

HOMELESSNESS, HUMAN RIGHTS, LITIGATION AND LAW REFORM: A VIEW FROM CANADA*

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The Gap between International Commitments and Domestic Reality in Canada

At the international level, Canada has in the past played an important role as an advocate for the recognition of access to adequate housing as a fundamental human right. Canada ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976 and played a leading role in promoting the adoption and ratification of the Convention on the Rights of the Child (CRC) in 1989, both of which contain explicit recognition of the right to adequate housing. In 2000 and 2001, Canada co-sponsored the resolution entitled *Women's Equal Ownership of, Access to and Control over Land and the Equal Rights to Own Property and to Adequate Housing*, subsequently approved by the United Nations Commission on Human Rights (United Nations Commission on Human Rights 2001). Canada has generally resisted US opposition to recognition of the right to adequate housing in international fora (Hulchanski 1996).

Unfortunately, Canada's position in support of the human right to housing on the international stage is increasingly at odds with domestic policy and legislation. The consistent policy direction in Canada at various levels of government since the early 1990s has been toward unprecedented withdrawal of commitments to many of the most critical components of a strategy to ensure access to adequate housing and meaningful security of tenure.

When Canada ratified ICESCR in 1976 and undertook to ensure that domestic law and policy conformed with the Covenant's guarantee of the right to adequate housing, homelessness was virtually unheard of in Canada. Scarce references to the 'homeless' at that time referred to transient men housed in rooming houses (see, eg, City of Toronto Planning Board 1977). By contrast, homelessness has now been identified as a 'national disaster' by the mayors of the ten largest cities in Canada. Dozens of people die on the cold streets of Canada's cities every winter

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and high rates of tuberculosis, hepatitis B and HIV are now a common feature of an expanding homeless population. Women and children were the most dramatically affected by the epidemic of homelessness that began in the 1990s.¹ The number of single parent households using shelters in Toronto increased by more than 50 per cent between 1990 and 2002 (City of Toronto 2003: 41).² Approximately 32,000 individuals use shelters for the homeless in the City of Toronto every year, including almost 5000 children.³

Statistics on shelter use and street homelessness are only the tip of the iceberg. Women with children avoid at all costs living on the streets for fear of losing their children or being vulnerable to assault. They turn instead to friends, family or acquaintances to provide temporary housing or accept overpriced, inadequate housing at the expense of other necessities such as food and clothing. Emergency provision of food through 'food banks', which was unheard of when Canada ratified ICESCR, is now a critical means of survival for three quarters of a million people every month, including over 300,000 children, but fails to come close to meeting the needs of an estimated 2.4 million hungry adults and children (Orchard, Penfold and Sage 2003).⁴ This emergency food has been referred to as 'edible rent supplements' because low-income households are often only able to keep their housing by relying on emergency foodstuffs. They are increasingly confronted with the choice, as captured in the title of a recent book on poverty in Canada, of either paying the rent or feeding the kids (Hurtig 1999).⁵ Inability to afford or obtain adequate housing has become a significant factor in parents losing or relinquishing custody of their children (Chau et al 2001).⁶

Aboriginal people in Canada living on reserves suffer housing conditions described as 'intolerable' by a Royal Commission on Aboriginal Peoples (Royal Commission on Aboriginal Peoples 1996: vol 4, ch 3). Aboriginal people make up four per cent of the Canadian population, with about half living on traditional lands. Lands set aside for Aboriginal people make up less than half of one per cent of Canadian land, most in the near or far north (Royal Commission on

¹ Shelter data from Toronto showed a 130 per cent increase in the number of children in homeless shelters between 1989 and 1999: Toronto Campaign 2000 (2001): 16.

² Approximately 2300 single parent households, mostly women and children, use Toronto shelters every year: City of Toronto (2003): 41.

³ Toronto shelters reported that 31,985 homeless individuals (including 4779 children) stayed in a Toronto shelter at least once during 2000: City of Toronto (2003).

⁴ The first food bank in Canada opened in 1981 in Edmonton.

⁵ For a description of alternative measures of poverty in Canada see National Council on Welfare (2003).

⁶ Inadequate housing or homelessness was a factor in one of five admissions of children into foster care in Toronto: Chau et al (2001).

Aboriginal Peoples 1996: 422). Aboriginal households are more than 90 times more likely than other Canadian households to be living without a piped water supply. Fourteen per cent live without indoor plumbing (Royal Commission on Aboriginal Peoples 1996: vol 3, ch 4, 1.1.1). Aboriginal women have twice the poverty rate of non-Aboriginal women and are over-represented in the population of families in homeless shelters (Ministry of Social Development and Economic Security (British Columbia) 2001: vol 2, 23; vol 4, 8). Seventy three per cent of Aboriginal female lone parents live in poverty, the majority living in cities and most characterised as being in 'core housing need' (Statistics Canada 2000: 248–249; Canada Mortgage and Housing Corporation 1997: iii). Inuit peoples in Canada's Arctic regions are suffering from some of the most severe housing conditions, with widespread overcrowding and grossly inadequate housing supply. Traditionally nomadic societies have been robbed of their habitat and provided with culturally inappropriate and inadequate housing. Widespread family violence, suicide and hopelessness have been the result. As noted by the Royal Commission on Aboriginal Peoples, the number of Aboriginal suicides sends a 'blunt and shocking message to Canada that a significant number of Aboriginal people in this country believe that they have more reasons to die than to live' (quoted by Coon Come 2001).

The widespread violation of the right to housing of Aboriginal people in Canada stems from the systemic denial of land rights. Aboriginal treaty rights to land were not recognised by Canadian governments as legally enforceable until a Supreme Court decision in 1973 forced them to accord these rights some recognition (see *Calder v Attorney General of British Columbia*). Even after 1973, however, Indigenous rights could be unilaterally extinguished by the Crown until their constitutional status was 'recognized and affirmed' in 1982 in Canada's repatriated Constitution (see *Constitution Act 1982* s 35). The constitutional status of Aboriginal title has been broadly interpreted by the Supreme Court of Canada to encompass not only traditional uses but also present day needs (*Delgamuukw v British Columbia*). However, most Indigenous groups in Canada have been unable to make significant progress in negotiating and implementing land claim treaties (Farha 2004).

