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## RESEARCH ARTICLE

### **The human right to housing and community empowerment: home occupation, eviction defence and community land trusts**

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Critics of human rights are hesitant to reject them outright for fear of undermining the work they may do in resisting oppression. This pragmatic justification is central to celebrations of human rights as well, but is it more than a failure to move beyond liberal hegemony? I argue human rights have radical potential because the act of claiming such rights uses the ambiguous but universal identity of “humanity” to make claims on the established terms of legitimate authority. The potential of human rights to fight for social change is examined by looking to the movement for a human right to housing in the United States. I explore how homeless individuals, public housing tenants and low-income urban residents realise their human right to housing through eviction defences, the occupation of “people-less” homes, and attempts to remake the structure of home ownership through community land trusts.

**Keywords:** human rights; social movements; housing; community empowerment; governance; resistance

#### **Human rights are what we make of them**

Isaac shows me around his home, pointing to holes in the drywall he patched and spaces where light fixtures once hung. In the basement he explains how the water lines were cut and he installed makeshift plumbing. We tour his home-recording studio and look in on the bedrooms where his family sleeps.<sup>1</sup> This would seem the most everyday experience, but Isaac and his family do not own or rent this home. At the moment they have no legal title to it. When asked why he has taken over the house, left empty after the owner lost it to foreclosure, Isaac appeals to the human right to housing.

Isaac is a member of the Chicago Anti-Eviction Campaign (CAEC),<sup>2</sup> a group that is fighting to realise the human right to housing in a city in the grips of a profound crisis. Isaac and his family moved into this home on the south side of Chicago after they left their apartment due to dangerous and unsanitary conditions that the landlord refused to fix. The family found themselves in a common situation for many Chicagoans, especially for people of colour, as they were unable to find affordable housing. Beyond articulating a grievance against a delinquent landlord or against Chicago housing policies, CAEC use the housing crisis in the city as an opportunity to engage in a wider political struggle to realise the human right to housing.

This movement is centred on everyday acts of resistance like Isaac’s. His family is repairing the home and making a place in the local community. When the CAEC helps a family occupy a home they provide a good neighbour agreement that is shared with local residents and carry out the occupation publically.<sup>3</sup> The occupation is not legal, but they argue it is a moral act, placing people in homes based on their rights, rather than on their ability to pay. These small acts are part of a global movement with transformative ends, using an alternative framing of human rights to fight for radical change.

Yet, suspicion of the emancipatory potential of human rights is justified. Dominant human rights practice, rooted in a project of liberal governance, limits the possibility of social

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change.<sup>4</sup> Established criticisms of human rights question their focus on individuals as property owners, their tendency to reinforce the state as the provider of services to disempowered subjects and their market-oriented notion of justice.<sup>5</sup> This justified suspicion, however, raises a question – why would groups like CAEC take up the ideological tools of the existing order?

There are well-established responses to this question. Wendy Brown argues that rights have limited emancipatory potential, but still grant forms of inclusion the socially marginalised lack.<sup>6</sup> Some liberals suggest that the oppressed use rights language to make claims that can be heard by more powerful actors.<sup>7</sup> More optimistically, Seyla Benhabib claims the use of rights by those excluded from the current order realises the universal scope and emancipatory potential of rights.<sup>8</sup> All of these accounts suffer from a common limitation, as they assume that human rights are one thing, a tradition with a single point of origin.

In truth, human rights are what we make of them. When we attend to the way in which rights are actually claimed, we can begin to answer the question of why human rights are used as a tool of resistance. Groups like CAEC are creators of human rights as much as international lawyers or state representatives, and the movement for a human right to housing is framed by a radical account of human rights realised through political actions that reject given meanings and modes of redress. Looking to this movement in the US provides an example of the kinds of social and political alternatives human rights might realise.

### **The ambiguous appeal to humanity**

If human rights are what we make of them, then we should see them as a contested ideal realised through diverse practices. Human rights are a way of making political claims by appealing to what is due each of us in light of our humanity, which is an appeal that goes beyond existing privileges and protections by invoking the universal but ambiguous notion of humanity.<sup>9</sup>

This insight helps to correct our tendency to ignore the contingency of rights and obscure their enigmatic effects. Pronouncing the necessity of rights to human dignity or decrying their universalism as forms of violence requires a firm judgement on their meaning. Advocates claim universal rights ensure human freedom and legitimate governance,<sup>10</sup> while those opposed counter that they impose universalising identities and limit our vision of justice.<sup>11</sup> The back and forth tends to leave the field of thought muddied, as both positions project an unsubstantiated confidence that we know what human rights are and can judge their consequences – but clarity is illusive. Advocates confess that human rights are ethno-centric and presuppose a liberal order.<sup>12</sup> In turn, critics acknowledge the capacity of human rights to protect individuals from some kinds of injury.<sup>13</sup>

In other work, I have argued that we need to rethink human rights at a philosophical level to properly gauge their value in practice.<sup>14</sup> Here I focus on how we can see human rights differently. If we understand human rights as contested and plural, then the conflict between antagonistic views of rights ceases to be a conflict about the nature of rights and becomes a conflict over the kinds of projects we choose to pursue. In this special issue, rights are evaluated on the contrasting roles they play in projects of governance and resistance. We cannot adjudicate this controversy in the abstract; therefore in what follows I explore what human rights might achieve by attending to how they are used as tools of resistance.

