

Brooklyn Journal of International Law

Volume 22

Issue 1

Symposium:

New Developments in the Law of Credit

Enhancement: Domestic and International

Article 4

9-1-1996

One Nation's Dream, Another's Reality: Housing Justice in Sweden

Deborah Kenn

Follow this and additional works at: <https://brooklynworks.brooklaw.edu/bjil>

Recommended Citation

Deborah Kenn, *One Nation's Dream, Another's Reality: Housing Justice in Sweden*, 22 Brook. J. Int'l L. 63 (1996).

Available at: <https://brooklynworks.brooklaw.edu/bjil/vol22/iss1/4>

This Article is brought to you for free and open access by the Law Journals at BrooklynWorks. It has been accepted for inclusion in Brooklyn Journal of International Law by an authorized editor of BrooklynWorks.

ARTICLES

ONE NATION'S DREAM, ANOTHER'S REALITY: HOUSING JUSTICE IN SWEDEN

*Deborah Kenn**

I. INTRODUCTION

A country where everyone lives in decent housing which costs less than 25% of their income? A country where everyone has the choice between rental housing, cooperative housing, and single-family housing? A country where lack of individual financial resources does not relegate one to living in central city slums? A dream world? No. Affordable, quality housing for all exists in Sweden. It remains a pipe dream in the United States, but Sweden's success at housing provision serves as an available prototype for United States housing policy and programs.

After detailing the history and contemporary status of the housing crisis in the United States in Part II, Part III of this article offers a description of Sweden's housing policy and programs as a model for addressing housing problems in the United States. Part IV explains how learning from Sweden's successful governmental efforts to provide housing justice for all and combining those techniques with existing legal mechanisms for the preservation of affordable housing can create a framework for resolving the United States' housing crisis.

* Associate Professor of Law and Director, Housing and Finance Clinic, Syracuse University College of Law, Syracuse, New York. B.A. 1977, Eisenhower College; J.D. 1980, State University of New York at Buffalo, Faculty of Law and Jurisprudence. Thanks and gratitude to Julie Bergkamp and Stacey Stritzel who provided a commitment to excellence in researching this article.

II. THE UNITED STATES' HOUSING CRISIS AND ITS CAUSES

In 1975, the United Nations assessed the global community's dismal progress in providing housing to its people. Having deemed adequate housing to be an essential for all, the United Nations was appalled by the woefully inadequate national responses to deplorable housing conditions.¹ North America served as a glaring example of misplaced priorities and corrupt social values in which "housing for the needy must take second place to sports arenas or modern speedways."² Although much richer in resources than other countries, the United States' lack of a national housing policy fostered an affordable housing crisis.³ In 1949, the United States legislature began paying lip service to a national policy articulated as providing "a decent home and a suitable living environment for every American family."⁴ Despite stated intentions, more than adequate resources, and almost three decades to put these intentions into action, the United States could not claim a comprehensive, working national housing policy.⁵ By 1975, the lack of a national housing policy and a widening "affordability gap" between the cost of housing and the ability of people to pay for it led the United Nations to compare the U.S. housing

1. See U.N. DEPT OF ECONOMIC & SOCIAL AFFAIRS, NON-PROFIT HOUSING ASSOCIATIONS: ORGANIZATION, FINANCING AND STRUCTURAL INTEGRATION at 68, U.N. Doc. ESA/OTC/SEM/75/2, U.N. Sales No. E.75.N.4 (1975) [hereinafter NON-PROFIT HOUSING ASSOCIATIONS].

2. *Id.* at 67.

3. See *id.* at 2. For discussions on the United States' lack of national housing policy, see JOHN I. GILDERBLOOM & RICHARD P. APPELBAUM, RETHINKING RENTAL HOUSING 13 (1988); John A. Hird et al., *Housing in San Francisco: Shelter in the Market Economy*, in HOUSING MARKETS AND HOUSING INSTITUTIONS: AN INTERNATIONAL COMPARISON 157, 178 (Björn Hårsman & John M. Quigley eds., 1991) [hereinafter HOUSING MARKETS]; Björn Hårsman & John M. Quigley, *Housing Markets and Housing Institutions in a Comparative Context*, in HOUSING MARKETS, *supra*, at 1, 8.

4. Housing Act of 1949, ch. 338, § 2, 63 Stat. 413, 413 (1949) (current version at 42 U.S.C. § 1441 (1994)).

5. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 13; Harsman & Quigley, *supra* note 3, at 8; J. Paul Mitchell, *The Historical Context for Housing Policy*, in FEDERAL HOUSING POLICY & PROGRAMS, PAST & PRESENT 3, 4 (J. Paul Mitchell ed., 1985); see also E. Jay Howenstine, *The New Housing Shortage: The Problem of Housing Affordability in the United States*, in THE NEW HOUSING SHORTAGE 8 (Graham Hallet ed., 1993) (indicating that the gross national product of the United States nearly quadrupled between 1946 and 1989, increasing from \$1.1 trillion to \$4.1 trillion); ANN L. STRONG, LAND BANKING: EUROPEAN REALITY, AMERICAN PROSPECT 45 (1979).

crises to that in developing countries.⁶

In 1996, the crisis deepens. Far from improving the international comparison, the United States maintains an increasingly high level of people living in poverty.⁷ In a comparative analysis of eight representative countries undertaken by the U.S. government,⁸ the United States exhibited a poverty level double that of other developed countries.⁹ In yet another study, international analysts found a 17% poverty rate in the United States, a rate higher than all other countries represented, including Canada, West Germany, Israel, Norway, Sweden, and the United Kingdom.¹⁰ Sweden and Norway had the lowest poverty rates at 5%.¹¹ When the number of children living in poverty is considered, the United States' poverty level is three times that of other countries surveyed.¹² The United States child poverty rate increased between 1979 and 1986, from 15.6% to 20.4%.¹³ In 1991, the number grew to 21.5%, the highest number of children living in poverty in an eighteen country study.¹⁴

6. NON-PROFIT HOUSING ASSOCIATIONS, *supra* note 1, at 2.

7. STAFF OF HOUSE COMM. ON WAYS AND MEANS, 103D CONG., 1ST SESS., OVERVIEW OF ENTITLEMENT PROGRAMS 1451 (Comm. Print 1993) [hereinafter OVERVIEW OF ENTITLEMENT PROGRAMS].

8. The comparative study included the United States, Canada, Australia, Sweden, Germany, the Netherlands, France, and the United Kingdom. *Id.* at 1453.

9. *Id.* at 1451. A poverty rate of 13.3% was found for the United States in 1986. *Id.* at 1453.

10. HENRY MILNER, SWEDEN: SOCIAL DEMOCRACY IN PRACTICE 201 (1989). The statistics in this study were compiled in 1986. *Id.*

11. *Id.*

12. *Id.*; see also LEE RAINWATER & TIMOTHY M. SMEEDING, DOING POORLY: THE REAL INCOME OF AMERICAN CHILDREN IN A COMPARATIVE PERSPECTIVE 9 (Luxembourg Income Study Working Paper No. 127, 1995) (analyzing income and poverty rates in 14 European countries, Australia, Canada, Israel, and the United States and finding that in all countries but Israel and Ireland the standards of living of children living in poverty is at least 30% higher than in the United States). Analyzed separately, U.S. children living with single parents had a poverty rate of 54.2% (the highest rate of all the nations in the study). OVERVIEW OF ENTITLEMENT PROGRAMS, *supra* note 7, at 1452; see RAINWATER & SMEEDING, *supra*, at 12.

13. OVERVIEW OF ENTITLEMENT PROGRAMS, *supra* note 7, at 1451; see also Daan Braveman, *Children, Poverty and State Constitutions*, 38 EMORY L.J. 577, 577-85 (1989) (providing a detailed analysis of trends in United States child poverty rates during the 1980s).

14. RAINWATER & SMEEDING, *supra* note 12, at 10 (studying Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden, Switzerland, the United Kingdom, Australia, Canada, Israel, and the United States).

A shameful travesty of justice is perpetrated on low income people in the United States. This travesty appears from the enormous wealth available in the United States and the vastly unequal distribution of that wealth. The United States boasts the highest standard of living among high income nations.¹⁵ High and middle income children in the United States are as disproportionately wealthy in the international sphere as low income children are economically poor.¹⁶ The rich are richer in comparison to other countries and the poor are poorer. While comparable nations address similar inequities with income transfer programs that reduce poverty by as much as 75%, the U.S. government does little to address the problem and accomplishes only a 25% reduction in poverty rates.¹⁷ The United States maintains an alarmingly high poverty rate, both before and after government transfers.¹⁸

Despite its shamefully high poverty rate, the United States also distinguishes itself among developed countries by committing proportionately fewer resources to providing adequate housing for families living in poverty.¹⁹ In the late 1970s, government investment in housing was 18% higher in the countries of Western Europe than in the United States.²⁰ Analysis of direct government spending on housing bodes even worse for the United States. The United States holds the distinction of expending an insignificant share of government dollars on housing.²¹ In 1980, the percentage of public expenditures dedicated to housing was 0.6 in the United States.²² For purposes of comparison, the Netherlands spent 7% of its public expenditures on housing in the same year; the United Kingdom, 5%; and Sweden, 3.4%.²³ These comparisons got worse in the 1980s when the U.S. government vastly dimin-

15. *Id.* at 7, 9.

16. *See id.* at 8, 9.

17. *Id.* at 16, 17.

18. *See id.* at 18.

19. *See* GILDERBLOOM & APPELBAUM, *supra* note 3, at 151. In terms of overall government spending on the public sector, the comparison is also stark. In 1980, the United States spent 21% of its gross national product on the public sector. Sweden spent 62%; the Netherlands, 61%; Great Britain, 52%. Hårsman & Quigley, *supra* note 3, at 15.

20. *Id.* This figure relates to "total fixed capital investment."

21. *See* Hårsman & Quigley, *supra* note 3, at 13-14.

22. *Id.* at 15.

23. *Id.*

ished federal funding for existing affordable housing programs.²⁴

It is no surprise that the few federal dollars allocated for the basic necessity of housing have not measurably impacted upon the housing crisis. In 1990, approximately 43% of low-income renters paid more than half of their gross incomes for rent; more than 30% is considered unaffordable.²⁵ Because almost two-thirds of low-income renters do not receive any government rent subsidy, many low-income households do not have additional resources for their housing costs other than the family budget.²⁶ As a result, families are unable to feed and clothe themselves properly, and often must choose whether to pay the rent or buy food.²⁷ Fourteen million households cannot afford a single penny for housing if they are to meet their minimum costs for nonshelter basics such as food, medical care, and clothing.²⁸ Thus, many families find themselves either completely shut out of housing, or with housing costs so burdensome that basic necessities must be foregone.²⁹

The lack of affordable housing in the United States, particularly for low-income households, is caused by a combination of two factors: declining household incomes and sharply rising

24. See Marshall M. A. Feldman & Richard L. Florida, *Economic Restructuring and the Changing Role of the State in U.S. Housing*, in GOVERNMENT AND HOUSING: DEVELOPMENTS IN SEVEN COUNTRIES 31, 41 (Willem van Vliet & Jan van Weesep eds., 1990) [hereinafter GOVERNMENT AND HOUSING]. Funding for affordable housing programs for low income people reached an all-time high of \$31.5 billion in 1978. By 1982, the Reagan administration had decimated funding for the programs leaving \$13.3 billion in funding and \$9.5 billion by 1987. *Id.* By 1989, funding for affordable housing programs fell to \$8 billion. See W. Dennis Keating et al., *Community Development Corporations in the United States: Their Role in Housing and Urban Development*, in GOVERNMENT AND HOUSING, *supra*, at 206, 206.

25. JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, THE STATE OF THE NATION'S HOUSING 18 (1995). In some cases, households pay up to 70% of their income for rent. *The State of Our Nation's Housing: Hearings Before the Subcomm. on Housing and Community Development of the House Comm. on Banking, Finance and Urban Affairs*, 103d Cong., 1st Sess. 14 (1993) [hereinafter *Hearings*] (statement of Chester Hartman, President and Executive Director, Poverty and Race Research Action Council). As a general rule, housing is considered unaffordable if it consumes in excess of 30% of gross household income. Michael B. Gerrard, *The Victims of NIMBY?*, 21 FORDHAM URB. L.J. 495, 506 n.56 (1993).

26. Chester Hartman, *A Universal Solution to the Minority Housing Problem*, 71 N.C. L. REV. 1557, 1561 (1993).

27. *Hearings*, *supra* note 25, at 14.

28. *Id.* at 15.

29. *Id.* at 14.

housing costs.³⁰ In fact, it has been recognized that "what exists is a fundamental and growing structural gap between incomes and housing costs."³¹ For example, from 1970 to 1994, the median income of renter households decreased by 16% to \$15,184, while gross rents increased by more than 11% to \$403 per month.³² Furthermore, beginning in the late 1970s and continuing through the early 1990s, the Consumer Price Index (CPI) for housing costs outpaced income.³³ The inability of household income to keep up with escalating housing costs has spawned the affordable housing crisis in the United States today.³⁴ Estimates show that in order to close the "affordability gap" (the gap between housing cost and income) in the U.S. housing market, \$92 billion in funding would be needed annually.³⁵

High housing costs, the second key contributor to the affordable housing crisis, can be attributed to a severe shortage in the nation's housing supply.³⁶ From 1974 to 1994, the num-

30. CUSHING N. DOLBEARE, NATIONAL LOW INCOME HOUSING COALITION, *LOW INCOME HOUSING NEEDS 1* (1989) (finding that "[t]he root cause of most housing problems in [the United States] is the large and growing gap between the cost of decent housing . . . and the income which is available to pay for it"); Michael A. Wolf, *HUD and Housing in the 1990s: Crises in Affordability and Accountability*, 18 *FORDHAM URB. L.J.* 545, 550 (1991) (finding that "[a] rise in real rents and a decline in the median income of renters . . . have contributed to a serious tenant squeeze").