The Canadian Government is fond of pointing out to UN treaty monitoring bodies that Canadians enjoy one of the highest standards of housing in the world (Scott 1999). Canada was placed at the top the United Nations Development Program Human Development Index from 1993 until

2001, and is currently ranked fourth (United Nations Development Program 2004).⁷ Sixty four per cent of Canadians own their own homes with, on average, more than seven rooms. Fifty seven per cent of Canadians live in detached houses (Statistics Canada 1996). Almost three quarters of a million households, representing 14 per cent of the population, own an additional vacation home in the country (Lamoureux 2002). In the context of such affluence, violations of the right to adequate housing in Canada are clearly the result of explicit legislative choices rather than a lack of resources. Homelessness in Canada is the direct result of deliberate policies to cut income taxes of higher income groups and to cut housing and social programs on which disadvantaged groups rely. Engineered increases in income inequality have placed in jeopardy the housing security of disadvantaged groups and vulnerable households (Jackson 2004: 7–9, 28–34).

Forced Evictions and Security of Tenure

During the late 1960s and 1970s, tenants across Canada fought for and won important protections of security of tenure within provincial legislation governing landlord and tenant law. Such legislation substituted statutory rights and duties for previously applicable common law contract and property principles that had evolved from feudal times. The new legislation recognised, at least implicitly, that tenants are in an unequal power relationship with landlords and rejected the previous model according to which, in the words of one Government member introducing the new legislation, ‘the landlord ruled like a medieval baron over his tenant’ (Lawrence 1969: 9199; Lamont 1993: 1). By the time Canada ratified ICESCR in 1976, landlord and tenant legislation had been put in place in many provinces across Canada requiring landlords to go to court if they wished to terminate a tenancy and restricting termination of tenancy to specific reasons enumerated in legislation, such as non-payment of rent, illegal activity or disturbing the enjoyment of other tenants. These provisions applied regardless of the terms of a lease or of any other statute.⁸ Matters that previously had been resolved primarily outside of the judicial system, according to unregulated powers of property owners, were thus integrated into the Canadian judicial system and legal security of tenure became a reality for many residential tenants.⁹

⁷ Australia ranked third in the Human Development Index in 2004, behind Norway, first, and Sweden, second.

⁸ See, for example, Ontario’s *Landlord and Tenant Act*, Nova Scotia’s *Residential Tenancies Act*; and Alberta’s *Residential Tenancies Act*. Until 1992 Alberta’s *Residential Tenancies Act* permitted termination of tenancy without cause with 90 days of notice, which permitted large scale eviction prior to the 1988 Calgary Winter Games. It now permits termination by the landlord only for ‘substantial breach’ of the tenancy agreement.

⁹ As noted by Lamer CJ, it appears that ‘few residential tenancy matters found their way into our courts prior to 1970’: Lamer CJ, *Reference re Amendments to the Residential Tenancies Act* (1996), para 45.

Increasing numbers of households in Canada, however, still do not enjoy statutory protections of security of tenure because of the nature of their housing situation. Lower rent accommodation that is affordable to the poorest households is often not self-contained. If kitchen or bathroom facilities are shared with the owner, rental accommodation is usually exempt from both landlord and tenant and human rights legislation (see, eg, *Tenant Protection Act* s 3 and *Human Rights Code* s 21(2)). Astonishingly, it is legal in such situations for landlords to evict tenants at whim, or to deny accommodation because of race or any other discriminatory ground. Increasing numbers of low-income families with children are now forced to live in small motel units that are rented by the week. These too are generally exempt from security of tenure provisions (*Tenant Protection Act* s 3).

Tenants who enjoy the protection of legal security of tenure in Canada find that the right is increasingly reduced to procedures designed for expeditious eviction for landlords. For example, new landlord and tenant legislation which came into effect in Ontario in 1998, the so-called *Tenant Protection Act* (SO 1997, c 24), permits landlords to obtain an order to evict tenants if, after five days of receiving a notice of termination of tenancy from the landlord, tenants do not file a written notice of intent to dispute the landlord's application. Not surprisingly, most tenants do not manage to file a written dispute and the majority of evictions in Ontario thus occur without a hearing.¹⁰

Tenants are routinely evicted for minimal arrears of rent. In Toronto, 80 per cent of applications to evict for arrears are for less than \$1000, equivalent to an average month's rent (Ontario Rental Housing Tribunal Records 2000). In many cases, households are evicted when the landlord actually owes the tenant money because the arrears for the current month are less than the deposit the tenant has paid the landlord at the commencement of the tenancy as a deposit for the last month's rent (*Tenant Protection Act* s 116). Thousands of adults and children are thus unnecessarily forced into homelessness every year, children displaced from their schools and their physical and emotional health put at risk, because a temporary set-back has left them a little short on their rent. Such actions would certainly appear to be in violation of obligations under ICESCR, enunciated by General Comment No 7 of the Committee on Economic Social and Cultural Rights (CESCR), to ensure that evictions should not result in individuals being rendered

homeless; but rental tribunals have shown little willingness to consider the human rights norms in exercising their discretion (CESCR 1997).

Internationally, the term ‘forced evictions’ is most often associated with entire communities or neighbourhoods being evicted, often from squatter settlements. In Canada, this pattern of forced relocation of entire communities has characterised some of the many violations of the right to adequate housing of Aboriginal people who, after having been first forced by Europeans from their lands and homes, continue to face displacement and relocation through the destruction of habitat and resources, massive flooding for hydro-electric projects or deliberately engineered ‘relocations’ for administrative or developmental purposes (Royal Commission on Aboriginal Peoples 1996: vol 1, ch 11). Aboriginal people have faced violent police tactics when occupying land in protests over unrecognised land claims. A fatal shooting by police of a peaceful demonstrator at Ipperwash, Ontario in 1995 has only recently become the subject of a Commission of Inquiry, five years after a public inquiry was strongly recommended by the UN Human Rights Committee in 1999.¹¹

Forced eviction of communities of homeless people from squatter communities in Canada has also occurred. Mega project development has been responsible for dislocations of hundreds of households from low-income communities in preparation for Expo ’86 in Vancouver and for the 1988 Calgary Winter Olympics (Olds 1998). More recently, communities of homeless people have begun to organise squatter communities and have faced violent evictions from police.¹²

Most of the evictions leading to homelessness in Canada, however, occur in individual households. If Ontario’s 60,000 evictions a year were imposed on a single community with bulldozers, they would likely attract the attention of the international community. Because they are carried out on dispersed households, through legally sanctioned processes, and within a culture in which poor people are made to feel that their inability to pay the rent is a mark of

¹⁰ In Ontario in 2001, 57 per cent of the over 60,000 landlord applications for termination of tenancy resulted in ‘default’ eviction orders without any hearing: Ontario Rental Housing Tribunal (2001).