Why do those opposed to the given order speak in a language of rights? Upendra Baxi and Balakrishnan Rajagopal address this question by looking to the resistance of third world social movements. Baxi distinguishes between the politics *of* human rights and a politics *for* human rights, emphasising how they are used in projects that extend forms of liberal governance over the third world and as a language of opposition demanding justice for the

oppressed.<sup>15</sup> He contends that we must recognise the open and diverse futures possible for human rights. This ambiguity arises from the plural sources of human rights today, as they are not only those rights declared in the revolutions of the 18<sup>th</sup> century – they now find expression from those suffering around the globe and seeking social change at the local level. Similarly, Rajagopal brings out the historic contribution to human rights and international law made by social movements, which have rearticulated rights to address the injustices faced by those who suffer rather than the interests of those in power.<sup>16</sup> Rajagopal emphasises that contestation and resistance have always defined human rights, and rejects the idea we can speak of a single human rights movement.<sup>17</sup> Further, he warns the constitutionalisation of human rights threatens the plurality of human rights projects by consolidating human rights as an elite discourse.

Neil Stammers criticises Baxi and Rajagopal for not engaging sufficiently with how social movements alter the meaning of human rights. He suggests they have not addressed why human rights persist in serving projects of governance despite the resistance of social movements. Stammers agrees that human rights have always been articulated as a kind of resistance.<sup>18</sup> Yet this link between human rights and social movements is tempered by what he calls the paradox of institutionalisation, in which human rights claims are limited by their rearticulation as tools of governance rather than emancipation.<sup>19</sup> This paradox emerges as existing institutions absorb the initial disruption and assimilate the language of rights in order to rearticulate them in a way that supports existing powers. This brings out the tendency of human rights to be co-opted and usefully places the emphasis on how social movements seeking change must focus on avoiding co-optation through existing institutions.

To expand Stammers' account, moving from a view of human rights as ethical claims rooted in human nature to one in which they are political tools for contesting the basis of legitimate authority requires a consideration of the work these appeals do. Humanity as a concept is inclusive but this is a formal universality in which everyone is only potentially included. The reality of that inclusion is ambiguous and contested. This has two effects. First, excluding some members of humanity requires articulating the reasons for their exclusion. Second, it provides a mode of contestation in which greater inclusion is possible. I am not suggesting that humanity has the power to necessarily ensure inclusion, but rather that it structures the contestation of who is included and excluded in a way that keeps open the possibilities for resistance.

Attending to how humanity works as a concept also provides insight into why the promise of human rights is meagre at times. Critics are right to point to the partiality and violence of the universalising move when it is filled in with an incontestable account of humanity. This move renders human rights a tool to be wielded in projects of governance. To exclude someone from human rights protections denies their humanity, opening them up to further violence. Conceiving of humanity as a singular ideal gives those with the power to define that ideal the privilege of determining who is properly human. Therefore, the appeal to humanity also contains the idea of hierarchy and exclusion.

If, however, we see the move to give substance to the idea of humanity as contested, then these tendencies can be tempered. To claim that some right is due to us because of our humanity is to challenge political authority by seeking to redefine the terms of its legitimacy. In turn this challenges existing social identities and political hierarchies. The function of rights is to be disruptive but the ends to which they can be put are multiple. Human rights *can* be used in projects fighting against marginalisation and seeking transformations of the structures of oppression, and in doing so they offer unique opportunities and limits.

Claiming a human right to housing, for example, can mean many things. It may be a claim to established legal protections that rely on the power of existing authorities, such as seeking protection from the government against discrimination in housing policy or dangerous living

conditions.<sup>20</sup> These claims entail dependence upon the government and a reactive approach to market-driven housing policies. A human right to housing can also be an appeal to a declared but unenforced right to safe and affordable housing, putting one's voice behind an aspiration acknowledged but unrealised<sup>21</sup> Again this is a claim for provision from the government, which may challenge market-driven housing policies but does not challenge the fundamental legitimacy of governing institutions. More radically, claiming a right to housing can be a demand for profound social change giving communities power to alter patterns of ownership and provide housing as a right rather than a commodity.<sup>22</sup> The struggle for the human right to housing in the US provides an example of how the ambiguous "human" identity can be used to reconstruct the terms of legitimate authority through political action.

### **From housing crisis to human rights movement**

In this article I take the numerous groups fighting for human rights to land and housing as a broad movement bound by a common problem and shared rearticulation of human rights. These groups are rooted in local communities and focused on political organising rather than service provision. The leadership comes from within affected communities and the organisations are structured democratically. They are focal points where people connect within and across local communities. The common problem they face is that millions of people do not have a safe and secure place to live, which links the experience of landless peasants, shanty town residents and low-income communities within wealthy countries. The organisations that these people have created and participate in claim that land and housing is a human right as a way to challenge prevailing ideas about ownership, contest existing market-centric housing policies and to demand greater democratic control for communities.

The lack of safe and secure housing is a global catastrophe. Even before the 2007 mortgage crisis and ensuing global recession, many individuals and communities around the globe struggled to make a home for themselves, lacking access to housing and land, or being stuck in dangerous and unsanitary housing. In the global south mass displacement from the countryside to cities unable to house the influx of people has led to the explosive growth of slums over the past 30 years.<sup>23</sup> In the global north, low-income and working class communities are forced out of public housing as private housing costs soared. This has led to a cycle in which these communities are abandoned or become sites of "redevelopment" profiting developers while displacing long-term residents.<sup>24</sup> The result has been an increasing numbers of people living in inadequate housing, rising costs and increasing numbers of people forced into homelessness.