31. *Hearings*, *supra* note 25, at 15.

32. JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, *supra* note 25, at 18. This translates into a median gross rental burden of 30.5%, the third highest rental burden recorded in over two decades. *Id.* In 1992, the gross rent burden was at a twenty-five year high at 31%. *Hearings*, *supra* note 25, at 7, 14 (statements of William C. Appgar, Executive Director, Joint Center for Housing Studies of Harvard University & Chester Hartman, President and Executive Director, Poverty and Race Research Action Council). Given that 43% of low-income renters paid more than 50% of their incomes for rent in 1990, the rent burdens of low-income households have been especially severe. JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, *supra* note 25, at 18.

33. Laura M. Padilla, *Reflections on Inclusionary Housing and a Renewed Look at its Viability*, 23 *HOFSTRA L. REV.* 539, 546 (1995) (citing R. ALLEN HAYS, *THE FEDERAL GOVERNMENT AND URBAN HOUSING* 59 (1985); ALLAN MALLACH, *INCLUSIONARY HOUSING PROGRAMS: POLICIES AND PRACTICES* 4 (1984)).

34. *See* Wolf, *supra* note 30, at 550.

35. MICHAEL E. STONE, *ONE-THIRD OF A NATION: A NEW LOOK AT HOUSING AFFORDABILITY IN AMERICA* 2, 15 (1990). The \$92 billion figure represents 1987 dollars. The aggregate gap amounts to only a small percentage of America's Gross National Product. *See id.* at 15. However, throughout the 1980s, the affordability gap grew at a rate 20% faster than GNP. *Id.* at 2.

36. *See* Padilla, *supra* note 33, at 544. The rise in housing costs results from

ber of affordable dwellings has decreased by half in the Northeast. The total stock of affordable rental housing in the South and West also fell below 1974 levels.³⁷ According to the Center on Budget and Policy Priorities,³⁸ in 1985 there were 3.7 million fewer low-rent units than low-income renter households. In 1989, there were 4.1 million fewer low-rent units than low-income renters.³⁹ The affordable housing stock continues to erode during the 1990s, leaving low-income renters with limited housing choices.⁴⁰

The shortage in the housing market has resulted from a combination of several factors.⁴¹ First, low-income housing production has declined substantially over the past decade.⁴² According to the Congressional Budget Office, net new commitments to provide assisted housing averaged less than 10,000 units between 1988 and 1993, down from between 300,000 and 400,000 units in the late 1970s.⁴³ Given that cutbacks in federal housing programs are on the horizon, the production, and thus the stock of low-cost units will continue to diminish.⁴⁴

several factors including high demand in light of limited supply. *See id.* According to analysts, the United States "has a severe and growing shortage of available housing." Gerrard, *supra* note 25, at 506.

37. JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, *supra* note 25, at 19.

38. John C. Boger, *Race and the American City: The Kerner Commission in Retrospect - An Introduction*, 71 N.C. L. REV. 1289, 1332 n.188 (1993) (citing PAUL A. LEONARD ET AL., *A PLACE TO CALL HOME: THE CRISIS IN HOUSING FOR THE POOR* 6 (1989)).

39. *Id.* at 1334 n.194 (citing EDWARD B. LAZARE ET AL., *A PLACE TO CALL HOME: THE LOW INCOME HOUSING CRISIS CONTINUES* 5 fig. 1 (Ctr. on Budget & Policy Priorities ed., 1991)). A "low-rent unit" is defined as a unit renting for under \$250 per month. *Id.*

40. JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, *supra* note 25, at 18, 20.

41. Boger, *supra* note 38, at 1332-33.

42. Randi L. Engel, Comment, *Critical Housing Needs and the Emergency Low Income Housing Preservation Act of 1987: A Short-Term Solution to a Long-Term Problem*, 40 EMORY L.J. 163, 166 n.21 (1993). The decline in public housing production has been attributed to changes in federal housing policy initiated during the Reagan Administration. "[C]onsistent with the [Reagan/Bush] administration's favoring of rental assistance over new construction programs, the number of subsidized housing starts per year dropped by more than 88%, from 175,000 [in 1979] to less than 21,000 [in 1989]." Boger, *supra* note 38, at 1332 n.189 (quoting MICHAEL A. STEGMAN, *MORE HOUSING, MORE FAIRLY: REPORT OF THE TWENTIETH CENTURY FUND TASK FORCE ON AFFORDABLE HOUSING* 26, tbl. 25 (1991)).

43. JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, *supra* note 25, at 20.

44. *Id.*; see discussion and accompanying notes *infra* pp. 72-75.

Moreover, changes in the tax code initiated by the 1986 Tax Reform Act⁴⁵ have made investment in rental property less desirable, adding to the lack of low-rent unit production.⁴⁶ Finally, state legislation has further decreased the production of affordable housing.⁴⁷ Some states require voter approval of low-income housing construction that is publicly financed. Many fear the loss of property values if these units are built in their neighborhoods. Therefore, such legislation gives citizens the ability to block the construction of affordable housing. In many localities this opportunity is eagerly seized.⁴⁸

In addition to the lack of housing unit production, loss of existing units substantially contributes to the housing shortage. For example, condominium conversion and increased gentrification of low-income neighborhoods result in a great loss of low-income housing units.⁴⁹ Owner withdrawal of thousands of low-income units built during the 1970s with federal subsidies adds to the shortage.⁵⁰ Finally, the abandonment and demolition of run-down housing further contributes to this problem.⁵¹

As the cost of housing rises due to shortages in housing and other cost-enhancing factors, and the incomes of renters decline, the affordable housing crisis becomes increasingly acute. The impact of the crisis is devastating to low-income people. For those people who somehow secure housing, the

45. Tax Reform Act of 1986, Pub. L. No. 99-154, 100 Stat. 2085 (1986) (codified as amended in scattered sections of 26 U.S.C.).

46. See Padilla, *supra* note 33, at 546 (citing R. ALLEN HAYS, *THE FEDERAL GOVERNMENT AND URBAN HOUSING* 58 (1985)). The Tax Reform Act made significant changes in the tax code. The Act eliminated many incentives that once existed to invest in and operate real property. After the revisions, real estate was not as lucrative of an investment as it once was. See ARLENE ZAREMBKA, *THE URBAN HOUSING CRISIS* 21-22 (1990).

47. Padilla, *supra* note 33, at 545.

48. See *id.* In California, for example, the state constitution requires voter approval of affordable housing that is at least 50% publicly financed. *Id.* at 545 n.22 (discussing the constitutional challenges to this provision). Florida has a similar statute which makes it difficult to establish affordable housing. *Id.* at 545.

49. Curtis Berger, *Beyond Homelessness: An Entitlement to Housing*, 45 U. MIAMI L. REV. 315, 321-22 (1991); Padilla, *supra* note 33, at 546.

50. Boger, *supra* note 38, at 1333-34.

51. See Padilla, *supra* note 33, at 546. In light of local ordinances and housing codes, many landlords find it unprofitable to continue operating their units. This has led to the abandonment of buildings. See John J. DiIulio, Jr., *There But For Fortune—the Homeless: Who They Are and How to Help Them*, NEW REPUBLIC, June 24, 1991, at 27, 30.

rents are increasingly unaffordable, leaving low-income tenants without funds for basic human necessities.⁵² For people who cannot secure affordable housing nor continue to pay for unaffordable housing, homelessness results.

In fact, the affordable housing crisis has been recognized as "play[ing] an essential role" in contributing to the onset of homelessness in many Americans' lives.⁵³ Unable to secure any type of housing due to the affordability problem, increasing numbers of families seek homes in shelters or in the streets. Estimates of the number of homeless individuals in the United States prove difficult to gather due to the nature of the problem. Consequently, the numbers vary from a low of between 192,000 and 350,000⁵⁴ to a high of 1.5 to 3 million.⁵⁵ However, as many as 600,000 people remain homeless in America on any given night.⁵⁶ Approximately seven million Americans have experienced homelessness at least once in their lives.⁵⁷ Families account for 20% of the homeless population and 80% of families that are homeless are headed by a single mother.⁵⁸ Children comprise 15% of the homeless population.⁵⁹ While homelessness is a devastating experience at any age, it has profound effects upon children. Children whose families cannot afford a home often suffer from malnutrition, perform poorly in school, and have related mental and emotional problems.⁶⁰

The housing affordability crisis not only creates the problem of homelessness, but also results in people being "precariously housed."⁶¹ People who are precariously housed live on

52. See *Hearings*, *supra* note 25, at 14 (statement of Chester Hartman, President and Executive Director, Poverty and Race Research Action Council).

53. Engel, *supra* note 42, at 166 n.19.

54. OFFICE OF POLICY DEVELOPMENT AND RESEARCH, U.S. DEPT OF HOUSING AND URBAN DEVELOPMENT, A REPORT TO THE SECRETARY ON THE HOMELESS AND EMERGENCY SHELTERS 18-19 (1984); see CHRISTOPHER JENCKS, THE HOMELESS 2-3 (1994) (discussing the Department of Housing and Urban Development's Report).

55. DiIulio, *supra* note 51, at 28.

56. INTERAGENCY COUNCIL ON THE HOMELESS, U.S. DEPT OF HOUSING AND URBAN DEVELOPMENT, PRIORITY: HOME! THE FEDERAL PLAN TO BREAK THE CYCLE OF HOMELESSNESS 17 (1994) [hereinafter PRIORITY: HOME!].

57. *Id.*

58. *Id.* at 23.

59. *Id.* at 21 n.3.

60. See Ellen L. Bassuk, *Homeless Families*, SCI. AM., Dec. 1991, at 66, 66,

70.

61. *Departments of Veterans Affairs and Housing and Urban Development and*

the brink of homelessness and are soon to "cross the narrow divide between shelter and the streets."⁶² An estimated six million people are precariously housed or "pre-homeless" in the United States.⁶³ They are often forced to "double up" with friends or relatives which causes overcrowding and substandard living conditions.⁶⁴ Moreover, the situation of being precariously housed is often chronic, rather than a passing phase in a family's life. According to one study, "crossing the line between extreme crisis poverty and homelessness has become largely a matter of timing—not when, but how often."⁶⁵

In the current political climate, the crisis will become predictably worse. It doesn't take an alarmist to realize the affordable housing implications of the budget-slashing, program-cutting Republican Congress.⁶⁶ Relying on the private, market-driven sector for provision of adequate housing for low income people has not worked.⁶⁷ There is no evidence that the

Independent Agencies Appropriations for Fiscal Year 1994: Hearings on H.R. 2491 Before the Senate Comm. on Appropriations, 103d Cong., 1st Sess. 148 (1994) [hereinafter *Appropriations Hearings*] (statement of Thomas L. Kenyon, President, National Alliance to End Homelessness).

62. Berger, *supra* note 49, at 321.

63. *Appropriations Hearings*, *supra* note 61, at 148 (statement of Thomas L. Kenyon, President, National Alliance to End Homelessness).

64. PAUL A. LEONARD ET AL., *A PLACE TO CALL HOME: THE CRISIS IN HOUSING FOR THE POOR* 24 (1989). Overcrowding among poor families has been deemed "rampant." Hartman, *supra* note 26, at 1559. Overcrowding is "a hazard to health and a creator of family tensions, and [causes] poor study environments for school-children . . ." *Id.*

65. PRIORITY: HOME!, *supra* note 56, at 22.

66. See 32 INSTITUTE FOR COMMUNITY ECONOMICS, *COMMUNITY ECONOMICS* 5 (1995); see also Peter W. Salsich, Jr., *Solutions to the Affordable Housing Crisis: Perspectives on Privatization*, 28 J. MARSHALL L. REV. 263, 263 (1995).

67. See Richard P. Appelbaum, *Swedish Housing in the Postwar Period: Some Lessons for American Housing Policy*, in *CRITICAL PERSPECTIVES ON HOUSING* 535, 553 (Rachel G. Bratt et al. eds., 1986) (finding that "[t]he marketplace has been unable to provide adequate shelter for all, and will prove increasingly incapable of doing so"); Peter Marcuse, *United States of America*, in *INTERNATIONAL HANDBOOK OF HOUSING POLICIES AND PRACTICES* 327, 368 (William van Vliet ed., 1990) (finding that "[t]he attempt to regulate the private profit-motivated housing sector to provide housing for those not economically able to pay its market price is unlikely to succeed"); SCOTT LECKIE, *TOWARDS AN INTERNATIONAL CONVENTION ON HOUSING RIGHTS: OPTIONS AT HABITAT II* 34 (ASIL Issue Papers on World Conferences No. 4, 1994) [hereinafter *HABITAT II*]. In *HABITAT II*, Leckie asserts that:

[a]lthough throughout the international community the embrace of market-based solutions to the on-going housing crisis is very much in fashion at the moment, one would be hard pressed to identify any country pursuing neo-liberal economics where the housing rights of all dwellers have

private sector will produce affordable housing without government support. Solving the housing affordability crisis will only be possible with significant increases in federal funding.⁶⁸

Under the current conservative initiatives in Congress, however, the affordability problem will become worse. Both the House and the Senate have approved drastic reductions in spending for the 1996 fiscal year.⁶⁹ Under pending bills, Department of Housing and Urban Development (HUD) programs are set to be reduced by 20%.⁷⁰ Budget cuts will result in 240 HUD programs receiving absolutely no funding in fiscal year 1996.⁷¹ Congress will also reduce public housing construction

been ensured in either law or in fact. A new housing rights convention would serve, therefore, to underline the fact that housing rights entitlements (and indeed all human rights) transcend prevailing economic ideologies and that notwithstanding economic policies drawing heavily upon the market to satisfy basic human requirements, the right to a safe and secure place in which to live in peace and dignity is of clear universal relevance.