¹¹ Only after a previous government was removed from office has the recommendation of the UN Human Rights Committee for a public inquiry into this matter been implemented by the Government of Ontario: Human Rights Committee (1999): para 11; Government of Ontario, Executive Council (2003).

¹² For example, about 30 squatters were evicted from an abandoned building by police in Montreal on 4 October 2001: Macafee (2001).

inferior character, they attract little attention. Yet these evictions derive as much from deliberate government choice as the forced evictions of squatter communities elsewhere. A single mother in Toronto relying on social assistance, unable to pay the rent with a shelter allowance that has been reduced by governmental assaults on the poor to less than half of the average rent, is, like her counterparts in other countries, forcibly removed by a sheriff and may be left on the street with her belongings and a crying child. The weather may be frigid and the shelters may be full. No one, from the tribunal adjudicator to the sheriff who carries out the eviction, is likely to inquire into the adequacy of government assistance, its consistency with international human rights law, or to determine if the woman and her child have a place to go.

Where such actions are challenged before rental tribunals as being violations of fundamental human rights, the arguments are ignored. When social assistance recipients have turned to the Ontario Human Rights Commission and asked it to investigate whether the gross inadequacy of shelter components of social assistance violate the rights of welfare recipients to substantive equality in housing, the Human Rights Commission has dismissed the complaints as ‘frivolous’ and denied the complainants access to a hearing (*Beale v Her Majesty the Queen in Right of Ontario, as represented by the Minister of Community Family and Children’s Social Services; Advocacy Centre for Tenants in Ontario*).¹³ In a country that prides itself on promoting human rights and the ‘rule of law’, blatant violations of human rights in the area of housing are denied adjudication and remedy.

Proposals for Incorporating the Right to Adequate Housing as a Distinct Right in Canadian Law

In Canada, rights recognised in ratified international human rights treaties are not directly enforceable by domestic courts unless they are incorporated into Canadian law by parliament or provincial legislatures (see *Baker v Canada*, at paras 69–71). Nowhere in Canada’s domestic law is there any explicit recognition of the right to adequate housing, either as an enforceable right or even as a policy commitment of government — not in the 20 year old *Constitution Act 1982 (Constitution)*, including the *Canadian Charter of Rights and Freedoms (Canadian Charter)*, in provincial or federal human rights legislation, in national, provincial or territorial housing legislation, or in federal-provincial agreements. Claimants of the right to adequate housing in Canada are thus precluded from directly invoking art 11 of ICESCR as a self-standing

¹³ Reconsideration of the decision has been requested by the complainants.

justiciable right in Canada. It might conceivably be the basis for seeking a declaratory order from a Canadian court with respect to Canada's compliance, but could not be the basis for a positive remedy.¹⁴

As in most other common law countries, direct incorporation of human rights treaties does not seem to be taken seriously as an option in Canada. Instead, the *Canadian Charter* is seen to provide protection 'at least as great as that afforded by similar provisions in international human rights documents which Canada has ratified' (*Slaight Communications Inc v Davidson*, 1989, at 1056–1057, 1078–1081). At the time the *Canadian Charter* was drafted, however, Canada was a different society, in which food banks did not exist and homelessness was virtually unknown. Jean Chrétien, then Minister of Justice and subsequently Prime Minister, noted during debates on the new *Constitution* that Canada was committed to implementing ICESCR and did not need to list specific economic and social rights in the Constitution (Special Joint Committee of the Senate and the House of Commons on the Constitution of Canada 1981: 49–70). Section 36 of the *Constitution* contains a joint commitment of federal and provincial/territorial governments to 'promote the well-being of Canadians and to provide essential public services of reasonable quality to all Canadians.'¹⁵ There was no major impetus for the inclusion of social and economic rights like the right to adequate housing, as specific rights within the *Canadian Charter* at the time of drafting (Porter 2001).

Ten years later, however, after the severe housing shortage of the 1980s made homelessness and food banks a reality, a Liberal Housing Task Force, co-chaired by Canada's current Prime Minister Paul Martin, recommended amending the *Canadian Charter* to include the right to adequate housing (Martin and Fontana 1990).¹⁶ The recommendation was never followed up, however, after the Liberals moved from the opposition to government side of Parliament.

¹⁴The Supreme Court of Canada has recognised that declaratory remedies may be issued in order to clarify issues of rights that are not subject to judicial remedy but have political implications: *Dumont v Canada*; *Landreville v The Queen* (1973) 580–581. The Court has rejected arguments that it exceeds its jurisdiction in resolving questions of international law: *Reference re Secession of Québec*, 1998, paras 20–22. In *Montana Indian Band v Canada* (1991) 203, an application was allowed in which the court would consider whether the ICCPR had been violated.

¹⁵ The Government of Canada has pointed to s 36 as being 'particularly relevant in regard to ... the protection of economic, social and cultural rights' in its reports to treaty monitoring bodies, but the direct justiciability of the s 36 'commitment' has not yet been tested by Canadian courts (United Nations High Commissioner for Human Rights (1998): para 127). On the justiciability of s 36, see Nader (1996); see also *Winterhaven Stables Ltd v AG Canada* (1988) 432, 434.

¹⁶ Martin and Fontana have observed that although Canada had signed onto the rights in ICESCR, these rights 'tend still to be looked upon only as worthy goals of social and economic policy rather than legally enforceable rights. ...

In 1990, when a new round of constitutional discussions commenced in Canada, the New Democratic (social democratic) Government of the Province of Ontario proposed that a ‘social charter’ be included in the *Constitution* (Ontario Ministry of Intergovernmental Affairs 1991). However, despite a strong lobby from human rights groups across the country for an alternative social charter that would have included enforceable social and economic rights, the First Ministers in Charlottetown adopted a different approach. As noted subsequently by CESCR, the proposed text of the revised *Constitution* in the *Charlottetown Accord*¹⁷ would have reduced fundamental human rights such as the right to adequate housing to unenforceable ‘policy objectives’ of governments (CESCR 1993a). The proposals were defeated in a referendum, however, after women’s groups and other human rights groups argued that its provisions would serve to weaken rights in the *Canadian Charter* (Porter 1998: 59).