The US, even though it is hardly unique, is an important case; among states in the global north it has experienced the most profound housing crisis. The disinvestment in public housing and removal of support for the poor has been on-going since the late 1970s,<sup>25</sup> which laid the groundwork for the expansion of mortgage lending to low-income borrowers,<sup>26</sup> rising costs of market-rate housing<sup>27</sup> and an increase in the number of people experiencing homelessness.<sup>28</sup> Additionally, mortgage lenders threaten the human right to housing, as discrimination, harassment and fraud has been rampant.<sup>29</sup> The 2007 mortgage crisis has resulted in many homeowners not previously at risk of losing their homes facing eviction.<sup>30</sup> This has meant an influx of people into the rental market, raising rental costs higher and pushing the poorest into sub-standard housing and homelessness.

Yet, claiming a right to housing is still controversial. The human right to housing is only minimally institutionalised, and where such a right is accepted it is generally taken to require protection from abuse within the market rather than public support or social change, making it difficult to enforce in any comprehensive manner. This is consequence of a limited rights politics that is complicit with existing powers and structures. Further, in the US human rights

are generally seen to be applicable to international rather than domestic politics.<sup>31</sup> In many ways the US attitude towards human rights epitomises the use of rights as a tool of governance – of others by the US. Therefore the use of human rights by activist groups highlights the role they play in resistance, as the appeal to human rights reflects a profound degree of disenfranchisement, as the movement is strongest among low-income communities of colour and communities of homeless people, both of which face exclusion from the domestic regime of rights.<sup>32</sup>

There are few mechanisms in place to enforce social and economic rights. The US, for example, comes under the Inter-American Court of Human Rights, but the court's power is limited to hearing testimony and offering unenforceable recommendations, as they did in 2005.<sup>33</sup> The UN's powers are likewise minimal, as the UN Special Rapporteur on the Right to Adequate Housing, and other bodies, can only report violations.<sup>34</sup> The effect of recommendations, warnings and public pressure are limited, especially because the US has not ratified the International Covenant on Economic, Social and Cultural Rights. Even where such violations are recognised there is a fundamental unwillingness to address the deeper causes. The suggestion that the commodification of housing itself is a human rights violation or that protecting the right to housing requires giving power to affected communities is unspeakable in the liberal rights framework. This would seem to confirm the arguments of critics.

The move to frame the housing crisis as a human rights issue is itself a radical act, as the primary narrative in the US focuses on the failures of individuals. For example, public housing projects are rejected based on the view that they are havens of criminality and cyclical poverty, despised by their own residents.<sup>35</sup> In contrast, Willie JR Fleming of CAEC highlights the importance of public housing, speaking about them as spaces of community where generations of people made their home even amidst undeniable problems.<sup>36</sup> Fleming was a resident of the Cabrini Green public housing project in Chicago and active in the effort to preserve it. Residents protested their community was being destroyed and they were being displaced and impoverished by the closure.<sup>37</sup> The city went ahead with the “redevelopment”, funded partly by federal Hope VI money.<sup>38</sup> While Hope VI requires the replacement of demolished public housing with new units, there is no requirement that the ratio is one to one. Residents were aware of this and the city's claim that redevelopment would include space for the existing community gave them little reason for optimism. Residents knew when their buildings were destroyed their community would be as well. As the redevelopment has gone ahead there has been a massive reduction in low-income housing with the majority of residents permanently displaced.

Beyond having their homes destroyed, residents were displaced from Chicago's Near North Side (an increasingly valuable area) to neighbourhoods outside the city centre. When public housing residents are displaced there is little chance of moving into new public housing units as cities across the US have intentionally reduced public housing stocks. In Chicago the waiting list was closed for 10 years because it had grown too long.<sup>39</sup> To compensate, displaced residents are given Section 8 vouchers to use in the private rental market. These vouchers, however, only cover rent and residents are impoverished by their move because they have to pay utilities in addition to what their vouchers cover, and incur increased transportation costs and reduced employment prospects. Further, many landlords do not accept Section 8 vouchers, especially in areas connected to transport links, employment opportunities and services, so as a feature of the housing market, displaced people are effectively ghettoized.<sup>40</sup> The closure of Cabrini Green is only one example in Chicago; it is estimated that through various forms of displacement and migration over 180,000 African American residents have left the city between 2000 and 2010.<sup>41</sup> This pattern is not unique to Chicago.<sup>42</sup>

Washington DC was a majority black city since the 1950s but in 2011 that changed due to redevelopment efforts that have pushed out low-income and working class black residents.<sup>43</sup> Working with ONEDC, a community organising group in the Shaw neighbourhood,<sup>44</sup> residents of the subsidised apartment Lincoln Westmoreland II are facing another kind of displacement. Their building is privately owned but the residents are low-income and working class families who could only afford their rent because the building was subsidised by federal funds. Previously, the landlord received money from the government through project-based Section 8 funds, which provides rental subsidies in exchange for keeping rents affordable. The landlord opted out of his contract and the building is being redeveloped as Heritage at Shaw Station.<sup>45</sup> Residents can stay if they can secure Section 8 vouchers, given to individuals rather than landlords, but if a unit is vacated the landlord is free to rent the unit at market rates. Lincoln Westmoreland II is located in the Shaw neighbourhood, which is being thoroughly redeveloped, and there is significant motivation to turn the units into market-rate rentals. Residents already under threat from the systemic forces eliminating public housing, now face loss of their existing housing, harassment from the landlord and have had their efforts to organise a tenants association disrupted. Thus the US government's move to privatise public housing provision threatens their rights. What is happening in Shaw is part of a larger pattern in Washington DC, as low-income and working class communities, mostly people of colour, are pushed out of the city and into neighbouring cities, with estimates of 40,000 black resident displaced.<sup>46</sup>

