

October 4, 2017

Via e-mail
Philip Alston
Special Rapporteur on Extreme Poverty

Dear Mr. Alston:

We write to request that you visit Orange County, California, to view the humanitarian crisis created by the perfect storm of increasing laws to criminalize homelessness; failure to provide housing as a human right; and skyrocketing housing costs driven by gentrification. The thirty-four cities, the County, and the local Highway Patrol coordinate efforts to criminalizing poverty. Over 2,500 individuals live unhoused in Orange County, and 90,000 are on housing authority waitlists¹. 64% of jobs in Orange County do not pay enough for someone to afford a one-bedroom apartment. The first County operated shelter was opened in 2016 and only one of the 34 cities operates a shelter.

A humanitarian crisis currently exists in Orange County. The criminalization disproportionately affects people with disabilities. Our local governments regularly engage in the practice of confiscating and destroying the property of homeless people, dispersing people with no alternative, and refusing access to basic sanitation removing their dignity and endangering their well-being. Governments engage in these practices while exposing people to the harsh natural elements by taking away their tents and make-shift shelters. We hope your visit to Orange County where local organizations and individuals are fighting for the rights of the homeless in would encourage our governments to replace inhumane and dangerous practices with meaningful steps toward dignity and housing.

The U.S. ratified the International Covenant on Civil and Political Rights (“ICCPR”) in 1992. By ratifying the ICCPR, the U.S. agreed to be bound by the provisions of the treaty. The relevant provisions of the ICCPR that apply to the criminalization of homelessness in Orange County are: (1) an inherent right to life as articulated in Article 6(1), (2) the right to liberty and security of person as

¹ It is believed that these numbers a substantially undercounted because criminalization leads many homeless individuals into hiding.

articulated in Article 9(1), (3) the right to be free from cruel inhumane or degrading treatment or punishment as articulated in Article 7, (4) protection from any form of discrimination as articulated in Article 26, and (5) a right to privacy as articulated in Article 17(1). All of these rights that are provided for in the ICCPR are threatened and violated every day for the homeless living in Orange County.

An application of these international human rights provisions shows that the local governments in Orange County are violating the international human rights of the homeless. First, according to the General Comment on Article 6, Article 6(1) “requires that States provide positive measures” to ensure each individual’s inherent right to life, which “cannot properly be understood in a restrictive manner.” The local governments of Orange County instead take positive measures to ensure that the unhoused are denied their basic living essentials, which thus violates Article 6(1).

Second, the local governments are guilty of violating the right to liberty and security of persons as protected in Article 9(1), because the governments continually force the homeless populations to move and seize their personal property. Subjecting homeless populations to so much arbitrary change, forcing them to live in inhumane conditions, and exposing them to the natural forces of the weather deny the homeless populations “freedom from injury to the body and the mind, or bodily and mental integrity,” which are protected in Article 9(1).

Third, the actions of the local governments violate international human rights law under Article 7, which protects against physical as well as mental suffering. The criminalization of their impoverishment undoubtedly causes great mental and emotional turmoil for the homeless populations. The homeless populations in Orange County are living in fear of losing what little they have. In addition, as stated previously, forced movement to inhumane and overcrowded environments, exposure to natural elements, and seizure of property that provides for important basic life necessities takes a significant physical toll.

Fourth, Article 26 “prohibits [the] discrimination in law or in fact in any field regulated and protected by public authorities.” Local governments in Orange County violate this by discriminating against the homeless by passing and enforcing laws that target them. These laws favor those who are housed, and therefore not impoverished. Thus, the homeless in Orange County are denied equal and effective protection from the laws.

Fifth, Article 17 states that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor unlawful attacks on his honour or reputation.” Thus, “[t]he State is responsible for providing means, through legislative acts, that will eliminate all forms of interference with or attacks on privacy.” In the case of local governments in Orange County, the legislature has instead passed laws that enable legal interference and attacks on the privacy of the homeless populations.

If you visit Orange County, you will see many people who have become homeless because there is an affordable housing crisis here today, living in conditions that do not satisfy basic human rights norms. They are denied access to shade, and are not provided with drinking water or clean bathrooms. Even people who have lived here for many years, or who work for companies like Disneyland, are not considered by city and local officials as constituents, residents, or taxpayers if they are unhoused. Inflammatory rhetoric and stigma is used to justify denying or reducing services to unhoused individuals.

Orange County is in a unique position because our local government has the funds and the space to end homelessness by providing access to housing. However, without more pressure the local governments will continue to point fingers at each other and law enforcement, to blame those who our existing systems have failed, and to ignore the growing problems. They have no motivation to create positive change for homeless individuals living within its jurisdiction. Our government continues to deny residents access to fundamental needs, domestic civil rights, and their international human rights. Our governments will continue to pass laws in an attempt to reduce the visibility of homeless encampments without taking meaningful steps to reduce the number of people living outdoors or the growing number of people losing their housing each day. Please come to Orange County to shine a light on the gross inadequacies that our local organizations and legal service providers are fighting to change. Your presence may push Orange County and its cities to adopt policies and regulations that will comply with international human rights law.

Regards,



Brooke Weitzman
ELDR Center

Catherine Sweetser, Director
Kristi Lin, student
UC Irvine School of Law
Human Rights Clinic

Attachments: Complaint,
Santa Ana Lawsuit
