



Centre for Equality Rights in Accommodation
Centre pour les droits à l'égalité au logement

24 March 2010

Good Afternoon

I am Leilani Farha the Executive Director of CERA – the Centre for Equality Rights in Accommodation. CERA is a provincial organization that uses human rights law to address discrimination in all types of housing, whether private or public. We have been around for about 25 years and my comments today are based in the range of our experiences over the years.

My comments today should be taken in conjunction with those of Bruce Porter of the Social Rights Advocacy Centre who will be presenting immediately after me. My submissions will focus on key components to a housing strategy in keeping with international human rights law. Bruce Porter will follow with some suggestions as to how Committee members might amend Bill 140 to include the key recommendations from UN bodies.

The province's Long Term Affordable Housing Strategy is a significant and important addition to the housing landscape in this province. It is a direct response to years of advocacy by provincial and local organizations as well as individuals whose interests are at stake, and after years of concerns raised by various United Nations bodies. Bill 140, as the sole legislative aspect to the Long Term Strategy needs to incorporate 5 key components in order to comply with international human rights law. I am going to ask you to keep in mind, that this is the only piece of legislation in the province to deal with homelessness and affordable housing. In light of that, I think we as advocates, as Committee members, need to be asking ourselves: What does this piece of legislation need to say and do?

It is CERA's position that the Long Term Affordable Housing strategy and its enabling legislation – Bill 140 – needs to incorporate the following five elements to be in keeping with international human rights law. It must:

i/ Prioritize the needs of those groups most vulnerable to homelessness;

ii/ Include meaningful participation of civil society, stakeholders, indigenous representatives, groups vulnerable to homelessness, and local governments in the design, implementation and monitoring of the housing strategy;

iii/ Set targets and timelines to end homelessness;

340 College Street, Suite 101A, Box 23,
Toronto, Ontario M5T 3A9
Tel: 1.416.944.0087 / 1.800.263.1139 (outside Toronto)
Fax: 1.416.944.1803
Email: cera@equalityrights.org

iv/ Include transparent accountability mechanisms, including: independent monitoring and review of progress and implementation, and an individual complaints mechanism providing a venue for hearing complaints of violations of the right to adequate housing and means to ensure effective remedies.

v/ Be based in human rights law, particularly the international right to adequate housing.

Where do these 5 components come from? Over the last several years, the United Nations has laid these out succinctly and clearly in its various reviews of Canada. I have provided a document to the Committee which summarizes this for you. You will see that the UN Special Rapporteur on Adequate Housing, the Human Rights Council – the highest human rights body within the UN system – as well as Treaty Monitoring Bodies that are responsible for overseeing Canada’s compliance with its international human rights obligations, have all consistently directed Canada to adopt a housing strategy that includes these five components.

Every time Canada comes under review by international human rights bodies, its record on housing and homelessness has been the subject of concern. Invariably, UN review bodies express concern about inadequate housing and homelessness for the most vulnerable groups, the lack of housing strategies – federally and across the country, and accountability mechanisms.

1991 – CESCR General Comment No. 4 – Right to Adequate Housing. This is the leading legal interpretation of the right to adequate housing.

In order for a State to be in compliance with the right to adequate housing, under article 11.1 of the ICESCR, **will almost invariably require the adoption of a national housing strategy ...**

It’s not surprising then, that in 1998 and 2006 when Canada was up for review by the **Committee on Economic, Social and Cultural Rights**, it expressed concern about inadequate housing and homelessness amongst particular vulnerable groups – girls, single mothers, women leaving violent relationships, people with disabilities – and then recommended very clearly:

That the **federal, provincial and territorial governments address homelessness and inadequate housing as a national emergency** by reinstating or increasing, where necessary, social housing programmes for those in need, improving and properly enforcing anti-discrimination legislation in the field of housing, increasing shelter allowances and social assistance rates to realistic levels, and providing adequate support services for persons with disabilities. [And then] **The Committee [specifically] urges [Canada] the State party to implement a national strategy for the reduction of homelessness that**

- **includes measurable goals and timetables,**
- **consultation and collaboration with affected communities,**
- **complaints procedures, and**

- transparent accountability mechanisms, in keeping with international human rights law.

What I draw to your attention here, and this recommendation appears on page 3 of the summary provided to you, is: first, that the Committee is clear on jurisdictional issues and that housing strategies are not the sole domain of the Federal government, that a strategy should include the 5 components that I outlined earlier, AND that a multi-pronged approach to addressing the needs of the most vulnerable to homelessness is necessary – they do not recommend a singular focus on social housing, but also that shelter allowances may be required, and that income support programs may need to be better supported for example.

