

**Response to Request for Input by the  
United Nations Special Rapporteur on Extreme Poverty and Human Rights**

LegalHealth Unit

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Summary

NYLAG is one of the largest free civil legal services providers in New York City, of which LegalHealth is a division. As a medical-legal partnership, LegalHealth places attorneys in 34 hospitals and community health organizations in and around New York City to provide free legal services on a range of civil legal matters impacting our clients' health, including health insurance, public benefits,<sup>1</sup> disability benefits, housing, advance planning, consumer law, immigration, employment law, matrimonial and family law.

We help clients navigate the labyrinth of bureaucracies and regulations to obtain benefits and other relief that would otherwise be difficult for them to access due to poverty, disability, language, and other barriers. Our clients exist at the intersection of poverty, inequality, and health access, and frequently suffer violations of their human rights as expressed in the International Covenant on Civil and Political Rights (ICCPR)<sup>2</sup> and International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>3</sup> In this submission, we seek to give voice to multi-dimensional poverty as it is experienced by our clients.

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<sup>1</sup> We use the term "public benefits" to broadly refer to medical, food, rent and cash assistance programs funded by Federal, State and City agencies and generally administered at the local level. We acknowledge that the term "public benefits" obscures the legal nature of such benefits as socio-economic rights and entitlements. However, public benefits are not popularly conceived of or discussed as "rights" and "entitlements" in this country, perhaps reflecting a broader marginalization of socio-economic rights as compared to civil and political rights.

<sup>2</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171 [hereinafter ICCPR].

<sup>3</sup> International Covenant on Economic, Social and Cultural Rights, Art. 2(1), Dec. 16, 1966, S. Treaty Doc. No. 95-19, 993 U.N.T.S. 3 [hereinafter ICESCR].

## I. Introduction

NYLAG was founded in 1990 on the premise that low-income individuals can improve their lives significantly when they have access to justice. Through the provision of high quality, free civil legal services, NYLAG strives to empower vulnerable New Yorkers, protect their fundamental rights, and help them achieve positive outcomes that alleviate poverty.<sup>4</sup>

Created as a division of NYLAG in 2001, LegalHealth is the nation's largest Medical-Legal Partnership (MLP), working at 34 partnering hospitals and community health organizations throughout New York City and Long Island. In Fiscal Year 2017, LegalHealth's staff improved the lives of almost 5,630 low-income New Yorkers with serious health needs. Where social conditions pose a barrier to improved health, the LegalHealth team can advocate to ensure a patient's right to access care, basic benefits, stable housing and immigration remedies. In addition to onsite legal clinics, LegalHealth trains healthcare professionals to recognize legal issues that may negatively affect medical outcomes.

Hospital patients, suffering concurrent health and legal issues, can experience myriad difficulties in accessing legal services. LegalHealth serves both outpatient and inpatient clients at hospitals and visits homebound clients. The majority of LegalHealth's clients are individuals with chronic and serious illnesses, such as cancer, diabetes, HIV, and heart disease. Our legal services cover many areas of law, though the majority of our clients seek assistance with immigration problems, housing issues, and accessing public benefits. Many clients qualify for disability-based benefits, and a substantial portion of our case work consists of helping clients apply for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefits,<sup>5</sup> as well as helping them navigate the complex appeals

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<sup>4</sup> There is no generally recognized right to legal counsel in civil proceedings under Federal or State law. Access to justice by indigent persons is a serious impediment to the achievement of economic and social rights. Recognizing this problem, the Committee on the Elimination of Racial Discrimination previously recommended that the U.S. "allocate sufficient resources to ensure effective access to legal representation for indigent persons belonging to racial and ethnic minorities in civil proceedings, particularly with regard to proceedings that have serious consequences for their security and stability, such as evictions, foreclosures, domestic violence, discrimination in employment, termination of subsistence income or medical assistance, loss of child custody and deportation proceedings." Concluding Observations on the Combined Seventh to Ninth Periodic Reports of the United States of America, CERD/C/USA/CO/7-9, para. 23 (Sept. 25, 2014). Organizations such as NYLAG, which is primarily funded by private sources, respond to the need for free legal services for low-income individuals.