During the discussions leading up to the *Charlottetown Accord*, an *Alternative Social Charter* had been put forward by a national coalition of anti-poverty and equality seeking groups. The *Alternative Social Charter* included a right to ‘a standard of living that ensures adequate food, clothing, housing, child care, support services and other requirements for security and dignity of the person.’ The *Alternative Social Charter* would have established both a Social Rights Council, charged with monitoring and reporting on social and economic rights, and a Social Rights Tribunal to adjudicate claims of systemic or public importance. While the *Alternative Social Charter* was not part of the proposal adopted by the first ministers in Charlottetown, it has been recognised in Canada and elsewhere as an innovative model for the protection and adjudication of social and economic rights such as the right to adequate housing. It has been proposed as a viable model which could be adapted for incorporation into new inter-governmental agreements governing federal transfers of funding for social services, healthcare and education and ensuring compliance with and accountability to international human rights such as the right to housing.¹⁸

The Task Force believes that those searching for adequate, affordable housing may be better served by giving them some form of constitutionally guaranteed right to shelter’: Martin and Fontana (1990), ch 2.

¹⁷ The *Charlottetown Accord* was a number of constitutional amendments, proposed by the Canadian federal and provincial governments after a meeting of first ministers in Charlottetown, Prince Edward Island, in 1992. It was submitted to a public referendum in October, 1992 and was defeated.

¹⁸ The *Alternative Social Charter* is discussed and reproduced in Bakan and Schneiderman (eds) (1992): appendix I, 155. For the proposal to adopt this model in inter-governmental agreements see Porter (1998).

Québec's *Charter of Human Rights and Freedoms (Québec Charter)* is the only human rights legislation in Canada to include reference to social and economic rights. It does not make explicit reference to the right to adequate housing, but it guarantees to every person in need 'the right for himself [herself] and his [her] family, to measures of financial assistance and to social measures provided for by law, susceptible of ensuring such person an acceptable standard of living (niveau de vie décent)' (*Québec Charter* s 45). This provision, however, is not subject to the complaints provision under Québec's Charter and was found by the majority of the Supreme Court of Canada in a recent case not to provide a basis for the court to review the adequacy of measures of financial assistance 'provided by law' where these were alleged to result in homelessness (*Gosselin v Québec (Attorney General) (Gosselin)*). These commitments in the *Québec Charter* have recently been supplemented by an innovative *Law to Combat Poverty and Social Exclusion*, adopted by the Québec National Assembly in December 2002 after considerable advocacy efforts by diverse community organisations, including housing groups. The object of the Law is 'to guide Government and Québec society ... towards a process of planning ... actions to combat poverty ... and to adopt a national strategy to combat poverty.' It provides for the creation of three different institutions: an advisory committee, an observatory on poverty and a Social Initiatives Fund. However, the Law to Combat Poverty and Social Exclusion does not provide for an enforceable right to adequate housing.

A consistent recommendation of CESCR in its most recent reviews of Canada has been that human rights legislation be amended to include the right to housing and other social and economic rights (CESCR 1993a: para 25; CESCR 1998a: para 51). This recommendation has been endorsed by the Canadian Human Rights Commission (Canadian Human Rights Commission 1998: 2) and supported by the majority of human rights groups across Canada.¹⁹ A panel charged with reviewing the scope and jurisdiction of the *Canadian Human Rights Act*, reported that in cross country consultations the panel 'heard more about poverty than about any other single issue' and received 'ample evidence of widespread discrimination based on characteristics related to social conditions, such as poverty, low education, homelessness and illiteracy.' The Panel recommended including protection in the *Act* from discrimination on the basis of 'social condition', including characteristics such as poverty and homelessness as prohibited grounds of discrimination, and extending the mandate of the Canadian Human Rights Commission to include issues of compliance with international human rights. The Panel stopped short, however, of recommending the inclusion of social and economic rights such as the right to

¹⁹ For the specific proposals endorsed by the majority of the groups, see Jackman and Porter (1999).

adequate housing ‘at this time’ (Canadian Human Rights Act Review Panel 2000: 114–117). The federal government has yet to follow up on these recommendations.

Giving Domestic Effect to the Right to Adequate Housing in Canada through the Interpretation of Domestic Law

Given the absence of any explicit provisions in the *Canadian Charter* or elsewhere in Canadian law guaranteeing the right to adequate housing, what is most critical for giving domestic effect to this right in Canada is the interpretation of the open-ended provisions of the *Canadian Charter* and of other domestic law relevant to access to adequate housing.

As noted by CESCR’s General Comment No 9 on the Domestic Application of the Covenant:

It is generally accepted that domestic law should be interpreted as far as possible in a way which conforms to a State's international legal obligations. Thus, when a domestic decision maker is faced with a choice between an interpretation of domestic law that would place the state in breach of the Covenant and one that would enable the State to comply with the Covenant, international law requires the choice of the latter. Guarantees of equality and non-discrimination should be interpreted, to the greatest extent possible, in ways which facilitate the full protection of economic, social and cultural rights (CESCR 1998b: paras 14–15).

The Supreme Court of Canada has affirmed that this ‘interpretive presumption’ must apply when Canadian courts interpret laws and when administrators exercise discretion. Considering the status of the CRC as an interpretive framework for judicial interpretation and administrative discretion under domestic law in *Baker v Canada*, L’Heureux-Dubé J asserted for the majority of the Supreme Court that while it is true that the provisions of the CRC and other human rights treaties have no direct application in Canadian law, they nevertheless will have considerable interpretive effect. While the Court found that the doctrine of legitimate expectations is limited in Canada to matters of procedural fairness and does not give rise to substantive rights, it found that international human rights contains ‘the values that are central’ in determining whether a decision or an exercise of discretion is ‘reasonable’.

[T]he legislature is presumed to respect the values and principles contained in international law, both customary and conventional. These constitute a part of the legal context in which legislation is enacted and read. In so far as possible, therefore, interpretations that reflect these values and principles are preferred (*Baker v Canada*, 1999, at para 70).