Id.; see also W. Dennis Keating et al., *Community Development Corporations in the United States: Their Role in Housing and Urban Redevelopment*, in GOVERNMENT AND HOUSING, *supra* note 24, at 206, 207; Salsich, *supra* note 66, at 288-89; Peter Ambrose, *The Performance of National Housing Systems—A Three-Nation Comparison*, 7 HOUSING STUD. 163, 165-66 (1992); Lyle C. Fitch & Ruth P. Mack, *Land Banking*, in THE GOOD EARTH OF AMERICA: PLANNING OUR LAND USE 134, 144 (C. Lowell Harris ed., 1974) [hereinafter THE GOOD EARTH].

68. While funding is needed to remedy the problem of housing affordability, funding is likewise needed to remedy another aspect of America's housing crisis: rehabilitation of existing public housing units. It is estimated that \$9 billion is needed to repair the nation's public housing. ZAREMBKA, *supra* note 46, at 4 (citing DAVID C. SCHWARTZ ET AL., A NEW HOUSING POLICY FOR AMERICA 122 (1988)). Furthermore, public housing has a backlog of modernization needs in excess of \$25 billion. *Hearings Before the Subcomm. on Housing and Community Opportunity of the House Comm. on Banking and Financial Services*, 103d Cong., 2d Sess. (1995) (testimony of Gregory Byrne, Executive Director, Dade County Department of Housing and Urban Development). Modernization funds in the amount of \$4 billion would be needed just to keep up with the backlog and to eliminate it within a decade. *Id.* In the meantime, many of the nation's 1.3 million families living in public housing experience "unimaginable and . . . intolerable living conditions." NAT'L COMM. ON SEVERELY DISTRESSED PUB. HOUSING, FINAL REPORT TO THE CONGRESS AND SECRETARY OF HOUSING AND URBAN DEVELOPMENT 2 (1992).

69. See David Phinney, *Funding Cuts Tighten Squeeze on San Francisco Homeless*, *Clinton Administration Claims*, States News Service, Oct. 3, 1995, available in LEXIS, News Library, CURNWS File.

70. See *Democrats Urge a Veto: Senate Approves Cuts for VA, HUD, EPA*, News & Observer (Raleigh), Sept. 28, 1995, available in LEXIS, Nexis Library, NEWS File.

71. *Senate Approves HUD Appropriations Bill; Fair Housing Act Initiatives Curtailed*, BNA's Banking Report, Oct. 2, 1995, at 529, available in LEXIS, News Library, CURNWS File.

funds by \$1.6 billion, further contributing to the shortage of affordable housing for low-income families.⁷²

Reductions in housing programs, coupled with spending cuts in welfare and medicaid, are predicted to be "disastrous" in fighting homelessness.⁷³ Additionally, while direct spending on programs to assist people who are homeless amounted to \$1.12 billion in 1995, spending will only be between \$676 million and \$760 million in fiscal year 1996.⁷⁴ Paradoxically, the spending cuts proposed by Congress are accompanied by a \$250 billion tax cut for wealthy Americans.⁷⁵ Congress is also proposing to appropriate to the Pentagon \$7 billion more than requested.⁷⁶ Furthermore, while the proposed spending bills cut homelessness assistance programs, public housing construction and other HUD programs, funding for the space station is kept intact.⁷⁷

Advocates for affordable housing for low income people must become visionaries. A long range vision must peer through the mounting gloom, and see a time when the U.S. government will realize the social and political injustice perpetrated against its people for decades. It is hard to predict what it will take for the government to realize the true problem of poverty and begin to provide real solutions to the problem. Perhaps it will take the kind of intense social unrest, protest, and urban riots which escalated in the 1960s.⁷⁸ Perhaps the

72. See *Democrats Urge a Veto: Senate Approves Cuts for VA, HUD, EPA*, *supra* note 70. Congress has also proposed to grant public housing authorities "more power to demolish old units, raise rents, and admit wealthier tenants." James W. Brosnan, *GOP Rewrites Public Housing Rules, Stirring Debate*, *Com. Appeal* (Memphis), Oct. 2, 1995, at 1A, available in LEXIS, News Library, CURNWS File. Furthermore, the Republican Congress is looking to reduce the earned-income tax credit in order to increase taxes on 14.4 million low-income workers. See Henry G. Cisneros, *Cities: The Death of a Thousand Cuts; The Devastating Changes Sought by the GOP Congress*, S.F. EXAMINER, Oct. 5, 1995, at A19.

73. See Phinney, *supra* note 69 (quoting Eugene Lowe, Assistant Director, U.S. Conference of Mayors).

74. *Id.* According to one commentator, "it is pretty apparent . . . that the sum in total cuts will put more people on the streets." *Id.* (quoting Eugene Lowe, Assistant Director, U.S. Conference of Mayors).

75. William A. Weathers, *Cisneros: Change is Due in '96*, CINCINNATI ENQUIRER, Sept. 29, 1995, at A14.

76. *Id.*

77. Sam Walker, *Your Road Map to Congress's Budget Bills*, CHRISTIAN SCI. MONITOR, Oct. 3, 1995, at 1, 8.

78. Feldman & Florida, *supra* note 24, at 44; see also Marcuse, *supra* note 67, at 367 (postulating that the government's deliberate campaign to divide and con-

United States government will finally succumb to the international embarrassment of being viewed as a greedy and selfish nation. Perhaps it will take a combination of both eventualities. Whatever form the wake-up call takes, it will be loud and clear. The way a country treats all of its people becomes a reflection of its humanity. It remains inhumane to ignore an entire segment of the population which does not have the means to survive on a daily basis. The inhumanity becomes cruelty when people who have nothing are ignored so that people who have enough can get more.⁷⁹

Bridging the chasm between the haves and the have-nots requires a commitment to housing equity. Adequate housing becomes the basis from which people build lives, the stability which underlies a quality education, and an effective job search.⁸⁰ Housing equity provides everyone with an opportunity for a stable and secure home environment from which to meet the challenges of everyday, productive lives.

III. APPROACHES TO THE PROBLEM OF POVERTY AND AFFORDABLE HOUSING

When the United States truly dedicates itself to providing a decent home and suitable living environment for all its inhabitants, the goal can be achieved. It is not too late to develop and fund a cohesive and comprehensive national housing policy which will realistically provide adequate housing for all the people in the United States. When our nation decides to take affordable housing seriously, illustrations of national housing policies from other countries can be emulated and adapted.⁸¹ Although no country can claim 100% success in affordable housing provision, a handful have made incredible progress towards that goal.⁸²

quer the classes keeps people living in poverty powerless).

79. See NON-PROFIT HOUSING ASSOCIATIONS, *supra* note 1, at 67-68; see also *supra* note 46 and accompanying text.

80. See HOUSING MARKETS, *supra* note 3, at 2-3; PETER DICKENS ET AL., HOUSING, STATES AND LOCALITIES 11-12 (1985); see generally HABITAT II, *supra* note 67, at 6-8.

81. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 13.

82. See *id.*; Gösta Esping-Andersen & Walter Korpi, *From Poor Relief to Institutional Welfare States: The Development of Scandinavian Social Policy*, in THE SCANDINAVIAN MODEL: WELFARE STATES AND WELFARE RESEARCH 39, 63-73 (Robert Erikson et al. eds., 1987).

While these success stories are few and far between, they can help keep the vision of equitable and affordable housing alive in the United States. The Scandinavian countries have made the most progress worldwide towards the elimination of poverty and the provision of decent housing for their people. All of the Scandinavian countries have kept child poverty rates below 5%, while at the same time, high income Swedish and Danish families can claim a degree of wealth comparable to American families.⁸³ Furthermore, Sweden and Denmark have reduced the poverty rate in their countries by 75% through their tax and transfer programs.⁸⁴ Although differences in the political, social, and economic contexts exist, both among the Scandinavian countries themselves and between them and the United States, lessons from their experiences can still be applied to the United States.⁸⁵ The fact remains that other nations have produced results in fighting poverty and providing affordable housing to low income people far greater in scope and effect than has the United States.⁸⁶

A study of Sweden illustrates the best example of how a country can provide quality living conditions to all of its people, despite economic status. Deemed a "welfare state,"⁸⁷ Sweden certainly takes the welfare of its people seriously.⁸⁸ Simply stated, there are three main elements of the welfare state:

First, social policy is *comprehensive* in its attempt to provide welfare. . . . The principles of the welfare state are, in other words, pushed further into civil society than is internationally common. . . . The second distinct feature is the degree to

83. See RAINWATER & SMEEDING, *supra* note 12, at 8, 11.

84. *Id.* at 14.

85. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 13, 150; Appelbaum, *supra* note 67, at 554.

86. See RAINWATER & SMEEDING, *supra* note 12, at 22.

87. See SVEN E. OLSSON, SOCIAL POLICY AND WELFARE STATE IN SWEDEN 245 (1990) (defining the welfare state as "a state which assumes responsibility for citizen welfare in the context of a market economy and a plural polity . . .").

88. It is interesting to note that the welfare states extend their concern for people beyond their own national boundaries. Sweden, Denmark, the Netherlands, and Norway are the only developed countries which meet or exceed the United Nations' recommended goal of allocating 0.7% of gross national product for foreign aid to developing countries. *The Social Summit: Worlds Apart*, ECONOMIST, Mar. 11, 1995 at 42, 45. The United States allocates a mere 0.015% of its gross national product to foreign aid. Mary Williams Walsh, *Danes, Unlike Most in U.S., Favor Their Foreign Aid*, L.A. TIMES, Mar. 13, 1995, at A8, A9. Denmark, the leader in regard to foreign aid, commits 1.02% of its gross national product. *Id.*

which the social entitlement principle has been *institutionalized*. The [welfare state] ha[s] vested citizens with a basic right to a very broad range of services and benefits which, as a whole, is intended to constitute a democratic right to a socially adequate level of living. The third feature is the *solidaristic and universalist nature* of social legislation. The welfare state is meant to integrate and include the entire population rather than target its resources toward particular problem groups. Social policy is actively employed in the pursuit of a more egalitarian society.⁸⁹

In the United States, the term "welfare" and people who receive "welfare" are perceived negatively. By contrast, in Sweden the welfare state is perceived as benevolent and provides a decent standard of living for all people,⁹⁰ the highest standard of living in the world for some.⁹¹ Unlike the United States, where funding for welfare programs gets eliminated so middle and high income people can receive tax cuts, the people of Sweden endorse tax and transfer programs to enable the government to bridge the gap between people who have more and those who have less.⁹² The collective social rewards of significant individual monetary contributions counterbalance the expense. The people in Sweden enjoy direct benefits from their taxes. Crime rates and levels of substance abuse are remarkably lower in Sweden than in other countries.⁹³

Sweden's accomplishments in seeing to the welfare of all its people are particularly significant to the United States. Sweden combines its socialist approach to redistributive welfare with a capitalist approach to the private market.⁹⁴

89. Esping-Andersen & Korpi, *supra* note 82, at 42-43.

90. *See id.* at 40. Swedish housing policy acknowledges that "[t]he whole population should be provided with sound, spacious, well planned and appropriately equipped dwellings of good quality at a reasonable cost." CHESTER C. MCGUIRE, *INTERNATIONAL HOUSING POLICIES: A COMPARATIVE ANALYSIS* 187 (1981) (quoting the Swedish Constitution, the Riksdag).

91. *See* Joanne Barkan, *Sweden: Not Yet Paradise, But. . . .*, *DISSENT*, Spring 1989, at 147, 148; Richard Reeves, *The Palme Obsession: The Murder Sweden Can't Forget—Or Solve*, *N.Y. TIMES*, Mar. 1, 1987, § 6 (Magazine), at 20, 56.

92. *See* MILNER, *supra* note 10, at 188, 212.

93. *See id.* at 206 (finding that reported violent or serious crimes were 21 per 100,000 in Sweden versus 250 per 100,000 in the United States) (citing GOSTA REHN & K. HELVEG PETERSEN, *EDUCATION AND YOUTH EMPLOYMENT IN SWEDEN AND DENMARK* 41 (1980)).

94. GILDERBLOOM & APPELBAUM, *supra* note 3, at 13.

Sweden's brand of Social Democracy demonstrates the government's ability to "pursue a *socialist* policy without doing away with private ownership of the means of production."⁹⁵ "Sweden, it should be noted, can be taken as the exemplar of social democratic capitalism."⁹⁶

The remainder of this article examines how Sweden has succeeded in providing decent, affordable housing to all of its people. The article examines Sweden's land use policies, legal structures for ownership, and the political contexts in which housing equity in Sweden arose. It then analyzes how the Swedish system could be applied to the United States.

IV. AFFORDABLE HOUSING DEVELOPMENT AND LAW IN SWEDEN

Sweden bears the banner as the international leader of affordable housing policy success. Upheld by many as the premier example of a country successfully meeting the housing needs of its people, Sweden has been described as "a 'success story' without parallel anywhere in the world,"⁹⁷ having a "vanguard role in housing policy,"⁹⁸ having "aroused international attention,"⁹⁹ and having "gone far to assure that all its residents are decently housed."¹⁰⁰

The Swedish Constitution guarantees decent housing to all citizens.¹⁰¹ The lofty goal of a right to housing, however, becomes dependent on political decisions regarding allocation of resources.¹⁰² To understand the Swedish affordable housing success story, one must gain an understanding of the historical and political contexts in which the accomplishments were achieved. After the historical and political overview, this section will provide an analysis of the specific policies and programs developed by Sweden to realize quality housing for all.

95. Lennart J. Lundqvist et al., *Housing Policy in Sweden—Still a Success Story?*, 14 INT'L J. URB. & REGIONAL RES. 445, 445 (1990).

96. DICKENS ET AL., *supra* note 80, at 3.

97. Lundqvist et al., *supra* note 95, at 445.

98. Jim Kemeny, *The Significance of Swedish Rental Policy: Cost Renting: Command Economy Versus the Social Market in Comparative Perspective*, 8 HOUSING STUD. 3, 4 (1993).

