

Centre on  
Housing Rights  
and Evictions



# **The Human Right to Adequate Housing**

---

**A Chronology of United Nations Activity, 1945 to 1999**

*Compiled by*

**J. David Hulchanski**

*Professor of Housing and Community Development, University of Toronto*

**Scott Leckie**

*Director, Centre on Housing Rights and Evictions, Geneva*

February 2000

© Centre on Housing Rights and Evictions 2000

Centre on Housing Rights and Evictions  
83 Rue de Montbrillant, 1202 Geneva, Switzerland  
Tel/Fax: +41 22 734 1028; <http://www.cohre.org/>

*“the peoples of the United Nations are determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women ...”* – United Nations Charter, 1945

*“Universal human rights begin .... In small places, close to home – so close and so small that they cannot be seen on any map of the world.”*  
– Eleanor Roosevelt, 1958

*More and more the focus is being put on the identification of new approaches to development, not so much based on the notion of needs, but on the concept of rights.... There are many issues ... from the integrated approach to all human rights to the role of the State in fulfilling social and economic rights and the role of civil society in achieving sustainable human development.*

– Mary Robinson, 1998

## Introduction

The Universal Declaration of Human Rights, an international standard which was far-reaching and innovative in its day, remains fifty years later as the cornerstone of a much larger and much better developed system of international human rights law. In many respects, our current system owes much to the highly symbolic and truly global wisdom that pervades the Universal Declaration. There is no question that it remains the most important resolution ever adopted by the United Nations or by any intergovernmental agency in human history.

The celebration of its fifty anniversary in December 1998, however, was indeed modest, and for good reasons. The promises of this first global human rights statement have fallen far too short in terms of fulfilment. Human rights abuses remain so commonplace and systems of law geared to protect these rights are so undeveloped that blind praise for the thirty articles in the Declaration is inappropriate.

Nevertheless, there can be no denying the indispensable nature of the Declaration. Its significance must be seen in the wider context of the world order the U.N Charter envisaged, a world in which “achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian character, including

respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion.”

The Declaration clarifies the content of human rights, which were only vaguely referred to in the Charter. It provides a way in which all governments and all people must view the human person, recognizing *all* dimensions of what has often been referred to simply, yet profoundly, as the right to a full and free life. According to the Declaration’s preamble, the “recognition of the inherent dignity and of the equal and unalterable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”

The Declaration uses the language of indivisible legal rights for all rather than charity or handouts for those deemed worthy by someone in authority. Economic, social and cultural rights were explicitly recognized along with civil and political rights. All these rights were declared to be applicable to every person, everywhere in the world. The cluster of civil and political rights were derived in part from the French Declaration on the Rights and Duties of Man and the US Declaration of Independence and Bill of Rights. The cluster of economic, social and cultural rights, which include the right to earn a living, to obtain the best available health care, to education and to an adequate standard of living, were derived from an emerging view of the fundamental necessities human life requires. Without the economic and social rights how can humans live a *full* and *free* life?

In Article 25 the Universal Declaration asserts – for the first time in any international agreement – that all people have a right to adequate housing: “Everyone has the right to a standard of living adequate for the health and well-being ... including food, clothing, housing and medical care and necessary social services...”

It is not widely known that the United States played an important role in the inclusion of economic and social rights in the Universal Declaration. In his 1941 annual message to Congress, for example, U.S. President Franklin D. Roosevelt proposed four freedoms which would guide the post-war world. The third was “freedom from want,” which, he said, “means economic understandings which will secure to every nation a healthy peace-time life for its inhabitants – everywhere in the world.” With peace closer at hand, his 1944 message to Congress called for an economic bill of rights – a set of rights “that spell security.” Roosevelt argued that true individual freedom cannot exist without economic security and independence, calling for “a second Bill of Rights under which a new basis of security and prosperity can be established for all – regardless of station, race or creed.” Among these rights was the “right of every family to a decent home” and the

“right to adequate protection from the economic fears of old age, sickness, accident and unemployment.”

Although slightly different terminology has been used through the decades since the 1948 Universal Declaration, the right to adequate housing has been recognized in many subsequent international, regional and national instruments (declarations, treaties, agreements and constitutions). Within the UN these include:

- the Convention Relating to the Status of Refugees in 1951 (article 21);
- the International Convention on the Elimination of All Forms of Racial Discrimination in 1965 (article 5);
- the International Covenant on Economic, Social and Cultural Rights in 1966 (article 11);
- the Convention on the Elimination of All Forms of Discrimination against Women in 1979 (article 14); and
- the Convention on the Rights of the Child in 1989 (article 27).

It is the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Political and Civil Rights which further specify and make legally binding the rights declared in 1948. Both of these treaties came into effect in 1976, after the required number of member states had ratified them.

The housing rights provisions of Article 11(1) of the International Covenant on Economic, Social and Cultural Rights are the most legally significant universal provisions recognizing this right. This Article is the subject of most extensive analysis, legal interpretation and application of any of the international housing rights sources. Article 11(1) asserts that nations signing this treaty “recognize the right of everyone to an adequate standard of living ... including adequate food, clothing and housing” and that they “will take appropriate steps to ensure the realization of this right.” As of 1998 a total of 137 nations have ratified this Covenant.

These and other basic legal sources of housing rights have been accompanied by a plethora of additional activities by the United Nations, especially since the mid-1980s. These provide a rich and very diverse tapestry of undertakings augmenting the text of the Universal Declaration and the International Covenant on Economic, Social and Cultural Rights. Indeed, United Nations action on housing rights is far more extensive than is commonly known.

A focus on the right to adequate housing is essential for the promotion of human development. As Article 22 of the Universal Declaration states, everyone is entitled to “the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” Human poverty is a denial of basic human rights. Human development, the process of enlarging all people’s choices, both requires respect for and leads to the further realization of human rights – economic, social, cultural, civil and political. The human development perspective takes an integrated view of all human rights, providing a framework in which advancing human development is commensurate with realizing human rights. Individual and collective well-being are intertwined, and human development requires strong social cohesion and equitable distribution of the benefits of progress to avoid tension between the two.

The U.N. Development Programme’s annual Human Development Reports illustrate that few investments yield a higher direct return than investments in basic social services. Without an adequate place to live, with the appropriate related physical, social and community services, without protection from arbitrary eviction, sustainable and equitable human development is impossible. Many choices are simply not available and many opportunities remain inaccessible. Thus, Article 25 of the Universal Declaration, which addresses the fundamental need for “food, clothing, housing and medical care and social services” is no different whether it is considered to be a goal of human development or as a fundamental human right. It is both.

In the 1990s there have been major global debates on sustainable environmental development (United Nations Conference on Environment and Development in Rio, 1992) and for people-centred sustainable social development (World Summit for Social Development in Copenhagen, 1995). These have a common core: human development is not a concept separate from sustainable environmental development – but it can help to rescue “sustainable development” from the misconception that it involves only the environmental dimension of development. All these approaches emphasize the need for people-centred development, with concerns for human empowerment, participation, gender equality, equitable growth, poverty reduction and long-term sustainability. Observance of human rights is, therefore, one of the essential conditions for development. The growing significance of the right to adequate housing within the U.N. agenda, starting in the late 1980s, has occurred within this broader context of the need for global sustainable and equitable environmental and human development.

This report chronicles in outline form a half century of UN activity on housing rights. It provides a comprehensive overview of how, when and by what method this international organization has been working towards assuring that all humanity understands, implements and enjoys all human rights, including the fundamental right to a safe and secure place to live with peace dignity.

## Ten Key Events

This chronology lists all significant UN events – activities, resolutions, declarations, committee activities, reports – relating to the right to adequate housing. The following introduces these events by highlighting ten of the more important.

Dec. 10, 1948	Universal Declaration of Human Rights proclaimed
Dec. 16, 1966	International Covenant on Economic, Social and Cultural Rights adopted
Aug. 29, 1991	Special Rapporteur on the Right to Adequate Housing appointed
Dec. 12, 1991	General Comment No. 4 on the Right to Adequate Housing issued
Aug. 1994	Draft International Convention on Housing Rights published (The full text of this draft convention is in the Appendix of this report)
Feb. 16, 1995	Towards A Housing Rights Strategy published
Aug. 1995	Final Report of the Special Rapporteur on the Right to Adequate Housing
June 3-14, 1996	UN Conference on Human Settlements (Habitat II), Istanbul
1997	The Human Right to Housing, UN Fact Sheet No. 21 published
May 16, 1997	General Comment No. 7 on Forced Evictions issued

## The Human Right to Adequate Housing Chronology of United Nations Activity 1945 to 1999

### 1945

---

June 26, 1945

The **United Nations Charter** is signed in San Francisco and the UN is officially created on October 24, 1945. At the San Francisco Conference, convened in order to draft the UN Charter, a proposal to include a ‘Declaration on the Essential Rights of Man’ was put forward but was not included because it required more detailed consideration than was possible at the time. The idea of promulgating an ‘international bill of rights’ was considered by many as implicit in the UN Charter.

The involvement by the United Nations in human-rights matters is one that has grown from the original norms established in the Charter, most notably those found in articles 1(3), 55 and 56. These articles impose not only the right of the United Nations system and its members to engage in activities related to human rights concerns, but establish the basis for the future generation of legal obligations to promote respect for and observance of human rights standards. Carrying out or actively perpetuating violations of human rights or tolerating such violations by any Member or by any official entity of the United Nations is unacceptable under the Charter.

Article 55 of the Charter is also significant for recognizing *both* the role of the UN in promoting ‘higher standards of living’ and ‘conditions of economic and social progress’ and the necessity of securing ‘respect for and observance of human rights.’ This article addresses the ‘creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations’. The enshrining of such principles under the same article symbolize the initial stages in a process of law-making wherein housing and human rights came, in many respects, to become synonymous with one another; each interdependent and indivisible with the other.



Article 1(3). “The Purposes of the United Nations are: (3) To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”

Article 55. “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: (a) Higher standards of living, full employment, and conditions of economic and social progress and development; (b) Solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; (c) Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

Article 56. “All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.”

## 1946

---

The **Division of Human Rights** is established in the United Nations Secretariat. The Division is headed by Canadian John Humphrey (1905-1995), a McGill University law professor, who served as its director for twenty years. One of its first tasks was to draft a declaration on human rights. Humphrey and Frenchman Rene Cassin were the principal authors of the first draft. Eleanor Roosevelt chaired the drafting committee of eight members, which met in June 1947.

## 1948

---

December 10, 1948

The **Universal Declaration of Human Rights** is adopted and proclaimed by General Assembly resolution 217 A (III) on 10 December 1948. The Universal Declaration enshrined a specific right to adequate housing for the first time in any international human rights instrument and has served as the inspiration for numerous future international agreements on human rights, including economic, social and cultural rights.

Article 25. “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his 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 control.”

## 1951

---

July 28, 1951

The **Convention Relating to the Status of Refugees** is adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries of the Status of Refugees and Stateless Persons. It enters into force on 22 April 1954.

Article 21. “As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.”

## 1959

---

November 29, 1959

The **Declaration of the Rights of the Child** is proclaimed by General Assembly resolution 1386 (XIV) on 29 November 1959.

Principle 4. “The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end special care and protection shall be provided to him and his

mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.”

## 1961

---

June 7, 1961

The International Labour Organisation (ILO) **Recommendation No. 115 on Worker's Housing**, is adopted at the forty-fourth session of the ILO Governing Body on 7 June 1961. Although not comprehensive in scope and of limited legal effect, this is one of the most lengthy international statements concerning housing. It contains a number of clauses that recognize the central importance of housing, and which augment other legal foundations of housing rights. After noting in its preamble that the Constitution of the ILO recognizes the solemn obligation of the organization to further programs which will achieve the provision of adequate housing, Recommendation No. 115 states that: “it should be an objective of national housing policy to ... [ensure] that adequate and decent housing accommodation and a suitable living environment are made available to all workers and their families. A degree of priority should be accorded to those whose needs are most urgent.” In total, some 37 ILO conventions and recommendations mention in one respect or another, the subject of housing.

## 1962

---

The International Labour Organisation (ILO) **Convention No. 117 Concerning Basic Aims and Standards of Social Policy** is adopted at the forty-fifth session of the ILO Governing Body.

Article 4(d). The measures to be considered by the competent authorities for the promotion of productive capacity and the improvement of living of agricultural producers shall include: (d) the supervision of tenancy arrangements and of working conditions with a view to securing for tenants and labourers the highest practicable standards of living and an equitable share in any advantages which may result from improvements in productivity or in price levels.

Article 5. “Measures shall be taken to secure for independent producers and wage earners conditions which will give them scope to improve living standards by their own efforts and will ensure the maintenance of minimum standards of living....” ....”<sup>2</sup>. In ascertaining the minimum standards of living, account shall be taken of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education”.

Also in 1962, the UN Economic and Social Council establishes the **Committee on Housing, Building and Planning**. This, and the creation in 1965 of the **Centre for Housing, Building and Planning**, was a response to the wave of decolonization which swept through Asia and Africa in the late 1950s, and the subsequent proclamation of the UN's First Development Decade. Based in New York, their main responsibility is to assist the social and economic development efforts of new member states in housing and human settlements activities.

## 1965

---

December 21, 1965

**The International Convention on the Elimination of All Forms of Racial Discrimination** is adopted by General Assembly resolution 2106 A (XX) on 21 December 1965. It enters into force on 4 January 1969. State compliance with the Convention is monitored by the Committee on the Elimination of Racial Discrimination.

Article 5. "In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (e) Economic, Social and Cultural rights in particular: ... (iii) The right to housing.

## 1966

---

December 16, 1966

The **International Covenant on Economic, Social and Cultural Rights** is adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) on 16 December 1966. It enters into force on 3 January 1976. The primary basis of United Nations activities to promote, protect and monitor human rights and fundamental freedoms is the International Bill of Human Rights which is comprised of three texts: the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and the International Covenant on Civil and Political Rights (1966) and its optional protocols.

These instruments enshrine global human rights standards and have been the inspiration for more than 100 supplemental United Nations human rights conventions, declarations and bodies of international rules and other universally recognized principles. These additional standards have further refined international legal norms relating to a very wide range of issues, including women's rights, protection against racial discrimination, protection of migrant workers, the rights of children, and many others.

The housing rights provisions of Article 11(1) of the International Covenant on Economic, Social and Cultural Rights are the most legally significant universal provisions recognizing this right and have been subject to the greatest analysis, application and interpretation of all international legal sources of housing rights. A significant majority of the developments relating to housing rights have taken place since the mid-1960s and have been based upon the provisions of the Covenant.

Article 11. “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

## 1968

---

April - May, 1968

The **International Conference on Human Rights**, which met at Teheran from 22 April to 13 May 1968 to review the progress made in the 20 years since the adoption of the Universal Declaration and to formulate a programme for the future, declared in the Proclamation of Teheran:

1. It is imperative that the members of the international community fulfil their solemn obligations to promote and encourage respect for human rights and fundamental freedoms for all without distinctions of any kind such as race, colour, sex, language, religion, political or other opinions;
2. The Universal Declaration of Human Rights states a common understanding, of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community;
3. The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the International Convention on the Elimination of All Forms of Racial Discrimination as well as other conventions and declarations in the field of human rights

adopted under the auspices of the United Nations, the specialized agencies and the regional intergovernmental organizations, have created new standards and obligations to which States should conform.

## 1969

---

December 11, 1969

The **Declaration on Social Progress and Development** is proclaimed by General Assembly resolution 2542 (XXIV) on 11 December 1969. Part II states:

Part II (Article 10). Social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms, through the attainment of the following main goals: ... (f) The provision for all, particularly persons in low-income groups and large families, of adequate housing and community services.

## 1972

---

The **United Nations Conference on the Human Environment** is convened in Stockholm in 1972. Throughout the 1960s, unanticipated and unprecedented urban and population growth began to radically transform the demographic structure and spatial distribution of settlements in developing countries. The social, economic and environmental consequences of this transformation were first raised at the UN Conference in Stockholm. The Conference recommended that the United Nations convene a conference to focus the attention of the international community on the extremely serious decline of living conditions. This conference (Habitat I) was convened in Vancouver, Canada in 1976, the first United Nations Conference on Human Settlements. The second such conference (Habitat II) was convened in Istanbul, Turkey in 1996.