Canada’s international human rights commitments have consequently been affirmed as a ‘critical influence’ in determining the scope of the broadly framed rights and freedoms in the *Canadian*

Charter (*Baker v Canada*, 1999, at para 70). The right to equality in s 15 of the *Canadian Charter* and the right to ‘life, liberty and security of the person’ in s 7, derived directly from arts 2 and 3 of the Universal Declaration of Human Rights, are of particular importance in giving domestic effect to international human rights because these rights ‘embody the notion of respect of human dignity and integrity’ (*R v Ewanchuk*, 1999, at para 73). The Supreme Court of Canada has referred extensively to ICESCR in interpreting provisions of the *Canadian Charter*, particularly the right to freely chosen work (Bastarache J in *R v Advance Cutting and Coring Limited*, 2001, at para 12; *Slaight Communications Inc v Davidson*, 1998). The Court has been careful to distinguish ‘corporate-commercial economic rights’ which were deliberately excluded from the *Canadian Charter*, from ‘such rights, included in various international covenants, as rights to social security, equal pay for equal work, adequate food, clothing and shelter’ (*Irwin Toy*, 1989, at 1003–1004). It is thus reasonable to assume that at least some components of the right to adequate housing will be protected under the rubric of ‘life, liberty and security of the person’ in s 7 of the *Canadian Charter* and the right to equality in s 15 (Porter 2000). In fact, though provincial governments frequently argue against such interpretations in domestic courts, at its second periodic review under ICESCR in 1993, the Government of Canada informed CESCR that the protection of ‘life, liberty and security of the person’ in the *Canadian Charter* at least guarantees that people are not to be deprived of basic necessities such as food, clothing and housing (CESCR 1993b: paras 3, 21). At its third periodic review, Canada confirmed that this was still its position (Government of Canada 1998: questions 16 and 53).

Similarly, with respect to the equality rights protected in s 15 of the *Canadian Charter*, the Supreme Court of Canada has adopted a ‘substantive’ approach to the interpretation of the right to equality which includes positive obligations to provide resources necessary for disadvantaged groups to enjoy the equal benefit of government programs and to protect fundamental dignity interests. In *Eldridge v British Columbia (Attorney General)*, where the Supreme Court considered a failure of the British Columbia Government to provide interpreter services for the Deaf and Hard of Hearing in the provision of healthcare, the Government of British Columbia had argued successfully in lower courts that the right to equality does not impose positive obligations on governments to allocate resources to particular programs or to address the social and economic disadvantage or particular groups. Writing for a unanimous Court, La Forest J rejected these arguments:

[T]he respondents and their supporting interveners maintain that s 15(1) does not oblige governments to implement programs to alleviate disadvantages that exist independently of state action. They assert, in other words, that governments should be entitled to provide benefits to

the general population without ensuring that disadvantaged members of society have the resources to take full advantage of those benefits.

In my view, this position bespeaks a thin and impoverished vision of s 15(1) [equality rights]. It is belied, more importantly, by the thrust of this Court's equality jurisprudence (*Eldridge v British Columbia (Attorney General)*, 1997, at 677-678).

The Supreme Court's decision in *Vriend v Alberta* reaffirmed the concept of substantive equality, finding that provincial governments have a positive obligation to include protection for gays and lesbians from discrimination because of sexual orientation in human rights legislation. Contrary to the positions taken by lower courts in cases such as *Masse v Ontario Ministry of Community and Social Services (Masse)*, that the *Canadian Charter* can not be violated by governmental inaction but rather only by governmental action, the court found in *Vriend v Alberta* that 'the Charter will be engaged even if the legislature refuses to exercise its authority' (*Vriend v Alberta*, 1998, at para 60; see also Pothier 1996: 115). The Supreme Court therefore opted to read into Alberta's human rights legislation a prohibition of discrimination because of sexual orientation in order to preserve the constitutionality of the legislation.

These decisions from the Supreme Court were consistent with the earlier decision of the Nova Scotia Court of Appeal in *Dartmouth/Halifax County Regional Housing Authority v Sparks (Sparks)* dealing with a challenge to the constitutionality of provincial landlord and tenant legislation excluding public housing tenants from the protections accorded other tenants. Irma Sparks, a black single mother living in public housing in Nova Scotia successfully argued that because women, single mothers and people of colour make up a large number of public housing tenants, the exclusion of this form of housing from security of tenure protections discriminates on the basis of race, sex and family status. The Nova Scotia Court of Appeal found in favour of Sparks, holding that the denial of landlord and tenant protections to public housing tenants discriminated against public housing tenants, who are disproportionately black and single mothers. It also found that the common characteristic of poverty shared by these tenants is itself a personal characteristic that warrants protection from discrimination (*Sparks*, 1993, at 232-245). The result, as noted with approval by CESCR in its 1993 review of Canada, was that the Court applied s 15 so as to extend security of tenure protections to a disadvantaged group that was previously denied these protections (CESCR 1993a: para 5).

While reacting positively to these developments at the Supreme Court of Canada and at the Nova

Scotia Court of Appeal, CESSCR has noted considerable resistance among lower courts in Canada to applying the *Canadian Charter* consistently with the right to an adequate standard of living and the right to housing. In *Fernandes v Director of Social Services (Winnipeg Central)*, a permanently disabled man appealed a denial of special assistance from social services to cover the cost of attendant care, without which he would be forced to abandon his home to live permanently in a hospital. He argued that the right to security of the person and the right to equality ought to be interpreted consistently with Canada's international human rights obligations to ensure an adequate standard of living including adequate housing. Unfortunately, the Court of Appeal in Manitoba agreed with the Attorney General's submissions and found that the interests raised in the appeal were outside the scope of ss 7 and 15 of the *Charter*.

In *Masse*, 12 social assistance recipients in Ontario, including seven sole support mothers, asked the Ontario Court (General Division) to strike down a 22 per cent cut in provincial social assistance rates which the Court found would mean that:

[Many recipients] will be forced to find other accommodation or make other living arrangements. If cheaper accommodation is not available, as may well be the case, particularly in Metropolitan Toronto, many may become homeless (Corbett J in *Masse*, 1996, at paras 42–49).

The Court found that it had no jurisdiction 'to second guess policy/political decisions' (O'Brien J in *Masse*, 1996, at para 224; O'Driscoll J in *Masse*, 1996, at paras 351, 386).

CESSCR was harshly critical of both the government pleadings and the courts' decisions in these cases, noting that 'provincial governments have urged upon their courts in these cases an interpretation of the Charter which would deny any protection of Covenant rights' and that the courts had 'opted for an interpretation of the Charter which excludes protection of the right to an adequate standard of living and other Covenant rights' (CESSCR 1998a: paras 14–15). None of these cases was granted leave to appeal to the Supreme Court of Canada.