99. Lundqvist et al., *supra* note 95, at 445.

100. GILDERBLOOM & APPELBAUM, *supra* note 3, at 13.

101. See MCGUIRE, *supra* note 90, at 187; see also Lars Nord, *National Housing Policy and Local Politics in Sweden*, in GOVERNMENT AND HOUSING, *supra* note 24, at 67, 67; Lundqvist et al., *supra* note 95, at 446.

102. See Nord, *supra* note 101, at 69; Hårsman & Quigley, *supra* note 3, at 8.

A. Historical and Political Contexts

The fourth largest country in Europe,¹⁰³ Sweden's land mass covers an area of 173,732 square miles.¹⁰⁴ It has an estimated population of 8,486,000 people, and an overall population density of forty-nine people per square mile, although 84% of the people live in urban areas.¹⁰⁵ While there are minority groups, Sweden has a homogenous population which is predominantly Caucasian. Sweden's Gross Domestic Product per capita is \$20,245 and its Gross National Product is \$228,599,500,000. Sweden has a constitutional monarchy and a parliamentary form of government.¹⁰⁶

As most countries, including the United States, Sweden did not pay significant attention to affordable housing concerns until the mid to late 1940s.¹⁰⁷ In fact, prior to World War II, Sweden held the dubious distinction of having some of the worst housing conditions in any industrial society.¹⁰⁸ After a moratorium on housing construction during World War II,¹⁰⁹ the Royal Commission on Housing and Redevelopment called for a comprehensive national housing policy.¹¹⁰ The report issued by the Royal Commission in 1945 set out specific goals, including an end to the housing shortage problem, increased dwelling space and liveability, lower rents, more public housing, local control of housing efforts, and disassociation of housing from market forces.¹¹¹ With this report, the Social Democratic Party, having been in power since 1932, finally put its indelible mark on Swedish national housing policy.¹¹² As it had already done with social security programs and labor policies, the Social Democratic government assumed a decisive and

103. Tyler Marshall, *Sweden Uneasy Over Failure to Solve Palme's Assassination*, L.A. TIMES, Feb. 2, 1987, at 6.

104. KCWD/*Kaleidoscope*, Feb. 20, 1995, available in LEXIS, Nexis Library, WORLD File [hereinafter *Kaleidoscope*].

105. *Id.*

106. *Id.* (1990-91 figures).

107. See Esping-Andersen & Korpi, *supra* note 82, at 63.

108. See DICKENS ET AL., *supra* note 80, at 49; GILDERBLOOM & APPELBAUM, *supra* note 3, at 165; Appelbaum, *supra* note 67, at 537; Ambrose, *supra* note 67, at 171.

109. Esping-Andersen & Korpi, *supra* note 82, at 63.

110. Appelbaum, *supra* note 67, at 537.

111. Lundqvist et al., *supra* note 95, at 448.

112. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 167.

regulatory role in the nation's housing.¹¹³ The housing policy, based on a "socialist market" approach, became the cornerstone of Swedish housing programs for the next thirty years.¹¹⁴ The cost of housing would be removed from the speculative market and replaced by socialized risk.¹¹⁵

In retrospect, it becomes clear that the institutionalization of the Social Democratic housing policy was possible due to the Party's control of Swedish government for all but nine of the past years since 1932.¹¹⁶ Although initially criticized by the Liberals and Conservatives for legislating overreaching welfare programs during a time of relative prosperity after the war,¹¹⁷ the Social Democratic Party maintained a stronghold on government necessary to carry out its intended policies.¹¹⁸ The government was able to turn talk into action and establish comprehensive housing welfare programs from 1946 until 1976.¹¹⁹

The initial goal of Swedish housing policy was alleviation of the extreme housing shortage.¹²⁰ The large-scale production of housing which was needed could only be accomplished by removing housing distribution from the profit-making vagaries of the capitalist market. Creating a socialist housing market involved curtailing speculation on the cost of land and on the cost of housing on the land.¹²¹ In 1947, legislation gave municipalities the right to expropriate land and to control land sales by a first right of refusal.¹²² Municipal land banking provided a generous source of affordable land upon which to build nonmarket housing.¹²³ Also in 1947, the Building Act legislated municipal control over the location and density of

113. See Esping-Andersen & Korpi, *supra* note 82, at 63-64.

114. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 165; Appelbaum, *supra* note 67, at 537; Lundqvist et al., *supra* note 95, at 445.

115. GILDERBLOOM & APPELBAUM, *supra* note 3, at 165.

116. *The Left Consolidates: Scandinavia*, ECONOMIST, Sept. 24, 1994, at 51.

117. See Esping-Andersen & Korpi, *supra* note 82, at 51.

118. This stronghold was possible at times due to the Social Democratic Party's ability to form coalition governments with other parties. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 167; *The Nordic Countries: Heading South*, ECONOMIST, Nov. 5, 1994, Survey, at 4.

119. See DICKENS ET AL., *supra* note 80, at 37; Ambrose, *supra* note 67, at 171.

120. See Esping-Andersen & Korpi, *supra* note 82, at 64.

121. Ambrose, *supra* note 67, at 169.

122. GILDERBLOOM & APPELBAUM, *supra* note 3, at 168.

123. See Appelbaum, *supra* note 67, at 544; DICKENS ET AL., *supra* note 80, at 37.

development.¹²⁴

Fueled by national government subsidies and municipal planning, housing development charged ahead. The capitalist system of housing production continued with private enterprise constructing housing. Social democratic principles governed distribution with nonmarket principles dominating the sale and leasing of housing.¹²⁵ With cost controls and nonprofit markets in place, the national government committed significant financial resources to housing production, mostly in the form of below-market, fixed-rate loans.¹²⁶ More than 90% of all housing built in Sweden since World War II has been funded by state loan subsidies.¹²⁷

The combination of government loans and municipal control of land and development proved a successful formula for curtailing the housing shortage. By the 1960s, Sweden boasted the highest rate of housing development in the world.¹²⁸ In 1965, Sweden launched its "Million Dwellings Programme,"¹²⁹ ambitiously planning to build one million dwellings within ten years.¹³⁰ The goal was truly remarkable considering the population of Sweden at the time was 7.5 million people.¹³¹ However, it was not considered enough merely to create dwellings. Those dwellings had to constitute decent, quality housing.¹³² Equally as important, they had to be affordable.¹³³

While the similar intent expressed in the United States

124. See Alex Anas et al., *The Swedish Housing Market: Development & Institutional Setting*, in HOUSING MARKETS, *supra* note 3, at 31, 34.

125. See Lundqvist et al., *supra* note 95, at 445-46; Appelbaum, *supra* note 67, at 536; GILDERBLOOM & APPELBAUM, *supra* note 3, at 13.

126. DICKENS ET AL., *supra* note 80, at 37; Appelbaum, *supra* note 67, at 545; Esping-Andersen & Korpi, *supra* note 82, at 64.

127. Lundqvist et al., *supra* note 95, at 446; see MCGUIRE, *supra* note 90, at 193-95.

128. See MCGUIRE, *supra* note 90, at 187.

129. Lundqvist et al., *supra* note 95, at 448; see MILNER, *supra* note 10, at 197.

130. GILDERBLOOM & APPELBAUM, *supra* note 3, at 164; OLSSON, *supra* note 87, at 268; Joachim Vogel, *Urban Segregation in Sweden: Housing Policy, Housing Markets, and the Spacial Distribution of Households in Metropolitan Areas*, 27 SOC. INDICATORS RES. 139, 141 (1992).

131. HUGO HECLO & HENRIK MADSEN, POLICY AND POLITICS IN SWEDEN 214 (1987).

132. See *id.* at 210.

133. GILDERBLOOM & APPELBAUM, *supra* note 3, at 164.

Housing Act of 1949 still remains but a dream,¹³⁴ Sweden happily achieved its stated target.¹³⁵ By 1975, Sweden gloried in one of the highest ratios of dwellings to inhabitants in the world, at a comfortable 430 dwellings for every 1,000 people.¹³⁶ Within its specified ten-year time frame, Sweden reached its aspirations of ending the housing shortage, improving housing conditions, and bringing housing into the realm of affordability.¹³⁷ Gone were the days of overcrowded, unhealthy conditions for Sweden's residents.¹³⁸ Housing standards now included realistic occupancy limits, adequate sanitation and plumbing, central heating, and modern utilities.¹³⁹ Sweden's housing supply, in addition to being in good condition, became affordable to people. A national system of housing allowances guaranteed that a person's contribution to rent would be no more than 25% of their income.¹⁴⁰

By the mid-1970s, Sweden had declared its housing problems solved.¹⁴¹ In terms of actual numbers, this proclamation certainly was truthful. In terms of fairness in the distribution of housing, including individual choice of tenure and economic equality in access to different tenures, Sweden still had significant work ahead.¹⁴² During the million dwellings program, construction consisted mainly of public and cooperative housing,¹⁴³ which constituted 38% of the housing supply by

134. See STRONG, *supra* note 5, at 45.

135. Appelbaum, *supra* note 67, at 536; Vogel, *supra* note 130, at 141. In fact, Sweden exceeded its goal of one million units of housing by constructing a total of 1,005,600 dwellings. GILDERBLOOM & APPELBAUM, *supra* note 3, at 170.

136. MCGUIRE, *supra* note 90, at 190.

137. Lundqvist et al., *supra* note 95, at 461 (Sweden "had achieved the goal of providing 'the whole population with sound, spacious, well planned and appropriately equipped dwellings of good quality at reasonable costs'"); MCGUIRE, *supra* note 90, at 187; Sten-Ake Stenberg, *Evictions in the Welfare State—An Unintended Consequence of the Swedish Policy?*, 34 ACTA SOCIOLOGICA 103, 103 (1991); DICKENS ET AL., *supra* note 80, at 48-49.

138. See Vogel, *supra* note 130, at 139.

139. OLSSON, *supra* note 87, at 268.

140. Appelbaum, *supra* note 67, at 536; GILDERBLOOM & APPELBAUM, *supra* note 3, at 164; see also HECLÓ & MADSEN, *supra* note 131, at 210.

141. GILDERBLOOM & APPELBAUM, *supra* note 3, at 175; see DICKENS ET AL., *supra* note 80, at 49.

142. See HECLÓ & MADSEN, *supra* note 131, at 208; Lundqvist et al., *supra* note 95, at 449.

143. GILDERBLOOM & APPELBAUM, *supra* note 3, at 164; Appelbaum, *supra* note 67, at 536; Esping-Andersen & Korpi, *supra* note 82, at 68.

1974.¹⁴⁴ The policy objectives expressed in the Housing Act of 1974 reflected an increased need for single family homes, larger apartments in multi-family dwellings, and the availability of both as rentals and cooperatives.¹⁴⁵ Having more choices in types of housing would be meaningless, however, without greater fairness in economic and social benefits among choices. To accomplish this additional objective, financial incentives needed to be distributed in a more equitable manner among tenures. Further, the opportunity for self-determination brought about by tenant management and control of rental housing had to occur.¹⁴⁶

Having solved the housing shortage, Sweden's attention turned toward housing equity, stressing the importance of economic and social integration of classes in different types of housing tenures.¹⁴⁷ From the start of Sweden's determined housing effort, the ideal of distributive equity in housing was the motivation behind protecting housing distribution from market forces.¹⁴⁸ It would be achieved by increasing the supply and affordability of single family homes and larger apartments in multi-family dwellings.¹⁴⁹ Equalizing costs between rental and ownership posed a challenging task since homeowners enjoyed great tax benefits.¹⁵⁰ Reducing the tax advantages of homeownership was not an option, so increasing the financial benefits for other tenures became the goal.¹⁵¹ The housing allowance program expanded to meet the needs of distributive equity.¹⁵²

The plan worked. Availability of single family homes with different forms of tenure increased, and equalization of costs became a reality.¹⁵³ Within a decade after 1975, rental and cooperative tenures in single family homes rose from 4% to 32%.¹⁵⁴ Total subsidies for homeownership tripled by

144. Lundqvist et al., *supra* note 95, at 446.

145. *See id.* at 449.

146. *See id.*

147. *See* Ambrose, *supra* note 67, at 171-72; Lundqvist et al., *supra* note 95, at 448-49.

148. *See* Lundqvist et al., *supra* note 95, at 448.

149. *See id.* at 456.

150. *See id.* at 450 (citing HECLO & MADSEN, *supra* note 131, at 82).

151. *See id.*

152. *See* Esping-Andersen & Korpi, *supra* note 82, at 68.

153. *See* GILDERBLOOM & APPELBAUM, *supra* note 3, at 172.

154. Lundqvist et al., *supra* note 95, at 454.

1981.¹⁵⁵ There were costs, however. The amount of taxes foregone by government due to homeowners' deductions of mortgage interest from income tax more than quadrupled. In fact, homeowners with the highest incomes enjoyed the greatest financial benefits from the subsidy programs.¹⁵⁶ Conversely, housing allowances which subsidized costs for mostly low-income families slowed in growth after 1975.¹⁵⁷ In 1980, of the total housing subsidies allocated, 63% (including tax deductions) were for homeowners, 8% of the subsidies were for cooperative dwellers, and 28% went to renters.¹⁵⁸ In terms of percentage of people in each tenure who received a housing subsidy, the breakdown was 26% of homeowners, 33% of cooperative dwellers, and 42% of renters.¹⁵⁹

Unbeknownst to the Social Democratic Party, its developing success in providing all people with a choice of housing tenure would be its temporary undoing.¹⁶⁰ Despite attempts to equalize the attractiveness of the three main housing options, single family and cooperative ownership became overwhelmingly popular.¹⁶¹ Having achieved homeownership and perceived independence, many people's adherence to the dictates of social democracy lessened and they grew more conservative. The Social Democratic power base became weakest among homeowners.¹⁶²

Unhappily for the Social Democrats, the Swedish population's burgeoning move toward ownership occurred in lockstep with an economic slowdown, which was felt internationally. The oil crisis of 1973 and other externalities precipitated an economic downturn in Sweden that would be felt for decades.¹⁶³ The initial consequence of this combination of

155. *See id.* at 458.