## 1975

---

December 9, 1975

The UN General Assembly proclaims by resolution 3447 (XXX) **The Declaration on the Rights of Disabled Persons**, which provides:

Article 9. Disabled persons have the right to live with their families or with foster parents and to participate in all social, creative or recreational activities. No disabled person shall be subjected, as far as his or her residence is concerned, to differential treatment other than that required by his or her condition or by the improvement which he or she may derive therefrom. If the stay of a disabled person in a specialized establishment is indispensable, the environment and living conditions therein shall be as close as possible to those of the normal life of a person of his or her age.

## 1976

---

The first **United Nations Conference on Human Settlements** is convened in Vancouver, Canada in 1976. The most significant outcome of the Conference was the recognition that the topic of human settlements was an important social and economic development issue. This was reflected in the Conference's recommendations for national and international action and in its call for more intense co-operation, as well as for more effective institutional arrangements, in the field of human settlements.

The **Vancouver Declaration on Human Settlements and Plan of Action** (1976), adopted by the United Nations Conference on Human Settlements in 1976, reaffirms a range of individual human rights, including the right of everyone to adequate housing. The human rights provisions of these texts include:

“Human dignity and the exercise of free choice consistent with over-all public welfare are basic rights which must be ensured in every society (para. 4);”

“The right of free movement and the right of each individual to choose the place of settlement within the domain of his own country should be recognized and safeguarded (para. 6);”

“All persons have the right and the duty to participate, individually and collectively in the elaboration and implementation of policies and programmes of their human settlements (para. 13);”

“The highest priority should be placed on the rehabilitation of expelled and homeless people who have been displaced by natural or man-made catastrophes, and especially by the act of foreign aggression. In the latter case, all countries have the duty to fully co-operate in order to guarantee that the parties involved allow the return of displaced persons to their homes and to give them the right to possess and enjoy their properties and belongings without interference (para. 15);”

“Adequate shelter and services are a basic human right which places an obligation on governments to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action. Governments should endeavor to remove all impediments hindering attainment of these goals. Of special importance is the elimination of social and racial segregation, inter alia, through the creation of better balanced communities, which blend different social groups, occupations, housing and amenities (para. 8);”

“Basic human dignity is the right of people, individually and collectively, to participate directly in shaping the policies and programmes affecting their lives. The process of choosing and carrying out a given course of action for human settlement improvement should be designed expressly to fulfil that right (para. 10);”

“The ideologies of States are reflected in their human settlement policies. These being powerful instruments for change, they must not be used to dispossess people from their homes or land or to entrench privilege and exploitation. The human settlement policies must be in conformity with the declaration of principles and the Universal Declaration of Human Rights (para. A.3).”

1976

---

The **UN Commission on Human Settlements** and the **UN Centre for Human Settlements (Habitat)** are established as a result of the first UN Conference on Human Settlements. Both the Commission and the Centre have the mandate of assisting member states in the management and development of human settlements. The Habitat Centre carried out an integrated programme of policy advice, applied research, technical co-operation, and information dissemination. Habitat consolidated various human settlement units and activities of the UN system, including the Centre for Housing, Building and Planning, Vision Habitat and the United Nations Habitat and Human Settlements Foundation, among others.

The UN Commission on Human Settlements is Habitat's governing body. It provides overall policy guidance and sets the priorities and direction of the human settlements programme of the United Nations. The Commission has a membership of 58 countries, elected for a four-year term by the Economic and Social Council. The Commission meets every two years.

The UN Centre for Human Settlements (Habitat) is headed by an Executive Director who is appointed by the Secretary-General. In addition to the staff at its headquarters, Habitat has project staff and consultants under contract in the field. The Centre's organizational structure includes three substantive divisions: Technical Co-operation; Research and Development; and Information, responsible for effective delivery of services and assistance to Governments.

In the implementation of all of its programmes and projects, Habitat is guided by the recognition of a number of key sectoral linkages, all of which illustrate how primary development objectives can be achieved through the improvement of human settlement conditions. These are the linkages between: (a) housing development,



employment generation and poverty alleviation; (b) housing, infrastructure and environmental and public health improvement; (c) rural and urban development and economic growth; (d) participatory urban management and democratic reform, more effective governance and greater public accountability. Work on housing rights has also been slowly incorporated into the overall mandate of Habitat.

## 1978

---

November 27, 1978

The General Conference of the United Nations Educational, Scientific and Cultural Rights (UNESCO) adopts and proclaims **The Declaration on Race and Racial Prejudice**, which asserts the following:

Article 9(2). Special measures must be taken to ensure equality in dignity and rights for individuals and groups wherever necessary, while ensuring that they are not such as to appear racially discriminatory. In this respect, particular attention should be paid to racial or ethnic groups which are socially or economically disadvantaged, so as to afford them, on a completely equal footing and without discrimination or restriction, the protection of the laws and regulations and the advantages of the social measures in forced, in particular in regard to housing, employment and health; to respect the authenticity of their culture and values; and to facilitate their social and occupational advancement, especially through education.

## 1979

---

December 18, 1979

The **Convention on the Elimination of All Forms of Discrimination Against Women** is adopted by General Assembly resolution 34/180 on 18 December 1979. It enters into force on 3 September 1981. State compliance with the Convention is monitored by the Committee on the Elimination of Discrimination Against Women (CEDAW).

Article 14(2). States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: ... (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

## 1980

---

23 June 1980

The General Conference of the International Labour Conference adopts **ILO Recommendation No. 162 Concerning Older Workers**. The Recommendation makes the following reference to housing:

Article 5(g). Older workers should, without discrimination by reason of their age, enjoy equality of opportunity and treatment with older workers as regards, in particular...(g) access to housing, social services and health institutions, in particular when this access is related to occupational activity or employment.

## 1982

---

20 December 1982

UN General Assembly resolution 37/221 of 20 December 1982 proclaims **1987** as the **International Year of Shelter for the Homeless (IYSH)**.

## 1986

---

March 12, 1986

Commission on Human Rights resolution 1986/36, entitled “**The Realization of the Right to Adequate Housing**,” is adopted on 12 March 1986. It states in part: “The Commission on Human Rights reiterates the right of all persons to an adequate standard of living for themselves and their families, including adequate housing.” This resolution essentially initiated a continuing trend by the policy-making bodies of the UN, such as the Commission on Human Rights, to address housing rights themes within the framework of activities on human rights, and not simply as issues linked to human settlements, economic development or social progress.

December 4, 1986

General Assembly resolution 41/146, entitled “**The Realization of the Right to Adequate Housing**,” adopted on 4 December 1986, states in part: "The General Assembly expresses its deep concern that millions of people do not enjoy the right to adequate housing." It requests the Economic and Social Council to give special attention during the International Year of Shelter for the Homeless (IYSH) to the question of the realization of the right to adequate housing.

December 4, 1986

The **Declaration on the Right to Development**, adopted by General Assembly resolution 41/128 on 4 December 1986, states in part:

Article 8(1). States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter-alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.

## 1987

---

The United Nations **Committee on Economic, Social and Cultural Rights**, established in 1985, meets for the first time in 1987. No international human rights body has done more to address and further the human right to adequate housing than this Committee. The primary function of the Committee is to monitor the implementation of the Covenant. Unlike the five other human rights treaty bodies, the Committee on Economic, Social and Cultural Rights was not established by its corresponding instrument. Rather, the Economic and Social Council (ECOSOC) created the Committee, following the less than ideal performance of two previous bodies entrusted with monitoring the Covenant.

The Committee currently convenes twice a year, holding two three-week sessions, generally in May and November/December. It holds all its meetings at the United Nations office at Geneva. The Committee is comprised of 18 members who are experts with recognized competence in the field of human rights. Members of the Committee are independent and serve in their personal capacity, not as representatives of Governments.

As of June 1998, the Committee had adopted seven **general comments**. These are: No. 1 on reporting by States parties (1989); No. 2 on international technical assistance measures (1990); No. 3 on the nature of States parties' obligations (1990); **No. 4 on the right to adequate housing** (1991); No. 5 on persons with disabilities (1994); No. 6 on the economic, social and cultural rights of older persons (1995); **No. 7 on forced evictions** (1997).

Official 'general discussions' of the Committee have been held on the right to food (1989); **the right to housing (1990)**; economic and social indicators (1991); the right to take part in cultural life (1992); the rights of the ageing and elderly (1993); the right to health (1993); the role of social safety nets as a means of protecting economic, social and cultural rights, with particular reference to situations involving major structural adjustment and/or transition to a free market economy (1994); human rights education (1994); the interpretation and practical application of the obligations incumbent on States parties (1995); and a draft optional protocol to the Covenant (1995).

The Committee works on the basis of many sources of information. These include reports submitted by States, and information from United Nations specialized agencies, such as the International Labour Organisation, United Nations Educational, Scientific and Cultural Organisation, World Health Organization, Food and Agriculture Organization of the United Nations, the Office of the United Nations High Commissioner for Refugees, the United Nations Centre for Human Settlements (Habitat) and from others. The Committee also receives information from: non-governmental and community-based organizations working in States which have ratified the Covenant; from international human rights and other non-governmental organizations; from other United Nations treaty bodies; and from generally available literature.

Although the Committee on Economic, Social and Cultural Rights can assist in the implementation of the Covenant from an international perspective, the ultimate effectiveness of this instrument is contingent on the measures taken by governments to give actual effect to their international legal obligations. In this regard, the Committee has recognized the essential importance of the adoption by States of appropriate legislative measures and the provision of judicial remedies, indicating the legal nature of economic, social and cultural rights.

The necessity of implementing the provisions of the Covenant through domestic legislation is consistent with article 27 of the 1969 Vienna Convention on the Law of Treaties, which states that “a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.” Indeed, the Covenant often requires legislative action to be taken in cases where existing legislation is in violation of the obligations assumed under the Covenant.

March 10, 1987

The Commission on Human Rights resolution 1987/22 entitled “**The Realization of the Right to Adequate Housing**,” is adopted on 10 March 1987. It states in part:

“The Commission on Human Rights reiterates the need to take appropriate measures, at the national and international levels, for promoting the right of all persons to an adequate standard of living for themselves and their families, including adequate housing.”

May 29, 1987

The Economic and Social Council adopts Resolution 1987/62 on the “**Realization of the Right to Adequate Housing**” on 29 May 1987. The Council:

1. Expresses its deep concern that millions of people do not enjoy the right to adequate housing;
2. Reiterates the need to take appropriate measures, at the national and international levels, to promote the right of all persons to an adequate standard of living for themselves and their families, including adequate housing;
3. Calls upon all States and international organizations concerned to pay special attention to the realization of the right to adequate housing in carrying out measures for the observance of the International Year of Shelter for the Homeless, inter alia, by developing shelter strategies and settlement improvement programmes;
4. Invites all States, in their reports on the implementation of the goals and objectives of the International Year of Shelter for the Homeless, to devote a special section to the national measures and actions they have taken to promote the realization of the right to adequate housing;
5. Decides to appraise, at its first regular session of 1988, the results of efforts to realize the right to adequate housing during the International Year of Shelter for the Homeless;
6. Invites the General Assembly to pay due attention to the question at its forty-second session.

December 7, 1987

General Assembly resolution 42/146 on “**The Realization of the Right to Adequate Housing**” is adopted on 7 December 1987. It states in part:

"The General Assembly reiterates the need to take, at the national and international levels, measures to promote the right of all persons to an adequate standard of living for themselves and their families, including adequate housing; and calls upon all States and international organizations concerned to pay special attention to the realization of the right to adequate housing in carrying out measures to develop national shelter strategies and settlement improvement programmes within the framework of the Global Strategy for Shelter to the Year 2000."

## 1988

---

March 7, 1988

The Commission on Human Rights resolution 1988/24 on “**The Realization of the Right to Adequate Housing**” is adopted on 7 March 1988. It states in part: “The Commission on Human Rights decides . . . to keep the question of the right to adequate housing under periodic review.”

December 20, 1988

The **Global Strategy for Shelter to the Year 2000** is adopted by the General Assembly in resolution 43/181 on 20 December 1988. The Global Strategy (GSS) was launched by the UN in 1988. Informed by the experiences of the UN Centre for Human Settlements (Habitat) as the implementing agency of the 1987 International Year of Shelter for the Homeless, the principal objective of the Strategy is to improve global housing conditions by the creation of a legal, institutional and regulatory environment which can facilitate the construction and improvement of housing by all social groups, but especially by and for the poor. The Strategy pioneered the enabling approach, which, rather than emphasizing direct government intervention, favours legal and other incentives to encourage all private sector stakeholders to become engaged in housing and urban development.

The right to adequate housing finds recognition within and forms a cornerstone of the Global Strategy for Shelter to the Year 2000.

Paragraph 13. The right to adequate housing is universally recognized by the community of nations... All nations without exception, have some form of obligation in the shelter sector, as exemplified by their creation of ministries or housing agencies, by their allocation of funds to the

housing sector, and by their policies, programmes and projects... All citizens of all States, poor as they may be, have a right to expect their Governments to be concerned about their shelter needs, and to accept a fundamental obligation to protect and improve houses and neighbourhoods, rather than damage or destroy them.

## 1989

---

November 20, 1989

The **Convention on the Rights of the Child** is adopted by General Assembly resolution 44/25 on 20 November 1989. It enters into force on 2 September 1990. State compliance with this Convention is monitored by the Committee on the Rights of the Child.

Article 27(3). States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

---

## 1990

---

January 1990

The UN Committee on Economic, Social and Cultural Rights engages at its fourth session in a **“general discussion on the right to housing”** (E/C.12/1990/3). The central purpose of the general discussion involves shedding light on “issues of principle and on the practical and policy implications of the right to housing as contained in the Covenant”. Within the context of the general discussion, the Committee began its recognition of the complex nature of the right to housing and the many attributes it contains. Many of the principles contained in the Committee’s 1991 General Comment on the right to adequate housing were first considered at the general discussion. Significantly, it was also within the framework of the general discussion that the Committee also recognized explicitly for the first time that the right to adequate housing is precise enough of a guarantee to enable the Committee to determine whether or not States had violated this right. The Committee found that: “The right to housing can be subject to violation. Acts and omissions constituting violations will need to be explored by the Committee, especially in the context of evictions.”

December 11, 1990

The UN Committee on Economic, Social and Cultural Rights explicitly declares for the first time that a State party to the International Covenant on Economic, Social and Cultural Rights has **violated the housing rights provisions of article 11(1)**. Based upon detailed information provided by non-governmental organizations from the Dominican Republic, the Committee made the following historic declaration:

The information that had reached members of the Committee concerning the massive expulsion of nearly 15,000 families in the course of the last five years, the deplorable conditions in which the families had to live, and the conditions in which the expulsions had taken place were deemed sufficiently serious for it to be considered that the guarantees in article 11 of the Covenant had not been respected. (E/C.12/1990/8, Para. 249).

December 14, 1990

The UN Committee on Economic, Social and Cultural Rights issues **“Revised guidelines regarding the form and contents of reports to be submitted by states**



**parties under articles 16-17 of the Covenant on Economic, Social and Cultural Rights”** at its Fifth Session in 1990 (E/C.12/1990/8, pp. 88-110; **Right to housing**, at pp. 101-103). The Committee issues guidelines to assist States parties in compiling their reports about their compliance with the Covenant on Economic, Social and Cultural Rights. These guidelines were completely revised in 1990.

With regard to housing the questions nations must answer include: the provision of detailed information about groups that are vulnerable and disadvantaged with regard to housing (e.g., the homeless, people being evicted, size of waiting lists, affordability problems); the nature of the laws affecting the realization of the right to housing; measures taken by the State to build housing units and to increase construction of affordable rental housing; and the changes in any policies, laws and practices that negatively affect the right to adequate housing.

December 16, 1990

The **International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families** is adopted by General Assembly resolution 45/158 on 16 December 1990. It is not yet in force. State compliance with this Convention will be monitored by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.

Article 43(1). Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to ... (d) access to housing, including social housing schemes, and protection against exploitation in respect of rents.

## 1991

---

August 28, 1991

The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its 28 August 1991 resolution 1991/12 on “**Forced Evictions**,” provides further support for to the position that the forced removal of persons from their homes is a serious human rights violation.

“The Sub-Commission, recognizing that the practice of forced eviction involves the involuntary removal of persons, families and groups from their homes and communities, resulting in the

destruction of the lives and identities of people throughout the world, as well as increasing homelessness, ...

“Draws the attention of the Commission on Human Rights to ... (b) The fact that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing; (c) The need for immediate measures to be undertaken at all levels aimed at eliminating the practice of forced eviction; ...