<sup>5</sup> The two principal disability benefit programs in the U.S. are the Federal Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs, which are administered by the Social Security Administration (SSA). The SSDI program covers disabled or blind persons who have sufficient work history and are "insured" by workers' contributions to the Social Security trust fund based on the worker's earnings. In contrast, no work history is required for the SSI program, which provides cash assistance from general tax revenues to aged, blind, and disabled persons (including children) who have limited income and resources. The maximum Federal SSI benefit for 2017 is \$735.00 per month. See Social Security Administration, *SSI Federal Payment Amounts For 2018*, <https://www.ssa.gov/oact/cola/SSI.html> (last visited Oct. 13, 2017). New York State, among other States, pays a small supplemental benefit to persons in addition to their Federal benefit. See Social Security Administration, *2017 Red Book*, <https://www.ssa.gov/redbook/eng/overview-disability.htm> (last visited Oct. 13, 2017). The New York State supplement for an individual living alone is \$87.00 in 2017. See Office of Temporary and Disability Assistance, *SSI and SSP Benefit Levels Chart effective January 1, 2017*, <https://otda.ny.gov/programs/ssp/2017-Maximum-Monthly-Benefit-Amounts.pdf> (revised Oct. 24, 2016). SSDI is not a means-tested benefit and therefore is not similarly capped.

process. The ability to bring the legal office to the same facility where patients are receiving essential treatment is often the determining factor in whether patients will receive the life changing entitlements that they are eligible for, and without an attorney would be inaccessible.

We feel that our position at the intersection of legal services, access to healthcare, and government support through public benefits for low income individuals provides us a unique perspective to contribute to the Special Rapporteur's investigation. We hope that the included case summaries will shed light on a largely invisible population, and give voice to our clients' plight.

## II. Poverty and Our Clients

### ***Client Referral and Qualification***

Clients are referred for services primarily by their social workers and treating physicians. The controlling variable in client selection is whether a client can afford and access a private attorney. Though the Federal Poverty Level (FPL) is an ineffective gauge of access to legal services, the vast majority of our clients are below 200% of the FPL.<sup>6</sup> Determining what level of service to provide (*e.g.* advice and counsel, technical assistance or full representation) is based on how best we can zealously advocate for our clients rights, however we also consider particular barriers the client may have, such as disability limited mobility, or low literacy. The greatest limitation on our ability to help is the availability of resources.

### ***Public Benefits Framework and Role of Legal Services***

Support for low income New Yorkers comes through a patchwork of City, State, Federal, and private programs. Clients access public assistance (sometimes referred to as "welfare") through the City Human Resources Administration / Department of Social Services (HRA/DSS) offices,<sup>7</sup> and hundreds of

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<sup>6</sup> The FPL is based off of a rough estimate of household spending rooted in food purchases. Calculation of the FPL takes the cost of a basic diet as defined by the U.S. Department of Agriculture, multiplied by 3, and updates it annually by changes in the Consumer Price Index. This amount is compared against a household's pre-tax income, including cash transfers, to determine their eligibility for public benefit programs. See Mayor's Office of Operations, *New York City Government Poverty Measure 2005–2015*, Chapter 2, <http://www1.nyc.gov/assets/opportunity/pdf/NYcGovPovMeas2017-WEB.pdf> (May 2017). In 2011, the Federal government began issuing the Supplemental Poverty Measure (SPM) to more accurately reflect conditions by reevaluating incomes and expenses. New York City has derived its own poverty measurement based off of the SPM. *Id.* at Chapter 4. The FPL is regularly available, widely utilized, and methodologically consistent, which makes it an appealing base for public and privately funded programs. In contrast to the FPL and similar tests of basic survival at a national level, the United Way has developed the Asset Limited, Income Constrained, Employed (ALICE) evaluation to assess economic and other constraints at the local level. See United Way of New York State, *Study of Financial Hardship*, [http://unitedwayalice.org/documents/16UW%20ALICE%20Report\\_NY\\_Lowres\\_11.11.16.pdf](http://unitedwayalice.org/documents/16UW%20ALICE%20Report_NY_Lowres_11.11.16.pdf) (Fall 2016). Based off of the 2014 data, 21% of New York City residents were impoverished, but the next 31% are ALICE. These individuals are the working poor who would not qualify for most social programs, but are one disruption (*e.g.* unexpected medical emergency) away from poverty.

<sup>7</sup> See New York City Human Resources Administration, *About the Human Resources Department*, <https://www1.nyc.gov/site/hra/about/about-hra.page> (last visited Oct. 13, 2017).

community based organizations which assist with enrollment and provide additional assistance. When legal complexities interfere with accessing government programs, clients are referred to organizations such as NYLAG to provide legal remedies.