156. *Id.*; *see* OLSSON, *supra* note 87, at 268; Esping-Andersen & Korpi, *supra* note 82, at 68.

157. Lundqvist et al., *supra* note 95, at 458; *see* OLSSON, *supra* note 87, at 268.

158. Lundqvist et al., *supra* note 95, at 450.

159. GILDERBLOOM & APPELBAUM, *supra* note 3, at 172.

160. *See id.* at 177.

161. GILDERBLOOM & APPELBAUM, *supra* note 3, at 178; *see* OLSSON, *supra* note 87, at 268; Lundqvist et al., *supra* note 95, at 446; Appelbaum, *supra* note 67, at 549.

162. HECLÓ & MADSEN, *supra* note 131, at 247.

163. *The Nordic Countries: A Case Study in Collapse*, ECONOMIST, Nov. 5, 1994, Survey, at 6 [hereinafter *Nordic Countries*]; HECLÓ & MADSEN, *supra* note 131, at

forces was the election of a nonsocialist government in 1976.¹⁶⁴ By 1979, the Conservative Party would boast 20% of the vote.¹⁶⁵

The nonsocialist coalition government that maintained power from 1976 until 1982 set about trying to stem the tide of the international recession with domestic spending cuts in social welfare programs. Predictably, the Conservatives also advanced a return to market pricing in housing.¹⁶⁶ These politically unpopular measures did little to counteract the international forces continuing to stagnate the Swedish economy.¹⁶⁷ With the budget deficit and the national debt growing, the Social Democratic Party regained political dominance in 1982.¹⁶⁸

The Social Democrats' budget-tightening proposals included curtailing any financial expansion of social reforms while avoiding cuts in existing welfare programs,¹⁶⁹ encouraging investment through consumption disincentives,¹⁷⁰ and transferring some fiscal responsibility to local governments.¹⁷¹ Despite the implementation of required belt-tightening measures, the Social Democrats steadfastly reaffirmed their commitment to quality, affordable housing for all. A ten-year housing program was approved in 1983 which reinforced all Swedes' right to decent housing.¹⁷² The Social Democrats' response to the economic crisis proved effective. The industrial sector exhibited the fastest growth in Europe between 1982 and 1984, and unemployment remained below 3%.¹⁷³

The economic glow of the Social Democratic Party was unexpectedly overshadowed by the assassination of Prime

62.

164. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 177; Esping-Andersen & Korpi, *supra* note 82, at 33.

165. HECLÓ & MADSEN, *supra* note 131, at 63.

166. GILDERBLOOM & APPELBAUM, *supra* note 3, at 177.

167. HECLÓ & MADSEN, *supra* note 131, at 65.

168. HECLÓ & MADSEN, *supra* note 131, at 72; OLSSON, *supra* note 87, at 274.

169. See HECLÓ & MADSEN, *supra* note 131, at 72-73. Although costs of social welfare programs have not increased since 1980, neither have they declined. OLSSON, *supra* note 87, at 255.

170. See HECLÓ & MADSEN, *supra* note 131, at 72.

171. OLSSON, *supra* note 87, at 274.

172. See Lundqvist et al., *supra* note 95, at 458.

173. Steven Kelman, *Swedish Socialism Revised*, NEW LEADER, June 16, 1986, at 6, 7.

Minister Olaf Palme on February 28, 1986.¹⁷⁴ Shaking national security and the historical safety of Sweden to its core, the murder of the Prime Minister was never solved. Ingvar Carlsson became Prime Minister during an emotionally devastating yet economically productive time.¹⁷⁵

Advantaged by the luck of an improving international economy, the Social Democrats could take credit for the diminishing economic crisis without having sacrificed social programs.¹⁷⁶ As they took credit for the good times, so would they take the blame for not protecting Sweden from the worldwide recession in 1990. The budget deficit could not be controlled in the face of a hard-hitting industrial production drop and a resultant rise in unemployment.¹⁷⁷ Once again reacting to bad economic forecasts by wondering where the grass was greener, the Swedish citizenry elected a conservative-led government in 1991. The Conservatives, with Carl Bildt as Prime Minister, let the market take over and tolerated unemployment as part of a market economy.¹⁷⁸ Hoping to revitalize the private sector, they cut taxes, deregulated business, and privatized services.¹⁷⁹ Turning their attention to reducing the budget deficit, the Conservatives began to dismantle time-honored social service programs, cutting programs and instituting market-driven voucher systems for remaining services.¹⁸⁰

Despite what the Conservatives perceived to be effective measures, Sweden's economic woes worsened due to a combination of domestic miscalculations and external factors, including

174. See James Yuenger, *Palme, 'Man of Peace,' Laid to Rest*, CHI. TRIB., Mar. 16, 1986, at 3.

175. See *id.*

176. See HECLO & MADSEN, *supra* note 131, at 74. The infrastructure (housing, schools, hospitals, etc.) created since the 1950s provided a solid foundation which stabilized Sweden during shaky economic times. "These conditions made it possible to limit the belt-tightening brought on by the recession, so that there was no appreciable retreat on egalitarian policies and services." MILNER, *supra* note 10, at 188.

177. See *Nordic Countries*, *supra* note 163, at 6.

178. *Sweden Strides Towards a Market Economy*, EUROMONEY, June 1993, Supp., at 1.

179. See Paula Dwyer & Ariane Sains, *Sweden May Welcome Back the Welfare State*, BUS. WK. INT'L ED., Sept. 19, 1994, at 22.

180. See Casten von Otter & Karin Tengvald, *A Revolution in Social Welfare?*, 13 ECON. & INDUS. DEMOCRACY 535 (1992); *Farewell, Welfare: Nordic Countries*, ECONOMIST, Oct. 23, 1993, at 67, 68; Dwyer & Sains, *supra* note 179, at 22.

problems with the European exchange rate.¹⁸¹ The economy shrank, the deficit grew, unemployment skyrocketed to levels uncomfortable even to market-based capitalists, and the national debt ballooned.¹⁸² The electoral pendulum swung back to the security of the Social Democratic Party, which won an unprecedented 45.3% of the vote in September 1994.¹⁸³

The recent elections seem to show that the Swedish people prefer higher taxes to social inequity and insecurity.¹⁸⁴ Having proposed an austerity budget during the campaign,¹⁸⁵ the Social Democrats must now reduce the huge budget deficit.¹⁸⁶ In addition to cuts in social welfare programs, cuts will be felt in defense, transportation, foreign aid, and the royal household.¹⁸⁷ While reducing spending, Sweden plans to raise taxes on the highest-paid wage earners and increase the capital gains tax.¹⁸⁸ It is hoped that the integrity of the welfare state can be maintained while the budget deficit is more than halved by 1998.¹⁸⁹

Although such things are hard to predict, prospects look favorable for Sweden's economy,¹⁹⁰ the continued stability of the welfare state, and the continued integrity of Sweden's affordable housing programs. The Social Democrats retained political dominance in Sweden for all but nine of 62 years, primarily because of the Swedish people's commitment to caring and social cohesion.¹⁹¹ This cohesion remains, despite hard times for the country and an economic test of the welfare state's will.

One might speculate that Sweden's system of housing

181. See *Nordic Countries*, *supra* note 163, at 6.

182. Dwyer & Sains, *supra* note 174, at 22.

183. *The Left Consolidates: Scandinavia*, *supra* note 116, at 51.

184. Fred Barbash, *Swedish Voters Reject Conservative Coalition*, WASH. POST, Sept. 19, 1994, at A15.

185. Nicholas George, *Swedish Budget Signals End to Welfare State Expansion*, TIMES (London), Jan. 11, 1995, available in LEXIS, News Library, TIMES file.

186. *The Left Consolidates: Scandinavia*, *supra* note 116, at 51; see also *Too Many Bonds?*, ECONOMIST, Sept. 24, 1994, at 86 (placing Sweden's budget deficit at 13% of Gross Domestic Product, "easily Europe's biggest").

187. George, *supra* note 185.

188. 'I am Sticking with the Welfare State', BUS. WK. INT'L ED., Feb. 27, 1995, at 52.

189. *Judgment Day: Sweden*, ECONOMIST, Feb. 18, 1995, at 49.

190. Indicators point to an economic recovery. See *The Left Consolidates: Scandinavia*, *supra* note 116, at 51.

191. See *id.*

production, distribution, and tenure will remain because it works. It achieves the goal of providing quality housing for all. Even for people who have always been or who grow comfortable, the advantages of everyone living in a well-housed country take precedence over any one individual's getting even more comfortable at the expense of others. With this optimistic yet realistic view, a detailed examination of Sweden's housing programs is necessary in order to draw lessons from the successful experience. This detailed analysis begins with the specifics of the government's role in affordable housing development and distribution. It will then turn to the details of the different forms of housing tenure and their distribution.

B. The Government's Role

1. Division of Responsibility

The governmental division of labor for affordable housing in Sweden proves extremely efficient. The national government legislates and administers housing policy while regional and local governments implement it.¹⁹² In addition to formulating housing policy, the national government provides the funds for affordable housing production and distribution.¹⁹³ At the national level, the Ministry of Housing and Physical Planning administers and coordinates the allocation of funds among regions.¹⁹⁴ There are 24 designated counties with regional governmental entities called County Administrative Boards. The County Boards act as intermediaries between the National Housing Board and municipal governments, overseeing the municipal housing plans.¹⁹⁵ This dominance of regional control proves vastly superior in efficiency, fairness, and effective resource allocation than the city/suburb competition in the United States.

In 1947, national legislation granted municipalities power over the planning, production, and development of housing. With that power came the responsibility to provide adequate and affordable housing for the populations within their juris-

192. See MCGUIRE, *supra* note 90, at 188-89; Lundqvist et al., *supra* note 95, at 451.

193. See MCGUIRE, *supra* note 90, at 188; Nord, *supra* note 101, at 67.

194. Anas et al., *supra* note 124, at 32; MCGUIRE, *supra* note 90, at 188.

195. Anas et al., *supra* note 124, at 32.

dictions.¹⁹⁶ To accomplish these objectives, municipalities were empowered to acquire land, by expropriation if necessary, and to regulate the construction and development of housing on that land.¹⁹⁷ They were also given considerable tax-raising authority.¹⁹⁸ Having broad land use planning control, local governments can lease public land for development, sell it with restrictions, or use public land for development of nonprofit housing.¹⁹⁹ To facilitate the latter option, municipal governments have created municipal housing corporations which develop and manage decent, affordable housing.²⁰⁰ The municipalities maintain ownership of the self-sustaining, nonprofit housing.²⁰¹

In the Planning and Building Act of 1987, the municipal land use planning powers were expanded and updated. Unlike the United States, where development planning remains practically nonexistent, the 1987 legislation directed each municipality to form a building committee which creates a comprehensive master plan for development of land and buildings. Although housing built under the master plan is funded through the state housing loan program, the master plan does not need national government approval. It does, however, go through an extensive local public review process. The building committee has the final discretion to accept or reject suggestions and objections.²⁰² Once accepted, the master plan must be adhered to by a developer in order for the developer (private or nonprofit) to receive a state housing subsidy. The developer must also be building on publicly owned land to qualify for a state loan.²⁰³

196. See *id.* at 34; GILDERBLOOM & APPELBAUM, *supra* note 3, at 168-69.

197. GILDERBLOOM & APPELBAUM, *supra* note 3, at 173; Anas et al., *supra* note 124, at 35-36.

198. See OLSSON, *supra* note 87, at 273.

199. Appelbaum, *supra* note 67, at 544; Anas et al., *supra* note 124, at 35.

200. Anas et al., *supra* note 124, at 33; see Lennart J. Lundqvist, *Strategies for the Swedish Public Housing Sector*, 6 URB. L. & POL'Y 215, 235 (1984).

201. Stenberg, *supra* note 137, at 103.

202. Anas et al., *supra* note 124, at 34-35; see Lundqvist et al., *supra* note 95, at 451.

203. Anas et al., *supra* note 124, at 48.

2. Government Spending

The national and municipal governments of Sweden fund affordable housing through three different systems. Sweden has an extensive system of land banking which preserves undeveloped, affordable land for development purposes. The initial outlay of government dollars is spent on land purchases. Next, the government funds affordable housing by providing construction loans. Finally, the national and local governments bankroll housing subsidy programs to make the cost of housing affordable to all individuals and families.

The success of Sweden's national housing policy has been built on the foresight of its land banking program. At the turn of the century, Sweden was already buying undeveloped land with the intent of preserving it for future affordable housing development.²⁰⁴ In and around the city of Stockholm, a most noteworthy example of land banking, the goal of controlling future development prompted the conservative government to buy up farmland surrounding the city.²⁰⁵ Continuation of this practice enabled the municipal government to acquire land very inexpensively during the depression of the 1930s.²⁰⁶ By 1972, the city of Stockholm owned 36% of city land and over 80% of the surrounding land.²⁰⁷ Throughout Sweden, the design and planning of Stockholm has been duplicated. The beginning of the 1970s saw 75% of all new building in Sweden occurring on municipally-owned land.²⁰⁸

Over the years, legislation was enacted to strengthen municipalities' capabilities to buy, sell, and lease land. The Housing Provision and Building Acts of 1947 legitimized land banking by entrusting municipalities with the right of expropriation and the right of first refusal on land for sale.²⁰⁹ Expropriation rights were strengthened in 1966, and again in

204. See Jack Carr & Lawrence B. Smith, *Public Land Banking and the Price of Land*, in PUBLIC PROPERTY? THE HABITAT DEBATE CONTINUED 119, 138 (Lawrence B. Smith & Michael Walker eds., 1977); Note, *Public Land Banking: A New Praxis for Urban Growth*, 23 CASE W. RES. L. REV. 897, 908 (1972) [hereinafter *New Praxis for Urban Growth*].