Seen through a human rights lens the process normally termed redevelopment or gentrification is properly identifiable as forced displacement. Residents are losing their homes, being separated from their communities and livelihoods, prevented from exercising their political freedoms and in many cases being harassed. Police often target residents of public housing when a city moves to have units redeveloped using a federal law dubbed the "one strike" policy, which gives public housing authorities the ability to ban residents if they have criminal records.<sup>47</sup> This ban can prevent individuals from living in public housing for life in some cases and is even applied to residents whose relatives are facing criminal charges. Infamously, an elderly woman, Pearlie Rucker, was evicted when her adult daughter was found with drug paraphernalia blocks from her apartment in Oakland.<sup>48</sup> In Chicago public housing authorities used their powers to evict residents accused rather than convicted of a crime, even if the accused was only a houseguest rather than a permanent family member.<sup>49</sup>

The destruction of public housing and lack of low-income housing are not the only ways housing rights are under threat. For those unable to gain entry to public housing or who have been displaced, safe and affordable housing is scarce. Poor people in the US are often forced to live in slum conditions, exploited by predatory lending schemes and suffering periods of homelessness. In downtown Los Angeles the circumstances that poor residents face illustrate the extent of exploitation and neglect. City law and custom has led to the use of long-term hotels in the downtown area to provide residences for low-income people.<sup>50</sup> These buildings provide unsafe and low-quality housing – in addition landlords have the ability to restrict what residents can do on the property, including charging for guests or preventing them altogether, while residents have no secure tenancy and can be evicted at any time. Downtown Los Angeles, however, is being redeveloped and even these minimal low-income housing options are disappearing. The effect of this can be seen in the downtown area where thousands of homeless people camp out on Skid Row and live their lives within a tightly monitored radius, under the eyes of the city's highest concentration of police officers and numerous charities providing health and social services.<sup>51</sup> Skid Row is essentially a displacement camp where people without a home are collected and managed. Living without a home in contemporary US cities is a difficult experience and individuals live day to day, relying on charity for their basic needs, exposed to threats to their physical and mental well-

being and targeted for harassment and abuse by both the police and private security forces guarding the business investment districts established in many cities.<sup>52</sup>

The Los Angeles Community Action Network (LA CAN), a community led group, recently drafted a people's declaration of human rights focused on housing.<sup>53</sup> The declaration called for the provision of affordable housing, enforcement and strengthening of existing laws protecting tenants and a renewed focus on the provision of housing as a basic right. The Western Regional Advocacy Program has been advocating for a similar declaration for homeless people in San Francisco.<sup>54</sup> Seeing the issue of low-quality housing and lack of affordable housing as a human rights violation changes the narrative from one focused on individual failure and poverty to one where the exploitative and often illegal practices of landlords are ignored by city, state and federal authorities whose primary focus is encouraging and maintaining the real estate market as a key driver of the economy. It also raises doubts about the argument against economic and social rights that claims they are too expensive, as governments at multiple levels use public funds to provide tax incentives to middle-class homeowners and to support "redevelopment" projects.

At the root of this movement is a rejection of the idea that housing is a commodity, which leads to a critique of the larger economic and legal structures that enable mortgage lenders to make profits off of human needs, empower banks and governments to destroy communities and deny people a place to live in the name of profit.<sup>55</sup> The failure of the government to regulate lenders or assist homeowners overwhelmed by the mortgage crisis ties into the historic disinvestment in public housing and discriminatory housing policies to provide a narrative of governmental neglect.<sup>56</sup> Further, the contradiction of seeing an abundance of housing units while individuals suffer homelessness has become a rallying point for critique and action. The failure of either the "free market" or government to provide access to housing is seen not as a matter of incompetence or incapacity, but rather a consequence of the political power of the economic elite to manipulate the organs of government to maintain control of land for the creation of profit.<sup>57</sup>

Claiming a human right to housing, then, involves not only a claim that housing a right that must be provided by any legitimate government, but that realising this rights requires reform of politics as such. Members of ONEDC defined human rights as undeniable claims to what all human beings need to thrive,<sup>58</sup> with housing seen as a right to have access and control over the land required to make a life for one's self in community with others. This control and the community exercising it are vitally democratic, insisting on inclusion not just in a regime of protection and service but in the process of building and exercising power. For ONEDC, human rights are a way of building community power that goes beyond organising for affordable housing, protecting public housing or contesting the use of public resources for private interests. Human rights are a tool for building community power to realise a democratic and just society.<sup>59</sup> While ONEDC is distinguished by the clarity with which it articulates the democratic aspects of their activism, groups working globally to claim a human right to housing share in this approach. The critique starts from recognition that democracy, as the capacity of each individual to participate in the marking of his or her shared lives, needs to be reclaimed. The groups in the US focus not only on political participation and securing the rights of those who are marginalised, but on building communal power. A recurring theme is the need for political education, community organising and greater autonomy; this is particularly strong among groups comprised primarily of communities of colour and people forced into homelessness, who use *human* rights to demand inclusion in a more fully democratic political community.