About 421,000 low-income New York City residents who are also at least 65 years old, blind, or disabled receive social security benefits.<sup>8</sup> The process for accessing disability benefits is notoriously complicated. Clients applying for SSI are required to present in person at their local Social Security office to be interviewed by a case worker, which may be difficult if they have limited capacity, mobility, or funds for transportation.<sup>9</sup> Nationwide, approximately 65% of disability applications are initially denied.<sup>10</sup> Depending on which State they live in, applicants who appeal an initial denial currently have to wait between 10 to 26.5 months for a hearing before an administrative law judge. (Applicants in New York wait an average 23 months.)<sup>11</sup>

The U.S. health care system is a mix of private health insurance coverage and government insurance. In 2015, 37.1 % of the insured population was covered by government insurance programs, including Medicaid (19.6 %), a joint Federal and State program for low-income individuals; and Medicare (16.3 %), a Federal program for elderly and certain disabled individuals.<sup>12</sup> New York State is among the States that expanded Medicaid under the Affordable Care Act to increase low-income individuals' access to affordable health insurance. Any number of legal hurdles can appear during the application and maintenance of government health benefits, and legal representation is often critical to success.

Undocumented immigrants are particularly disadvantaged when accessing healthcare.<sup>13</sup> They are generally ineligible to purchase private insurance or receive Federal Medicaid benefits, regardless of

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<sup>8</sup> See New York City Independent Budget Office, *How Much Income Support Aid Could Low-Income New Yorkers Lose Under President Trump's Budget Proposal?*, <http://ibo.nyc.ny.us/cgi-park2/2017/08/how-much-income-support-aid-could-low-income-new-yorkers-lose-under-president-trumps-budget-proposal> (Aug. 16, 2017).

<sup>9</sup> Some clients have expressed that the process of applying for SSI is traumatizing. We have heard stories of workers who are intimidating, patronizing, and generally unhelpful. We have had clients otherwise entitled to benefits walk out of the office due to mistreatment. That said, we interact with a number of highly professional and helpful Social Security workers on a regular basis as well.

<sup>10</sup> Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2011, Outcomes of Applications for Disability Benefits*, [https://www.ssa.gov/policy/docs/statcomps/di\\_asr/2011/sect04.html](https://www.ssa.gov/policy/docs/statcomps/di_asr/2011/sect04.html) (last visited Oct. 13, 2017). At the first level of appeal, known as "reconsideration," a reported 13.8% of applicants prevail. Social Security Disability SSI Resource Center, *Social Security Disability, SSI Decisions – What Is the Rate of Approval?*, <http://www.ssdrc.com/5-72.html> (last visited Oct. 13, 2017). At the hearing level, however, a reported 62% of applicants are successful. *Id.*

<sup>11</sup> Social Security Administration, *Average Wait Time Until Hearing Held Report (For the Month of August 2017)*, [https://www.ssa.gov/appeals/DataSets/01\\_NetStat\\_Report.html](https://www.ssa.gov/appeals/DataSets/01_NetStat_Report.html) (last visited Oct. 13, 2017).

<sup>12</sup> Jessica C. Barnett & Marina S. Vornovitsky, United States Census Bureau, *Health Insurance Coverage in the United States: 2015*, <https://www.census.gov/content/dam/Census/library/publications/2016/demo/p60-257.pdf> (Sept. 2016).

<sup>13</sup> The Committee on the Elimination of Racial Discrimination previously expressed concern that "many States with substantial numbers of racial and ethnic minorities have opted out of the Medicaid expansion program, thus failing to fully address racial disparities in access to affordable and quality health care," and that "undocumented immigrants and their children [were excluded] from coverage under the Affordable Care Act," resulting in "difficulties accessing adequate health care." Concluding Observations on the Combined Seventh to Ninth Periodic Reports of the United States of America, CERD/C/USA/CO/7-9, para. 15 (Sept. 25, 2014).

how long they have lived in the country.<sup>14</sup> In New York State immigrants who are not legal permanent residents may qualify for State Medicaid by providing documentation to demonstrate that they are “permanently residing under the color of law” (PRUCOL), *i.e.* the Federal immigration agencies know that they are in the U.S. and are not enforcing their departure.<sup>15</sup> Immigrants who do not qualify for PRUCOL Medicaid have few options: they can get “Emergency Medicaid” to cover emergency treatment, or go to public hospitals. Emergency Medicaid is not general insurance and has major gaps, for example, it does not cover transplants. Many of our clients who are cancer patients have died as a result of their inability to access timely clinically recommended cancer treatments in violation of their rights to life and health.

