



# THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

→ How to fight for your rights

Canada Without Poverty  
Centre for Equality Rights in Accommodation  
Social Rights Advocacy Centre

# **The Right to an Adequate Standard of Living including The Right to Adequate Food and The Right to Adequate Housing**

This booklet explains how to use Canadian law and international human rights laws to claim the right to an adequate standard of living.

This booklet was produced by the Social Rights Advocacy Centre <[www.socialrights.ca](http://www.socialrights.ca)>, Canada Without Poverty <[www.cwp-csp.ca](http://www.cwp-csp.ca)> and Centre for Equality Rights Accommodation, <[www.equalityrights.org](http://www.equalityrights.org)>. No information in this booklet constitutes formal legal advice and a lawyer should be consulted.

It may, however, be useful to you or your lawyer in assisting you with claiming your social rights in Ontario.

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# THE RIGHT TO An Adequate Standard Of Living

The right to an adequate standard of living was recognized as a human right when the United Nations adopted the Universal Declaration of Human Rights in 1948. Since then this right has been recognized by Canada when it signed and ratified other human rights treaties, including the International Covenant on Economic, Social and Cultural Rights. Canadian governments have promised the United Nations that they will protect and ensure this human right.

## Did you know

### **Universal Declaration of Human Rights:**

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself [or herself] and of his [or her] family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his [or her] control.

## Standing Up for the Right To An Adequate Standard Of Living

**Human rights remain just words if we don't stand up for them.**

There is no government office that will provide us with an adequate income simply because it is our human right. But like other human rights, the right to an adequate standard of living gives us the power to challenge unfair rules, laws, programs or decisions that deny us our rights. **We can insist that governments and administrators consider the right to an adequate standard of living when they make decisions that affect our lives.**

One thing is clear. The right to an adequate standard of living won't be made a reality unless we stand up for it. Widespread poverty, hunger and homelessness in an affluent country like Canada are violations of human rights. By standing up for our human rights, we can help put an end to poverty, hunger and homelessness.



# WHAT IS

## “The Right to an Adequate Standard of Living”

Canada has signed important international human rights documents (treaties/convenants/conventions) recognizing that every person has the right to an adequate standard of living, including adequate food, clothing, housing and other requirements of a secure and dignified life.

**Human Rights documents that recognize the right to an adequate standard of living include:**

- ✓ **The Universal Declaration of Human Rights**
- ✓ **The International Covenant on Economic, Social and Cultural Rights**
- ✓ **The Convention on the Rights of Persons with Disabilities**

The right to an adequate standard of living is one of a number of “social and economic” rights which Canada has signed onto at the United Nations.

**Social and Economic Rights include:**

- ✓ **The right to adequate food, clothing and housing**
- ✓ **The right to health**
- ✓ **The right to education**
- ✓ **The right to social security**
- ✓ **The right to freely chosen work**
- ✓ **The right to decent working conditions**



## Governments' Obligations:

- Implement an **anti-poverty strategy** that recognizes that being free from poverty is a human right.
- Set firm **goals and timelines** to eliminate poverty and set up an independent body to monitor progress.
- Address the needs of **groups most vulnerable to poverty**, including Aboriginal People, people with disabilities, newcomers, the elderly, women, single mothers and children.
- Ensure that administrative bodies such as Ontario's Social Benefits Tribunal, the Landlord and Tenant Board and the Human Rights Tribunal as well as courts protect and enforce the right to an adequate standard of living.

### Did you know?



**Two key components of the right to an adequate standard of living under international human rights law are the right to adequate housing and the right to adequate food. These are considered separate human rights which must be fulfilled in order to ensure the right to an adequate standard of living.**



# THE RIGHT TO Adequate Housing

The right to adequate housing in international law does not mean that the government must provide everyone with a house. The right to adequate housing means that:

- Governments must **implement a housing strategy** which recognizes the right to adequate housing and that includes firm goals and timelines to eliminate homelessness.
- There must be an independent body such as a human rights commission to **monitor progress** in achieving the right to adequate housing and a place for people to go to file a complaint if their right to housing is violated.
- Governments must **ensure that the right to an adequate standard of living can be claimed and enforced** in courts, at tribunals and through other procedures like municipal charters that should include the right to adequate housing.