On 29 October 2001 the Supreme Court heard its first case dealing with whether ss 7 and 15 of the *Canadian Charter* include components of the right to an adequate standard of living, including adequate housing. In *Gosselin*, the claimant, Louise Gosselin, was subject to a provision of Québec's Social Aid Regulation which set a lower rate of assistance — \$170 per month — for employable recipients under the age of 30 not enrolled in workfare or training programs. When trying to survive on the lower rate, Ms Gosselin was frequently homeless

(*Gosselin*, Appellant's Record, at 112, 126, 137). She had to sleep in shelters or on the street and, when she found housing, it was grossly inadequate. She described one basement she lived in for a winter: 'It was badly lit, there were bugs everywhere, it wasn't heated, I rented it from the landlord heated but we froze like rats, my feet were blue all winter, my ankles hurt so much that I had trouble walking and I was cold' (*Gosselin*, Appellant's Record, at 106).

Ms Gosselin alleged that the inadequacy of assistance provided to those under the age of 30 violated her right to 'security of the person' under s 7 and her right to freedom from discrimination because of age under s 15 of the *Canadian Charter*. She also relied on the right 'to measures of financial assistance and to social measures provided for by law, susceptible of ensuring such person an acceptable standard of living' in s 45 of the *Québec Charter*.

The trial court in *Gosselin* had found that there is no justiciable right to adequate financial assistance either under the *Québec Charter* or the *Canadian Charter*, finding that the right in art 11 of ICESCR is subject to 'progressive realization' and 'signifies a mere intent' or 'policy objective' of government rather than an enforceable human right (*Gosselin v Québec (Procureur Général)*, 1992, at 1676–1677). While the Québec Court of Appeal upheld the trial court decision against Ms Gosselin, a strong dissent relied extensively on international human rights law and commentary of CESCR (*Gosselin v Québec (Procureur Général)*, 1999).

The *Gosselin* decision of the Supreme Court of Canada was the first to consider the status of the right to an adequate standard of living and the right to housing under the *Canadian Charter*. A slim majority of 5:4 held that the lower rate imposed on employable young people under the age of 30 did not discriminate on the basis of age because this 'incentive' was designed to help young people avoid the trap of welfare dependency. The more controversial social rights claim to positive measures of assistance to ensure the right to an adequate standard of living for those in need rested primarily, in the *Gosselin* case, on the interpretation and scope of the right to security of the person in s 7 of the *Canadian Charter*. Here the decision was more positive. The dissenting judgment of Arbour J, now the United Nations High Commissioner for Human Rights, provides a strongly reasoned decision regarding the right to an adequate standard of living in the scope of the right to security of the person. While only one judge (L'Heureux-Dube J) supported Arbour J in finding a positive obligation on governments to provide adequate financial assistance in the context of the case, six justices, who found insufficient evidence in

this case for a finding of a s 7 violation, found that such a ‘novel interpretation’ of the right to security of the person might be applied in a future case. Conspicuously absent from the majority decision was any endorsement of the reasoning that had prevailed in earlier decisions of lower courts in Canada suggesting that adjudicating social rights claims related to poverty or the right to housing is beyond the proper role or competence of courts. While the *Gosselin* decision was a disappointing loss, it nevertheless represents an important victory in the long term battle for adjudicative space for social rights claims related to poverty and the right to housing in Canada’s constitutional democracy (Porter 2005).

Human Rights in Housing under Human Rights Legislation

The *Canadian Charter* applies to governments and not to non-state actors. Violations of human rights by non-state actors are generally addressed through human rights legislation rather than the *Canadian Charter*. All provinces prohibit discrimination in housing on a broad range of grounds such as age, disability, sexual orientation, family status (having children) and marital status (including common law).²⁰ To address widespread discrimination in housing against social assistance recipients and other low-income tenants, most provinces in Canada also now have protection from discrimination in housing on the basis of ‘receipt of public assistance’, ‘source of income’ or ‘social origin’. The *Québec Charter* prohibits discrimination because of ‘social condition’, which has been interpreted by tribunals and courts to include protection from discrimination because of poverty or reliance on social assistance (*Commission des droits de la personne du Québec c Gauthier*).²¹

A form of discrimination in housing which is a direct cause of homelessness and which has been the subject of concern by CESCR and of extensive litigation in Ontario and Québec is landlords’ use of ‘minimum income criteria’ or ‘rent-to-income ratios’ to exclude low income applicants for apartments (CESCR 1993a: para 19). A common rule applied by landlords in Canada is that applicants who would be paying more than 30 per cent of income toward rent are disqualified on the basis of their income level or their presumed risk of rent default. The rule is applied despite the fact that all social assistance recipients and most single mothers, young families, young people and newcomers to Canada have to pay considerably more than 30 per cent of income

²⁰ It is the most common ground of discrimination reported to the Centre for Equality Rights in Accommodation, which deals with over 1000 calls a year from people dealing with discrimination in housing: Centre for Equality Rights in Accommodation (2001).

²¹ For a full discussion of the meaning of ‘social condition’, see McKay, Piper and Kim (1999).

toward rent. Landlords try to defend such policies as a reasonable basis for assessing risk of rental default but low income tenants have successfully challenged such policies as discriminatory on a number of grounds, and have disproved the stereotype that low income applicants are more likely to eventually default on rent. In *Whittom v Québec (Comm des droits de la personne)*, minimum income requirements in Québec were found to constitute discrimination against single mothers and low-income tenants on the ground of ‘social condition’. Subsequently, a challenge to minimum income criteria brought by three low income women in Ontario and vigorously fought by Ontario’s landlords resulted in a finding that such criteria discriminate on various prohibited grounds, including sex (against women), marital status (against single mothers and single applicants) citizenship (against newcomers), age (against young people) and race (against visible minorities) (*Kearney v Bramalea Ltd*, upheld with alterations due to legislative amendments in *Shelter Corporation v Ontario Human Rights Commission*). Subsequent rulings from human rights tribunals have found that rejecting young applicants or newcomers because they lack minimum length of employment, landlord references or credit rating also constitutes prohibited discrimination (*Sinclair and Newby v Morris A Hunter Investments Limited*, 2001, at 13; *Ahmed v Shelter Corporation*, 2002). The decisions are the first in Canada and internationally to establish that discrimination in housing because of poverty is a form of discrimination because of sex, race and other prohibited grounds of discrimination.

Reviews by CESCR and the Human Rights Committee

Over the last decade, housing rights advocates in Canada have made extensive use of the treaty monitoring process to create jurisprudence on violations of the right to adequate housing in Canada for use in both domestic political and legal advocacy.