Roughly 364,000 low-income New Yorkers receive City and State support in paying for housing.<sup>16</sup> Homeless households with little or no income often receive public assistance either through the Federal Temporary Assistance for Needy Families program or the City and State Safety Net Assistance program, both of which provide a “shelter allowance” or subsidy to defray housing costs. The monthly shelter allowance is \$215 for an individual and \$400 for a family of three. These rates are well below current rents in the city, and are seen as contributing to homelessness.<sup>17</sup> The rapid transformation of many neighborhoods around New York City has increased the demand for legal services to prevent evictions and enforce housing protections.

#### *Differences in Public Benefit Programs for the Poor Across Municipal and State Lines*

New York City is viewed as generous in its funding of public benefit programs and progressive in its outreach to marginalized populations, including immigrants, LGBTQ individuals, and individuals living with HIV and AIDS.<sup>18</sup> For our clients, moving to a different State can result in significant changes in access to health care and other benefits. Take the case of Jennifer, a low-income immigrant client who has lived in the U.S. since the 1980s. She has been continually hospitalized since 2015 due to chronic illnesses that require daily care, but is desperate to be discharged. She qualifies for PRUCOL to receive New York State Medicaid, allowing her to be discharged from the hospital while receiving the homecare and outpatient care she needs. However, she wants to move in with family members outside of New

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<sup>14</sup> In 2014, undocumented immigrant adults had lived in the U.S. for a median of 13.6 years. See Jens Manuel Krogstad, Jeffrey S. Passel & D’Vera Cohn, Pew Research Center, *5 facts about illegal immigration in the U.S.*, <http://www.pewresearch.org/fact-tank/2016/11/03/5-facts-about-illegal-immigration-in-the-u-s/> (Apr. 27, 2017).

<sup>15</sup> See New York Health Access, *Medicaid for Immigrants who are Not Permanent Residents (Do Not have “Green Cards”)-- PRUCOL Status and Procedure*, <http://www.wnylc.com/health/entry/33> (last updated May 16, 2017).

<sup>16</sup> New York City Independent Budget Office, *supra* note 10.

<sup>17</sup> See New York City Independent Budget Office, *Housing Department Increases Capital Funds to Create Housing for the Homeless*, <http://www.ibo.nyc.ny.us/iboreports/housing-department-increases-capital-funds-to-create-housing-for-the-homeless-march-2017.pdf> (Mar. 2017).

<sup>18</sup> For example, New York City recently adopted a law that guarantees free legal representation in housing court to low-income New Yorkers facing eviction, to be implemented over five years. See City of New York, *Mayor de Blasio Signs Legislation to Provide Low-Income New Yorkers with Access to Counsel for Wrongful Evictions*, <http://www1.nyc.gov/office-of-the-mayor/news/547-17/mayor-de-blasio-signs-legislation-provide-low-income-new-yorkers-access-counsel-for#0> (Aug. 11, 2017). Another illustration is that public transportation (buses and subways) often include public service announcements in English and Spanish describing Medicaid and other public benefit programs available to low-income individuals.

York. If she leaves New York, she will lose her New York Medicaid and most likely will not be eligible for health insurance in the State where she intends to live.

### III. Serious Human Rights Violations Experienced By Clients

Because we work in health care settings, our submission will focus on violations of the right to health experienced by our clients as a consequence of being poor. We adopt the U.N. Committee on Economic, Social and Cultural Rights' broad interpretation of the right to health as "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information."<sup>19</sup> We bear in mind the Committee's discussion on the essential elements of the right to health, including availability, accessibility (including economic), acceptability, and quality of public health facilities, goods and services.<sup>20</sup>

The following section contains case stories that we obtained by surveying LegalHealth staff and asking them to share examples of serious human rights violations experienced by their clients.