This radical claim for new rights and profound social transformation can be traced through a variety of movements in which political engagement is central to the meaning of human rights. The Landless Workers Movement in Brazil has used human rights claims in this way

since the 1980s when they began occupying land to build communities, claiming the rights of the people superseded those of landowners.<sup>60</sup> This claim basis the right to land not in possession but in the socially productive use the workers made of the land, providing space and sustenance to communities. In South Africa, residents of shantytowns began to organise around the human right to housing in the 1990s, refusing to leave their homes when the government tried to displace them to make way for redevelopment. Their focus on claiming rights through extra-judicial tactics and insisting on the right of poor people to participate in democratic decision-making binds the groups in South Africa together.<sup>61</sup> In the US many housing groups have drawn ideas and tactics from these earlier movements. This is a very different human rights movement; one oriented towards how human rights empower individuals and communities to claim their rights rather than how universal authority can be administered globally. The radical nature of the demands articulated in the movement for a human right to housing has real consequences for these groups. As the South African group Abahlali baseMjondolo has been described as “neurotically democratic” and targeted by the government, groups in the US have often been shunned and marginalised for their commitment to democratic processes and building community power, making working with conventionally-minded allies difficult and increasing the challenge of securing funding.<sup>62</sup> These groups experience Stammers’ paradox of institutionalisation directly and are wary of giving away power they build through rights-based activism to institutions that do respect the leadership of affected communities.<sup>63</sup>

### **Realising the human right to housing: promise and peril**

The movement for a human right to housing exemplifies Baxi and Rajagopal’s claim that human rights used to pursue local justice can upset the existing order. What holds these groups together is a belief that the normal process of legal appeal and legislative change is exhausted, unable to provide meaningful change. In place of place of conventional politics they turn to direct action, informed by an understanding of the lack of housing as a human rights violation and justified by the demand that home is fundamental human need to be realised through democratic community. The actions pursued are intended to realise this understanding of the human right to housing. Here I focus on three tactics: eviction defence, occupation and community land trusts.

A primary tactic used by these groups is eviction defence, in which residents refuse to leave their home, leading to a confrontation with authorities. In Chicago, retired police officer Patricia Hill has been fighting eviction for two years. The mortgage on Ms Hill’s home was raised by \$500 a month in 2009, when her lender informed her that a penalty was being charged because she did not have homeowners insurance.<sup>64</sup> Initially this seemed to be an error but the bank refused to acknowledge that Ms Hill did have insurance and continued to issue the charge. The charge, which Ms Hill refused to pay, was used as justification to foreclose on her home. After she was evicted in 2012 she moved back into her home with the support of CAEC and refused to leave while fighting the foreclosure in court. Similarly, Catherine Lennon fought with her lender for two years after she fell behind on her mortgage payments following the death of her husband, in part because the bank refused to communicate with her about the mortgage in her husband’s name.<sup>65</sup> Mrs Lennon was evicted at gunpoint in a stealth raid after supporters blocked pervious eviction attempts. Working with a group called Take Back the Land (TBL),<sup>66</sup> she returned to her home again and continued to fight the bank in court. It was revealed that the bank could not provide a title to the home, meaning that they were not the legal owners.

Importantly, women like Ms Hill and Mrs Lennon worked with groups framing the issue in terms of human rights, which helps homeowners replace narratives of personal failure with

ones focused on the criminality of lenders and the complicity of government institutions. In Mrs Lennon's case, TBL resisted her eviction by mobilising volunteers to stand with her when police came, assisting her in moving back into her home after she was evicted, organising around her case with the media and public, and finally by representing her in court where she won the title to her home. Similarly, CAEC assisted Ms Hill by stopping police from carrying out her eviction, blockading the house with their bodies, and then following up with public pressure and court action. Occupy Our Homes (OOH), a group started after the original Occupy protests to work with those facing eviction across the country, has adapted this model. The goal of this tactic, along with providing support to homeowners facing harassment from lenders, police and government officials, is to slow down and politicise the eviction process. This is key, as politicising eviction draws out the importance of home to every individual and to the community, such that evictions become not only personal catastrophes but communal, highlighting the vulnerability of homeowners and the power of lenders over our collective lives.

A second tactic in the movement for a human right to housing is occupation, taking over housing or land as a political act to highlight injustice and enact the transformation sought. This act, even when it is only temporary, actively builds communities on a radically different basis than a commodity-based understanding of housing. Foremost among the groups using occupation is TBL, which formed in Miami, but now operates nationally. TBL was formed in 2006 after activists took over a vacant lot owned by the city and built a shantytown to house homeless people.<sup>67</sup> The action was meant to highlight the lack of effort by local officials to provide for citizens' housing rights, while also creating an alternative community. In collaboration with homeless people who came to Umoja village, activists worked to build a democratic community providing shelter and building relationships of empowerment and responsibility. The shantytown was burnt down under suspicious circumstances and the public land it was built on was eventually used to provide low-income housing. TBL pressed forward with the idea of occupation and building political power among affected communities. In 2009, ONEDC carried out a similar campaign on Parcel 42, a lot owned by the city of Washington DC marked for redevelopment. Members moved on to and camped on the lot to highlight how the city was giving away public lands for private profit while residents were struggling with rising rents and housing code violations in low-income and public housing units. The tactic won some concessions – the redevelopment of Parcel 42 will include a guaranteed percentage of low-income units – but ONEDC's focus has remained on the wider goal of transforming the social conditions that create these problems.