In 1993, as Canada’s second review under ICESCR approached, several Canadian NGOs wrote to CESCR asking for permission to appear before the Committee. The Committee agreed to try out a new procedure, unprecedented at the time in the UN treaty monitoring system, allowing for oral submissions on behalf of domestic NGOs at the beginning of its session. This process, described by Mathew Craven as an ‘unofficial petition procedure’ has greatly enhanced the Committee’s credibility and influence in Canada and elsewhere (Craven 1994: 91).

The 1993 CESCR review noted the evidence of homelessness and inadequate living conditions in Canada, high rates of poverty among single mothers and children, and evidence of families

being forced to relinquish their children to foster care because of inability to provide adequate housing or other necessities. The review also covered inadequate welfare entitlements, growing reliance on food banks, evidence of widespread discrimination in housing against families with children, and inadequate protection of security of tenure for low-income households (CESCR 1993a).

Despite unprecedented media coverage and parliamentary debate about CESCR's Concluding Observations (York 1993; Lawton 1998; House of Commons Debates 1998), Canadian governments did not address any of the Committee's concerns. On the contrary, in the five year period between Canada's second review in 1993 and its third review in 1998, retrogressive measures were taken in all of the critical areas identified by the Committee relating to the right to adequate housing.

The Federal Government froze its social housing budget and eliminated further funding for new social housing from 1994 on, with the exception of on-reserve Aboriginal housing. The year after the federal freeze on social housing, the Federal Government introduced a bill that represented an unprecedented attack on the right to adequate housing in Canada. Without any public consultation or warning, the Federal Government revoked the *Canada Assistance Plan Act* as of 1 April 1 1996 (*Budget Implementation Act, 1995*). The Canadian Assistance Plan (CAP) had been a central pillar of the right to an adequate standard of living, ensuring that those in need received enough financial assistance to cover the cost of necessities, such as housing.²² The adequacy requirements under CAP were enforceable, not only by the Federal Government, but also by affected individuals.²³ If rates were inconsistent with basic requirements (allowing for some provincial flexibility), the court could order that federal transfer payments be withheld until the province complied with the requirements of CAP (*Finlay v Canada (Minister of Finance)*, 1993).

Under the new block funding arrangement that replaced CAP, the requirement of an adequate level of assistance to cover the cost of housing and other necessities and the mechanism for

²² Under CAP, for provinces to receive federal cost-sharing of social assistance, the level of assistance provided to persons in need must take into account the cost of basic requirements, including food, shelter, clothing, fuel, utilities, household supplies and personal requirements: CAP s 6(2)(a).

²³ An individual in financial need, who allegedly did not receive adequate assistance to provide for adequate housing or other basic requirements, had 'public interest standing' to go to court to challenge any provincial violation of the adequacy requirements of CAP: *Finlay v Canada (Minister of Finance)* [1986].

providing legal remedies when such assistance was not provided were eliminated (Jackman 1995; Day and Brodsky 1998; Scott 1995: 82).

In May 1995, a delegation of Canadian NGOs appeared before CESCR in Geneva to outline the implications of the bill to revoke CAP. The Committee responded by sending a letter to the Canadian Government, reminding the Government of its obligations under ICESCR, and requesting that a report on the legislation be included in Canada's third periodic report, due later that year. The Federal Government ignored the letter and proceeded to revoke CAP and to dramatically reduce transfer payments to provinces.

The federal move was followed by dramatic cuts in social assistance benefits in several provinces and a growing gap between the assistance available and the money needed for rental housing. In Ontario, social assistance rates were cut by 22 per cent in October 1995, forcing an estimated 120,000 households from their homes (Affidavit of Michael Ornstein 1996; Affidavit of Gerard Kennedy 1996). Since that time, rents have risen and benefit levels have remained frozen. In its third periodic review of Canada, CESCR noted: 'The replacement of the Canada Assistance Plan (CAP) by the Canada Health and Social Transfer (CHST) entails a range of adverse consequences for the enjoyment of Covenant rights by disadvantaged groups in Canada' (CESCR 1998a: para 9). In its recommendations, CESCR suggested that new federal, provincial, and territorial agreements for social programs clarify the legal obligations of provincial governments. However, the Social Union Framework Agreement signed by the Federal Government and all provinces except Québec three months later contained no legally enforceable rights and did not refer to governments' obligations under ICESCR or other human rights treaties. It contained only a commitment to the 'principle' of 'meeting the needs of Canadians', including ensuring access 'to essential social programs' and providing 'appropriate assistance to those in need' (*A Framework to Improve the Social Union for Canadians* 1999).

A year after CAP was revoked, the Federal Government also implemented dramatic changes to Canada's unemployment insurance system. Since most tenant evictions for rent arrears result from unexpected job loss or reduction of income, protection from income loss is a critical component of security of tenure in Canada. The changes put in place in 1997, however,

disqualified many of those who were vulnerable to homelessness, making it much more difficult for part-time workers, 80 per cent of whom are women, to qualify for benefits (Day 2000).²⁴

In 1998, the federal and provincial governments reached an agreement on a supplementary child benefit for low-income families that, under the terms of the agreement was to be ‘clawed back’ from social assistance recipients with children (Federal/Provincial/Territorial Ministers Responsible for Social Services 1998). All but three provinces decreased social assistance payments for families with children by the amount of the benefit.²⁵ As a result of this ‘clawback’ of the National Child Benefit, many of the poorest families at greatest risk of homelessness are disqualified from a benefit they desperately need to pay the rent (National Council on Welfare 1998: 9). CESCR recommended amending the National Child Benefit scheme to prevent provinces deducting the benefit from social assistance, but this recommendation has not yet been acted upon (CESCR 1998a: paras 22, 44).

In 1998, CESCR also noted that there had been ‘little or no progress’ in alleviating social and economic deprivation among Aboriginal people (CESCR, 1998a: para 17). CESCR affirmed ‘the direct connection between Aboriginal economic marginalisation and the ongoing dispossession of Aboriginal people from their lands’ and recommended urgent action to implement the recommendations of the Royal Commission on Aboriginal People and ‘to restore and respect an Aboriginal land and resource base adequate to achieve a sustainable Aboriginal economy and culture’ (CESCR 1998a: para 43). In addition, the Committee expressed concern that Aboriginal women living on reserves do not have the right to an equal share of matrimonial property at the time of marriage breakdown. This means that Aboriginal women may be forced to choose between remaining in an abusive situation and seeking housing off-reserve away from their community, kin and networks of support (CESCR 1998a: para 29).²⁶

²⁴ Surprisingly, a challenge under s 15 of the *Canadian Charter* to the discriminatory consequences of these changes upheld by an Umpire was rejected by the Federal Court of Appeal: *Lesiuk v Canada (Employment Insurance Commission)*.