#### **Attaining, Maintaining, Correction, and Limitations of Benefits**

##### *a. Attaining*

Gaining access to benefits is far from a straight forward or accessible process. Louisa has pancreatic cancer and works as a home health aide. She is currently in remission, but has a port because the doctor expects her cancer to return. When she called SSA to make an in-person appointment to apply for SSI, she waited on hold for an hour. Against her wishes, the representative attempted to complete her application over the phone, bullied her into divulging personal information, and refused to give her an in-person appointment, even though she is legally entitled to one. She was told to call back in seven business days to try again. After the experience she was ready to give up on pursuing SSI. In the meantime, she remains income insecure and is further delayed in submitting her SSI application, which typically takes three to five months to review. She is one of many clients who have expressed frustration at the arbitrariness of the application process and negative treatment of applicants by some SSA workers violating their fundamental rights to social protection and an adequate standard of living.<sup>21</sup>

##### *b. Maintaining*

Maintaining benefits can be more difficult than gaining them. Derrick received notice that his upcoming outpatient chemotherapy appointments were canceled after his Medicaid was deactivated because he was \$12 over the income limit. He came to the LegalHealth clinic weak and in visible pain, and confused

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<sup>19</sup> Committee on Economic, Social and Cultural Rights, General Comment 14, The Right to the Highest Attainable Standard of Health, para. 4, U.N. Doc. E/C.12/2000/4 (2000).

<sup>20</sup> *Id.* at para. 12.

<sup>21</sup> ICESCR, *supra* note 3 at Art. 9 and Art. 11. To the extent lack of Social Security income makes it impossible for an individual to meet their basic needs, denial of benefits could worsen the individual's health condition and lead to their loss of life in violation of Article 6 of the ICCPR.

about the notice. The attorney explained the procedure to reactivate Medicaid and Derrick went to the Medicaid office the same day. The attorney tried to follow up with the client to confirm he had reached the Medicaid office, but could not because his cell phone was turned off (a common problem for low-income clients with intermittent cell phone service). A few months later, Derrick's social worker informed the attorney that Derrick had passed away. The interruption in Derrick's treatment due to the lapse in Medicaid is not unique; many of our low-income clients have faced interruption of life-sustaining medical treatment due to insurance technicalities in violation of their right to attain the highest attainable standard of health,<sup>22</sup> and at times in violation of their right to life.<sup>23</sup>

### *c. Correcting*

Correcting defective or deficient benefits can take years and comes with additional risks. Destiny is a single mother who has lived in public housing for 10 years. She receives public assistance and food stamps. Several years ago, she noticed mold in her apartment and complained to the building's management, which wiped down the mold spots. The mold quickly returned to her children's bedroom, the bathroom, and living area. She complained twice more and the issue was addressed in the same way. As a result of the persistent mold, Destiny and her two children have suffered from shortness of breath, rashes and headaches. Destiny's children have also been diagnosed with asthma, which is exacerbated by the mold and results in frequent doctor's visits. Her family has experienced violations of their right to health,<sup>24</sup> adequate housing,<sup>25</sup> and an adequate administrative remedy.<sup>26</sup> LegalHealth is evaluating whether it can help Destiny file a lawsuit in New York County Housing Court against the New York City Housing Authority (NYCHA) for a transfer to an apartment that will not make Destiny and her children sick.

### *d. Limitations*

Having the maximum benefit allowable does not mean that someone can afford basic necessities and live with dignity. Susan is a single mother, and a 100% disabled veteran, meaning she has been deemed incapable of working. Being unable to work, she receives SSDI, and a pension from the U.S. Department of Veterans Affairs because the disability is service connected. Her income from these benefits does not cover the basic expenses for a family of five. When her abusive husband stopped supporting them, Susan fell behind on the rent and faced eviction. Unable to find affordable rent in the New York area, she decided to move her family almost 200 miles because it was the closest place that she could maintain healthcare access and support a family on the limited resources allotted her by the government.

## **Poverty and Barriers to Care**

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<sup>22</sup> ICESCR Art. 12.

<sup>23</sup> ICCPR Art. 6.

<sup>24</sup> ICESCR Art. 12.

<sup>25</sup> ICESCR Art. 11.

<sup>26</sup> ICCPR Art. 2(3)(a).