CAEC and TBL have developed this tactic further by going to neighbourhoods decimated by foreclose to catalogue and inspect homes that they know are abandoned, targeting those owned by banks or governments.<sup>68</sup> Members make necessary repairs and move into the homes. TBL organises its work as a national network hub, coordinating local groups operating throughout the country, while CAEC operates in Chicago – though there are numerous groups in the city doing similar work and there is also a Los Angeles Anti-Eviction Campaign. The tactic of occupation changed again as the mortgage crisis increased the number of people affected. While TBL and CAEC are focused on those historically most excluded from the housing market, the wave of foreclosures and evictions that resulted from the collapse of the housing market meant there were new groups experiencing the housing crisis in their own way. OOH has focused on assisting individuals facing foreclosure to refuse their eviction and occupy their own homes, challenging the banks moral and legal authority to turn them out.<sup>69</sup> The move to occupy both land and housing achieves a number of goals. It raises the issue of housing in a dramatic and public way, forcing the public and government officials to confront the reality of the housing crisis. It politicises what is seen as a private matter, turning the personal catastrophe of homelessness, eviction and foreclosure into public

discussions about housing policy, government responsibility and the injustice created by treating housing as a commodity.<sup>70</sup> Finally, this tactic builds community power by bringing individuals together for common purposes, to live together on vacant land, to refurbish abandoned homes and to assist individuals resisting displacement.

Attempting to reconstruct the idea of home as a right and create forms of communal ownership is the most difficult task groups in the US face because it requires the most profound change. ONEDC has a history of developing cooperative housing for low-income residents by mobilising funds available to the community so that residents can buy their buildings and run them for themselves.<sup>71</sup> Dominic Moulden highlighted the potential of this tactic despite the difficulty in achieving it, as creating resident owned housing fosters autonomy within the community and builds relationships of solidarity by allowing residents to see their own power and capacity, while also requiring them to take on the responsibility of being members in a community.

Expanding on cooperative ownership of residential buildings, many of the groups in the US are focused on building community land trusts. These trusts give ownership of the land on which housing is built to the community, while allowing individuals to hold secure tenure to properties on the land. This prevents the commodification of housing and protects communities from the devastation wrought by mortgage speculation, fraudulent lending practices and the corrosive process of redevelopment. Along with these benefits, community land trusts also build political power for marginalised communities by making them more democratic and autonomous. In Chicago the members of the CEAC are working towards a vision of autonomous neighbourhoods in which land is owned in common, housing is safe and available at an affordable prices, the vacant lots that mark Chicago's south side are developed into gardens and workspaces, and where the community becomes self-sustaining through local provision of services, trades and commodities.<sup>72</sup> There is a utopian element to this, as there is with all visions of justice. It is, however, a vision that goes beyond the neoliberal idea of justice. Further, it is not practically impossible. In Chicago there are enough abandoned homes, many of them owned by the city, that neighbourhoods could be empowered by giving land and houses to local residents and supporting community development – the costs would be less than that of enticing and maintaining outside investment. The utopian element is that the vision requires governments to work on behalf of marginalised communities. This is the dilemma many of the groups face; the impossibility of their demands is essentially political – not due to a lack of alternatives or resources, but to the configuration of power.

This is vital: realising a radical human rights claim is deeply political and requires sustained resistance. Contra Brown, human rights are capable of providing a more substantive vision of justice and supporting an alternative political subjectivity, but they provide no escape from the contest of politics. That contest takes place over the meaning of human rights as much as the distribution of economic resources and the structures of property ownership. The women and men fighting for a human right to housing are not using human rights only to seek concessions from the powerful, nor are they using human rights to ask for protection in the language that power recognises, they are claiming rights in their own vernacular, drawing on their own experiences, and attempting to use the idea of human rights to empower themselves and their communities.

Human rights have history and institutional weight. Using human rights may provide opportunities to build solidarity between groups and appeal to existing standards, but it also presents challenges. Human rights are a language of governance. The openness of the humanity we appeal to means that they can also be taken up by those in power, who in turn have the ability to turn the meaning and function of rights to different ends. Perhaps the foremost risk is that human rights victories are always in danger of being undermined if we

presume the state is the authority tasked with providing our rights. If rights are to be a tool of resistance, they must go along with a movement to rebuild the structures of social power and the institution of government. Human rights provide no easy solutions.

The conclusions we can draw here are limited and sweeping statements would be ill advised. Further, my ambition is not to offer a final endorsement of human rights but to suggest how they can be better used as tools of political resistance and support grander visions of justice. Yet there is (at least) one question that lingers: even if human rights can be used in the ways we have seen, are they the best way of fighting for a more just world? Conventional human rights politics eschews struggle in favour of reconciliation. This prospect reveals the perniciousness of how rights language is co-opted, it speaks a language of justice and dignity that asks the oppressed to forgive and forget. The groups fighting for the human right to housing are uniquely aware of this paradox and seek to address it in a democratic manner. As Max Rameau suggests, taking back the land requires a fundamental redistribution of power, which will turn society's winners into losers on some level. This shift of power will generate anxiety but activists cannot turn away from it. He goes on to suggest this shift need not lead to antagonism, as a commitment to democratic political relations offers a shared exercise of power.<sup>73</sup> Human rights in a democratic register offer both a transformation in the distribution of power and a basis on which just social relations can be built. Yet, this vision of what human rights might be requires committed action. Human rights are what we make of them.