“Emphasizes the importance of the provision of immediate, appropriate and sufficient compensation and/or alternative accommodation, consistent with the wishes and needs of persons and communities forcibly or arbitrarily evicted, following mutually satisfactory negotiations with the affected person(s) or group(s).”

August 29, 1991

The Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1991/26, entitled “**Promoting the Realization of the Right to Adequate Housing,**” is adopted on 29 August 1991. It states in part:

“The Sub-Commission urges all States to pursue effective policies and adopt legislation aimed at ensuring the realization of the right to adequate housing of the entire population, concentrating on those currently homeless or inadequately housed.”

In the same resolution, the Sub-Commission entrusted Mr. **Rajindar Sachar** with the mandate of producing a **working paper on the right to adequate housing**, with a view to determining how best to further both the recognition and the enforcement of that right. Two years later the Commission on Human Rights, at its forty-ninth session in its decision 1993/103, endorsed the decision of the Sub-Commission taken in its resolution 1992/26 of 27 August 1992, to appoint Mr. Rajindar Sachar as **Special Rapporteur** on promoting the realization of the right to adequate housing. The endorsement of the Commission was, in turn, approved by the Economic and Social Council in its decision 1993/287. At the forty-fourth session of the Sub-Commission the first working paper (E/CN.4/Sub.2/1992/15) was submitted and discussed at length. At the forty-fifth session of the Sub-Commission a progress report (E/CN.4/Sub.2/1993/15) was submitted – the first report of Mr. Sachar in his capacity as Special Rapporteur. In its resolution 1994/14 of 25 February 1994, adopted at its fiftieth session, the Commission on Human Rights, welcoming the first progress report of the Special Rapporteur, invited him to submit a second progress report to the Sub-Commission at its forty-sixth session.

December 12, 1991

The Committee on Economic, Social and Cultural Rights issues “**General Comment No. 4 on the Right to Adequate Housing**” (covering article 11(1) of the International Covenant on Economic, Social and Cultural Rights) on 12 December 1991 (E/1992/23, pp. 114-120). General Comment No. 4 is the single most authoritative interpretation of what the right to adequate housing actually means in legal terms under international human rights law. This General Comment was the first adopted by the Committee to deal with a specific right recognized under the Covenant.

General Comment No. 4 came into existence due to several years of extensive lobbying by what was to eventually become the Centre on Housing Rights and Evictions (COHRE). Committee Chairperson Philip Alston was instrumental in obtaining passage of General Comment No. 4 in a manner acceptable to all Committee members, thus assuring consensus.

The General Comment provides a clear definition of the right to adequate housing and the principles and norms it either creates or reiterates. These are relevant, in one way or another, to all countries which have ratified the Covenant. The contents of the General Comment, therefore, can be utilized as a basis for developing national housing rights acts, housing policy and as the basis for incorporating housing rights concerns into national human rights or human settlement legislation.

Since its adoption, this General Comment has acted as the basis for most subsequent international action on housing rights, due to the clarity provided on the inherent obligations and rights. Given the widely varying circumstances in different nations, General Comment No. 4 mainly provides a set of fundamental principles, rather than specific standards or targets. Nevertheless, the principles encapsulated in the Comment have been used as a basis for domestic activities on housing rights in several countries and by the Committee on Economic, Social and Cultural Rights in its periodic reviews of state compliance.

In addition, several principles which are now widely accepted as part of the international law of housing rights were first elaborated in General Comment No. 4. These include:

- ❑ the view that ‘housing should not be interpreted in a narrow or restrictive sense’ (sec. 7);
- ❑ the definition given to the term ‘adequate housing’ in sec. 8;

- ❑ the obligation of States to ‘give due priority to those social group living in unfavourable conditions’ (Section 11);
- ❑ the recognition that ‘many component elements of the right to adequate housing [are] at least consistent with the provision of domestic legal remedies (Section 17); and
- ❑ ‘that instances of forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law’ (Section 18).

General Comment No. 4 has made, and continues to make, a significant contribution to the global pursuit of housing rights. Of the 19 sections of General Comment No. 4, sections 6-19 are perhaps the most instructive:

6. The right to adequate housing applies to everyone. While reference to "himself and his family" reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitation upon the applicability of the right to individuals or to female-headed households, or other such groups. Thus, the concept of "family" must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with article 2(2) of the Covenant, not be subject to any form of discrimination.

7. In the Committee's view the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised. Thus, "inherent dignity of the human person" from which the rights in the Covenant are said to derive requires that the term "housing" be interpreted so as to take account of a variety of other considerations, most importantly that housing rights should be ensured to all persons irrespective of income or access to economic resources. Secondly, the reference in article 11(1) must be read as referring not to housing tout court but to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: "Adequate shelter means....adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities--all at a reasonable cost.

8. Thus the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute "adequate housing" for the purposes of the Covenant. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, the Committee believes that it is nevertheless possible to identify certain aspects of the right that must be taken into account for this purpose in any particular context. They include the following:

(a) Legal Security of Tenure:

Tenure takes a variety of forms, including rental (public and private) accommodation, co-operative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;

(b) Availability of Services, Materials, Facilities and Infrastructure:

An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, potable drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, food storage, refuse disposal, site drainage and emergency services;

(c) Affordable:

Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with the principle of affordability tenants should be protected from unreasonable rent levels or rent increases by appropriate means. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials;

(d) Habitable:

Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the "Health Principles of Housing" prepared by the World Health Organization (WHO) which view housing as the environmental factor most frequently associated with disease conditions in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;

(e) Accessibility:

Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy

goal, Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement;

(f) Location:

Adequate housing must be in a location which allows access to employment options, health care services, schools, child care centers and other social facilities. This is both true in large cities and in rural areas where the temporal and financial costs of getting to and from places of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants;

(g) Culturally Adequate:

The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed and that they should ensure, inter alia, modern technological facilities, as appropriate.

9. As noted above, the right to adequate housing cannot be viewed in isolation from other human rights contained in the two international instruments. Reference has already been made in this regard to the concept of human dignity and the principle of non-discrimination. In addition, the full enjoyment of other rights such as the right to freedom of expression, the right to freedom of association (such as for tenants and other community-based groups), the right to freedom to choose one's residence and the right to participate in public decision-making is indispensable if the right to adequate housing is to be realized and maintained by all groups in society. Similarly, the right not be subjected to arbitrary interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to housing.

10. Regardless of the state of development of any country, there are certain steps which must be taken immediately. As recommended in the Global Shelter Strategy and in other international analyses, many of the measures required to promote the right to housing require only abstention by the Government from certain practices and a commitment to facilitate "self-help" by affected groups. To the extent that any such steps are considered to be beyond the maximum resources available to a State party, it is appropriate that a request be made as soon as possible for international co-operation in accordance with articles 11(1), 22 and 23 of the Covenant, and that the Committee is informed thereof.

11. States parties must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others. The Committee is aware that external factors can affect the right to a continuous improvement in living conditions, and that in many States parties overall living conditions declined during the 1980s. However, as noted by the committee in its General Comment No. 2, despite externally caused problems, the obligations found in the Covenant continue to apply and are perhaps even more pertinent during times of economic contraction. It would thus appear to the Committee that a general decline in living and housing conditions, directly attributable to policy and legislative decisions by States parties, and in the absence of accompanying compensatory measures, would be inconsistent with the obligations found in the Covenant.

12. While the most appropriate means for achieving the full realization of the right to adequate housing will inevitably vary significantly from one State party to another, the Covenant clearly

requires that each State party take whatever steps are necessary for that purpose. This will almost invariably require the adoption of a national housing strategy which, as stated in the Global Shelter Strategy, "defines the objectives for the development of shelter conditions, identifies the resources available to meet these goals and the most cost-effective way of using them and sets out the responsibilities and time-frame for the implementation of the necessary measures" (para. 32). Both for reasons of relevance and effectiveness, as well as in order to ensure respect for other human rights, such a strategy should reflect extensive genuine consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives. Further, steps should be taken to ensure co-ordination between ministries, regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy and so forth) with the obligation arising from article 11 of the Covenant.

13. Effective monitoring of the situation with respect to housing is another obligation of immediate effect. For a State party to satisfy its obligations under article 11(1) it must determine, inter alia, that it has taken whatever steps are necessary, either alone or on the basis of international co-operation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised reporting guidelines adopted by the Committee emphasize the need to "provide detailed information about those groups within society that are vulnerable and disadvantaged with regard to housing". They include, in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in "illegal" settlements, those subject to forced evictions and low-income groups.

14. Measures designed to satisfy a State party's obligations in respect of the right to adequate housing may reflect whatever mix of public and private sector measures considered appropriate. While in some States public financing of housing might most usefully be spent on direct construction of new housing, in most cases, experience has shown the inability of Governments to fully satisfy housing deficits with publicly built housing. The promotion by States parties of "enabling strategies", combined with a full commitment to obligations concerning the right to adequate housing, should thus be encouraged. In essence, the obligation is to demonstrate that, in aggregate, the measures being taken are sufficient to realize the right for every individual in the shortest possible time in accordance with the maximum of available resources.

15. Many of the measures that will be required will involve resource allocations and policy initiatives of a general kind. Nevertheless, the role of formal legislative and administrative measures should not be underestimated in this context. The Global Shelter Strategy (paras. 66-67) has drawn attention to the type of measures that might be taken in this regard and to their importance.

16. In some States, the right to adequate housing is constitutionally entrenched. In such cases, the Committee is interested in learning of the legal and practical significance of such an approach. Details of specific cases and of other ways in which entrenchment has proved useful should thus be provided.

17. The Committee views many component elements of the right to adequate housing as being at least consistent with the provision of domestic legal remedies. Depending on the legal system, such areas might include, but are not limited to:

- (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions;
- (b) legal procedures seeking compensation following an illegal eviction;

(c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination;

(d) allegations of any form of discrimination in the allocation and availability of access to housing; and

(e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems, it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness.

18. In this regard, the Committee considers that instances of forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.

19. Finally, article 11 (1) concludes with the obligation of States parties to "recognize the essential importance of international co-operation based on free consent." Traditionally, less than 5 percent of all international assistance has been directed towards housing or human settlements, and often the manner by which such funding is provided does little to address the housing needs of disadvantaged groups. States parties, both recipients and providers, should ensure that a substantial portion of financing is devoted to creating conditions leading to as higher number of persons being adequately housed. International Financial Institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the right to adequate housing. States parties should, when contemplating international financial co-operation, seek to indicate areas relevant to the right to adequate housing where external financing would have the most effect. Such requests should take full account of the needs and views of the affected groups.

December 6, 1991

**The UN Committee on Economic, Social and Cultural Rights issues its first de facto injunction against a State party**, urging it to refrain from a future action. Once again directing its views to the Government of the Dominican Republic, the Committee -- within the context of a planned eviction set to affect some 70,000 persons -- declared that the Government "suspend any actions which are not clearly in conformity with the provisions of the Covenant, and requests the Government to provide additional information to it as a matter of urgency". (E/C.12/1991/4, para. 330).



---

## 1992

---

March, 1992

**The Report of the United Nations Conference on Environment and Development**, Rio de Janeiro, 3-14 1992. The central human settlements objectives contained in Agenda 21, adopted during the UN Conference on Environment and Development, were elaborated in order to:

"improve the social, economic and environmental quality of human settlements and the living and working environments of all people, in particular the urban and rural poor. Such improvement should be based on technical co-operation activities, partnerships among the public, private and community sectors and participation in the decision-making process by community groups and special interest groups such as women, indigenous people, the elderly and the disabled. These approaches should form the core principles of national settlement strategies .... Furthermore, countries should make appropriate provision to monitor the impact of their strategies on marginalized and disenfranchised groups, with particular reference to the needs of women" (Resolution 1, annex II, para.7.4).

Chapter 7 of Agenda 21 contains additional clauses referring to aspects of the human right to adequate housing. These include the following:

7.6: Access to safe and healthy shelter is essential to a person's physical, psychological, social and economic well-being and should be a fundamental part of national and international action. The right to adequate housing as a basic human right is enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. Despite this, it is estimated that at the present time, at least one billion people do not have access to safe and healthy shelter and that if appropriate action is not taken, this number will increase dramatically by the end of the century and beyond.

7.9(b): All countries should adopt and/or strengthen national shelter strategies, with targets based, as appropriate, on the principles and recommendations contained in the Global Strategy for Shelter to the Year 2000. People should be protected by law against unfair eviction from their homes or land.

7.9(c): All countries should, as appropriate, support the shelter efforts of the urban and rural poor, the unemployed and the no-income group by adopting and/or adapting existing codes and regulations, to facilitate their access to land, finance and low-cost building materials and by actively promoting the regularization and upgrading of informal settlements and urban slums as an expedient measure and pragmatic solution to the urban shelter deficit.

7.30(f): All countries should consider developing national land-resource management plans to guide land-resource development and utilization and, to that end, should...establish appropriate forms of land tenure that provide security of tenure for all land users, especially indigenous people, women, local communities, the low-income urban dwellers and the rural poor.

August, 1992

Justice Rajindar Sachar submits his report entitled *Working Paper on Promoting the Realization of the Right to Adequate Housing* to the 44th session of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1992/15). The Sub-Commission, as part of its expanded attention to and analysis of the right to housing and the problem of forced evictions, appoints Justice Sachar as a Special Rapporteur on the right to adequate housing. This was significant in that it represents one of the few occasions that a specific economic, social or cultural right has been subjected to this sort of analysis and promotion at the international level. Among other things, the Special Rapporteur has been requested by the Sub-Commission to develop a legal framework giving further substance to housing rights and to explore how the United Nations human rights machinery could more effectively promote the realization of this right. The Special Rapporteur was also requested to examine the feasibility of developing new legislation on housing rights.

The Special Rapporteur's initial 1992 working paper focused primarily on what he deemed to be the causes of the global housing crisis and various legal issues relating to the human right to adequate housing. The principal reasons for the still widespread denial of housing rights throughout the world, according to the Special Rapporteur, were: (a) the failures of government and development policies; (b) housing discrimination; (c) environmental health, disasters and housing; (d) the withholding of information crucial to housing; (e) exploitation in the housing sphere; (f) speculation and the commoditization of housing; (g) forced evictions; (h) armed conflict; (i) the criminalization of housing; (j) structural adjustment programmes and debt; (k) poverty and the deprivation of means; and (l) the perpetuation of homelessness.

August 22, 1992

The Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts Resolution 1992/26 on “**Promoting the Realization of the Right to Adequate Housing,**” in response to the initial working paper and other reports. The resolution:

2. Encourages all States to pursue effective policies and legislation aimed at creating conditions aimed at ensuring the full realization of the right to adequate housing of the entire population, concentrating on those vulnerable groups that are homeless or inadequately housed.

August 22, 1992

The Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts Resolution 1992/14 on “**Forced Evictions.**” This resolution was forwarded in full to the UN Commission on Human Rights for consideration, in what eventually became Commission on Human Rights Resolution 1993/77.

## 1993

---

March 10, 1993

Commission on Human Rights Resolution 1993/77 on “**Forced evictions,**” is adopted on 10 March 1993, wherein the Commission:

1. Affirms that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing;
2. Urges governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced evictions;
3. Also urges Governments to confer legal security of tenure on all persons currently threatened with forced evictions and to adopt all necessary measures giving full protection against forced eviction, based upon effective participation, consultation and negotiation with affected persons or groups;
4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes and needs, to persons or communities that have been forcibly evicted;
5. Requests the Secretary-General to compile an analytical report on the practice of forced evictions, based on an analysis of international law and jurisprudence and information submitted [by] Governments, relevant United Nations bodies ... regional intergovernmental and non-governmental organizations and community-based organizations.”

May 5, 1993

Commission on Human Settlements resolution 14/6, entitled “**The human right to Adequate Housing,**” adopted on 5 May 1993, sets in motion the preparation of a strategic report for promoting the right to adequate housing. This represents a significant development, being the first time this body had comprehensively addressed the human rights implications of housing within a single resolution. With the adoption of the resolution, the Commission firmly indicated the importance it places on the human right to adequate housing and provided UNCHS (Habitat) with a solid mandate

to pursue the promotion and realization of housing rights. The Commission also requested the Executive Director, in paragraph 8 of the resolution, to:

Prepare a background document for consideration at the fifteenth session of the Commission on Human Settlements outlining practical contributions which could be made by the United Nations Centre for Human Settlements (Habitat) towards promoting, ensuring and protecting the realization of the right to adequate housing, as well as how the Centre reviews its role in this respect and how most effectively an integrated monitoring system can be developed between the Centre and the United Nations human rights bodies.