Social support programs are not equipped to deal with the complex legal problems that regularly accompany low-income individuals. Raul was 42 years-old. He entered the U.S. without any documentation 17 years ago. His wife was also undocumented, but their adolescent daughter is a U.S. citizen. Raul had worked and paid taxes ever since entering the U.S.. He had no criminal history. His income was relatively high, but he was prohibited from buying any type of individual health insurance due to his immigration status. In the summer of 2017, Raul was diagnosed with an aggressive form of leukemia that generally cannot be treated with chemotherapy alone. After his first relapse, he sought our help to regularize his immigration status and gain health insurance because he could only be saved with a stem cell transplant, which he could not afford to pay and which Emergency Medicaid does not cover. Due to the complicated nature of his immigration remedy, and fear of deportation, by the time Raul was enrolled in health insurance it was too late, and he died. Raul is emblematic of hundreds of clients who, sick with cancer, are forced to delay life-sustaining treatment, or cannot access treatment at all, due to their immigration status. Such cases demonstrate *de jure* discrimination against immigrants on the basis of their nationality and economic status with regard to the right to health,<sup>27</sup> as well as the denial of their right to enjoy the benefits of scientific progress by accessing standard cancer treatment.<sup>28</sup>

Raul's daughter's right to social protection was also violated.<sup>29</sup> Even though Raul paid into Social Security, neither his U.S. citizen daughter nor his undocumented wife were able to receive survivors' benefits due to Raul's immigration status, depriving his U.S. citizen daughter of a benefit other similarly situated children with U.S. citizen parents are able to receive. While Raul was alive, he and his wife were able to support their small family and keep them out of poverty. Without Raul's income, it is highly unlikely that his undocumented wife will be able to keep her and her daughter from falling into poverty. With no job protection, Raul's wife cannot afford to take time off of work to mourn his death.

Yelena is an undocumented immigrant who recently escaped an abusive marriage. She has an infant U.S. citizen daughter. As part of the cycle of abuse, Yelena's husband refused to file an immigration petition for her, which could have resulted in her gaining legal immigration status. Yelena is now living in a domestic violence shelter, where she and her daughter have become ill due to mold exposure. Yelena can access only very limited public benefits due to her immigration status. Although she has no income or resources, she is not eligible for food stamps. Her attorney helped her file a petition for legal immigration status on the basis of having been abused by her U.S. legal permanent resident spouse, but the adjudication of her immigration petition will take over a year.<sup>30</sup> Until the application is approved,

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<sup>27</sup> ICESCR Art. 12. See also Committee on Economic, Social and Cultural Rights, General Comment 14, The Right to the Highest Attainable Standard of Health, paras. 34 and 50.

<sup>28</sup> ICESCR Art. 15(1)(b).

<sup>29</sup> ICESCR Art. 9.

<sup>30</sup> U.S. Citizenship and Immigration Services, *USCIS Processing Time Information*, <https://egov.uscis.gov/cris/processTimesDisplayInit.do> (last visited Oct. 13, 2017). The processing time for a VAWA petition is currently about 13 months.



Yelena cannot legally work or receive any financial assistance, in violation of her right to work<sup>31</sup> and right to an adequate standard of living,<sup>32</sup> including adequate food and shelter.

Amanda is a legal permanent resident, whose teenage son suffers from sickle cell anemia. Although Amanda has work authorization, she was recently let go from her job as a house cleaner and is now unemployed. Amanda and her son have lived in a City-funded shelter for over a year despite having a housing voucher that they could use for private housing. Even though there are prohibitions against income discrimination in New York City,<sup>33</sup> no landlord will rent to her with the voucher. Amanda was very thin and both she and her son were regularly hungry. She explained that the shelter operated out of a hotel that had no cooking facilities, and she was only given a blender to use for her and her son's meal preparation. Amanda and her son are forced to go hungry or use their cash assistance to purchase more expensive, less nutritious prepared food. This exacerbates her son's medical condition and cause both mother and child significant distress, in violation of their rights to health<sup>34</sup> and an adequate standard of living,<sup>35</sup> including food and shelter.

### **Medically Homeless**

Around 2010, Demetrius went into the shelter system and was unsuccessful in finding permanent housing through City rehousing programs. In the summer of 2015, he reported that he felt increasingly sick with stomach problems. In late September 2015, he was rejected from another housing project. When he went to that interview he had a high fever, chills, and was sweating profusely. The panel interviewing him grilled him on whether he abused drugs. A few days later, he became so sick that he went to the emergency room where he was diagnosed as severely jaundiced, septic, and having stage three pancreatic cancer. He was admitted immediately.