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## Notes

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- <sup>1</sup> Isaac [last name withheld], interview by Joe Hoover, Chicago, IL, September 2013.
- <sup>2</sup> Further information at <http://chicagoantieviction.org>.
- <sup>3</sup> Isaac, interview; Willie JR Fleming, interview by Joe Hoover, Chicago, IL, April 2012 and August-September 2013; Loren Taylor, interviewed by Joe Hoover, Chicago, IL, April 2012 and August-September 2013.
- <sup>4</sup> Charvet and Kaczynska-Nay, *The Liberal Project and Human Rights*. For criticisms, see, Douzinas, “Postmodern Just Wars and the New World Order”; Mutua, “Savages, Victims, and Saviors: The Metaphor of Human Rights”; O’Connell, “On Reconciling Irreconcilables.”
- <sup>5</sup> Brown, “The Most We Can Hope For...”; Robinson, “The Limits of a Rights-Based Approach to International Ethics.”
- <sup>6</sup> Brown, *States of Injury*, 121–134.
- <sup>7</sup> Ignatieff, *Human Rights as Politics and Idolatry*; Rorty, “Human Rights, Rationality, and Sentimentality.”
- <sup>8</sup> Benhabib, “Another Universalism.”
- <sup>9</sup> Hoover, “Towards a Politics for Human Rights Ambiguous Humanity and Democratizing Rights.”
- <sup>10</sup> Benhabib, “Another Universalism.”
- <sup>11</sup> Agamben, *Means without End*, 15–28.
- <sup>12</sup> Donnelly, “The Relative Universality of Human Rights”; Ignatieff, *Human Rights as Politics and Idolatry*; Rorty, “Human Rights, Rationality, and Sentimentality.”
- <sup>13</sup> Brown, “The Most We Can Hope For...”; Douzinas, *Human Rights and Empire*; Žižek, “Against Human Rights.”
- <sup>14</sup> Hoover, “Towards a Politics for Human Rights Ambiguous Humanity and Democratizing Rights”; Hoover and Iñiguez De Heredia, “Philosophers, Activists, and Radicals.”
- <sup>15</sup> Baxi, *The Future of Human Rights*.
- <sup>16</sup> Rajagopal, *International Law from Below*.
- <sup>17</sup> Stammers, *Human Rights and Social Movements*, 9–23.
- <sup>18</sup> *Ibid.*, 24–39.
- <sup>19</sup> *Ibid.*, 102–130.
- <sup>20</sup> Foscarinis, “Advocating for the Human Right to Housing,” 464–472.
- <sup>21</sup> Foscarinis, “The Growth of a Movement for a Human Right to Housing in the United States.” United Nations, General Assembly, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, Raquel Rolnik, A/HRC/13/20/Add.4 (12 February 2010).
- <sup>22</sup> Camp and Heatherton, *Freedom Now!*; Rameau, *Take Back The Land*.
- <sup>23</sup> Davis, *Planet of Slums*; Kramer, *Dispossessed*.
- <sup>24</sup> Harvey, *Rebel Cities*, 3–114.
- <sup>25</sup> Western Regional Advocacy Project, *Without Housing: Decades of Federal Housing Cutbacks, Massive Homelessness and Policy Failures* (Western Regional Advocacy Project: San Francisco, CA, 2007).
- <sup>26</sup> Rugh and Massey, “Racial Segregation and the American Foreclosure Crisis”; Wyly et al., “Cartographies of Race and Class.”
- <sup>27</sup> National Low Income Housing Coalition, *Out of Reach 2012: America’s Forgotten Housing Crisis* (National Low Income Housing Coalition: Washington, DC, March 2012).
- <sup>28</sup> National Coalition for the Homeless, “How Many People Experience Homelessness?” *National Coalition for the Homeless Factsheet* (National Coalition for the Homeless: Washington DC, 2009); Homelessness Research Institute, *The State of Homelessness in America 2013: An examination of homelessness, economic, housing, and demographic trends*

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at the national and state level (National Alliance to End Homelessness: Washington DC, 2013).

<sup>29</sup> Carr, “Responding to the Foreclosure Crisis”; Dymski, “Racial Exclusion and the Political Economy of the Subprime Crisis.”

<sup>30</sup> Gottesdiener, “The Great Eviction”; Gottesdiener, “How Wall Street Has Turned Housing into a Dangerous Get-Rich-Quick Scheme—again”; Niedt and Martin, “Who Are the Foreclosed?”

<sup>31</sup> Roth, “Charade of US Ratification of International Human Rights Treaties, The.”

<sup>32</sup> Foscarinis, “The Growth of a Movement for a Human Right to Housing in the United States.”

<sup>33</sup> Foscarinis, “Advocating for the Human Right to Housing.”

<sup>34</sup> United Nations, General Assembly, *Report of the Working Group on the Universal Periodic Review: United States of America, A/HRC/16/11* (4 January 2011).

<sup>35</sup> Pfeiffer, “Displacement Through Discourse: Implementing and Contesting Public Housing Redevelopment in Cabrini Green.”

<sup>36</sup> Fleming, interview.

<sup>37</sup> Miller, “The Struggle Over Redevelopment At Cabrini-Green, 1989-2004”; Terry, “CHICAGO NEWS COOPERATIVE; The Final Farewell At Cabrini-Green.”

<sup>38</sup> LaTrace, “The Debate Over The Demo’d Cabrini-Green Goes On”; Smith, “HOPE VI and the New Urbanism.”