**Governments must take reasonable measures to ensure that everyone has access to housing that is:**

- ✓ **Affordable**
- ✓ **Good quality, with plumbing, heat, electricity and safe drinking water**
- ✓ **Accessible and barrier-free**
- ✓ **Close to employment, healthcare, education and social services**
- ✓ **Culturally appropriate**

Did you know



**“Evictions should not result in individuals being rendered homeless ... the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing ... is available.”**

(Committee on Economic Social and Cultural Rights, General Comment No. 7)

# → THE RIGHT TO Adequate Food

**The right to adequate food requires governments to ensure that everyone is able to acquire, in a dignified manner, food in a quantity and quality sufficient to satisfy dietary needs. Food should be:**

- ✓ Free from adverse substances
- ✓ Acceptable within a given culture
- ✓ Obtained through sustainable food production that protects the environment

**Governments also have an obligation to:**

- ✓ Implement a national right to food strategy
- ✓ Ensure that progress in alleviating hunger and ensuring food security is monitored independently
- ✓ Make certain that no one is in a position where they have to choose whether to “pay the rent or feed the kids”
- ✓ Ensure that the right to food is recognized as a human right that can be claimed before and enforced by courts and tribunals



## **Social Programs Must Protect the Right to an Adequate Standard of Living**

The Government of Canada as well as provincial/territorial governments have an obligation under international human rights law to guarantee that their laws and programs ensure that no one is left without an adequate standard of living. Here are some social programs that should ensure a right to an adequate standard of living:

- ✓ Social assistance (welfare)
- ✓ Income support for people with disabilities
- ✓ Pensions for the elderly
- ✓ Housing support programs, such as subsidized social housing and housing allowances

## **Attention to the Needs of Particular Groups**



**Governments must take action to help those people who are most likely to be poor. This includes women, racial minorities, people with disabilities, and Aboriginal People.**

# → CLAIMING THESE RIGHTS At the United Nations

## UN Committees

When Canadian governments or courts in Canada do not pay enough attention to our human rights, the United Nations provides additional ways for us to claim our rights.

**The UN Committee on Economic, Social and Cultural Rights** reviews the situation in Canada in relation to the right to an adequate standard of living, the right to housing, the right to food and other economic, social and cultural rights. Other UN Committees review Canada's record with respect to human rights treaties protecting civil and political rights, women's rights, the rights of people with disabilities, the rights of children, and the rights of people facing racial discrimination.

**Many groups working on poverty and housing issues in Canada have managed to raise enough money to go to Geneva and appear before UN Committees to provide evidence of what is happening in Canada.**

After considering all the information and asking questions of representatives of governments, **the UN Committee issues “Concluding Observations” which outline concerns and recommendations about what governments need to do to protect peoples' rights.**

For information about UN Committees and upcoming reviews of Canada go to [www.socialrightscura.ca](http://www.socialrightscura.ca)

### Did you know



**At its last review of Canada the UN Committee on Economic Social and Cultural Rights found that:**

- **social assistance and minimum wage are “insufficient” to ensure the right to an adequate standard of living**
- **shelter allowances and social assistance rates continue to fall far below average rental costs.**
- **“many part-time workers, predominantly women, contribute to (Employment Insurance) but have great difficulties in accessing benefits”**

## UN Human Rights Council and Special Rapporteurs

The United Nations also has a Human Rights Council made up of forty-seven states. The Human Rights Council appoints Independent Experts and Special Rapporteurs to monitor and promote particular human rights and to conduct fact finding missions to some countries where there may be problems.

**The UN Special Rapporteur on Adequate Housing, conducted a mission to Canada in 2008.** He reported to the Human Rights Council that he “remains concerned about the significant number of homeless in all parts of the country”. He identified a number of other serious concerns and made recommendations to all levels of government to better protect the right to adequate housing.

