

November 12, 2019

To the attention of:

Ms. Leilani Farha - Special Rapporteur on adequate housing,
srhousing@ohchr.org

I am writing on behalf of Action on Smoking. Founded in 1967, [Action on Smoking and Health](http://www.ash.org) (ASH), an organization with ECOSOC Status, is the United States' oldest organization devoted to fight the harms caused by tobacco, both in the US and globally, and dedicated to a world with zero tobacco deaths. We appreciate the opportunity to provide input into the final report to the Human Rights Council on guidelines for the implementation of the right to adequate housing.

Tobacco use is still the leading cause of preventable death globally, taking over seven million lives a year, over 600,000 of which die as a result of exposure to secondhand (also called side stream) tobacco smoke. In addition, tens of millions of people live with chronic illness caused and often exacerbated by exposure to tobacco smoke.

The threat posed by secondhand smoke is recognized under international law, most particularly in the World Health Organization Framework Convention on Tobacco Control (FCTC). FCTC Article 8 and its Guidelines for Implementation require parties to protect people from exposure to secondhand smoke, including in housing. Implementation of the FCTC is also included in the United Nations Global Action Plan for Noncommunicable Disease, and the Sustainable Development Goals.

In designing the world's first public health treaty, the framers of the FCTC looked to human rights accords for inspiration, examples and substantive legal thinking. This link is evident in the text of the FCTC, which cites Article 12 of the International Covenant on Economic, Social and Cultural Rights as well as the WHO Constitution in recognition of the fundamental right of every human being to the enjoyment of the highest attainable standard of physical and mental health. Human rights references have been included in several FCTC decisions and Guidelines.

The impact of tobacco on human rights has been noted in a number of human rights fora, directly and implicitly. The Committee on Economic, Social and Cultural Rights, in its General Comment No. 14, stated that the "failure to discourage production, marketing and consumption of tobacco" constitutes a violation of the obligation to protect under Article 12 of the International Covenant on Economic, Social and Cultural Rights, mirroring language in the FCTC Chapeau. Likewise, General Comment 15 of the Committee of the Rights of the Child noted that governments must implement and enforce the FCTC as part of their obligations under the Convention on the Rights of the Child.

In 2016 the Seventh Session of the FCTC Conference of the Parties (COP) agreed to decision FCTC/COP7(26) (International cooperation for implementation of the WHO FCTC, including on human rights) urging parties to link the human rights and development frameworks in tackling the global tobacco epidemic and inviting the Convention Secretariat to collaborate with other UN bodies to protect public health interests from the commercial and other vested interests of the tobacco industry.

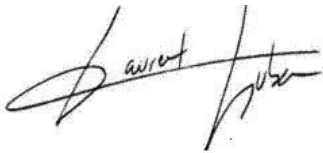
A growing number of national and subnational governments have recognized the threat posed by exposure to secondhand smoke by banning smoking in multi-unit housing. Tobacco smoke does not remain confined to an individual living space, but spreads to adjacent rooms and floors. Millions of people for whom tobacco smoke is an immediate health hazard face the choice of risking their health or risking homelessness, particularly as there are rarely affordable choices which preclude exposure to tobacco smoke.

Recommendation

We therefore urge the Special Rapporteur to include the prevention of exposure to tobacco smoke in the Guidelines. Specifically, we recommend explicit language in Guideline 1, paragraph 13 to include the right to be free from exposure to tobacco smoke, and in implementation measure c), to include freedom from exposure to tobacco smoke as an aspect of adequacy in housing.

We are grateful to you for the opportunity to contribute to the report, and we are confident that you will give tobacco and its negative impacts on the right to adequate housing the attention it deserves.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurent Huber". The signature is stylized and cursive, with the first name "Laurent" written in a larger, more prominent script than the last name "Huber".

Laurent Huber
Executive Director
Action on Smoking and Health