹⁶Jo Napolitano, *Residents of Housing Project Fighting Relocation*, *NEW YORK TIMES*, June 4, 2004, at A16 (emphasis added).

¹⁷See Excerpt of Transcript of Proceedings—TRO Hearing Before the Honorable William J. Hibbler, *Cabrini-Green Local Council v. Chicago Housing Authority*, No. 04 C 3792 (N.D. Ill. June 30, 2004).

¹⁸See Joint Stipulation to Dismiss Without Prejudice, *Cabrini-Green Local Council v. Chicago Housing Authority*, No. 04CV03792, 2009 WL 3024529 (N.D. Ill. Aug. 5, 2009).



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