After recovering, the oncologist outlined a treatment program for him which he could do as an out-patient. However, there was no appropriate place for him to go. His social worker knew returning to a 200 bed barrack-style shelter while receiving chemotherapy would have put his health in serious danger. Demetrius was medically homeless: too sick to be in a barrack-style drop-in shelter, but no longer needing acute care hospitalization.

As a stage three pancreatic patient, Demetrius was immunocompromised and at an increased risk of contracting infections. His doctor said that it was “imperative that he have limited to no exposure to anyone who may have a communicable disease . . . and allowed accommodation in a separate room . . . and accommodation that will allow him rest and space to convalesce.” Despite being declared medically

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<sup>31</sup> ICESCR Art. 6.

<sup>32</sup> ICESCR Art. 11.

<sup>33</sup> See City of New York, *Lawful Source of Income*, <http://www1.nyc.gov/site/fairhousing/renters/lawful-source-of-income.page> (last visited Oct. 13, 2017).

<sup>34</sup> ICESCR Art. 12.

<sup>35</sup> ICESCR Art. 11. The Report of the Special Rapporteur on Adequate Housing As A Component of the Right to An Adequate Standard of Living previously expressed concern about conditions in U.S. public housing and urged the Government to devote “[a]dditional funding . . . to properly maintain and restore the remaining public housing stock” and “strengthen legislation on health standards for subsidized buildings.” A/HRC/13/20/Add.4 (Feb. 12, 2010).

stable for discharge in October 2015, Demetrius remained hospitalized until mid-January 2016, when he was finally discharged into his own apartment after being denied a reasonable accommodation request from Department of Homeless Services for a private room shelter placement, interventions by the City Council, wait repeatedly to be visited in-patient by a Home Base provider, and negotiations with the housing that had previously turned him down until they agreed to offer him a second interview, at which point he was accepted as a tenant. This relief came as the result of months of work by a lawyer, an advocate, a savvy social worker and a care giving team, resources which are not available to most people.

After four months in the hospital Demetrius was accepted at an independent living, subsidized housing environment. It still took another month to get through the paper work. The process was stripped of any dignity that an individual with cancer should have—Demetrius felt intense pressure to leave the hospital, and he had to accept a lower dose of chemotherapy so that he would not be susceptible to hospital-borne illnesses. The hospital environment left him morbidly depressed and barely able to sustain himself physically or psychologically for treatment.

Moving into the apartment brought a remarkable change. Demetrius had privacy, pride and dignity, all for the first time in his life. Sadly, soon after Demetrius was able to move into his own apartment, his cancer became more aggressive and he died. His case represents intersecting violations of the rights to health<sup>36</sup> and housing<sup>37</sup> and discrimination in the attainment of these rights based on his disability.<sup>38</sup>

#### IV. Conclusion

Legal services providers like NYLAG do not typically conceive of what we do as human rights work. Preparation of this submission provided a welcome opportunity to consider our work in terms of the human rights violations implicated by our clients' cases and to focus on shortcomings in the government programs with which we regularly engage.

Through our work, we seek to help clients realize their civil, political, economic and social rights, as expressed in the ICCPR and ICESCR. We support the universal realization of the right to health, broadly defined to incorporate social determinants of health, for every person living in this country, regardless of their income or immigration status. Indeed, if the right to universal health care was recognized under U.S. law, our clients would be more secure not only with respect to their health, but also with respect to their housing and livelihoods. When clients are poor and sick, their legal problems snowball. If barriers to accessing quality health care were removed, they could focus their energy on recovering and rebuilding their lives.

We also support the realization of the right to social protection. We have witnessed too many clients who are undeniably disabled under the relevant laws denied disability benefits as a matter of course by agencies, then being forced to live in poverty while they wait to appeal the denial and collect their

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<sup>36</sup> ICESCR Art. 12.

<sup>37</sup> ICESCR Art. 11.

<sup>38</sup> ICESCR Art. 2(2).

benefits. Without attorneys and legal navigators, their likelihood of success at both the application and appeal stages is very low. We believe that it should not be so difficult and resource intensive for disabled individuals to access their right to social protection.

We appreciate the opportunity to participate in the Special Rapporteur's timely study of poverty and human rights violations in the U.S. We would be pleased to arrange a visit for the Special Rapporteur to meet with NYLAG staff and a selection of clients at his request.