The Resolution recommends that the Preparatory Committee for the planned 1996 United Nations Conference on Human Settlements (Habitat II) consider the question of the human right to adequate housing.

"The Commission on Human Settlements urges all States to cease any practices which could or do result in the infringements of the human right to adequate housing, in particular the practice of forced, mass evictions and any form of racial or other discrimination in the housing sphere; ...

"Invites all States to repeal, reform or amend any existing legislation, policies, programmes or projects which in any manner negatively affect the realization of the right to adequate housing;

"Urges all States to comply with existing international agreements concerning the right to adequate housing, and to this end, to establish ... appropriate monitoring mechanisms to provide, for national and international consideration, accurate data and indicators on the extent of homelessness, inadequate housing conditions, persons without security of tenure, and other issues arising from the right to adequate housing and providing insights into policy, structural and other impediments to the efficient operation of the shelter sector."

June 1993

The **World Conference on Human Rights**, held at Vienna in June 1993, adopted by acclamation the **Vienna Declaration and Programme of Action**, in which it welcomed the progress made in the codification of human rights instruments and urged the universal ratification of human rights treaties.

*Vienna Declaration and Programme of Action (Part I, para. 5)*. "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."

The Vienna Declaration and Programme of Action also outlines the role of the various United Nations agencies in the promotion of human rights in the following terms:

“The World Conference on Human Rights recommends increased co-operation in support of human rights and fundamental freedoms within the United Nations system. To this end, the World Conference on Human Rights urges all United Nations organs, bodies, and the specialized agencies whose activities deal with human rights to co-operate in order to strengthen, rationalize and streamline their activities, taking into account the need to avoid unnecessary duplication. The World Conference on Human Rights also recommends to the Secretary-General that high-level officials of relevant United Nations bodies and specialized agencies at their annual meeting, besides co-ordinating their activities, also assess the impact of their strategies and policies on the enjoyment of human rights (Sec. II(A)(1)).”

“The World Conference on Human Rights recognizes that relevant specialized agencies and bodies and institutions of the United Nations system as well as other relevant intergovernmental organizations whose activities deal with human rights play a vital role in the formulation, promotion and implementation of human rights standards, within their respective mandates, and should take into account the outcome of the World Conference on Human Rights within their fields of competence (Sec. II(A)(3)).”

In his June 1994 second progress report on the right to adequate housing, Rajindar Sachar, the Special Rapporteur on housing rights appointed by the Commission on Human Rights, makes the following reference to the Vienna Conference:

“11. And yet, as fundamental as housing is in any society to the well-being of citizens, to the security and health of the population as a whole and even to the economy, very often housing rights are forgotten within the human rights domain. For instance, the World Conference on Human Rights, held at Vienna in June 1993, provided a unique opportunity to refine, promote and strengthen international attention to the right to adequate housing. Disturbingly, however, the Vienna Declaration and Plan of Action entirely ignored the right to adequate housing and, in more general terms, continued the still prevalent trend which marginalizes economic, social and cultural rights. Although all Governments have clearly identifiable legal obligations as far as housing rights are concerned, the Vienna Declaration neglected even to mention this right, let alone establish the mechanisms and targets required to give this right greater impetus throughout the international community.”

“12. More favourably, and indicative of the commitment of non-governmental organizations (NGOs) and their concern about the importance of housing rights standards in the human rights domain, the final report to the World Conference on Human Rights of the NGO Forum "All Human Rights for All", held during the Conference, dealt extensively with the right to adequate housing, as well as the practice of forced evictions.”

August, 1993

The ***First Progress Report on Promoting the Realization of the Right to Adequate Housing*** is submitted by Justice Rajindar Sachar to the 45th session of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, August 1993 (E/CN.4/Sub.2/1993/15). This first progress report provides a detailed legal analysis of the legal obligations of States to respect, protect and fulfil

housing rights, resulting in the development of an innovative synthesis of governmental obligations based on international legal standards.

August 26, 1993

The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts, by consensus, Resolution 1993/36 on “**The Right to Adequate Housing.**” The resolution, in part:

3. Strongly encourages all governments to pursue effective policies and legislation aimed at creating conditions towards ensuring the full realization of the right to adequate housing of the entire population concentrating on those currently homeless or inadequately housed, and to take into account the particularly negative impact on housing and living conditions that may result from the adoption of economic adjustment and other policies based exclusively on the dictates of the free-market.

August 26, 1993

The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts, by consensus, Resolution 1993/41 on “**Forced Evictions,**” the third resolution on the problem of evictions adopted by this body. It provides a yet enhanced consideration of forced evictions, including the views of this body that wherein it:

1. Reaffirms that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to housing;
2. Strongly urges Governments to undertake all necessary immediate measures, at all levels, aimed at rapidly eliminating the practice of forced evictions;
5. Invites all international financial, trade, development and other related institutions and agencies to take fully into account the views contained in the present resolution, and pronouncements under international law on the practice of forced evictions.

1993

The General Assembly decides to convene the **Second United Nations Conference on Human Settlements (Habitat II)**, in Istanbul in 1996, 20 years after the first Habitat conference in Vancouver. This will be the last global UN Conference of the twentieth century and will build upon the results of the series of UN global

conferences held in the 1990s in Rio, Cairo, Copenhagen and Beijing. The UN Centre for Human Settlements (Habitat) has been designated as the secretariat for the Habitat II Conference, to spearhead preparations at the global, regional, national and local levels. The goal of the Conference is to make the world's cities and communities safe, healthy and more sustainable and equitable.

## 1994

---

April, 1994

During the first session of the **Preparatory Committee for the United Nations Conference on Human Settlements (Habitat II)** held in April 1994, in the draft principles and commitments, explicit decisions were taken to entrench housing-rights matters within the preparatory work leading up to the Conference in 1996. Decision 1/2 directs the Secretary-General of the Conference to consider within the context of the thematic principles as part of the Statement of Principles and Commitments that: “Adequate housing is a basic human right as enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.”

August 23, 1994

The Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts resolution 1994/8 entitled “**Children and the right to adequate housing,**” on 23 August 1994. It:

“Reminds Governments to comply to the maximum extent of available resources with all existing obligations concerning the legally recognized rights of children to an adequate standard of living and the continuous improvement of living and housing conditions.”

August 26, 1994

The Sub-Commission on Prevention of Discrimination and Protection of Minorities Resolution adopts resolution 1994/38 entitled “**Promoting the Realization of the Right to Adequate Housing,**” on 26 August 1994. The resolution, in part:

6. Encourages the Preparatory Committee for the United Nations Conference on Human Settlements (Habitat II), to be held in 1996, to take full account in its agenda and plan of action of the views of the Special Rapporteur on the right to adequate housing and ongoing activities of the United Nations concerning housing rights, and to undertake specific activities with regard to the agenda and plan of action on the human right to adequate housing within the context of Habitat II.

7. Invites the United Nations Centre on Human Settlement (Habitat) to consider implementing the proposals made to it by the Special Rapporteur in his second progress report (paras. 88-90).

August 26, 1994

The Sub-Commission on Prevention of Discrimination and Protection of Minorities Resolution adopts resolution 1994/41 on “**Forced evictions.**” The resolution, in part:

1. Reaffirms that the practice of forced eviction constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing;
2. Strongly urges Governments to undertake immediately all necessary measures, at all levels, toward eliminating the practice of forced eviction, in particular those Governments on whose territories forced evictions are currently planned to take place;
3. Also strongly urges Governments to confer legal security of tenure on all persons currently threatened with forced eviction and to adopt all necessary legal, administrative and other measures giving full protection against forced eviction, based on effective participation, consultation and negotiation with affected persons or groups;
4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes or needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups.

August, 1994

Justice Rajindar Sachar submits his *Second Progress Report on Promoting the Realization of the Right to Adequate Housing*, to the 46th session of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, August 1994 (E/CN.4/Sub.2/1994/20). The report calls for greater UN Centre for Human Settlements (Habitat) involvement in the housing rights issue and devotes substantial attention to the potential role of the Habitat Centre could play in the promotion of internationally recognized housing rights standards. The report also provides a draft *International Convention on Housing Rights*.

The second progress report, with a view to clarifying the nature of the right to adequate housing and the still common neglect of this norm, also outlines several



misconceptions and misinterpretations of the right to adequate housing which continue to hinder efforts to fulfil these right. These include: (a) social housing is invariably suspect; (b) national wealth increases home-ownership; (c) housing rights are less fundamental than property rights; (d) the private sector or the market will guarantee housing for all; (e) legislative recognition of housing rights is sufficient to ensure the realization of these rights; (f) housing rights are non-justiciable; (g) most housing is built by the public and private commercial sector; (h) measuring homelessness is impossible; (i) squatters are criminals; (j) housing is a problem only in the developing countries; (k) public expenditure on housing is sufficient; and (l) the right to adequate housing is unrelated to other social concerns.

The Special Rapporteur also urges the adoption by the United Nations of an International Convention on Housing Rights. His report examines both the prospects and problems of adopting a new housing rights treaty, and includes a draft convention based upon prevailing housing rights principles under international human rights law. The draft Convention, which has yet to be officially approved, contains provisions on a range of issues, as addressed in the following articles:

Article 1. Housing Rights for Everyone

1. All children, women and men have an enforceable right to adequate housing which is affordable, accessible and self-determined, and includes a right of access to a safe, affordable and secure place to live in peace and dignity.

Article 2. Non-discrimination

1. The right to adequate housing shall be exercised in an environment free from any form of discrimination. Discrimination based on level of income, gender, disability, race, ethnicity, creed, age, family status, sexual orientation, presence of children, receipt of welfare or public assistance, medical status, citizenship, employment status or social condition shall be prohibited by law.

2. Everyone shall have access to judicial or other effective means of enforcing laws designed to prevent all forms of discrimination.

Article 4. Chronically Ill-Housed Groups

1. The housing rights of chronically ill-housed groups and/or those with special housing requirements or those with difficulties acquiring adequate housing shall be accorded a measure of priority, in both the housing laws and policies of all governments.

2. Chronically ill-housed groups shall be defined as disabled persons, elderly persons, low-income groups, minority groups, persons with medical problems, refugees, youth, or any other individual or group of a similar nature.

Article 5. The Special Rights of the Homeless

1. Homeless individuals, couples or families have an enforceable right to the immediate provision by public authorities of adequate, self-contained and appropriate housing space. Hostels, emergency shelters or bed & breakfast accommodation shall constitute insufficient measures under the terms of this article.

2. Any homeless individual, couple or family refused the provision of housing space by public authorities, for whatever reason, shall have an automatic right to appeal such decisions.

Article 6. Security of Tenure

1. Everyone has the enforceable right to security of tenure over their housing, protecting all persons from, inter alia, forced or arbitrary eviction, expropriation or relocation, in the absence of an alternative acceptable to those affected, notwithstanding the type of housing inhabited.

2. The right to security of tenure shall mean that all children, women and men have a right to a home and to a safe and healthy environment. Every person shall have a right to a home free from violence, threat of violence or other form of harassment, including the right to respect of the home.

3. Every person shall be protected under law from all forms of economically motivated evictions through sudden or excessive rent increases, for reasons of profit, for reasons of speculation or for reasons that fail to recognize the rights of the tenants.

4. This article shall apply to everyone, including persons, families and groups including squatters, and those with shifting housing circumstances, in particular, nomads, travellers and Romani (gypsies).

5. Any person, institution, legal subject, public body or any other entity which violates any clause of this article shall be held criminally liable under law.

Article 24. Housing Adequacy

1. States parties shall enshrine in law the rights of everyone to basic minimum standards of housing adequacy.

2. Governments will legally require all landlords, whether public, private or otherwise, to repair and maintain housing and its facilities, and to ensure housing adequacy in all dwellings.

3. Landlords of all rental premises, whether public or private, shall maintain the premises in a reasonable state of repair and fit for habitation from the perspective of human health, personal security and environmental protection.

4. Landlords will be required by law immediately to respond to and act upon any complaint from tenants based on inadequate housing conditions.

5. Governments shall refrain from evicting dwellers from homes, on the grounds that the dwelling in question is deemed to constitute inadequate housing.

6. Governments and/or landlords shall have a legal obligation, when renovating dwellings for which the temporary removal of the occupant(s) is required, to re-house the occupant during the renovation process and further to guarantee the occupants right to return to the renovated dwelling upon completion, at a rent which is not unreasonable increased as compared to the pre-existing rent, irrespective of the nature of the renovation.

---

## 1995

---

February 16, 1995

**Towards A Housing Rights Strategy: Practical Contributions**, a report by the UN Centre for Human Settlements (Habitat) is issued. Subtitled: **On Promoting, Ensuring and Protecting the Full Realization of the Human Right to Adequate Housing**. (UN doc. HS/C/15/INF.7) Some selections from this very extensive report:

“There are distinct benefits to approaching housing concerns through the lens of human rights, in particular when such perspectives are appropriately combined with the key issues involved in promoting sustainable human settlements. Some of the more central benefits of integrating the housing rights approach include:

- (a) It places a firm focus on the legal obligations (as opposed to purely policy-related decisions) of governments and the United Nations to respect, protect and ensure housing rights;
- (b) It raises the level of demand for adequate housing from the political, ethical, humanitarian or basic needs domains to the assertion of demands grounded in law;
- (c) It provides clear criteria against which actions, policies, practices and legislation can be judged;
- (d) It provides citizens with various legal and quasi-legal enforcement mechanisms designed to ensure the implementation of housing rights and the receipt of compensation in the event of housing rights violations;
- (e) It creates a systematic, common and universally applicable framework - relevant to all countries - for developing appropriate legal and other measures leading to the full realization of housing rights;
- (f) It promotes good governance, governmental accountability, transparency, democratic decision-making, popular participation and international co-operation.

“Of course, as well as the benefits of the housing rights approach to housing matters, there remain substantial obstacles to utilizing this means of ensuring the universal satisfaction of adequate housing. These shortcomings must be acknowledged immediately, and any UNCHS (Habitat) strategy on housing rights will necessarily be designed to erode to the extent possible the existing difficulties associated with the realization of housing rights. In this regard, the following issues should be considered:

- (a) Although all governments currently possess legal obligations to respect, protect and fulfil the right to adequate housing, most citizens are unaware of their legal entitlements and the corresponding obligations of their governments and have legal faith in formal legal rules or mechanisms;
- (b) The placement of housing rights within the category of economic, social and cultural rights has meant that this and other socio-economic rights have faced relative disregard and lack the legalistic clarity and seriousness which have been accorded to civil and political human rights;
- (c) Governments and legislatures have generally, but certainly not always, been reluctant to allow judicial complaints to be considered before courts of law based on housing rights norms found in international treaties. Formal mechanisms are generally not in place, internationally or nationally, to vindicate these rights should they allegedly be violated;

(d) There are substantial limitations on utilizing legal resources as a means of attaining a particular social aim when this aim is linked to overall economic and social progress, and to areas generally associated with matters of policy;

(e) Although universally recognized, enshrined within the inviolable principles of international customary law and thus binding on all States, human rights remain contentious issues for some governments, and resultingly international laws and decisions are not always reflected at the national level.”

The report recommends that starting in 1995, UNCHS (Habitat) should take the following steps to start setting up and implementing the housing rights strategy:

- (a) Establish a housing rights focal point;
- (b) Seek and procure initial financing resources;
- (c) Finalize the UNCHS (Habitat) housing rights strategy;
- (d) Participate in meetings of relevant United Nations human-rights organizations, including the Committee on Economic, Social and Cultural Rights and the Sub-Commission;
- (e) Integrate the housing rights functions of UNCHS (Habitat) to all relevant activities;
- (f) Organize an initial housing rights expert group meeting;
- (g) Expand and clarify working relations with the Centre for Human Rights;
- (h) Promote and widespread publicity of the housing rights strategy;
- (i) Ensure the full coverage of housing rights issues in all relevant aspects of Habitat II;
- (j) Organize in-house housing rights training sessions;
- (k) Initiate documentation and research functions, including the housing rights jurisprudence database;
- (l) Explore and develop appropriate monitoring activities.

May 1, 1995

The Commission on Human Settlements, in Resolution 15/2 of 1 May 1995, mandates the **further examination of the right to adequate housing** and an update of the strategic report.

