

Universal Periodic Review – Canada – April/May 2013

Submission on behalf of the Right to Housing Coalition of Toronto, Ontario, Canada

Submitted by: Yutaka Dirks in care of:

Advocacy Centre for Tenants Ontario, 425 Adelaide Street West, 5th Floor, Toronto, Ontario, Canada, M5V 3C1

Telephone – 001-416-597-5855 x.5243, Fax – 001-416-597-5821

righttohousingcoalition@gmail.com <http://righttohousing.wordpress.com>

1. The Right to Housing Coalition is a group of people facing homelessness, advocates, service providers, and community organizations, working together for the right to housing. In May 2010, four individuals and the Centre for Equality Rights in Accommodation filed a court case against one provincial government (Ontario) and the Canadian federal government, asking the court to recognize that, by making policies that cause and perpetuate homelessness, the governments have violated Canada's *Charter of Rights and Freedoms*. The Right to Housing Coalition has provided ongoing support to the legal challenge through research, public forums and other events, and has participated in the national days of action for housing as part of larger housing advocacy initiatives. The right to adequate housing is guaranteed under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). The Right to Housing Coalition is primarily concerned with this right, and that is the focus of our submission.
2. CANADA HAS NOT DEMONSTRATED COMPLIANCE WITH IT'S COMMITMENTS TO RECOGNIZE THE RIGHT TO ADEQUATE HOUSING:
In June 2009, upon recommendation from the UN Human Rights Council and the UPR, the Government of Canada committed to "intensify the efforts already undertaken to better ensure the right to adequate housing, especially for vulnerable groups and low income families." More recently, the Government of Canada ratified the *Convention on the Rights of Persons with Disabilities* which includes a commitment to ensuring the right to adequate housing for persons with disabilities.

The right to adequate housing is guaranteed under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), which Canada ratified in 1976.

Despite the above mentioned actions by the Government of Canada recognizing the right to adequate housing, Canada has not, in our view, demonstrated compliance with the commitments it has made in this area. To assist the Committee in their review, we highlight two key areas where Canada has failed to ensure the right to adequate housing.

3. CANADA HAS FAILED TO ENACT FEDERAL LEGISLATION TO DEVELOP A RIGHTS-BASED AFFORDABLE HOUSING STRATEGY:
Bill C-400, The *Secure, Adequate, Accessible and Affordable Housing Act* was introduced in the current session of Parliament on February 16, 2012. It requires the Minister responsible for housing to work with their provincial/territorial counterparts, and representatives from civil society, municipalities and Aboriginal communities to design a national housing strategy

that will end homelessness and ensure the accessibility of adequate housing for those most in need. The Government of Canada has, at the time of writing, failed to endorse this legislation, which was introduced by the official opposition. In the previous session of Parliament the Government of Canada voted against similar proposed legislation.

In 2009, the Canadian Senate Standing Committee on Social Affairs, Science and Technology released a comprehensive report on poverty, housing and homelessness in Canada. *In From the Margins: A Call to Action on Poverty, Housing and Homelessness*, was then unanimously approved by the Senate. The report recommended that “the Government of Canada develop a national housing and homelessness strategy with a ten-year funding commitment”. Despite the unanimous approval of the report by the Senate, the Government of Canada has not developed such a strategy and did not commit to acting on any of the recommendations in the report.

4. RESPONSE TO LITIGATION BY HOMELESS AND INADEQUATELY HOUSED CANADIANS:

In 1998, the United Nations Committee on Economic, Social and Cultural Rights, in its Concluding Observations on Canada recommended the following:

50. The Committee urges the federal, provincial and territorial governments to adopt positions in litigation which are consistent with their obligation to uphold the rights recognized in the Covenant.

These concerns remained when the UN CESCR released its Concluding Observations on Canada in 2006. In particular, the Committee noted:

11. The Committee regrets that most of its 1993 and 1998 recommendations in relation to the second and third periodic reports have not been implemented, and that the State party has not addressed in an effective manner the following principal subjects of concern, which are still relevant:

(a) The State party’s restrictive interpretation of its obligations under the Covenant, in particular its position that it may implement the legal obligations set forth in the Covenant by adopting specific measures and policies rather than by enacting legislation specifically recognizing economic, social and cultural rights, and the consequent lack of awareness, in the provinces and territories, of the State party’s legal obligations under the Covenant;

(b) The lack of legal redress available to individuals when governments fail to implement the Covenant, resulting from the insufficient coverage in domestic legislation of economic, social and cultural rights, as spelled out in the Covenant; the lack of effective enforcement mechanisms for these rights; the practice of governments of urging upon their courts an interpretation of the Canadian Charter of Rights and Freedoms denying protection of Covenant rights, and the inadequate availability of civil legal aid, particularly for economic, social and cultural rights;

In May of 2010, four individuals who have experience homelessness or inadequate housing, along with the Centre for Equality Rights in Accommodation (a community based organization serving members who face discrimination in housing) filed a legal claim against the Government of Canada and the provincial Government of Ontario. The claim argues that

the federal and provincial governments, by creating and sustaining the conditions that lead to and maintain homelessness and inadequate housing violate the Canadian *Charter of Rights and Freedoms*. The claimants rely specifically on s.7 which guarantees the right to life, liberty, and security of the person and s.15 which guarantees the equal protection and benefit of the law without discrimination.

The government of Canada has informed the UN CESCR that the primary source of legal protection for rights found in the *International Covenant on Economic, Social and Cultural Rights* is the *Charter of Rights and Freedoms*. And yet, the Federal and Provincial Attorney Generals are asking the Courts to dismiss the 'Right to Housing' case without a full hearing. The Governments argue that the claimants have "no reasonable cause of action" and that it is "plain and obvious" that the case will fail. This position continues a pattern of denying Canadians protection of Covenant rights, particularly for the right to adequate housing.

5. OUR RECOMMENDATIONS:

Housing is a necessity of life. Adequate housing is fundamental to ensuring basic human survival, health, social inclusion, participation in society and the capacity to realize other fundamental rights. Canada has not fulfilled its commitments under the *Universal Declaration of Human Rights*, the *ICESCR* and other Conventions that recognize the right to adequate housing. We urge the United Nations Human Rights Committee to ensure that the Government of Canada meets its human rights obligations.