<sup>39</sup> Burnette, “Public Housing Waiting List to Reopen after 10 Years.”

<sup>40</sup> Dominic Moulden, interview by Joe Hoover, Washington DC, March 2012 and August 2013; Fleming, interview; and Taylor, interview. Also, Goetz, “Forced Relocation vs. Voluntary Mobility”; Hartung and Henig, “Housing Vouchers and Certificates as a Vehicle for Deconcentrating the Poor Evidence from the Washington, D.C., Metropolitan Area.”

<sup>41</sup> Bogira, “Separate, Unequal, and Ignored”; Sledge, “Chicago’s Black Population Dwindles, Census Numbers Show.”

<sup>42</sup> Goetz, “Gentrification in Black and White The Racial Impact of Public Housing Demolition in American Cities”; Saegert, Fields, and Libman, “Mortgage Foreclosure and Health Disparities.”

<sup>43</sup> Tavernise, “Washington, D.C., Loses Black Majority.”

<sup>44</sup> Further information at <http://www.onedconline.org>.

<sup>45</sup> Ober, “Can Affordable Housing Survive The Boom In Shaw?”

<sup>46</sup> Morello and Keating, “Number of Black D.C. Residents Plummets as Majority Status Slips Away.”

<sup>47</sup> Human Rights Watch, *No Second Chance*.

<sup>48</sup> Department of Housing & Urban Development versus Rucker, 535 U.S. 125, 128 (2002).

<sup>49</sup> Angela Caputo, “One and done,”; Dylan Cinti, “Dismantling Families,”; Whet Moser, “Innocent Until Proven Guilty? Not in Public Housing.”

<sup>50</sup> Becky Dennison, interview by Joe Hoover, London, February 2012 and April 2012, Los Angeles, CA.

<sup>51</sup> Pitts, “The Fight over L.A.’s Skid Row”; Roberts, “Los Angeles Community Leaders Ask Mayor Villaraigosa to Re-Examine Skid Row.” Bilal Ali, interview by Joe Hoover, Los Angeles, CA, April 2012.

<sup>52</sup> The National Law Center on Homelessness & Poverty and The National Coalition for the Homeless, *Homes Not Handcuffs: The Criminalization of Homelessness in U.S. Cities* (2009). Amster, “Patterns of Exclusion: Sanitizing Space, Criminalizing Homelessness”; Foscarinis, Cunningham-Bowers, and Brown, “Out of Sight - Out of Mind.”

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- <sup>53</sup> Los Angeles California Action Network, “People’s Declaration on the Human Right to Housing.”
- <sup>54</sup> <http://wraphome.org/work/civil-rights-campaign#bill-of-rights>. Accessed 31 October 2014.
- <sup>55</sup> Matt Browner-Hamlin, interview by Joe Hoover, London, February 2012; Members of ONEDC, interview by Joe Hoover, Washington DC, March 2012 and August 2013; and Taylor, interview.
- <sup>56</sup> Michael Primo and Rachel Falcon, interview by Joe Hoover, New York, NY, March 2012; Members of ONEDC, interview; Dennison, interview; Paul Boden, interview by Joe Hoover, San Francisco, CA, April 2012; and Laura Gottesdiener, interview by Joe Hoover, London, November 2013.
- <sup>57</sup> Moulden, interview; Rosemary Ndubuizu, interview by Joe Hoover, Washington DC, August 2013; Fleming, interview; and Boden, interview.
- <sup>58</sup> Members of ONEDC, interview.
- <sup>59</sup> Moulden, interview.
- <sup>60</sup> Branford and Rocha, *Cutting the Wire*.
- <sup>61</sup> Madlingozi, “Post-Apartheid Social Movements and the Quest for the Elusive ‘New’ South Africa”; Miraftab, “The Perils of Participatory Discourse”; Selmeczi, “Abahlali’s Vocal Politics of Proximity.”
- <sup>62</sup> Kingsley, “South Africa’s Shack-Dwellers Fight Back.” Rob Robinson, interview by Joe Hoover, Chicago, IL, March 2012; Members of ONEDC, interview; Fleming, interview; Taylor, interview; Denison, interview; and Boden, interview.
- <sup>63</sup> Ibid.
- <sup>64</sup> Gutierrez, “Ex-Cop Alleges Foreclosure Fraud, Challenges Eviction”; Krauser, “Retired Cop Facing Eviction For 2nd Time In A Year - CBS Chicago.” Patricia Hill, interview by Joe Hoover, Chicago, IL, March 2012.
- <sup>65</sup> Van Jones and Marianne Manilov, “‘This Is Not America’: SWAT Team Evicts Grandmother, Community Fights Back,”; Steve Orr, “Rochester woman wins foreclosure fight,”; and Robinson, interview.
- <sup>66</sup> Further details at <http://takebacktheland.org> and in Rameau, *Take Back The Land*.
- <sup>67</sup> Ibid.
- <sup>68</sup> Fleming, interview; Hill, interview; Toussaint Losier, interview by Joe Hoover, Chicago, IL, August-September 2013; and Taylor, interview.
- <sup>69</sup> Browner-Hamlin, interview.
- <sup>70</sup> Browner-Hamlin, interview; and Gottesdiener, interview.
- <sup>71</sup> Moulden, interview.
- <sup>72</sup> Fleming, interview.
- <sup>73</sup> Rameau, *Take Back The Land*.

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