²⁵ The three provinces not clawing back the benefit are New Brunswick, Newfoundland and, more recently, Manitoba.

²⁶ According to a 1986 decision of the Supreme Court of Canada, a woman is not entitled to a one-half interest in on-reserve property for which her husband holds a certificate of possession under the *Indian Act*. She may only receive an award of compensation to replace her half-interest in such properties: *Derrickson v Derrickson*. See also Royal Commission on Aboriginal Peoples 1996: part 4.2. The order of compensation may be of little practical value because usually the only substantial asset is the house itself (Day 2000).

In summary, CESCR found in 1998 that, in virtually every respect, governments in Canada had taken unprecedented, and arguably deliberate, retrogressive measures undermining the right to adequate housing.

Three months after Canada's review by CESCR and a month before Canada was scheduled for its fifth periodic review by the UN Human Rights Committee (HRC) regarding its implementation of obligations arising under the International Covenant on Civil and Political Rights (ICCPR), Lynn Maureen Bluecloud, a homeless, pregnant Aboriginal woman, died of hypothermia within sight of the Parliament Buildings in Ottawa (Gray and Klotz 1999; Toronto Disaster Relief Committee 1999). Her death helped convince the HRC to put aside some of the traditional divisions between civil and political rights and social and economic rights to address the implications of Canada's failure to relieve poverty and homelessness as a potential violation of rights in the ICCPR. The direct link between governments' failures to address homelessness and the right to life, protected in art 6 of the ICCPR, had become particularly stark in a country with so cold a climate. For the first time, the HRC stated in its 1999 Concluding Observations on Canada that 'positive measures' to address homelessness are required to comply with the right to life under the ICCPR (HRC 1999: para 20).

The HRC's Concluding Observations in 1999 also echoed a number of the other concerns of CESCR about the effect of social program cuts on women and the children in their care (HRC 1999: para 20). The HRC joined CESCR in condemning the discriminatory clawback of the National Child Benefit from families on social assistance and calling for the implementation of the recommendations of the Royal Commission on Aboriginal Peoples (HRC 1999: para 8). The degree to which the reviews of Canada by CESCR and the HRC converged on critical issues of poverty and homelessness sent a strong message to the international and domestic communities that the right to adequate housing is a fundamental right, inextricably linked to the right to dignity and security at the heart of international human rights law (Scott 1999: 99).

The Way Forward

Rather than respond constructively to legitimate concerns expressed by UN treaty monitoring bodies about poverty and homelessness in Canada, the Federal Government has generally reacted with what has been described as 'a mix of disingenuous complacency, inconsistency and hypocrisy' (Scott 1999: 99). As Canada has been subjected to increasingly severe criticism for its

domestic policies with respect to the human right to housing and other social and economic rights, it has begun to abandon its historic role on the international stage in promoting social and economic rights. Canada has joined the US, Australia, the UK and a number of other countries in recent years in opposing the development of a complaints mechanism under ICESCR through which alleged violations of the right to housing in signatory states could be considered. Despite important developments in domestic courts both in Canada and elsewhere showing that courts are quite capable of adjudicating substantive claims to the right to adequate housing (see, eg, *Government of Republic of South Africa v Grootboom*), Canada has argued in international fora that economic, social and cultural rights such as the right to housing are ‘vague and uncertain’ and that assessing the extent to which resources must be allocated to the progressive realisation ‘is not a concept which easily lends itself to adjudication.’²⁷

Increasing violations of the right to housing in Canada have thus provoked a struggle by affected constituencies not simply for remedies to the violations of rights, but more fundamentally for the recognition of the human right to housing as a meaningful and enforceable right. As the Nobel Laureate in Economics, Amartya Sen observed after studying the phenomenon of hunger and famine at times of high food production, the critical failures that lead to famine amidst plenty are failures of entitlement systems and failures of rights rather than simply failures of market forces or economic policy. These failures arise in large part, Sen has argued, from a devaluing of the rights claimed by the most vulnerable in society, to food and housing, in comparison to the rights claimed by the more privileged (Sen 1998: 57–68). The devaluing of the right to housing in comparison to other rights in Canada is directly linked to the rise of homelessness and to the discriminatory assault on the equal citizenship of Aboriginal people, women and other groups most at risk of homelessness. Homelessness and the housing crisis in Canada is very much a crisis of human rights, and must be addressed as such.

In light of the ongoing struggle for the recognition of the right to housing in Canada, and the concerted opposition from governments to recognising this right as constituting more than a government-defined policy objective, the opening of adjudicative space for the right to housing within the *Canadian Charter* that was won by Louise Gosselin, despite a technical loss, remains an important step forward (Makin 2002). The solution to inadequate housing and homelessness amidst affluence in Canada is not simply a matter of revising social and economic policy, but of continuing the struggle for the full recognition of the human right to housing.

²⁷ On Canada’s position on a complaints procedure to ICESCR see UN Commission on Human Rights (1998).

The crisis of rights that is central to the housing crisis in Canada is also part of a larger global crisis. The massive structural changes implemented by Paul Martin as Canada's Finance Minister in 1994–95 were not Canadian-made policy, but rather were implemented as a component of global 'structural adjustment' policies. A confidential letter to Canada's Finance Minister, Paul Martin, from the International Monetary Fund (IMF), written in December 1994, retrieved through an Access to Information request, reveals that the IMF urged the Federal Government at that time to reduce spending on social housing and social programs, restrict eligibility for unemployment insurance and revoke the Canada Assistance Plan in favour of a system of block funding with no built-in rights or entitlements.²⁸ Nearly all the drastic measures that led to the violation of the right to adequate housing in Canada in the last decade were, it turns out, urged upon the Finance Minister by the IMF. The IMF's list of 'recommendations' were virtually identical to CESCR's list of 'concerns'. It is obvious which document received more attention from the Finance Minister.

In response to pressures of globalisation, a more global perspective on human rights has challenged the arrogant complacency of a country that prides itself on its high average standard of living, while choosing to deny increasing numbers access to the dignity and security of adequate housing. Housing rights advocates in Canada must continue to work to strengthen international mechanisms that enforce the right to adequate housing, while pressing for more effective domestic procedures and institutions to ensure access to domestic adjudication and remedy as well. Domestic and international advocacy have become interconnected and interdependent. Advances must be made simultaneously on both fronts if we are to move forward in claiming and enforcing the human right to adequate housing.

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