August 1995

The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities considers the **Final Report of the UN Special Rapporteur on Promoting the Realization of the Human Right to Adequate Housing** (E/CN.4/Sub.2/1995/12). The final report by Justice Rajindar Sachar contains a very detailed set of 106 paragraphs of recommendations to States, States parties to the International Covenant on Economic, Social and Cultural Rights, the United Nations human rights programme, the human rights treaty bodies, regional human rights bodies, the United Nations specialized and other agencies, other United Nations bodies, regional organizations, world conferences, civil society including non-governmental and community-based organizations. A selection of the more innovative recommendations include the following paragraphs:

158. States should seek to consistently reaffirm the fundamental nature of the basic human right to adequate housing as recognized throughout international human rights law. Simultaneously, States should refrain from describing housing as exclusively a 'need' or 'aspiration' or in any way detracting from the human rights dimensions of the right to adequate housing.

159. When addressing housing rights issues within any international forum, States should ensure that approaches are taken which are fully consistent with the international legal status of this right. In this regard, States should ensure that any statements made at or during international gatherings by delegations on behalf of their respective national governments do not conflict with the fundamental nature of the human right to adequate housing. Specifically, States should ensure that positive action is taken regarding housing rights within the context of the Habitat II World Conference on Human Settlements and that no retrograde steps are taken regarding these rights.

161. States should seek to fully integrate the contents of General Comment No. 4 on the right to adequate housing (art. 11(1) of the Covenant on Economic, Social and Cultural Rights) into the relevant national legislative and policy domains.

162. With a view to clarifying, refining and strengthening the human right to adequate housing, all States proceeding with the elaboration of new, revised or amended national Constitutions, should give due attention to including housing rights provisions within any new constitutional texts. The same principles should apply during the legislative process regarding any new or revised laws with a bearing in any way on the full realization of this right. Care should be exercised to ensure the provision of detailed and practical implementation provisions of any legally enshrined housing rights standards. The adoption of comprehensive National Housing Rights Acts should be contemplated by States.

164. With a view to strengthening international legal standards relevant to the human right to adequate housing, States should give serious consideration to the possible adoption of an international declaration or convention on housing rights under the auspices of the United Nations, as addressed in the Second Progress report of the Special Rapporteur (E/CN.4/Sub.2/1994/20, pp. 27-35).

165. As far as national legislation, policies, programmes and practices are concerned, States should, at a minimum, ensure that any and all violations of the right to adequate housing such as those elaborated in the Special Rapporteur's First Progress Report (E/CN.4/Sub.2/1993/15, para. 144), are not allowed fully prevented. In the event of any housing rights violations, States should undertake all necessary measures to halt any further violations and bring to justice any person(s) responsible for such breaches.

166. In accordance with the frequent assertion under international human rights law that forced evictions constitute 'gross violations of human rights, in particular the right to adequate housing', States should eschew sponsoring, tolerating or actively carrying out forced evictions of any type.

169. States should ensure that women are guaranteed full equality of treatment regarding any and all aspects of the human right to adequate housing, with particular attention being paid to rights of housing, land and/or property ownership and inheritance, influencing decision-making processes and the right to personal security and autonomy.

173. When developing National Housing Rights Strategies, States should include reference within the Strategies to: (a) the necessity of regulating the market in manner which most appropriately ensures the full realization of housing rights; (b) how most effectively to limit land and housing speculation in the interests of society-wide enjoyment of housing rights; (c) the need for extensive public debate of the Strategy prior to adoption which includes the full participation of civil

society; (d) the imperative of the Strategy accurately addressing and reflecting the scale of unmet housing rights, including a clear prioritization to the housing rights of the poorest sectors of society; and (e) including within the Strategy issues relating to public and popular housing finance consistent with the scale of as of yet unrealized housing rights. In terms of implementing such Strategies, States should pursue the creation of statutory authorities on housing for the poor.

179. States parties should undertake to carry out systematic legislative and policy reviews with a view to harmonizing laws and policy with the obligations arising from the provisions in the Covenant. States parties should duly alter any domestic laws clearly incompatible with the housing rights provisions of the Covenant, and should take it fully into account in the adoption of any new legislation.

180. In this respect, States parties should take into account the fact that many areas of legislation and policy, above and beyond those relating exclusively to housing, can and often do have a major bearing upon the degree to which the right of everyone to adequate housing is actually realized.

199. Many, if not most, of the UN Specialized and other agencies can play a constructive role in the pursuit of the human right to adequate housing. Indeed, the Covenant on Economic, Social and Cultural Rights clearly foresees a role of the four Specialized Agencies in the implementation of the Covenant. All relevant UN agencies should seek to establish, in accordance with their specific areas of competence and expertise, measures clearly designed towards promoting the human right to adequate housing.

200. The Special Rapporteur would encourage all United Nations agencies, when in possession of information relevant to the enjoyment or non-enjoyment of the human right to adequate housing, to submit such information to the appropriate UN human rights mechanism, in particular the Committee on Economic, Social and Cultural Rights.

205. The UN Centre on Human Settlements (UNCHS) (Habitat) should vigorously pursue the full implementation of the UNCHS Housing Rights Strategy (HS/C/15/INF.7) recognizing the importance of generating United Nations-wide support and assistance towards this end. In this respect, the UN Centre on Human Settlements should develop the expertise relating to the human right to adequate housing, with particular attention being devoted to pursuing active measures geared towards the implementation and enforcement of this right. With specific regard to the World Summit on Human Settlements (Habitat II), both the Commission on Human Settlements and the United Nations Centre on Human Settlements (Habitat) should conscientiously pursue the reaffirmation and strengthening of existing sources of the human right to adequate housing as contained in, *inter alia*, the Vancouver Declaration on Human Settlements (1976) and the UN Global Shelter Strategy to the Year 2000 (1988) and Commission on Human Settlements resolution 14/6 of 5 May 1993, entitled "The human right to adequate housing".

208. The Office of the UN High Commissioner for Refugees (UNHCR) could consider devoting attention to the fulfilment of housing rights, as this is one of the fundamental socio-economic rights to be accorded to refugees and internally displaced persons. Such a step would be in conformity with article 21 of the Convention relating to the Status of Refugees and its 1967 Protocol. UNHCR should explore whether housing rights violations could constitute grounds for obtaining refugee status and whether such violations constitute well-founded fear of persecution.

209. The UN Development Programme (UNDP) should include housing rights matters within its Human Development Index (HDI) and devote substantially more attention than at present to the housing rights issues relevant to its development mandate. Likewise, the UNDP should expand

its financial assistance to projects designed to promote the enhanced enjoyment of the human right to adequate housing.

210. The World Bank should ensure that any policy, practice, project or programme it supports is not or will not result in any violation of the human right to adequate housing. Specific attention should be paid in this respect to any projects involving the involuntary resettlement of persons from their homes and/or lands. This institution should not in any instance finance projects involving forced evictions of any size, recognizing its dismal record in such practices since its inception. The World Bank should, in good faith, respect articles 55 and 56 of the UN Charter which, *inter alia*, apply to itself and ensure that it in no manner compromises, either actively or passively, the human rights obligations of States to which it provides financial assistance. Regarding the World Bank's housing policy, a more concerted effort should be made to apply a housing rights approach to such matters, rather than relying so heavily on the provision of housing by the market.

211. The International Monetary Fund (IMF) should with respect to articles 55 and 56 of the Charter of the United Nations which, *inter alia*, apply to itself and ensure that it in no manner compromises, either actively or passively, the human rights obligations of States to which it provides financial assistance. In its pursuit of structural adjustment programmes and social safety nets, IMF should ensure that it does not in any way promote or assist States to violate existing human rights obligations under international human rights law.

August 24, 1995

The Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts Resolution 1995/27 on “**Promoting the Realization of the Human Right to Adequate Housing**” on 24 August 1995, indicating that the Sub-Commission:

1. Expresses its deep appreciation to the Special Rapporteur on the right to adequate housing, Mr. Rajindar Sachar, for his final report (E/CN.4/Sub.2/1995/12), in particular its specific recommendations;
2. Firmly endorses the specific recommendations contained in the final report (chap. VIII), and urges the entities listed therein to implement these recommendations in a timely fashion;
3. Strongly encourages all Governments faithfully to implement their existing legal obligations concerning the human right to adequate housing, including the adoption of effective legislation and policies respecting, promoting and protecting the human right to adequate housing, the removal of all obstacles to the full realization of this right and the repeal of legislation and policies which contradict housing rights standards, and to refrain from violating the human right to adequate housing;

August 24, 1995

The Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts Resolution 1995/29 on “**Forced Evictions**” on 24 August 1995.

## 1996

---

January 10-11, 1996

The **Advisory Panel on The Right to Adequate Housing** is convened by the Executive Director of the UN Centre for Human Settlements (Habitat), Secretary-General of Habitat II, in New York on 10-11 January 1996. The Panel discussed the contribution which the realization and enjoyment of housing rights can make to the solution of housing problems. The objective of this meeting was to seek a common ground on which those with diverse views on the existence and nature of the right to adequate housing could work together to advance the universally accepted cause of adequate shelter for all. The Advisory Panel concluded that in the context of the work:

- (a) States take steps in the housing field to guarantee the enjoyment, among other things, of the following: (i) freedom from discrimination in housing, and (ii) legal security of tenure;
- (b) that policies aimed at making housing habitable, affordable and accessible be pursued in order to facilitate enjoyment of the right to an adequate standard of living;
- (c) that policies in relation to housing be pursued with a recognition of the fact that the right to an adequate standard of living pertains to every person, including those in female-headed households, and with special attention to the needs of disadvantaged or vulnerable groups.

January 18-19, 1996

The **Expert Group Meeting on the Right to Adequate Housing** is jointly convened by UNCHS (Habitat) and the United Nations Centre for Human Rights in Geneva on 18 and 19 January 1996 to complement the work of the Advisory Panel. This Meeting clarified many of the concerns previously raised on the topic and contributed to the accomplishment of a consensus on the existence and international recognition of the human right to adequate housing. The clarification process continued during the negotiations and discussions at the preparatory stages of the Habitat II process and at the Conference itself in June 1996.

**From the Conclusions and Recommendations of the Expert Group Meeting:**

“8. The Expert Group Meeting discussed the question of the appropriate role of the State in relation to the implementation of the right to adequate housing. It noted that this right should not be interpreted as implying inter alia (a) that the State is required to build housing for the entire population; (b) that housing is to be provided free of charge by the State to all who request it or (c) that the State must necessarily fulfil immediately all aspects of this right. The right does, however, imply certain obligations for the State. Among the core areas of the State role in



realising the human right to adequate housing are provision of security of tenure, prevention (reduction) of discrimination in the housing sphere, prevention of illegal and mass evictions, elimination of homelessness and promotion of participatory processes for individuals and families in need of housing. In specific cases, the State may have to provide direct assistance, including provision of housing units, to people affected by disaster (natural and man-made) and to the most vulnerable groups of the society.”

“10. The Expert Group Meeting considered that there is a pressing need for additional attention to be given to the elaboration of the normative content of the right to adequate housing and to measures which, should be taken to implement, or give operational effect to, the right. In this regard it recognized that various proposals have been made including the development of (a) a convention, (b) a declaration, (c) standard rules, and (d) guidelines on housing rights.”

“11. While the Expert Group meeting recognized the usefulness of such instruments, it considered that the drafting of a binding legal instrument such as a convention would more appropriately be considered at a later stage in the overall process. The Expert Group Meeting considered that priority should be accorded to the preparation of principles and standard rules dealing with the practical implementation of the different aspects of the human right to adequate housing at the national level. It called upon the United Nations Centre for Human Settlements (Habitat) to take whatever measures are required in order to begin a process of consultation and drafting with a view to producing such documents.”

February 1-2, 1996

The **Expert Seminar on Children's Rights and Habitat** is jointly organized by the United Nations Children's Fund (UNICEF) and UNCHS (Habitat) in New York on 1-2 February 1996. The Expert Seminar noted that there was a view among those concerned with the well-being of children that the draft Habitat Agenda had not given sufficient attention to children's special needs for a safe, secure and healthy living environment. The Expert Seminar defined the conditions necessary for achieving the rights of children related to the themes of the Habitat II Conference and prepared the Children's Rights and Habitat Declaration, which was made available to participants in the third session of the Preparatory Committee for Habitat II, held in New York on 5-16 February 1996.

May, 1996

The Office of the United Nations High Commissioner for Human Rights in Geneva publishes *Forced Evictions and Human Rights, Fact Sheet No. 25*. This Fact Sheet examines the issue of forced evictions in an international human rights framework and outlines the distinct connections between forced evictions and human rights. It also outlines the relevant international, regional, national and local legal and other developments addressing this topic.

The indispensable equality of all human rights, now firmly entrenched in the provisions of international human rights instruments, is particularly evident when examining human rights violations relating not just to one right, but to a broad range of human rights. One such infringement of human rights is the practice of forced evictions: the removal of individuals, families or communities from their homes, land or neighbourhoods, against their will, directly or indirectly attributable to the State....

Far from offering solutions to housing or urban crises, forced evictions destroy the dwellings and human settlements people call home and could perhaps be more appropriately labelled as a method of "de-housing", rather than as a practice representing a constructive, human-oriented response to the ongoing global housing crisis....

Some have labelled the era in which we live as "the century of displacement". Recent history has seen hundreds of millions of persons being forcibly evicted from their homes, lands and communities due to a variety of causes. Every year at least 10 million people are forcibly evicted, over and above the dramatically high numbers of people moved from their places of origin as a consequence of internal displacement, ethnic cleansing, refugee flows or other manifestations of coerced population movements....

The practice of forced eviction involves the involuntary removal of persons from their homes or land, directly or indirectly attributable to the State. It entails the effective elimination of the possibility of an individual or group living in a particular house, residence or place, and the assisted (in the case of resettlement) or unassisted (without resettlement) movement of evicted persons or groups to other areas....

All stages of the eviction process have identifiable human rights implications. The right to adequate housing, which is widely recognized under international human rights law, includes the right to be protected from forced eviction....

The need for a renewed commitment by the international community and Governments finally to abolish forced evictions is indisputable. Should the necessary initiatives fail to materialize, the basic human right to a place to live, in peace and dignity, will continue to be actively denied to millions of people throughout the world."

June 3-14, 1996

### **United Nations Conference on Human Settlements (Habitat II), Istanbul.**

2. The purpose of the second United Nations Conference on Human Settlements (Habitat II) is to address two themes of equal global importance: "Adequate shelter for all" and "Sustainable human settlements development in an urbanizing world". Human beings are at the centre of concerns for

sustainable development, including adequate shelter for all and sustainable human settlements, and they are entitled to a healthy and productive life in harmony with nature.

3. As to the first theme, a large segment of the world's population lacks shelter and sanitation, particularly in developing countries. We recognize that access to safe and healthy shelter and basic services is essential to a person's physical, psychological, social and economic well-being and should be a fundamental part of our urgent actions for the more than one billion people without decent living conditions. Our objective is to achieve adequate shelter for all, especially the deprived urban and rural poor, through an enabling approach to the development and improvement of shelter that is environmentally sound."

The centrality of housing rights in the Habitat Agenda and Plan of Action is reflected in the nexus established between the dominant theme of "adequate shelter for all" and "the right to adequate shelter" as manifested in several paragraphs of the Agenda. Paragraphs 26 and 61 of the Habitat Agenda spell out the commitment of Governments and what they are expected to do for the progressive realization of the right to adequate housing.

The proposed UNCHS (Habitat) strategy consists of: (a) promotional activities and provision of advisory services; (b) documentation and analysis of housing legislation; (c) organization of seminars and expert group meetings; (d) monitoring of housing conditions; and (e) liaison with human rights organizations inside and outside the United Nations system.

It is important to note that the Habitat II Conference reconfirmed the legal status of the human right to adequate housing as set forth in the relevant international instruments and stressed that this right should be progressively, but fully, realized. It also clarified and reconfirmed that the obligation of Governments in this process is to enable people to obtain shelter and to protect and improve dwellings and neighbourhoods. Combating homelessness, preventing discrimination in housing, promoting security of tenure, preventing illegal evictions and promoting access to information, land, services and finance for affordable housing are highlighted as fundamental elements in realizing the human right to adequate housing. The important role of non-governmental organizations and community-based organizations in this process is also emphasized.