205. Fitch & Mack, *supra* note 67, at 137.

206. See DICKENS ET AL., *supra* note 80.

207. William B. Stoebuck, *Suburban Land Banking*, 1986 U. ILL. L. REV. 581, 586; see *New Praxis for Urban Growth*, *supra* note 204, at 909.

208. Carr & Smith, *supra* note 204, at 138.

209. GILDERBLOOM & APPELBAUM, *supra* note 3, at 168.

1971. Moreover, in 1968 the price municipalities paid for expropriated land was reduced to the land's value ten years prior to sale.²¹⁰ In 1973, municipalities were given the right to expropriate substandard rental housing.²¹¹ If a municipality desires a parcel of land, a private owner must sell it at the market value ten years prior to the time of sale.²¹² The expropriation law evidences strong governmental bias in favor of granting the ability to take land and then dispute the price.²¹³

Thus, in Sweden, affordable housing begins with governmentally-controlled land costs. Most developable land is removed from the speculative market by the land banking system.²¹⁴ Having acquired land at extremely reasonable cost, the municipality can sell it for current value plus the value of any improvements.²¹⁵ Or, as is usually the case, it can enter long term leases for the land with developers.²¹⁶ By owning vast amounts of developable land, municipalities can control development. Enhancement of this power draws from the municipalities' ownership of nonprofit housing companies and from the legislative requirement that municipal governments create and administer master development plans.²¹⁷ State subsidies for development are contingent upon housing developers complying with master plans which give the municipal governments considerable enforcement power.²¹⁸

Municipalities fund the purchase of land in several ways. Since 1966 there has been a national loan program which provides loans for 95% of the site value of acquired property.

210. DICKENS ET AL., *supra* note 80, at 113; Carr & Smith, *supra* note 204, at 138.

211. GILDERBLOOM & APPELBAUM, *supra* note 3, at 168 (citing Suny Jussil, *Steering Mechanisms, in NEW TOWNS AND OLD* 176-77 (Hans-Erland Heineman ed., 1975)).

212. MCGUIRE, *supra* note 90, at 191; see *New Praxis for Urban Growth, supra* note 204, at 909.

213. MCGUIRE, *supra* note 90, at 191; see also STRONG, *supra* note 5, at 63-64 (finding that "[i]n 1966, the expropriation law was amended so that possession of the land passed as soon as the request to expropriate was approved").

214. GILDERBLOOM & APPELBAUM, *supra* note 3, at 175; Anas et al., *supra* note 124, at 36; see Lundqvist et al., *supra* note 95, at 451; Ambrose, *supra* note 67, at 169.

215. Anas et al., *supra* note 124, at 36.

216. *Id.*; *New Praxis for Urban Growth, supra* note 204, at 909.

217. Anas et al., *supra* note 124, at 35.

218. *Id.* at 48.

The National Housing Board assesses site value.²¹⁹ In addition, municipal governments have their own sources of revenue, bank loans, and nationally-approved bonds to cover costs of land acquisition.²²⁰ Land banking can be financially self-sustaining. In the early 1960s, Stockholm's aggressive land banking program brought in more rent dollars than it spent.²²¹ Affordability of housing built on leased land can be maintained by raising rents only for commercially and industrially leased land as land value appreciates.²²² Although financial gains from land development are not available to the building industry in Sweden, valuable incentives exist for construction companies if they follow the rules.²²³ They must seek approval for construction from the municipality and follow the master development plan promulgated by municipal governments, as well as comply with all building codes.²²⁴ If they do follow the rules, they profit greatly from the state-subsidized financing of housing construction. The builders benefit from the savings in land cost by the cash flow created for state construction loans. Furthermore, builders gain business from the consistent source of developable land.²²⁵ State financing has accounted for the lion's share of construction since World War II.²²⁶ One hundred percent of the cost of construction of multifamily housing is financed by the national government, as is 72% to 99% of the cost of single-family homes.²²⁷ The state subsidizes rehabilitation as well as new construction and, for the last ten years, has subsidized loans for repairs and maintenance in multifamily housing.²²⁸

The final way the national and municipal governments in Sweden subsidize housing involves expenditures for housing consumption.²²⁹ Sweden has had a housing allowance system

219. See STRONG, *supra* note 5, at 64.

220. *Id.* at 61.

221. *Id.* at 62.

222. *New Praxis for Urban Growth*, *supra* note 204, at 910.

223. See DICKENS ET AL., *supra* note 80, at 110, 116.

224. Anas et al., *supra* note 124, at 48; see Lundqvist et al., *supra* note 95, at 449; MCGUIRE, *supra* note 90, at 195.

225. See DICKENS ET AL., *supra* note 80, at 116.

226. Anas et al., *supra* note 124, at 44; see Ambrose, *supra* note 67, at 168-69; Lundqvist et al., *supra* note 95, at 446.

227. Anas et al., *supra* note 124, at 44.

228. *Id.* at 51.

229. *Id.* at 56; see Lundqvist et al., *supra* note 95, at 450.

since the 1930s.²³⁰ Currently, the housing allowances are determined based on a formula combining a number of factors, including family size, household income, and housing cost.²³¹ The housing subsidies operate so that rents never exceed more than 25% of a person's income,²³² and currently assist 26% of all homeowners, 33% of cooperative dwellers, and 42% of all tenants.²³³ Middle income families benefit from housing allowances so no stigma attaches to housing subsidization.²³⁴ In addition to direct housing allowances, the national government indirectly subsidizes housing through mortgage interest deductions for homeowners.²³⁵ A closer examination of the forms of housing tenure will illuminate the strengths and problems of each.

C. Forms of Housing Tenure

Housing tenure in Sweden is a choice between three basic forms. People looking for housing can choose to be renters, cooperative dwellers, or homeowners. The rental sector comprises 43% of the housing market, divided about equally between private and public housing.²³⁶ Homeowners account for 42% of housing consumers and cooperative owners represent 15% of all housing dwellers.²³⁷

230. Hårsman & Quigley, *supra* note 3, at 23.

231. *Id.*; Anas et al., *supra* note 124, at 56.

232. See Appelbaum, *supra* note 67, at 544 (citing B. HEADEY, HOUSING POLICY IN THE DEVELOPED ECONOMY 57 (1978)). National policy sets tenant rents at no more than 20% of income. MCGUIRE, *supra* note 90, at 198.

233. GILDERBLOOM & APPELBAUM, *supra* note 3, at 172; Appelbaum, *supra* note 67, at 544.

234. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 172; Appelbaum, *supra* note 67, at 544.

235. MCGUIRE, *supra* note 90, at 194-95.

236. Tommy Berger & Bengt Turner, *Windfall Gains on the Swedish Housing Market: The Effects of Queueing for a Cooperative Dwelling*, 19 J. AM. REAL EST. & URB. ECON. ASS'N 161, 163 (1991).

237. *Id.* Prior to 1970, rental apartments amounted to over 70% of housing. HECLIO & MADSEN, *supra* note 131, at 215. Since 1975, the percentages have remained relatively consistent. From 1975 to 1985 the figures were: 42% homeowners; 16% cooperative dwellers; and 42% renters. Lundqvist et al., *supra* note 95, at 452.

1. Rental Housing

Of the three forms of housing tenure, rental housing bears the banner as the most regulated.²³⁸ Although rental housing occurs in both the private and public housing spheres, private rental housing operates under the control of public housing. In terms of setting rents, meeting housing standards, and determining security of tenure, the public sphere leads the way.²³⁹ This domination by the public housing market results from the existence of Municipal Housing Corporations (MHCs) which have acted as vehicles of the state, managing public housing since 1935.²⁴⁰ The MHCs were not given much power until after World War II. Once housing became a national priority, MHCs had an integral part to play in the ambitious plans for housing development.²⁴¹

As suggested by the name, MHCs are controlled financially by the municipalities. The municipal governments also appoint the MHCs' Boards of Directors. Primarily dominated by the Social Democratic Party throughout Sweden's modern history, the MHCs' tasks have been to develop, own, and operate nonprofit housing.²⁴² Not only have they succeeded in doing so, they have also maintained public housing of comparable quality to other housing tenures.²⁴³ Since private rents are pegged to public rents, the ability of the public sphere to supply quality housing on a nonprofit basis results in affordable rents for both the public and private housing markets.²⁴⁴ Private landlords have to buy into the state's system of rent-setting because their ability to seek state-subsidized housing loans depends on their adherence to that system.²⁴⁵

The present system of establishing rents has existed since 1968.²⁴⁶ Rents are determined on an annual basis pursuant

238. See Berger & Turner, *supra* note 236, at 163.

239. Kemeny, *supra* note 98, at 4; see Ambrose, *supra* note 67, at 165.

240. Lundqvist, *supra* note 200, at 216.

241. *Id.*; see also Anas et al., *supra* note 124, at 37 (discussing the rise of nonprofit housing companies after World War II).

242. Lundqvist, *supra* note 200, at 216. The housing developed by MHCs is also labelled "council" and "social" housing. Lundqvist et al., *supra* note 95, at 446.

243. Lundqvist, *supra* note 200, at 215; see Kemeny, *supra* note 98, at 4.

244. See Kemeny, *supra* note 98, at 4-5.

245. *Id.* at 6.

246. *Id.* The system was originally created by the Rent Act of 1968. GILDERBLOOM & APPELBAUM, *supra* note 3, at 171.

to negotiations between the municipal housing corporations and tenants' associations.²⁴⁷ A complicated system of rent-averaging and cost-pooling forms the basis of rent-setting.²⁴⁸ To arrive at the cost of maintaining one of its rental dwellings, the MHC determines the cost of funding and maintaining its entire stock of housing, and the cost of constructing any new housing, and then divides this figure by the number of public housing rental units. This average cost is adjusted based on individual characteristics of the dwelling, in negotiation with tenants' unions. In addition, the tenants' unions participate in this process by having access to and reviewing the records of the MHC.²⁴⁹ If any unresolvable dispute occurs in the negotiations, the National Committee on the Rental Market hears and decides appeals.²⁵⁰ Since rents are negotiated yearly to reflect the actual cost of maintaining housing and, at times, expanding the supply of housing, the nonprofitability of the housing endures.²⁵¹

Once rents are resolved with the MHCs, the tenants' unions must negotiate with private landlords.²⁵² The "use value" determination for apartment dwellings is applied to the private housing market to achieve comparable rents.²⁵³ Private rental dwellings are compared to public housing dwellings in terms of their size and amenities and are priced accordingly.²⁵⁴ Comparable dwellings should have comparable rents,²⁵⁵ and all rents should be reasonable due to the nonprofit nature of the entire system.²⁵⁶ The most controversial aspect of the rent-setting system addresses the reality that older apartments and much newer apartments are priced the same. The use value

247. GILDERBLOOM & APPELBAUM, *supra* note 3, at 171; Hårsman & Quigley, *supra* note 3, at 22; see MILNER, *supra* note 10, at 198-99.

248. See Kemeny, *supra* note 98, at 7 (referring to the rent-setting procedure as "Byzantine in its complexity").

249. Anas et al., *supra* note 124, at 52.

250. *Id.* at 53.

251. See *id.* at 51; Lundqvist, *supra* note 200, at 221.

252. Lundqvist, *supra* note 200, at 221 (citing Hyresförhandlingslag, Swedish Code of Statutes 304 (1978)).

253. Anas et al., *supra* note 124, at 51; see also GILDERBLOOM & APPELBAUM, *supra* note 3, at 171 (using the term "utilization value"); see generally Kemeny, *supra* note 98, at 6-7.

254. GILDERBLOOM & APPELBAUM, *supra* note 3, at 171-72.

255. Lundqvist et al., *supra* note 95, at 450.

256. Lundqvist, *supra* note 200, at 220-21.

system does not adjust for dwelling age. Since most public housing is relatively recent and most private housing stock is older, private housing tenants subsidize public housing tenants in their rental payments.²⁵⁷

The combination of the rent-setting system, the housing allowance program, and tenant protections guarantees affordable housing for Swedish renters. Furthermore, housing stability crosses public and private divisions. In contrast to the United States, where private landlords can evict tenants for any but discriminatory reasons,²⁵⁸ Swedish landlords cannot evict tenants except for good reason, such as nonpayment of rent, serious tenant misconduct, or a legitimate need by the landlord for personal use of the apartment.²⁵⁹ In addition, tenants in public housing have gained considerable power over housing management decisions.²⁶⁰

The MHCs must also provide equal opportunity housing under national policy.²⁶¹ In Sweden, this goal means that public housing becomes available to middle income families as well as to families with limited financial means. Consequently, class barriers are broken down, with many middle income tenants residing in public housing.²⁶² Single-parent households comprise a majority proportion of the overall population of public housing tenants.²⁶³

However, housing availability and choice are limited by the system for allocation of apartments. Prospective tenants obtain newer apartments by filling out applications and waiting in a public "queue."²⁶⁴ For some potential renters, the queue contains the only hope of entering the housing market.

257. See Kemeny, *supra* note 98, at 7; GILDERBLOOM & APPELBAUM, *supra* note 3, at 178; MILNER, *supra* note 10, at 199.

258. ROBERT S. SCHOSHINSKI, *AMERICAN LAW OF LANDLORD AND TENANT* 56 (1980).

259. See MCGUIRE, *supra* note 90, at 198; Anas et al., *supra* note 124, at 37. This is not to suggest, however, that Sweden is an eviction-less society. There exist precariously-housed families in Sweden, most of whom depend on the state for income and are unemployed. See Stenberg, *supra* note 137, at 103-04, 106.

260. See Lundqvist et al., *supra* note 95, at 454-55; Lundqvist, *supra* note 200, at 230.

261. Lundqvist, *supra* note 200, at 219.

262. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 169.

263. *NEW HOUSEHOLDS NEW HOUSING* 84 (Karen A. Franck & Sherry Ahrentzen eds., 1989); see Lundqvist, *supra* note 200, at 226.