**The UN Special Rapporteur on the Right to Food, conducted a mission to Canada in 2012.** He was concerned at the extent of hunger in Canada and made a number of recommendations. He said that social assistance and minimum wage should be set at levels that allow families to purchase enough nutritional food, and that Canada should adopt a national food strategy to ensure adequate food as a fundamental human right.

**The UN Human Rights Council conducts a Universal Periodic Review (UPR) of every country every 4 years, to review that country’s record with respect to all human rights.** Canada was reviewed in 2009 and 2013. On both occasions concerns were raised about the need to address widespread poverty, homelessness and hunger. In poorer countries, fulfilling the right to an adequate standard of living, adequate housing and adequate food is often not possible right away, but **in a rich country like Canada, the UN recognizes that no one should be denied access to decent housing or adequate food.**

When Canada first agreed to recognize the right to an adequate standard of living in 1976, there were no food banks, and few people were homeless. Today, there are more than **300,000 homeless** and about **900,000** people relying on **food banks**. The United Nations has recognized that in Canada there are adequate resources to put a stop to these violations of human rights.

**Did you know ?**

### **Universal Periodic Review of Canada 2013 Recommendations Included:**

- **Adopt comprehensive strategies to address poverty and homelessness**
- **Develop a National Food Security Plan**
- **Recognize the Right to Water and Sanitation**



# → CLAIMING THESE RIGHTS

## Under Canadian Law

We can't go to court in Canada to enforce international human rights law directly. Courts in Canada can only directly enforce laws passed by legislatures or parliament. But that doesn't mean we can't enforce our international human rights before courts and tribunals in Canada. There are three important ways we can do so.

**First, some international human rights have been directly included in Canadian law.** For example, the right to equality without discrimination, and the right to "life, liberty and security of the person" were included in the Canadian Charter of Rights and Freedoms. These rights can be enforced directly by courts and tribunals. Often, violations of the right to housing or to food are direct violations of these Charter rights or of other rights in Canadian law.

**Second,** even where rights aren't directly incorporated into Canadian law, **courts must consider these rights when interpreting other laws.** For example, the "right to an adequate standard of living" is not included in the Canadian Charter of Rights and Freedoms in those precise words, but courts have recognized that wherever possible the Canadian Charter should be interpreted to provide protection of

international human rights that Canada has signed onto. People living in poverty have argued in court that we can't enjoy the right to "security of the person" if we are left hungry or homeless.

**Third, government officials are required to consider international human rights when they make decisions.**

A decision that affects our dignity and denies us access to adequate food or housing can be challenged under Canadian law as an "unreasonable" decision.

### **Baker v. Canada (Ministry of Citizenship & Immigration)**



The Supreme Court of Canada has said that **decisions made by government staff must follow the basic values recognized under international human rights law.**

This means that government staff who make decisions about social assistance, housing, employment insurance benefits, labour standards, or other community services must consider the right to an adequate standard of living.

# → SOLUTIONS

## **PROBLEM**

Your child was sick and you were off work for a week. You are behind on your hydro bill and you are unable to pay enough to prevent a disconnection. Social services says they can't help you and the hydro company says they have to follow the rules.

## **→ WHAT YOU CAN DO**

Municipal and provincial governments have an obligation to protect your right to adequate housing, including utilities. Call a legal clinic or a community organization and ask them how you can stand up for your right to housing.

## **PROBLEM**

You were not able to pay all of your rent last month. Your landlord is trying to evict you. You have children and you know that you won't be able to find another apartment for your family that you can afford. You are worried that your family will be homeless. A judge or tribunal member is deciding your case.

## **→ WHAT YOU CAN DO**

Contact your legal clinic and tell them you are concerned you will be evicted and may end up homeless. Make sure that the judge or tribunal member is told that under international human rights law you should not be evicted into homelessness under these circumstances.