**Paragraph 26.** "26. We reaffirm and are guided by the purposes and principles of the Charter of the United Nations and we reaffirm our commitment to ensuring the full realization of the human rights set out in international instruments and in particular, in this context, the right to adequate housing as set forth in the Universal Declaration of Human Rights and provided for in the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, taking into account that the right to adequate housing, as included in the above-mentioned international

instruments, shall be realized progressively. We reaffirm that all human rights - civil, cultural, economic, political and social - are universal, indivisible, interdependent and interrelated. We subscribe to the principles and goals set out below to guide us in our actions.”

**Paragraph 60.** “60. Adequate shelter means more than a roof over one's head. It also means adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; adequate basic infrastructure, such as water-supply, sanitation and waste-management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities: all of which should be available at an affordable cost. Adequacy should be determined together with the people concerned, bearing in mind the prospect for gradual development. Adequacy often varies from country to country, since it depends on specific cultural, social, environmental and economic factors. Gender-specific and age-specific factors, such as the exposure of children and women to toxic substances, should be considered in this context.”

**Paragraph 61.** "61. Since the adoption of the Universal Declaration of Human Rights in 1948, the right to adequate housing has been recognized as an important component of the right to an adequate standard of living. All Governments without exception have a responsibility in the shelter sector, as exemplified by their creation of ministries of housing or agencies, by their allocation of funds for the housing sector and by their policies, programmes and projects. The provision of adequate housing for everyone requires action not only by Governments, but by all sectors of society, including the private sector, non-governmental organizations, communities and local authorities, as well as by partner organizations and entities of the international community. Within the overall context of an enabling approach, Governments should take appropriate action in order to promote, protect and ensure the full and progressive realization of the right to adequate housing. These actions include, but are not limited to:

"(a) Providing, in the matter of housing, that the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

"(b) Providing legal security of tenure and equal access to land for all, including women and those living in poverty, as well as effective protection from forced evictions that are contrary to the law, taking human rights into consideration and bearing in mind that homeless people should not be penalized for their status;

"(c) Adopting policies aimed at making housing habitable, affordable and accessible, including for those who are unable to secure adequate housing through their own means, by, inter alia: (i) Expanding the supply of affordable housing through appropriate regulatory measures and market incentives; (ii) Increasing affordability through the provision of subsidies and rental and other forms of housing assistance to people living in poverty; (iii) Supporting community-based, co-operative and non-profit rental and owner-occupied housing programmes; (iv) Promoting supporting services for the homeless and other vulnerable groups; (v) Mobilizing innovative financial and other resources - public and private - for housing and community development; (vi) Creating and promoting market-based incentives to encourage the private sector to meet the need for affordable rental and owner-occupied housing; (vii) Promoting sustainable spatial development patterns and transportation systems that improve accessibility of goods, services, amenities and work;

"(d) Effective monitoring and evaluation of housing conditions, including the extent of homelessness and inadequate housing, and, in consultation with the affected population, formulating and adopting appropriate housing policies and implementing effective strategies and plans to address those problems."

---

## 1997

---

The Office of the United Nations High Commissioner for Human Rights publishes *The Human Right to Housing, Fact Sheet No. 21*, Geneva, Switzerland, 1997.

“This Fact Sheet addresses the foundations, implications and content of one particular right found in many international legal texts, including the Covenant on Economic, Social and Cultural Rights and the Universal Declaration: the human right to adequate housing. A series of important developments concerning this right have taken place during the past several years within various United Nations human rights bodies....

“The right to adequate housing is one of the economic, social and cultural rights to have gained increasing attention and promotion, not only from the human rights bodies but also from the United Nations Centre for Human Settlements (Habitat). This began with the implementation of the Vancouver Declaration on Human Settlements issued in 1976, followed by the proclamation of the International Year of Shelter for the Homeless (1987) and the adoption of the Global Strategy for Shelter to the Year 2000, by the United Nations General Assembly in 1988....

“The International Year of Shelter for the Homeless in 1987 facilitated the raising of public awareness about the housing and related problems still prevalent throughout the world. The follow-up to the Year, the Global Strategy for Shelter to the Year 2000 has propelled housing issues forward, and has resulted in housing rights being placed more prominently than ever before on the human rights agenda of the United Nations.

“With the adoption of the Universal Declaration of Human Rights in 1948, the right to adequate housing joined the body of international, universally applicable and universally accepted human rights law. Since that time this right has been reaffirmed in a wide range of additional human rights instruments, each of which is relevant to distinct groups within society. No less than 12 different texts adopted and proclaimed by the United Nations explicitly recognize the right to adequate housing.”

April 28 to May 7, 1997

At the sixteenth session of the Commission on Human Settlements in Nairobi, 28 April to 7 May 1997, the Executive Director of the UNCHS (Habitat) presents a report entitled: “**Housing Rights: Strategy for the Progressive Realization of the Right to Adequate Housing.**” The document points out that the essential elements of the Global Strategy for Shelter, the mandate of the Habitat II Agenda and the Istanbul Declaration on Human Settlements, and the recommendations of the specific meetings convened on this topic, all form the basis of the UNCHS (Habitat) approach for promoting the realization of the human right to adequate housing. The proposed specific activities that will be included in the Centre's work programme for 1998-1999 are: (a) promotion and advisory services; (b) documentation and analysis; (c) seminars and expert group meetings; (d) monitoring of housing conditions; (e) liaison

and collaboration with relevant United Nations agencies and national and international housing organizations; (f) integration of a housing rights agenda in the relevant activities of UNCHS (Habitat) and in national housing programs.

May 7, 1997

The UN Commission on Human Settlements resolution 16/7 entitled “**The Realization of the Human Right to Adequate Housing**” is adopted on 7 May 1997. It recommends in part that a joint program be developed between the UN Centre for Human Rights and the UN Centre for Human Settlements to assist States with the implementation of their commitments to ensure the realization of the right to adequate housing as provided for in international agreements.

May 16, 1997

The Committee on Economic, Social and Cultural Rights issues “**General Comment No. 7 on the Right to Adequate Housing: Forced Evictions**” on May 16, 1997 (E/C.12/1997/4). This general comment represents the most far-reaching decision yet under international law on forced evictions and human rights, and significantly expands the protection against eviction. Committee Chairperson Prof. Philip Alston, described the new measures as a “major statement by the Committee in response to one of the most significant problems we have to confront. We hope this is the start of a fundamental rethinking by governments of their frequent and ill-advised resort to forced evictions to deal with broader social problems.” The new regulations go significantly further than most previous pronouncements in detailing the contours of what governments, landlords and institutions such as the World Bank must do to preclude forced evictions. Comment No. 7 is also important in terms of the approach taken on the issue of national wealth and the correlation this may or may not have to the acceptability of forced evictions. It is often alleged that poorer nations may be justified in evicting people due in order to promote national development. General Comment No. 7, however, emphasizes that the State's obligation “is not qualified by considerations relating to its available resources.” Committee member Mr. Philippe Texier, a French High Court Justice and former UN Special Rapporteur on Haiti, stressed during the debate that forced evictions took place in “all countries regardless of their level of development, and a low level of development could never be considered a justification for them.”

In one of the more precedent-setting provisions of General Comment No. 7, the rules break new ground by declaring that “evictions should not result in rendering individuals homeless or vulnerable to the violation of other human rights.” While NGOs and human rights advocates may take such perspectives for granted, the General Comment makes it incumbent on governments to guarantee that people who are evicted -- whether illegally or in accordance with the law -- are to be provided alternative housing. This would be consistent with other provisions in the Comment that “all individuals have a right to adequate compensation for any property, both personal and real, which is affected.” The rules add that “legal remedies should be provided to those who are affected by eviction orders.” If Governments follow the provisions of the Comment, therefore, no one should ever be forced into homelessness or be subjected to violations of their human rights due to being evicted, notwithstanding the rationale behind it.

The Comment further obliges States to explore “all feasible alternatives” prior to forced evictions, with a view to avoiding or at least minimizing the use of force or precluding the eviction all together. It provides further assurances for people evicted to receive adequate compensation for any real or personal property affected by an eviction. When evictions are carried out as a last resort and in full accordance with the Comment, affected persons must, in addition to being secure that homelessness will not occur, also be afforded the following eight prerequisites prior to any eviction taking place, each of which might result in a planned eviction being prevented: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions and where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

The Comment devotes two sections to the involvement of international agencies in financing projects resulting in forced eviction. The World Bank claims that ten million people are involuntarily resettled each year. In recognition of this, the General Comment reiterates previously issued assertions by the Committee in its General Comment No. 2, to the effect that:

international agencies should scrupulously avoid involvement in projects which, for example ... promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of person without the provision of all appropriate protection and compensation. Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account

Some of the key provisions of General Comment No. 7 include the following:

4. The term "forced evictions" as used throughout this General Comment is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Human Rights Covenants.

9. In essence, the obligations of States Parties to the Covenant in relation to forced evictions are based on Article 11(1), read in conjunction with other relevant provisions. In particular, Article



2(1) obliges States to use "all appropriate means" to promote the right to adequate housing. However, in view of the nature of the practice of forced evictions, the reference to Article 2(1) to progressive achievement based on the availability of resources will rarely be relevant. The State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions (as defined in para. 3 above). Moreover, this approach is reinforced by Article 17(1) of the International Covenant on Civil and Political Rights which complements the right not to be forcefully evicted without adequate protection. That provision recognises, *inter alia*, the right to be protected against "arbitrary or unlawful interference" with one's home. It is to be noted that the State's obligation to ensure respect for that right is not qualified by considerations relating to its available resources.

10. Article 2(1) of the Covenant requires States Parties to use "all appropriate means", including the adoption of legislative measures, to promote all the rights protected under the Covenant. Although the Committee has indicated in its General Comment No.3 (1991) that such measures may not be indispensable in relation to all rights, it is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which (a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply in relation to all agents acting under the authority of the State or who are accountable to it. Moreover, in view of the increasing trend in some States towards their government greatly reducing their responsibilities in the housing sector, States Parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies. States parties should therefore review relevant legislation and policies to ensure that these are compatible with the obligations arising from the right to adequate housing and to repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant.

11. Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced evictions. Women in all groups are especially vulnerable given the extent to statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless. The non-discrimination provisions of Articles 2(2) and 3 of the Covenant impose an additional obligation upon governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no forms of discrimination are involved.

12. Where some evictions may be justifiable, such as in the case of the persistent non-payment of rent or of damage to rented property without any reasonable cause, it is incumbent upon the relevant authorities to ensure that those evictions are carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourses and remedies are available to those affected.

13. Forced evictions and house demolitions as a punitive measure are also inconsistent with the norms of the Covenant. Likewise, the Committee takes note of the obligations enshrined within the 1949 Geneva Conventions and 1977 Protocols which relate to prohibitions on the displacement of the civilian population and the destruction of private property as these relate to the practice of forced evictions.

14. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with affected persons, with a

view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States Parties shall also see to it that all individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this respect, it is pertinent to recall article 2(3) of the International Covenant on Civil and Political Rights which requires States Parties to ensure "an effective remedy" for persons whose rights have been violated and the obligation upon the "competent authorities (to) enforce such remedies when granted".

15. In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality. In this regard it is especially pertinent to recall General Comment 16 by the Human Rights Committee, relating to Article 17 of the International Covenant on Civil and Political Rights, which states that interference with a person's home can only take place "in cases envisaged by the law". The Committee observed that the law "should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances". The Committee also indicated that "relevant legislation must specify in details the precise circumstances in which such interferences may be permitted".

16. Appropriate procedural protection and due process are essential aspects of all human rights but it is especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognised in both International Human Rights Covenants. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions and where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

17. Evictions should not result in rendering individuals homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

June 11-13, 1997

The UN Office of the High Commissioner for Human Rights convenes an Expert Seminar on Forced Evictions in Geneva on 11-13 June 1997, which results in the adoption by the Expert Group of a set of **Comprehensive Guidelines on Development-Based Displacement** (E/CN.4/Sub.2/1997/7). The 30 article text augmented and strengthens previous international standard-setting on forced evictions. It including the following provisions:

5. While forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a variety of distinct actors, responsibility for forced evictions under international law, ultimately, is held by States. This does not, however, relieve other entities from obligations in this regard, in particular occupying powers, international financial and other institutions or organizations, transnational corporations and individual third parties, including public and private landlords or land owners.
6. States should apply appropriate civil or criminal penalties against any person or entity, within its jurisdiction, whether public or private, who carries out any forced evictions, not in full conformity with applicable law and the present Guidelines.
7. States should object, through the appropriate international legal mechanisms, to the carrying out of forced evictions in other States when such forced evictions are not in full conformity with the present Guidelines and relevant provisions of international human rights law.
8. States should ensure that international organizations in which they are represented refrain from sponsoring or implementing any project, programme or policy which may involve the carrying out of forced evictions not in full conformity with international law and the present Guidelines.
9. States should secure by all appropriate means, including the provision of security of tenure, the maximum degree of effective protection against the practice of forced evictions for all persons under their jurisdiction. In this regard, special consideration should be given to the rights of indigenous peoples, children and women, particularly female-headed households and other vulnerable groups. These obligations are of an immediate nature and are not qualified by resource-related considerations.
10. States should refrain from introducing any deliberately retrogressive measures with respect to de jure or de facto protection against forced evictions.
11. States should ensure that adequate and effective legal or other appropriate remedies are available to any persons claiming that his/her right of protection against forced evictions has been violated or is under threat of violation.
12. States should ensure that eviction impact assessments are carried out prior to the initiation of any project which could result in development-based displacement, with a view to fully securing the human rights of all potentially affected persons, groups and communities.
13. States should ensure that no persons, groups or communities are rendered homeless or are exposed to the violation of any other human rights as a consequence of a forced eviction.
14. States should carry out comprehensive reviews of relevant national legislation with a view to ensuring the compatibility of such legislation with the norms contained in the present Guidelines and other relevant international human rights provisions. In this regard, special measures shall be taken to ensure that no forms of discrimination, statutory or otherwise, are applied in relation to property rights, housing rights and access to resources.
15. States should adopt appropriate legislation and policies to ensure the protection of individuals, groups and communities from forced eviction, having due regard to their best interests. States are encouraged to adopt constitutional provisions in this regard.
16. States should fully explore all possible alternatives to any act involving forced eviction. In this regard, all affected persons, including women, children and indigenous peoples shall have the right to all relevant information and the right to full participation and consultation throughout the entire process and to propose any alternatives. In the event that agreement cannot be reached on the proposed alternative by the affected persons, groups and communities and the entity proposing the forced eviction in question, an independent body, such as a court of law, tribunal, or ombudsman may be called upon.
17. States should refrain, to the maximum possible extent, from compulsorily acquiring housing or land, unless such acts are legitimate and necessary and designed to facilitate the enjoyment of

human rights through, for instance, measures of land reform or redistribution. If, as a last resort, States consider themselves compelled to undertake proceedings of expropriation or compulsory acquisition, such action shall be: (a) determined and envisaged by law and norms regarding forced eviction, in so far as these are consistent internationally recognized human rights; (b) solely for the purpose of protecting the general welfare in a democratic society; (c) reasonable and proportional and (d) in accordance with the present Guidelines.

18. All persons have the right to adequate housing which includes, *inter alia*, the integrity of the home and access to and protection of common property resources. The home and its occupants shall be protected against any acts of violence, threats of violence or other forms of harassment, in particular as they relate to women and children. The home and its occupants shall further be protected against any arbitrary or unlawful interference with privacy or respect of the home.

August 27, 1997

The Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts resolution 1997/19 entitled “**Women and the Right to Adequate Housing and to Land and Property**” on August 27, 1997. The resolution, in part:

1. Reaffirms the universal nature and existence of the right to adequate housing in terms of its relevance to all human rights with respect to women;
  2. Encourages Governments to comply fully with all their international and regional obligations and commitments concerning the legally recognized rights of women to land, property, inheritance, adequate housing including security of tenure, an adequate standard of living and the continuous improvement of living and housing conditions and to create opportunities for women to acquire training, education and information in all matters related to these rights;
  3. Reminds governments of the critical importance of providing women with legal resources and human rights information and education to address the violence they experience in relation to housing, and to enact and enforce laws and policies that protect women against violence in this context.
13. Strongly suggests that the joint programme of the Centre for Human Rights and the United Nations Centre for Human Settlement (Habitat) focus on women and the right to adequate housing and to land and property.”