264. Anas et al., *supra* note 124, at 53.

Distribution of apartments takes place according to priorities. People with special physical or emotional needs, people being involuntarily displaced, and people residing in overcrowded conditions are given preferential placement in the queue.²⁶⁵ All others must wait their turn. Households may legally swap apartments as long as no financial arrangements exist in the swap.²⁶⁶ The benefits of legal swapping become available only to families already in possession of an apartment. This system can prove disadvantageous to young adults living with parents who wish to find their own apartments but do not fall within the priorities.

In summary, the Swedish rental housing system largely succeeds at providing affordable, quality housing in a primarily nonsegregatory, nondiscriminatory manner. While the system's future depends on sustained subsidies from the national government, it remains a stable resource for a country intent on providing affordable housing to all its people.

2. Cooperative Housing

Sweden's cooperative housing program established itself at the vanguard of housing reform in the early 1920s.²⁶⁷ The first cooperative association, the National Association of Tenants' Savings and Building Societies (HSB), came into being during tough economic times, enabling tenants to become owners by subsidizing loans and providing technical assistance. Growing to national proportions within a decade, HSB inspired democratically controlled tenants' associations for each local cooperative it developed. The hard economic times of the 1940s saw the creation of a second cooperative association, Svenska Riksbyggen.²⁶⁸ These two pioneering cooperative associations are national in scope and continue to grow, currently comprising two-thirds of all cooperatives in Sweden.²⁶⁹ They both have county and municipal branches with tenants' associations

265. *See id.* at 55-56.

266. *Id.* at 28, 56.

267. *See* GILDERBLOOM & APPELBAUM, *supra* note 3, at 167 (citing OWE LUNDEVALL, SWEDISH EXPERIENCE OF CO-OPERATIVE HOUSING: INFORMATION TO THE UNITED NATIONS CONFERENCE ON HUMAN SETTLEMENT HABITAT 3-4 (1976)).

268. *Id.*

269. *Id.* at 168.

in each building.²⁷⁰ Fifteen percent of all dwellings in Sweden were cooperatively owned by 1980.²⁷¹

As in the United States, cooperative ownership of housing represents a cross between rental housing and home ownership.²⁷² Members buy into the cooperatives with a downpayment and "own" apartments by virtue of their control of the cooperative association which owns the building. Rental payments reflect actual maintenance costs and collective debt of the building, preserving the nonprofit character of cooperative housing.²⁷³ There are two paths toward cooperative ownership depending on whether one pursues a newly constructed dwelling or an older dwelling. New cooperative dwellings maintain fixed downpayments and rent prices and must be applied for through a queue.²⁷⁴ Depending on the location and desirability of a particular apartment, the wait may be as much as ten years.²⁷⁵ Older cooperative dwellings may be purchased on the open market.²⁷⁶

Interest subsidies ease the financial burden of purchasing a cooperative, and tax laws work to the benefit of cooperative owners by providing deductions on the interest payments on loans.²⁷⁷ Until 1969, there existed resale controls on the cost of a cooperative apartment which worked to maintain the affordability of this housing tenure.²⁷⁸ These controls no longer exist, thus the buyer of a new cooperative who benefits from subsidized loans may sell at the price the market will bear.²⁷⁹ Older dwellings are also available on the open market.²⁸⁰ With demand for cooperative apartments outpacing supply since the 1980s,²⁸¹ prices have steadily risen and high-

270. See *id.* at 167.

271. GILDERBLOOM & APPELBAUM, *supra* note 3, at 169; see OLSSON, *supra* note 87, at 268.

272. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 168; Berger & Turner, *supra* note 236, at 163.

273. Berger & Turner, *supra* note 236, at 164.

274. *Id.* at 161.

275. *Id.* at 165.

276. *Id.* at 162.

277. *Id.* at 165.

278. GILDERBLOOM & APPELBAUM, *supra* note 3, at 175-76; Appelbaum, *supra* note 67, at 547; Lundqvist et al., *supra* note 95, at 456.

279. See Appelbaum, *supra* note 67, at 547-48.

280. Berger & Turner, *supra* note 236, at 164.

281. See OLSSON, *supra* note 87, at 268; Lundqvist et al., *supra* note 95, at 456.

er income households favorably compete against lower income households in the quest for cooperative housing.²⁸² Consequently, the market demand for cooperative housing has seriously jeopardized its affordability for low income families.

3. Single Family Homeownership

In the wake of the million dwellings program and the resultant end of the housing shortage, Swedish attention turned to single family housing.²⁸³ The market for single family dwellings has increased in Sweden over the years.²⁸⁴ Not all, but most, single family homes are privately owned.²⁸⁵ The rise in popularity of homeownership since the 1980s coincides with an increase in the number of middle income families.²⁸⁶ The desire for a single family, suburban home with a yard has infiltrated the Swedish middle class consciousness.²⁸⁷

As in the cooperative sector, problems with affordability of single family homes quickly followed from the increase in demand. Buyers of newly-constructed houses are eligible for a state loan to subsidize the purchase price.²⁸⁸ The initial price of a new house is based on an estimated cost of actual construction plus a low land cost.²⁸⁹ In return for the state subsidy, the purchaser cannot profit from resale of the house for three years.²⁹⁰ Although each purchaser only receives one subsidy in a lifetime, the house can thereafter be sold at a profit. Determined by the free market upon resale,²⁹¹ the price of single family homes began to bear little resemblance to the initial construction cost.²⁹²

The inequities of single family homeownership are com-

282. See Berger & Turner, *supra* note 236, at 161, 181; Lundqvist et al., *supra* note 95, at 456.

283. Vogel, *supra* note 130, at 141; MCGUIRE, *supra* note 90, at 191; see HECLO & MADSEN, *supra* note 131, at 215.

284. OLSSON, *supra* note 87, at 268; see MCGUIRE, *supra* note 90, at 191, 197; Vogel, *supra* note 130, at 141.

285. Anas et al., *supra* note 124, at 37.

286. See GILDERBLOOM & APPELBAUM, *supra* note 3, at 165.

287. See *id.* at 175; Vogel, *supra* note 130, at 154.

288. Anas et al., *supra* note 124, at 48; see MCGUIRE, *supra* note 90, at 197.

289. MCGUIRE, *supra* note 90, at 197; see Anas et al., *supra* note 124, at 51.

290. Anas et al., *supra* note 124, at 51.

291. Berger & Turner, *supra* note 236, at 164.

292. See MCGUIRE, *supra* note 90, at 197.

pounded by the fact that some cash outlay is necessary to buy a house.²⁹³ Families with limited means find homeownership beyond their grasp.²⁹⁴ With decreased ability to buy into homeownership, the people who need economic opportunities the most remain least likely to benefit from resale profit. In addition, homeownership represents an economic boom to those able to afford it due to the associated tax benefits. Homeowners deduct mortgage interest payments from their income tax liability, reaping great financial benefit.²⁹⁵ It is estimated that the Swedish government spends over half its housing budget on homeowner tax deductions.²⁹⁶ Long term housing affordability in the cooperative and single family homeownership tenures remains somewhat elusive, due to the vagaries of unregulated markets. As the demographics of Sweden's population change, becoming increasingly middle income, there appears a need to rethink housing availability and distribution in order to maintain tenure choice without class distinction.

4. The Potential Problem of Segregation

One other potential problem which lurks on the horizon is segregation of socioeconomic groups.²⁹⁷ Immigration of refugees from various ethnic backgrounds has steadily increased in Sweden since the 1930s.²⁹⁸ After World War II, immigrants from other Nordic countries were welcomed in Sweden due to mutual agreements to abolish visa requirements. Although

293. Lundqvist et al., *supra* note 95, at 453.

294. *See id.*

295. *Id.* at 449, 450; GILDERBLOOM & APPELBAUM, *supra* note 3, at 178.

296. GILDERBLOOM & APPELBAUM, *supra* note 3, at 179. In contrast, the United States spends at least 80% of its housing budget on foregone revenues from homeowner tax deductions. James A. Kushner, *Apartheid in America: An Historical and Legal Analysis of Contemporary Racial Residential Segregation in the United States*, 22 HOW. L.J. 547, 603-08 (1979). *See also* Peter W. Salsich, Jr., *A Decent Home for Every American: Can the 1949 Goal Be Met?*, 71 N.C. L. REV. 1619, 1627-28, 1631-37 (1993) (assessing the extent of federal government subsidies for homeowners and proposing a redistribution of housing subsidies in the United States).

297. GILDERBLOOM & APPELBAUM, *supra* note 3, at 175; *see* DICKENS ET AL., *supra* note 80, at 52-53.

298. Anna-Lisa Lindén & Göran Lindberg, *Immigrant Housing Patterns in Sweden*, in URBAN HOUSING SEGREGATION OF MINORITIES IN WESTERN EUROPE AND THE UNITED STATES 92, 93 (Elizabeth D. Huttman et al. eds., 1991).

immigrants from Italy, Hungary, and Austria were actively recruited to fill labor needs after World War II, it was not until the 1960s when "[i]mmigrants from outside the Nordic region became a more noticeable feature of Swedish society."²⁹⁹ The Swedish parliament began to regulate non-Nordic immigration in 1968, requiring work permits, jobs, or refugee status for non-Nordic immigrants entering the country.³⁰⁰

By the mid-1970s, the Swedish government began to set policies to avoid segregatory patterns of housing. With the objective of fostering understanding and cooperation among people of different backgrounds, socioeconomic and cultural integration and equality became a priority.³⁰¹ Two forms of housing segregation endure in Sweden: ethnic and economic. Economic segregation precipitated by unequal availability of housing across tenure lines has been discussed.³⁰² As previously discussed, problems of economic segregation were alleviated by increasing the availability of different tenures in homeownership and maintaining housing affordability. Although economic segregation still exists, the high quality of housing for all Swedes mitigates against the development of "slums" for lower income households.³⁰³

Although the majority of Swedes live in quality housing, ethnic housing segregation still remains a problem. Immigrants comprise 8.5% of the Swedish population, with 5.5% being from other Scandinavian countries.³⁰⁴ The worst segregation is experienced by the most recent immigrant groups (Chileans, Turks, and Vietnamese) and groups of immigrants exhibiting differences in appearance (Africans, Asians, and Turks) from the Swedes.³⁰⁵ Nevertheless, this ethnic housing segregation does not seem to result from discriminatory practices, either individual or systemic, but rather appears to be a product of the voluntary settlement patterns of immi-

299. *Id.* at 94-95.

300. *See id.* at 97.

301. Stenberg, *supra* note 137, at 103-04; *see* Lundqvist et al., *supra* note 95, at 449 (citing Riktlinjer for bostadspolitikerna mm [Guidelines for Housing Policy], Cabinet Proposal 150 (1974)); Lindén & Lindberg, *supra* note 298, at 98-99.

302. Lundqvist et al., *supra* note 95, at 458, 462; *see* Vogel, *supra* note 130, at 139, 140.

303. *See* Lindén & Lindberg, *supra* note 298, at 99, 108, 112.

304. DICKENS ET AL., *supra* note 80, at 54.

305. *See* Lindén & Lindberg, *supra* note 298, at 104, 107.

grants.³⁰⁶ In Sweden, opportunities exist to gradually improve one's income and housing. Immigrants can achieve housing equity.³⁰⁷

In reality, there is little sign in Sweden of the serious problems experienced in most industrialized countries involving segregation and marginalization of low income people. While there is some economic and ethnic segregation, housing standards still remain acceptable for people with low incomes.³⁰⁸ Moreover, the number of people living in poverty is relatively small, and the difference in income level between average income and low income continues to be moderate.³⁰⁹

In contrast to Sweden's generally homogenous population, the United States' heterogenous population suffers from housing segregation so severe it has been referred to as "American Apartheid."³¹⁰ Deliberate housing segregation of minority groups in central cities has been practiced by federal, state, and local governments on behalf of the American people.³¹¹ The difference in severity of housing segregation and standards between the two countries highlights the inherent racism that precipitates the locational isolation of people who look different than the majority. It becomes difficult not to wonder whether the United States' lack of effective measures to remedy its affordable housing crisis is also a symptom of its racism.

V. LEARNING FROM SWEDEN'S SUCCESS

The goal of comparing Sweden's accomplishment with the United States' failure to provide affordable housing has been to demonstrate the ingredients necessary for developing a successful housing program in the United States. Despite the social, political, and economic differences between the two countries, transplantation of the Swedish system to the United

306. *Id.* at 102, 113.

307. *Id.* at 102; *see id.* at 104, 113.

308. *See* MILNER, *supra* note 10, at 200. "Less than 1 per cent of Swedish housing is substandard and only 5 per cent lacks modern stoves and refrigerators." *Id.* (citing Sven Olsson, *Sweden*, in GROWTH TO LIMITS: THE WESTERN EUROPEAN WELFARE STATES, THE CASE OF SWEDEN 1, 53-55 (1986)).

309. *See* GENERATING EQUALITY IN THE WELFARE STATE: THE SWEDISH EXPERIENCE 21 (Inga Persson ed., 1990).

310. DOUGLAS S. MASSEY & NANCY A. DENTON, AMERICAN APARTHEID *passim* (1993).

311. *See id.* at 3-4; *see generally* Kushner, *supra* note 296.

States is achievable.³¹² Sweden's redistributive system of housing creation and allocation operates in a capitalist market. The conclusion cannot be avoided that it is a difference in values that presents the greatest obstacle to implementation of the Swedish system in the United States. People in the United States will first have to place a high value on decent living conditions for everyone before the success of Sweden can be replicated.

Once housing justice receives a high value in the United States, a great deal can be learned about the provision of affordable housing from a study of Sweden. The old adage, "where there's a will, there's a way," never rang so true for so many people. "A decent home and a suitable living environment"³¹³ could become a reality for all residents in the United States. The first step in solving the affordable housing crisis remains simple: allocation of resources. This fact is obvious to the Swedish people and the collective will has allowed the Swedish government to effectuate a program of housing justice.

