

April 26, 2021

To the attention of:

Special Rapporteur on the right to adequate housing
Office of the United Nations High Commissioner for Human Rights,
United Nations Office at Geneva, CH 1211 Geneva 10, Switzerland

I am writing on behalf of Action on Smoking and 18 co-signatories. Founded in 1967, [Action on Smoking and Health](#) (ASH), an organization with ECOSOC Status, 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 report to the Human Rights Council on the right to adequate housing. We are writing to provide input specifically on the interrelated issues of tobacco use, housing, and the right to a healthy environment.

Tobacco use; second and thirdhand smoke

Tobacco use is still the leading cause of preventable death globally, taking over eight 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.

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.

Increasingly, research is illustrating the dangers of thirdhand smoke as well. Thirdhand smoke is the residual contamination that smoke from heated tobacco products like cigarettes and cigars leave behind. Tobacco smoke includes carcinogens and heavy metals, like arsenic, lead, and cyanide. Sticky, toxic substances, like nicotine and tar, cling to walls and ceilings and are absorbed by other household surfaces. This toxic sticky residue can reemit (off-gas) back into the air and recombine to form harmful substances that remain at high levels long after smoking has stopped. Nicotine in thirdhand smoke forms carcinogens which are then inhaled, absorbed or ingested by tenants. Exposure to thirdhand smoke poses health problems, including increasing the risk of respiratory illnesses.¹

The Framework Convention on Tobacco Control and Human Rights

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 Political Declaration of the

¹ <https://no-smoke.org/thirdhand-smoke-fact-sheet/>

United Nations High-Level Meeting on the Prevention and Control of Non-communicable Diseases (NCDs), the 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.

Recommendations

We urge the Special Rapporteur to include the prevention of exposure to tobacco smoke as an essential consideration in what equates to "adequate housing." People should not be forced to be exposed to carcinogens, nor to be concerned about their children's health, in their own homes. A smoke free housing environment is key to achieving the highest attainable standard of health.

We want to strenuously emphasize that we are not suggesting that people who smoke be refused housing, rather that they be encouraged to quit, and given cessation assistance. A right to a healthy environment at home depends on it.

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,

Action on Smoking and Health
ACT-Alliance contre le tabac
American Heart Association
ASH Finland
Asociatia Generatia Romania Sanatoasa 2035
Association "Health Mission"
Austrian Council on Smoking and Health
BLUE 21 / Unfairtobacco

Coalición México Salud-Hable
Comité National Contre le Tabagisme
Corporate Accountability
DNF - Demain sera Non-Fumeur
East Galway & Midlands Cancer Support
Iranian Anti-Tobacco Association (IATA)
Israel Council for the Prevention of Smoking
Malaysian Rare Disorders Society Malaysia
Malaysian Women's Action for Tobacco Control and Health (MyWATCH)
Southeast Asia Tobacco Control Alliance
Tobacco Control Research Center (TCRC)