**1998**

---

August. 20, 1998

Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts **Resolution 1998/9 on ‘Forced Evictions’** on August 20, 1998. The resolution states in part:

1. Reaffirms that the practice of forced eviction constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment;
2. Strongly urges Governments to undertake immediately measures, at all levels, aimed at eliminating the practice of forced evictions by, inter alia, repealing existing plans involving arbitrary forced evictions and legislation allowing arbitrary forced evictions and ensuring the right to security of tenure for all residents;
3. Also strongly urges Governments to protect all persons who are currently threatened with forced evictions, and to adopt all necessary measures giving full protection against arbitrary or unreasonable forced eviction, based upon effective participation, consultation and negotiation with affected persons or groups;
4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes, rights and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups, and recognizing the obligation to ensure such provision in the event of any forced eviction;
5. Recommends that all Governments ensure that any eviction, whether forced or not, is carried out in a manner which does not violate any of the human rights of those evicted;
6. Invites all international financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, to take fully into account the views contained in the present resolution and other pronouncements under international human rights and humanitarian law on the practice of forced eviction;
7. Requests the High Commissioner on Human Rights to give due attention to the practice of forced eviction in discharging her responsibilities and to undertake measures, whenever possible, to persuade governments to comply with relevant international standards, to repeal planned forced evictions from taking place and to ensure the provision of adequate compensation when forced evictions have already occurred;
8. Welcomes the report of the Expert Seminar on the Practice of Forced Evictions convened from 11-13 June 1997 and the Comprehensive Human Rights Guidelines on Development-Based Displacement, adopted by the Expert Seminar (E/CN.4/Sub.2/1997/7);
9. Urges the Commission on Human Rights to invite all States to consider the Comprehensive Human Rights Guidelines on Development-Based Displacement as contained in document E/CN.4/Sub.2/1997/7, with a view to approving the guidelines in their present form at its fifty-sixth session;
10. Decides to consider the issue of forced evictions at its fifty-first session under the agenda item entitled "The realization of economic, social and cultural rights".

August 21, 1998

Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts **Resolution 1998/ on “Women and the right to land, property and adequate housing”** on August 21, 1998. The resolution states in full:

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling Commission on Human Rights resolution 1998/51 of 17 April 1998 calling for the integration of the human rights of women throughout the United Nations system,

Recalling also Sub-Commission resolutions 1997/19 of 27 August 1997 entitled “Women and the right to adequate housing and to land and property”, and 1997/9 of 22 August 1997 entitled “Implementation of the human rights of women and the girl child”,

Recalling further, the recognition and legal foundations of the right to adequate housing contained in, inter alia, articles 7, 12, 17 and 25, paragraph 1, of the Universal Declaration of Human Rights; article 2, paragraph 2, and article 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights; article 2, paragraph 1, and articles 17 and 26 of the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Civil and Political Rights; article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination; articles 4 and 27 of the Convention on the Rights of the Child and article 14, paragraph 2 (g) and (h) and article 16 (h) of the Convention on the Elimination of All Forms of Discrimination Against Women,

Reaffirming the right to be free from discrimination based on sex and the equal right of men and women to the enjoyment of all civil, cultural, economic, political and social rights as stipulated in, inter alia, the International Bill of Human Rights,

Bearing in mind the Habitat Agenda (A/CONF.165/14), adopted by the United Nations Conference on Human Settlements (Habitat II), and the Platform for Action (A/CONF.177/20) adopted by the Fourth World Conference on Women,

Concerned that as a result of the discrimination faced by women with respect to acquiring and securing land, property and housing, the number of women living in poverty is increasing disproportionately to the number of men and that women’s experiences of poverty are particularly severe and prohibit women from escaping the poverty trap,

Recognizing that the existence and perpetuation of gender-biased laws, policies, and traditions which deny women credit and loans and keep women from owning and inheriting land, property, and housing and which exclude women from fully participating in development processes discriminate against women and create insecure and inadequate housing and living conditions,

Deeply concerned that inadequate and insecure housing and living conditions give rise to serious mental and physical health problems for women and contribute to, cause and are often the result of violence against women,

Stressing that the impact of discrimination and violence against women on women’s ability to access and secure land, property and housing is particularly acute for women who are internally displaced as a result of armed conflict situations and development projects,

Concerned that international and regional trade, finance and investment policies often increase gender inequality in terms of access to land, property, housing and other productive resources and undermine women's capacity to gain and retain these resources,

Mindful that women's inequality will not always be remedied by the identical treatment of men and women and that adequate remedies may require that women be treated differently from men based on a consideration of women's specific socio-economic context,

1. Affirms that the discrimination faced by women with respect to acquiring and securing land, property and housing as well as financing for land, property and housing, constitutes a violation of women's human rights to equality, protection against discrimination and to equal enjoyment of the right to an adequate standard of living, including adequate housing;

2. Strongly urges governments to comply fully with all of their international and regional obligations and commitments concerning the legally recognized rights of women to land, property, inheritance, adequate housing including security of tenure, and an adequate standard of living;

3. Urges governments to review their laws, policies, customs and traditions pertaining to land, property and housing rights, to amend and repeal laws and policies and to encourage the transformation of customs and traditions which deny women security of tenure and equal access and rights to land, property and housing, and to adopt and enforce legislation which protects and promotes women's rights to own, inherit, lease or rent land, property and housing;

4. Encourages governments, international agencies and non-governmental organizations to provide judges, lawyers, political and other public officials, community leaders, and other concerned persons with information and human rights education concerning women's rights to land, property, and housing;

5. Recommends that governments, international financial institutions, local lending agents, housing finance institutions and other credit facilities review their policies and eliminate those which discriminate against women and keep women from securing financial resources necessary to access and secure land, property and housing and, in this regard, that special consideration be given to single women and households headed by women;

6. Suggests that the international trade, investment and financial institutions, in particular the World Bank, the International Monetary Fund, the World Trade Organization and the Organization for Economic Cooperation and Development, take fully into account the human rights implications for women of their policies;

7. Invites governments, the United Nations Development Programme, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees, the United Nations Centre for Human Settlements and the United Nations Development Fund for Women to allocate resources for further documentation of the impact of internal displacement as a result of armed conflict situations and development projects on women, particularly with respect to women's access to land, property and housing;

8. Invites the United Nations High Commissioner for Human Rights, in pursuance of her mandate, to undertake initiatives that promote woman's rights to land, property and to an adequate standard of living, including adequate housing;

9. Requests the Secretary-General to propose to the Committee on the Elimination of Discrimination Against Women to pay special attention to women's rights to land, property, and an adequate standard of living, including adequate housing, when examining States parties reports and to explore the possibility of adopting a general recommendation on this theme as it relates, inter alia, to the provisions of Article 14 of the Convention on the Elimination of All Forms of Discrimination Against Women, with a view to clarifying the obligations of States parties to this Convention in this respect;

10. Suggests to the Committee on Economic, Social and Cultural Rights to undertake a thorough discussion of the critical issue of the relationship between women's rights to land and property and the International Covenant on Economic, Social and Cultural Rights and to include the results of this discussion in its general comment on women.

August 26, 1998

Sub-Commission on Prevention of Discrimination and Protection of Minorities adopts **Resolution 1998/26 'Housing and Property Restitution in the Context of Refugee and IDP Return'** on August 26, 1998. The resolution states in full:

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Conscious that human rights violations and breaches of international humanitarian law are among the reasons why refugees, as defined in relevant international legal instruments, and internally displaced persons flee their homes and places of habitual residence,

Recognizing that the right of refugees and internally displaced persons to return freely to their homes and places of habitual residence in safety and security forms an indispensable element of national reconciliation and reconstruction and that the recognition of such rights should be included within peace agreements ending armed conflicts,

Recognizing also the right of all returnees to the free exercise of their right to freedom of movement and to choose one's residence including the right to be officially registered in their homes and places of habitual residence, their right to privacy and respect for the home, their right to reside peacefully in the security of their own home and their right to enjoy access to all necessary social and economic services, in an environment free of any form of discrimination,

Conscious of the widespread constraint imposed against refugees and internally displaced persons in the exercise their right to return to their homes and places of habitual residence,

Also conscious that the right to freedom of movement and the right to adequate housing includes the right of protection for returning refugees and internally displaced persons against being compelled to return to their homes and places of habitual residence and that right to return to their homes and places of habitual residence must be exercised in a voluntary and dignified manner,

Aware that intensified international, regional and national measures are required to ensure the full realization of the right of refugees and internally displaced persons to return to their homes



and places of habitual residence and are indispensable elements of reintegration, reconstruction and reconciliation,

1. Reaffirms the right of all refugees, as defined in relevant international legal instruments, and internally displaced persons to return to their homes and places of habitual residence in their country and/or place of origin, should they so wish;
2. Reaffirms also the universal applicability of the right to adequate housing, the right to freedom of movement, the right to privacy and respect for the home and the particular importance of these rights for returning refugees and internally displaced persons wishing to return to their homes and places of habitual residence;
3. Confirms that the adoption or application of laws by States which are designed to or result in the loss or removal of tenancy, use, ownership or other rights connected with housing or property, the active retraction of the right to reside within a particular place, or laws of abandonment employed against refugees or internally displaced persons pose serious impediments to the return and reintegration of refugees and internally displaced persons and to reconstruction and reconciliation;
4. Urges all States to ensure the free and fair exercise of the right to return to one's home and place of habitual residence by all refugees and internally displaced persons and to develop effective and expeditious legal, administrative and other procedures to ensure the free and fair exercise of this right, including fair and effective mechanisms designed to resolve outstanding housing and property problems;
5. Invites the United Nations High Commissioner for Human Rights, in consultation with the United Nations High Commissioner for Refugees, within her mandate, to facilitate the full implementation of the present resolution;
6. Invites the United Nations High Commissioner for Refugees, in consultation with the United Nations High Commissioner for Human Rights, to develop policy guidelines to promote and facilitate the right of all refugees and, if appropriate to her mandate, internally displaced persons, to return freely, safely and voluntarily to their homes and places of habitual residence;
7. Decides to consider the issue of return to place of residence and housing for refugees and internally displaced persons at its fifty-first session, under the agenda item entitled 'Freedom of Movement' to determine how most effectively to continue its consideration of these issues.

## 1999

---

9-11 March 1999

The UN Centre on Human Settlements (Habitat) and the UN Office of the High Commissioner for Human Rights convene a joint **Expert Group Meeting on Housing Rights** to examine the proposed United Nations **Programme on Housing Rights**. Opening the meeting, the UN High Commissioner for Human Rights, Ms. Mary Robinson outlined her views on housing rights and eviction

issues and the following quote from her opening statements gives a sense of how her Office now views the fundamental issues, and can be referred to as evidence of the official position of the Office of the High Commissioner for Human Rights:

... One of the most blatant types of housing rights violation is the still very common act of forced evictions. Despite the extensive consideration given to stopping this practice over the past decade, millions of people are violently removed from their homes each year. According to the Centre on Housing Rights and Evictions (COHRE), a staggering 14 million people are currently threatened by planned forced evictions.

In 1997 an expert group meeting convened by our Office adopted the Comprehensive Human Rights Guidelines on Development-Based Displacement, which seek to steer States away from the practice of forced evictions carried out in connection with development projects. In this connection the Guidelines provide that States should ensure that no persons, groups or communities are rendered homeless or are exposed to the violation of any other human rights as a consequence of a forced eviction.

In addition, States should fully explore all possible alternatives to any act involving forced eviction. In this regard, all affected persons, including women, children and indigenous, shall have the right to all relevant information and the right to full participation and consultation throughout the entire process and to propose any alternatives. In the event that agreement cannot be reached, an independent body, such as a court of law, tribunal, or ombudsman, may be called upon.

Once adopted by the international community, these principles shall provide guidance in preventing violations of housing rights such as forced evictions.

Since all human rights are to be treated equally, in an interdependent and indivisible manner, we should begin discussions on what could be called the right to security of place. This right exemplifies the convergence of civil and political and economic, social and cultural rights and places three forms of security into an indispensable human rights framework. Firstly, this right encapsulates the notion of physical security-protection of physical integrity, safety from harm, and guarantees that basic rights will be respected. Secondly, this right incorporates all dimensions of human security-or the economic and social side of the security equation. While thirdly, the right to security of place recognizes the importance of tenure rights (for tenants, owners and those too poor to afford to rent or buy a home) and the crucial right to be protected against any arbitrary or forced eviction from one's home.

This manifestation of security intrinsically links to housing rights concerns during times of peace and to housing rights issues arising in the midst of armed conflict and humanitarian disasters. I hope this gathering can discuss the notion of the right to security of place to determine how this might assist in improving the protection of housing rights everywhere.

To this purpose I would like to bring of your attention the background paper before you which proposes numerous and creative ideas for joint actions. In fact, it is as an Inter-Agency draft Plan of Action to develop a system wide United Nations Housing Rights Programme.

I am convinced that only through such joint efforts focussed on each of the key economic, social and cultural rights, can we act forcefully enough to secure these rights for everyone, everywhere. I hope that the acronym \_UNHRP\_ will eventually become a symbol of a

successful programme on economic, social and cultural rights and provide an impetus to develop similar plans on all these rights in the near future.

....

Housing rights violations during periods of ethnic violence and armed conflict tend to be massive, but often under-estimated as a source of tension. Moreover, housing and property disputes in post-conflict situations (Bosnia, Georgia and Rwanda, to name several) present some of the most difficult challenges to policy-makers seeking to build peaceful, multi-ethnic societies.

Incorporating housing rights component into all field operations could perform a very useful function in giving housing issues the higher profile they deserve. A joint pilot project between Habitat and my Office could prove a very practical way to formalize our UN Housing Rights Programme and to begin what will hopefully become a fruitful, much longer-term relationship, where we together work coordinately towards the goal of ridding the earth of housing rights violations in our lifetime. (9 March 1999, Geneva)

May 1999

UNCHS (Habitat) releases report entitled *Practical Aspects in the Realization of the Human Right to Adequate Housing: Guidelines for the Formulation of the United Nations Housing Rights Programme (UNHRP)*. The UNHRP identifies several priority areas for UN action on housing rights, including: 1. Promoting the right to equal and affordable access to housing resources; 2. Provision of the right to security of tenure and prevention of and adequate responses to forced evictions; 3. Combating homelessness and promoting the right of homeless persons; 4. Promoting the right to access to legal and other remedies. The report also devotes a detailed chapter to national and local level actions for the realization of the human right to adequate housing, outlining 28 specific measures which can be undertaken by national governments to respect, protect, promote and fulfil the human right to adequate housing. The UNHRP envisages a series of joint actions by UNCHS and OHCHR in pursuit of housing, including in-house training on housing rights, technical co-operation, housing rights standard-setting, developing a housing rights composite indicator/index, developing a model national plan of action on housing rights, and developing principles of housing rights legislation.

30 August 1999

UNCHS (Habitat) releases report on Kosovo entitled *Housing and Property in Kosovo: Rights, Law and Justice: Proposals for a Comprehensive Plan of Action for the Promotion and Protection of Housing and Property Rights in Kosovo*, proposing the repeal of various pieces of discriminatory legislation and the establishment of a Housing and Property Directorate to resolve outstanding

housing disputes in Kosovo. The Habitat Kosovo programme signals a major move by the UN agency responsible for housing towards involvement within major UN field operations.

### September 1999

UNCHS (Habitat) initiates a **Global Campaign for Secure Tenure** with the objective of ensuring secure tenure for all within ten years. The background document for the Campaign states:

The Global Campaign for Secure Tenure has the potential to make a significant impact on the shelter and living conditions of the world's urban poor. The Campaign will also signal the emergence of a revitalized Habitat in a new, strategic role, acting as an advocacy agency and mobilizing the active support of a host of global, regional, national and local partners.

Using the moral authority and global standing of the United Nations, the Campaign will provide profile, support and a voice to hundreds of millions of poor, homeless and inadequately housed people trying to break out of a cycle of poverty. The complex and intractable nature of this problem requires a medium to long term perspective, and the initial duration of the Campaign will not be less than ten years.

This concept paper outlines a proposed approach to the Global Campaign on Secure Tenure, which will be launched in advance of the Global Campaign on Urban Governance. However, it is vital to state from the outset that these two Campaigns will operate not as separate initiatives, but as essential components of the larger Habitat work programme and strategic vision. Both Campaigns will be promoting a vision of an urban future based on inclusion, social and economic development; a future based on human opportunity and on hope.