Equally important, however, and what Sweden has yet to learn, is the need to maintain affordable housing beyond the first generation inhabitant. The purpose of building nonmarket housing is defeated if, after becoming a part of the existing housing stock, market principles dominate resale.³¹⁴ If accompanied by mechanisms to maintain affordability, Sweden's commitment to resource allocation and choice of tenure, its system of land banking, and its municipal/regional control of housing would become an almost foolproof model of providing affordable housing.

312. ALAN WATSON, *SOCIETY AND LEGAL CHANGE* 106 (1977) ("Very different social, political and economic circumstances may nonetheless be conducive to the creation of the same legal rule"); see also K. Zweigert, *Methodological Problems in Comparative Law*, 7 *ISR. L. REV.* 465, 469 (1972) ("It is a basic rule of comparative law that different legal systems find equal or at least astonishingly similar solutions—often down to the details—for similar problems, in spite of all differences in historical development, systematic and theoretical concepts and style of practice").

313. Housing Act of 1949, ch. 338, § 2, 63 Stat. 413, 413 (1949) (codified as amended at 42 U.S.C. § 1441 (1994)).

314. See Lundqvist et al., *supra* note 95, at 462-63 (explaining that the problem of Sweden's system stems from market influence over housing in stages after production of the housing causing "some households to enjoy considerable capital gains in the owner-occupied and co-operative sectors"); GILBERBLOOM & APPELBAUM, *supra* note 3, at 176; Anas et al., *supra* note 124, at 51.

Even without the dominance of a party like the Social Democrats, housing equity could become a reality in the United States.³¹⁵ Acceptance of the market's failure to provide housing for all people needs to occur first. The next step would necessitate a true commitment to providing decent, affordable housing to all people and the appropriation of resources necessary to accomplish that realizable goal. The United States could then emulate the successful practices of Sweden in acquiring and providing affordable land and housing. Finally, the United States could expand upon mechanisms for permanent affordability of housing already in existence to become a torchbearer in maintaining housing affordability. Limited equity cooperatives, community land trusts, and mutual housing associations have become successful legal tools in maintaining affordable housing in the United States.³¹⁶

Acquisition of land for public purposes is hardly a new phenomenon in the United States. Land has been acquired by federal, state, and local governments for highway development, schools, industry, irrigation systems, and grazing areas in the western United States.³¹⁷ In that vein, land banking has long been recognized as a process worthy of attention in addressing the need for affordable housing in the United States and curbing the destructiveness of urban sprawl. In 1968, the National Commission on Urban Problems (the Douglas Commission) stated:

The Commission recommends that State governments enact legislation enabling State and/or local development authorities or agencies of general purpose governments to acquire

315. Ideally, this realization will come as a positive, hopeful action, not a reaction to the explosion of the "social powder keg." Feldman & Florida, *supra* note 24, at 44; see also GILDERBLOOM & APPELBAUM, *supra* note 3, at 13 (submitting that solutions to the housing crisis will be sought as conditions worsen).

316. For an extended discussion of these legal mechanisms which maintain affordability of housing, see Deborah Kenn, *Paradise Unfound: The American Dream of Housing Justice for All*, 5 B.U. PUB. INT. L.J. 69 (1995). This article continues and complements the arguments for affordable housing put forth in my earlier writings.

317. See *New Praxis for Urban Growth*, *supra* note 204, at 899 (land is readily acquired for schools, highways, industry, and federal land reserves). One-third of cities with 50,000 or more people acquire land for public purposes. *Id.* at 914; see also A.M. Woodruff, *Recycling Urban Land*, in *THE GOOD EARTH*, *supra* note 67, at 64 (government-owned land leased to ranchers for grazing is prevalent in the west); *id.* at 139 (land acquired for irrigation systems).

land in advance of development for the following purposes: (a) assuring the continuing availability of sites needed for development; (b) controlling the timing, location, type, and scale of development; (c) preventing urban sprawl; and (d) reserving to the public gains in land values resulting from the action of government in promoting and servicing development. . . .

. . . .

. . . The Commission recommends that the Congress enact legislation establishing a Federal revolving fund to facilitate the purchase of land by local governments in owner-initiated compensation proceedings and as part of direct-purchase programs, with the Federal contribution to be returned to the fund upon disposition of the property.³¹⁸

Given the American propensity for chaotic and unplanned land development edging further away from central urban areas, land banking could operate as an effective, comprehensive, and deliberate form of land use planning.³¹⁹ There are examples of planned urban developments created through land banking which exist in Columbia, Maryland; Reston, Virginia; and the Irvine Ranch in California.³²⁰ Efficient development of affordable housing for low income people could become a reality as part of the comprehensive, thoughtful planning process.³²¹ Although the extended foresight exhibited by Sweden

318. SYLVAN KAMM, *LAND BANKING: PUBLIC POLICY ALTERNATIVES AND DILEMMAS* 60 (1970) (quoting NAT'L COMM. ON URB. PROBS., *BUILDING THE AMERICAN CITY* 250-52 (1968)); see *New Praxis for Urban Growth*, *supra* note 204, at 907 (citing U.S. NAT'L RESOURCES PLANNING BOARD, *PUBLIC LAND ACQUISITION, PART II: URBAN LANDS* 12 (1941)); see also KAMM, *supra*, at 62 (the Kaiser Committee recommendations, 1968); *id.* at 63 (the Advisory Committee on Intergovernmental Relations, 1968); Stoebuck, *supra* note 207, at 584 (finding that "American interest in land banking began in the 1930's and reached an apogee during the 1970's; interest seems to have abated in the [1980's]"); Fitch & Mack, *supra* note 67, at 139-141 (referencing the New York State Urban Development Corporation which "owned outright \$50 million of land and held several million more in leases and options" in 1973).

319. See KAMM, *supra* note 318, at 11; Stoebuck, *supra* note 207, at 581; see generally *New Praxis for Urban Growth*, *supra* note 204, at 897-99, 906-07; Fitch & Mack, *supra* note 67, at 135-36, 142-43.

320. See Fitch & Mack, *supra* note 67, at 139; KAMM, *supra* note 318, at 8 n.14.

321. See *New Praxis for Urban Growth*, *supra* note 204, at 957 (finding that "[l]and banking, in fact, is designed to succeed where established programs of slum clearance, urban renewal, economic rejuvenation and the like have failed, because it represents a more comprehensive and integrated approach to the problems of

would be difficult to replicate, the acquisition of land on the periphery of urban areas for future development could ease the problems of urban development and offer reasonably priced land for affordable housing development.³²² People living in central city neighborhoods, plagued with urban decay and social disintegration, could benefit from housing developed for low and moderate income people on newly-acquired land. Redevelopment of badly deteriorated central cities could then occur in a methodical manner.³²³

Land banking could facilitate the introduction of much needed regional control of land. Replicating approaches to other regional issues of public concern, land banks could take the form of public corporations, created by, but independent of the government.³²⁴ The land banks could work in conjunction with regional land use planning agencies to accomplish sound, studied, and logical land development planning. Pooling of municipal resources would work well to create the financial capacity to amass large parcels of land. Regional control would be essential to the goals of a land bank since suburban areas would be reluctant to relinquish self-interest in preservation of the status quo.³²⁵ Large tracts of land, chosen for location, affordability, and potential for future development, could be acquired throughout a region by purchase or eminent domain.³²⁶ Empowering land banks with the ability to have a first option on land for sale³²⁷ and to acquire options on agri-

urban deterioration and because it focuses attention on the urban fringe, as well as the inner city"); see also Fitch & Mack, *supra* note 67, at 136 (referring also to the resultant "homogenization of suburbs, along with segregation of racial and income groups").

322. See *New Praxis for Urban Growth*, *supra* note 204, at 958-59; Stoebuck, *supra* note 207, at 582.

323. See *New Praxis for Urban Growth*, *supra* note 204, at 933.

324. See *id.* at 942-43; KAMM, *supra* note 318, at 26-27; STRONG, *supra* note 5, at 260-61; Fitch & Mack, *supra* note 67, at 141; Stoebuck, *supra* note 207, at 587.

325. Protection of the homogenous nature of suburbs could be expected. See STRONG, *supra* note 5, at 271. Protection of the favorable imbalance of public wealth enjoyed by the suburbs could also be expected. See generally Boger, *supra* note 38, at 1300-04.

326. The issue of whether courts would allow the use of eminent domain for land bank acquisitions has been dealt with extensively. See generally *New Praxis for Urban Growth*, *supra* note 204, at 959-61; KAMM, *supra* note 318, at 22; Stoebuck, *supra* note 207, at 594-605; STONE, *supra* note 5, at 270.

327. See STRONG, *supra* note 5, at 272 (finding that "[i]n Sweden and France, the land bank agency must receive notice of all proposed sales and can preempt to restrain speculation").

cultural land before speculative increases in the value of farm land took hold³²⁸ would encourage the attainment of its goals. Regionally-controlled land could then be leased for development, sold with restrictions, and/or utilized for affordable housing.

Land banking requires a significant amount of start-up capital.³²⁹ Although the capability of becoming self-supporting exists, land banks are unavoidably expensive when beginning with the large-scale efforts necessary for success. Government financial assistance, along with debt financing and bond issuance can combine to resourcefully initiate a land bank.³³⁰ Once acquired, the land can be held indefinitely, sold for a profit, or leased through long term leases.³³¹ Any subsequent appreciation in land value would then benefit the public, not any individual landowner.³³² "The prevailing preference among operating agencies is for the use of a long-term lease, because this permits the land bank agency to benefit from appreciation in land value, either through increased rents or through a new lease for more intensive use."³³³ Land banks have the potential to become self-supporting.³³⁴ Dedication of

328. See Fitch & Mack, *supra* note 67, at 148; STRONG, *supra* note 5, at 58.

329. *New Praxis for Urban Growth*, *supra* note 204, at 962; see KAMM, *supra* note 318, at 29; STRONG, *supra* note 5, at 275.

330. See *New Praxis for Urban Growth*, *supra* note 204, at 945 (finding that "[t]he financing component of the land bank's enabling legislation should grant the power to borrow money and issue bonds for its corporate purposes and to secure its indebtedness by pledging its own revenues or by encumbering its property"); KAMM, *supra* note 318, at 65 (citing the 1968 Advisory Commission on Intergovernmental Relations report on "Urban and Rural America: Policies for Future Growth"). Strong also found that "[v]irtually all land bank advocates believe that federal financial participation is essential to place land bank agencies in a position to acquire land at requisite speed and scale. The Douglas Commission recommended the creation of a federal revolving fund to make loans to local land bank agencies." STRONG, *supra* note 5, at 275 (citing NAT'L COMM. ON URB. PROBS., BUILDING THE AMERICAN CITY 251 (1968)).

331. See KAMM, *supra* note 318, at 49; *New Praxis for Urban Growth*, *supra* note 204, at 963.

332. See STRONG, *supra* note 5, at 240-41; *id.* at 264 (quoting the Douglas Commission: "Where actual purchase will result in the government's recapturing increases in land values for the public, government should deem this a legitimate function and an added incentive for direct action."); see also Fitch & Mack, *supra* note 67, at 145.

333. STRONG, *supra* note 5, at 279-80.

334. KAMM, *supra* note 318, at 29 (finding that land banking may be financially self-sustaining); STRONG, *supra* note 5, at 275 (finding that land banks can be expected to be profitable over time).

the land to mixed use and linking development of affordable housing to commercial and industrial use of the land would provide a balance of investment and revenues, fostering economic security for a land bank.³³⁵ Land banking would also create benefits to society immeasurable in dollars and cents by creating well-planned, thoughtful, diverse communities with improved services.³³⁶

Assembling sizeable tracts of property in the land bank as an affordable source of land for housing would be the first step toward providing affordable housing. Developing housing that provides people of all incomes with choice of tenure and location is the next step. Creating housing subsidy programs so that affordable housing is accessible to all is a further priority. As seen from the weakness of the Swedish experience, the crucial element then becomes maintaining affordability of housing. Reliable legal mechanisms emanating primarily from the nonprofit housing sector exist to preserve affordability of housing. These mechanisms include limited equity housing cooperatives, community land trusts, and mutual housing associations.³³⁷ All of the legal structures can operate to remove property value from the dictates of the market and, thereby, control the long term resale value of property. Property acquired by a land bank could be sold to a land trust with inherent controls on resale value, or be leased with restrictions on resale. The initial investment in the land, whether public or private, would be spent wisely and assure affordability of housing for future generations.

VI. CONCLUSION

Sweden's comprehensive housing program provides clear evidence that once a government commitment to affordable housing is made, legal mechanisms exist to achieve that goal. The United States can use the experience and techniques adopted in Sweden to move toward a goal of decent, affordable housing for all, making it a reality rather than a dream. By combining land banking, regional control, and equal opportuni-

335. See KAMM, *supra* note 318, at 29; STRONG, *supra* note 5, at 275; Fitch & Mack, *supra* note 67, at 153; Stoebuck, *supra* note 207, at 585; *New Praxis for Urban Growth*, *supra* note 204, at 963-64.

336. See Stoebuck, *supra* note 207, at 593.

337. See *supra* note 293.

ty of housing with mechanisms to maintain housing affordability, the United States can achieve the goal expressed in the National Housing Act of 1949.

The essential underpinnings of a national housing policy which works for all people include regional control of land use planning to break down the artificial, divisive, and economically and societally expensive barriers between cities and suburbs; land banking to begin the process of controlling affordability of property; development of housing affordable to all; and resale controls to maintain affordability. When the United States chooses to carry out its promise to provide decent, affordable housing to everyone, the workable approach will be evident. When the time arrives for a true commitment to housing justice, communities can be built upon mutual sharing of limited resources rather than individual greed. Housing justice means access to property and affordable housing for everyone, and thus benefits all.