## **PROBLEM**

You and your three children apply for a "market rent" apartment in municipal non-profit housing. It is the most affordable apartment you can find, but you are turned down because they say your income is too low. You are told you will have to wait 8 years for a subsidized unit.

## **→ WHAT YOU CAN DO**

Tell the staff of the non-profit housing provider that they must consider your right to housing and allow you to make the most reasonable choice of an apartment. Contact a legal clinic, or a community organization such as CERA, the Centre for Equality Rights in Accommodation.

## **PROBLEM**

You are on social assistance. Your daughter has been getting sick because of mould in your apartment. You found an apartment you can afford, but you need money to cover the last month's rent deposit and some moving costs. Your social worker says you aren't eligible for extra funding for these expenses.

## **→ WHAT YOU CAN DO**

In Ontario, social services can cover some moving expenses They should provide funding for reasonable moving expenses where it is necessary for you to secure adequate housing. Ask your worker to reconsider because access to adequate housing is a human right and call your legal clinic for advice.



## SUCCESS STORY 1

### Theresa's right to dental care

Theresa is a single mother with three children. A few years ago she was on social assistance while going to university. She had gum disease and needed special dental treatment. **If she did not have the treatment, she would lose her teeth.**

The treatment Theresa needed was not included in the list of dental services that social assistance covered. However, the regulations for social assistance said that other dental services could be approved if a person had a special need. **Theresa asked that the gum treatment be approved in her case, but the administrator refused to approve the gum treatment.** She was told that they could only approve dentures, which would mean she would have to lose all of her teeth before they could assist her.

Theresa got help from a legal aid lawyer and appealed the administrator's decision. She argued that her human rights were violated when she was denied the special dental treatment she needed. She said that the decision violated her right to physical and mental health. Theresa won the appeal. The administrator was ordered to review his decision in light of Theresa's rights under

international human rights to physical and mental health. They paid for the gum treatment and she was able to keep her teeth.



## SUCCESS STORY 2

### SANDY FALKINER: A True Story of Someone who Fought for the Right to an Adequate Standard of Living and Won

Sandy Falkiner and three other single mothers thought a rule that used to be applied to welfare recipients in Ontario was unfair. The rule was called the "spouse in the house" rule.

It said that if you were on welfare and a person of the opposite sex moved in with you, the welfare office would assume the person was your "spouse" the minute they moved in, and would reduce your welfare or disqualify you, based on the income of the person who moved in. Because of the rule, thousands of single mothers on social assistance across Ontario were forced to live alone or lose their benefits. Others were forced into financial dependency with men before they were ready for that kind of commitment.

Sandy Falkiner and the other women believed this rule violated their rights and took the issue to court. They reminded the court that Canada has agreed to international human rights law that says people have the right to housing and an adequate standard of living without discrimination.

That meant that people on welfare shouldn't be considered "married" after a month of living with someone when others are only considered to be spouses after three years.

Sandy and the other women won their case.

**The Ontario Court of Appeal decided that the spouse in the house rule was an "affront to their dignity".**

The court said that the "spouse in the house" rule violated the Canadian Charter of Rights and Freedoms by discriminating against women, single parents, and people on social assistance.

**Did you know**



**Individuals who have experienced homelessness have joined with CERA to go to court in a historic Right to Housing Charter Challenge. For more information and updates go to <http://socialrightscera.ca/eng/legal-strategies-charter-challenge-homlessness.html>**

## **How to Get Help**

You can usually find the community legal clinic for your area by looking under "Legal Aid" in your phone book. You can also check Legal Aid Ontario's website at [www.legalaid.on.ca](http://www.legalaid.on.ca) or phone them:

Toll-free outside Toronto 1-800-668-8258

In Toronto 416-979-1446

Toll-free TTY 1-866-641-8867

TTY in Toronto 416-598-8867

For an update on procedures at the United Nations, through which we can hold the Governments of Ontario and Canada accountable, go to **[www.socialrightsonario.ca](http://www.socialrightsonario.ca)**





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