To improve its chances of sustainability and success, the Campaign will also unambiguously promote the centrality of the role of women. This will be done in the context of the high correlation between the active empowerment and involvement of women, and successful strategies to provide shelter and reduce poverty, and also as part of the United Nations commitment to programmatically promote the empowerment of women.

### November 15, 1999

United Nations Mission in Kosovo (UNMIK) adopted Regulation No. 1999/23 (UNMIK/REG/1999/23) *On the Establishment of the Housing and Property Directorate and the Housing and Property Claims Commission.*

For further reading (a selected bibliography)

**The Universal Declaration of Human Rights (1948)**

Alston, Philip (1992) *The United Nations and Human Rights: A Critical Appraisal*, Oxford: Clarendon Press.

Eide, Asbjørn et al. (1993) *The Universal Declaration of Human Rights: A Commentary*, Scandinavian University Press.

Humphrey, John P. (1984) *Human Rights and the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers.

**The Covenant on Economic, Social and Cultural Rights (1966)**

Craven, Mathew C.R. (1995) *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development*, Oxford: Clarendon Press.

Eide, Asbjørn, C. Krause and A. Rosas, eds. (1995) *Economic, Social and Cultural Rights: A Textbook*, Dordrecht: Martinus Nijhoff Publishers.

Leckie, Scott (1998) "Another Step Towards Indivisibility: Identifying the Key Features of Violations of Economic, Social and Cultural Rights," *Human Rights Quarterly*, 20(1), 81-124.

Scott, Craig (1989) "The Interdependence and Permeability of Human Rights Norms: Towards a Partial Fusion of the International Covenants on Human Rights," *Osgoode Hall Law Journal*, 27(4), 769-878.

Steiner, Henry J. and Philip Alston (1996) *International Human Rights in Context: Law, Politics, Morals*, Oxford: Clarendon Press.

## APPENDIX

# DRAFT INTERNATIONAL CONVENTION ON HOUSING RIGHTS

*Prepared by the UN Special Rapporteur on Housing Rights, August 1994*

### Preamble

Considering that adequate housing is essential to freedom, dignity, equality and security for everyone,

Recognizing that the human right to adequate housing is recognized in law under various international human rights texts and treaties, including the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child and many others,

Reaffirming that all economic, social, cultural, civil and political are indivisible and interdependent and are of equal importance and status under law;

Whereas the enjoyment of other human rights such as those to privacy, to respect for the home, to freedom of movement, to be free from discrimination, to environmental health, to security of person, to freedom of association, to equality before the law and other rights are indivisible from and indispensable to the realization of the right to adequate housing;

Reaffirming that all governments are, to one degree or another, legally bound to respect, protect and ensure the housing rights and related rights of their populations;

Whereas the non-fulfillment of housing rights is a widespread and growing phenomenon and that no single country can claim to have satisfied in full their existing legal obligations arising out of the right to adequate housing,

Convinced of the need for more concrete measures to be taken by States in the sphere of housing rights,

Having resolved that all States must carry out renewed and effective efforts towards satisfying the housing rights of their citizens and other residents,

### Section One: Rights and Entitlements

#### Article 1: Housing Rights for Everyone

1. All children, women and men have an enforceable right to adequate housing which is affordable, accessible and self-determined, and includes a right of access to a safe, affordable and secure place to live in peace and dignity.

#### Article 2: Non-discrimination

1. The right to adequate housing shall be exercised in an environment free from any form of discrimination. Discrimination based on level of income, gender, disability, race, ethnicity, creed, age, family status, sexual orientation, presence of children, receipt of welfare or public assistance, medical status, citizenship, employment status or social condition shall be prohibited by law.

2. Everyone shall have access to judicial or other effective means of enforcing laws designed to prevent all forms of discrimination.

#### Article 3: Gender Equality

1. The housing rights of women and men shall, in every respect, be equal in law and in practice.

#### Article 4: Chronically Ill-Housed Groups

1. The housing rights of chronically ill-housed groups and/or those with special housing requirements or those with difficulties acquiring adequate housing shall be accorded a measure of priority, in both the housing laws and policies of all governments.

2. Chronically ill-housed groups shall be defined as disabled persons, elderly persons, low-income groups, minority groups, persons with medical problems, refugees, youth, or any other individual or group of a similar nature.

#### Article 5: The Special Rights of the Homeless

1. Homeless individuals, couples or families have an enforceable right to the immediate provision by public authorities of adequate, self-contained and appropriate housing space. Hostels, emergency shelters or bed & breakfast accommodation shall constitute insufficient measures under the terms of this article.

2. Any homeless individual, couple or family refused the provision of housing space by public authorities, for whatever reason, shall have an automatic right to appeal such decisions.

#### Article 6: Security of Tenure

1. Everyone has the enforceable right to security of tenure over their housing, protecting all persons from, inter alia, forced or arbitrary eviction, expropriation or relocation, in the absence

of an alternative acceptable to those affected, notwithstanding the type of housing inhabited.

2. The right to security of tenure shall mean that all children, women and men have a right to a home and to a safe and healthy environment. Every person shall have a right to a home free from violence, threat of violence or other form of harassment, including the right to respect of the home.

3. Every person shall be protected under law from all forms of economically motivated evictions through sudden or excessive rent increases, for reasons of profit, for reasons of speculation or for reasons that fail to recognize the rights of the tenants.

4. This article shall apply to everyone, including persons, families and groups including squatters, and those with shifting housing circumstances, in particular, nomads, travellers and Romani (gypsies).

5. Any person, institution, legal subject, public body or any other entity which violates any clause of this article shall be held criminally liable under law.

#### Article 7: Access to Services

1. Everyone has a right to access to safe drinking water, electricity and lighting, heating (if necessary), sanitation and washing facilities, cooking facilities, food storage, ventilation and drainage.

2. Everyone has a right to community services, including garbage removal, health care facilities, employment opportunities, schools, reasonably-priced public transport, child care, and emergency fire and ambulance services.

#### Article 8: Affordability

1. Everyone has a right to affordable housing. Steps must be taken by governments to guarantee that personal or household financial costs associated with housing are not allowed to reach a level which in any way threatens the attainment and satisfaction of other basic needs.

2. Everyone who has a proven need, shall have a right to social subsidies as a means of ensuring the right to affordable housing.

#### Article 9: Habitability

1. Everyone has a right to safe, healthy and habitable housing, including adequate space, privacy and protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors.

2. Any person who alleges her or his rights under this article to have been violated shall have access to administrative and legal remedies.

#### Article 10: Accessibility



1. Everyone has a right to accessible housing. This right applies especially to those with special housing needs, including but not limited to mentally and physically disabled persons, the elderly, the terminally ill, HIV-positive individuals, persons with persistent medical problems and children.
2. Everyone has a right to obtain subsidies for any necessary housing modifications required to ensure accessibility.

#### Article 11: Housing Location

1. Everyone has a right to a housing location which does not in any way threaten the enjoyment of any of the rights in this Convention or threaten concomitant rights to the highest attainable level of health.
2. Occupants of housing built on or near to sources of pollution shall have the right to claim compensation from public authorities, who shall have the legal duty to de-contaminate the area and/or to reduce pollution sources to levels which do not in any way threaten public health.

#### Article 12: Participation and Control

1. Everyone has a right to participate fully and democratically in any and all decisions affecting national or local policies concerning their housing. These include design, development, neighbourhood renovation or improvement, management policies and services.
2. Everyone has a right to control over their housing, whether publicly or privately owned. Every person shall have the right to influence decisions affecting the housing in which they live and to adapt one's residence in a manner reflecting personal wishes.
3. Everyone has a right to form, join and/or participate in the lawful activities of any association for the promotion and protection of her or his interests, whether political, economic, social or cultural. No tenant shall be subjected to harassment or eviction for exercising this right.

#### Article 13: Information

1. Everyone has a right to any and all information, whether private or public, concerning their housing. This includes information concerning people's legal housing rights and other housing laws, housing supply, the location of unused housing or housing for rent, environmental hazards in close proximity to housing, and so forth.
2. The proponents of any project, plan, programme or envisioned legislation impacting in any manner upon the housing circumstances of any person shall be required by law to provide all available information to affected persons and communities in a timely and comprehensive fashion.

#### Article 14: Housing Finance

1. Everyone has a right to fair housing finance and credit on reasonable and equitable terms. All persons, notwithstanding any distinction, shall have an equal right to obtain such finance or credit towards the enjoyment of their housing rights.
2. This article applies equally to owner-occupiers and tenants. Housing finance should not disproportionately benefit individuals with mortgages.

#### Article 15: Legal Remedies

1. Everyone has a right to effective and comprehensive legal remedies related to the rights and duties found in the present Convention, including the non-enjoyment of these rights.

### **Section Two: Governmental Obligations**

#### Article 16: General Duties

1. States parties shall take all the necessary steps, in an appropriate and immediate manner, to ensure the housing rights of everyone, as addressed in articles 1-15 of the present Convention.
2. Governments shall utilize the maximum of their available resources towards satisfying these obligations

#### Article 17: Legislative Action

1. Governments shall adopt legislation giving full effect to the rights contained in the present Convention.
2. Such legislation shall enshrine legal protection from any infringement of any person's housing rights, by either public authorities or private persons.

#### Article 18: Legislative Review

1. Governments shall carry out a systematic process of legislative review of existing laws in order to bring these into conformity with the rights and duties contained in the present Convention.
2. Legislation found to be incompatible with the present Convention shall be appropriately revised, amended or repealed.
3. Input by citizens into the legislative review process shall be favorably considered by States parties.

#### Article 19: Monitoring and Evaluation

1. States parties shall regularly and comprehensively monitor and evaluate to degree to which the obligations and rights found in the present Convention are being observed.
2. An effective system of 'housing rights indicators' equally relevant to all States shall be developed, with a view to measuring accurately compliance with the present Convention and other existing legal duties concerning any aspect of housing rights.
3. Housing rights indicators shall be collected at regular intervals.

Article 20: Obligations to Respect

1. States parties have an obligation to respect fully the housing rights of everyone.
2. Governments must refrain from any act of any nature which intentionally prevents people from achieving their housing rights.
3. This article applies, in particular, but not exclusively to acts such as forced or arbitrary evictions, discrimination in the housing sphere, restrictions on rights to participation, equality of treatment and to enact laws which restrict the realization of the right to adequate housing.

Article 21: Obligations to Ensure

1. States parties have an obligation to ensure the full realization of the housing rights of everyone.
2. Governments must allocate amounts of public expenditure towards the overall satisfaction of the right to adequate housing, which accurately reflect society's housing demands and unfulfilled needs.
3. Governments agree to increase progressively public spending towards the full realization for everyone of adequate housing. Such spending shall include the construction of new social housing units and the promotion and financial support for accessible and affordable housing schemes.

Article 22: Housing Supply

1. States parties shall guarantee that overall housing supply corresponds to housing requirements;
2. Governments shall regularly monitor the balance between housing supply and housing needs, with a view to adopting appropriate policies designed to create conditions wherein housing supply is consistently above housing requirements;
3. Governments must create conditions wherein a sufficient proportion of housing supply is reserved for housing homeless individuals and families;
4. Governments shall ensure that housing supplies are diverse and reflect the cultural attributes of all social groups living in any society and provide a degree of choice for dwellers as to where to choose the place of their residence.

Article 23: Housing Affordability

1. States parties shall ensure that housing is affordable to everyone.
2. Governments shall intervene in the housing market and the economy as a whole, with a view to creating conditions of society-wide affordable housing.
3. Governments must develop and adequately finance a system or systems of housing subsidies as one measure towards guaranteeing housing affordability.

Article 24: Housing Adequacy

1. States parties shall enshrine in law the rights of everyone to basic minimum standards of housing adequacy.
2. Governments will legally require all landlords, whether public, private or otherwise, to repair and maintain housing and its facilities, and to ensure housing adequacy in all dwellings.
3. Landlords of all rental premises, whether public or private, shall maintain the premises in a reasonable state of repair and fit for habitation from the perspective of human health, personal security and environmental protection.
4. Landlords will be required by law immediately to respond to and act upon any complaint from tenants based on inadequate housing conditions.
5. Governments shall refrain from evicting dwellers from homes, on the grounds that the dwelling in question is deemed to constitute inadequate housing.
6. Governments and/or landlords shall have a legal obligation, when renovating dwellings for which the temporary removal of the occupant(s) is required, to re-house the occupant during the renovation process and further to guarantee the occupants right to return to the renovated dwelling upon completion, at a rent which is not unreasonable increased as compared to the preexisting rent, irrespective of the nature of the renovation.

Article 25: Provision of Infrastructure and Services

1. States parties shall provide all necessary infrastructure and services to everyone, including drinking water, sewage, garbage removal, electricity, heating, energy for cooking and emergency fire and ambulance services, public transport, roads and other services in near proximity.

Article 26: Prevention of Speculation

1. States parties shall prevent speculation in the housing sphere by, inter alia, restricting property owners from leaving their properties empty and unutilized;
2. Governments shall develop appropriate legislative and other mechanisms designed to

release unutilized housing space for habitation.

3. The occupation of unutilized dwellings, provided the dwelling in question has remained empty for six consecutive months will be accepted in law.

#### Article 27: Special Duties

1. States parties shall enact legislation and policies geared towards satisfying in full the special housing needs of disadvantaged and chronically ill-housed groups. Towards this end, Governments will earmark a significant proportion of public spending to realize the special housing needs of these groups.

#### Article 28: Provision of Judicial Remedies

1. States parties shall, under the present Convention and generally, establish judicial remedies for persons who allege their housing rights to have been infringed;

2. Such remedies shall provide access to courts, tribunals, administrative bodies or any other mechanism which guarantees an impartial and objective review of the case or complaint in question.

#### Article 29: Training and Education

1. States parties shall provide comprehensive training and education to all public officials concerning the existence of, and governmental obligations arising from, the human right to adequate housing;

2. Special training shall be given to civil servants employed by ministries whose policies have an impact on the full realization of the right to adequate housing, in particular ministries of housing, environment, planning, social affairs and welfare;

3. Governments shall promote human rights education, including housing rights education within schools and universities, and through the media.

#### Article 30: International Obligations

1. States parties undertake to re-affirm their existing commitments under international human rights law, including the right to adequate housing. This applies, in particular to, obligations arising under the International Covenant on Economic, Social and Cultural Rights;

2. Governments undertake to support and promote additional and enhanced activities and mechanisms within the United Nations human rights bodies concerning the right to adequate housing;

3. Governments agree to inform one another and relevant United Nations bodies when any government is deemed to have carried out an act or omission in violation of the rights and obligations under the present Convention.

Article 31: International Co-operation

1. States parties shall regularly increase the proportion of international development assistance devoted to housing and human settlements in developing countries;
2. Governments agree not to carry out or support any policy, law, practice, project or programme which in any way, threatens or infringes the full realization of housing rights in any other country.

## Mission Statement



The **Centre on Housing Rights and Evictions** (COHRE) is an independent international non-governmental human rights organization committed to ensuring the full enjoyment of the human right to adequate housing for everyone, everywhere. COHRE pursues this objective through reliance upon the full spectrum of civil, cultural, economic, political and social rights.

Established in 1994, COHRE is the only international human rights NGO which consistently and comprehensively applies international human rights law to housing and living conditions throughout the world with a view to redressing violations of housing rights, promoting compliance with international standards and preventing future infringements of human rights.

COHRE is committed to local and national capacity-building in the area of economic, social and cultural rights and places particular emphasis on securing respect for the housing rights of traditionally disadvantaged groups, including women, children and ethnic or other minorities.

COHRE undertakes a wide variety of activities supporting housing rights and actively monitors and campaigns against forced evictions wherever they occur or are planned.

COHRE is committed to a professional and direct partnership with a continually expanding network of non-governmental, community-based and grassroots organizations in all regions throughout the world.

COHRE seeks practical solutions to the problems of homelessness, inadequate housing and living conditions and related violations of the right to housing by providing legal advice and assistance, preparing and widely distributing regular publications designed to provide popular awareness of relevant human rights law, providing in-depth training programmes on enforcing and implementing housing rights, advocacy and standard-setting work at the United Nations and other bodies concerned with human rights and by working directly with national and local organizations to increase awareness of international housing rights standards and how these can be constructively utilized at local and national levels.

Centre on Housing Rights and Evictions  
83 Rue de Montbrillant, 1202 Geneva, Switzerland  
Tel/Fax: +41 22 734 1028; <http://www.cohre.org/>