The recommendations in 1998 and 2006 of the CESCR were underscored when the UN Special Rapporteur on Adequate Housing came on a mission to Canada in October 2007. He spent a good deal of his mission in Ontario – Toronto, Ottawa and as a result of what he saw and heard in this province and elsewhere, his recommendations mirror those of the CESCR and are clear:

90. The Special Rapporteur calls for Canada to adopt a comprehensive and coordinated national housing policy based on indivisibility of human rights and the protection of the most vulnerable. This national strategy should include measurable goals and timetables, consultation and collaboration with affected communities, complaints procedures, and transparent accountability mechanisms.

Finally, and most recently, under the Universal Periodic Review Process – which is a peer review process – States examine other States in terms of their compliance with international human rights law. There, the Human Rights Council recommended that Canada “intensify the efforts already undertaken to better ensure the right to adequate housing, especially for vulnerable groups and low income families.” A commitment that Canada has said it will uphold.

Before I close, I want to express CERA’s real concern with the lack of recognition of the most marginalized and vulnerable groups in Bill 140, particularly in the sections of the Housing Services Act dealing with the homelessness plans. For example, as it stands, at section 4 on Provincial Policies and Local Plans, regarding the systems of housing and homelessness services – there is no reference to vulnerable groups. And in section 6 which outlines what the Plans must include there are no explicit references to ensuring the needs of the most vulnerable groups are considered in the development and implementation of the plan.

I don’t think it takes CERA’s experience to know that homelessness and inadequate housing is directly linked to prevalent systemic patterns of social and economic disadvantage and that several groups are disproportionately affected amongst the homeless population. For example:

Persons with Disabilities. Mental disabilities, both intellectual and psycho-social, are correlated with extreme vulnerability to homelessness when programs are not put in place to meet the needs of this

group for housing and support services. The Mental Health Commission of Canada reports that between “a quarter and a half of the absolutely homeless suffer from mental illness.”¹

Aboriginal people. Aboriginal people are disturbingly over represented among Canada’s homeless population. In Toronto, Aboriginal people comprise 0.5% of the population but 15% of Toronto’s homeless population and 26% of homeless people sleeping on the street.²

Families with Children – particularly single mothers. A significant and growing segment of Canada’s homeless population is families with children. Within this group are many immigrant and refugee families.

Elderly People. Recent increases in the number of homeless single adults aged 50 to 64, and the trend suggest an emerging housing crisis for elderly people unless action is taken. Elderly people are also particularly vulnerable to the effects of homelessness.

Youth – especially homeless youth. In a recent study of policies for Canadian homeless youth, it was found that provincial programs addressing homelessness fail to adequately address the needs of youth. Many programs cover children and adolescents as long as they remain attached to their families, “[b]ut once young people step outside the structures designed to keep them inside their homes, there are few courses available to them.”³

I also don’t think it takes CERA’s expertise to know that without the meaningful inclusion of these groups and their representatives in the development and implementation of homelessness plans – their needs and interests are unlikely to be included and the plans are unlikely to be effective in addressing the housing needs of these groups.

CERA RECOMMENDATION: CERA submits that Bill 140 – the enabling legislation for the Long Term Affordable Housing Strategy – be amended to include the 5 components required for the long term affordable housing strategy in keeping with the province’s international human rights law obligations. This recommendation is in keeping with the submissions made by the Wellesley Institute and in the forthcoming submissions by Bruce Porter of the Social Rights Advocacy Centre.

In closing, international human rights law is often perceived of as lofty, and not practical and having nothing to do with provincial legislation and policy. We beg to differ. In its recent policy statement

¹ Michael Kirby, *The Homeless and Mental Illness: Solving the Challenge*, Mental Health Commission of Canada, April 2008, p.4.

² Street Health, *The Street Health Report 2007*. September 2007.

³ Shirley B.Y. Chau and Mike Gawliuk. *Social Housing Policy for Homeless Canadian Youth*. In: Hulchanski, J. David; Campsie, Philippa; Chau, Shirley; Hwang, Stephen; Paradis, Emily (eds.) *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book), Chapter 3.3. Toronto: Cities Centre, University of Toronto, p.17. www.homelesshub.ca/FindingHome

on housing, the Ontario Human Rights Commission took a practical approach, using international human rights principles to interpret its own statute with a view to making sure that international human rights, like the right to adequate housing, are in their words, “lived rights for all Ontarians”. This Committee can do the same thing, by amending Bill 140 in keeping with international human rights principles.

Thank you.

Provincial interest

4. (1) For the purposes of sections 5 and 6, it is a matter of provincial interest that there be a system of housing and homelessness services that,

- (a) is focussed on achieving positive outcomes for individuals and families;
- (b) addresses the need to first house individuals and families in order to address other challenges they face;
- (c) has a role for non-profit corporations and co-operatives;
- (d) has a role for the private market in meeting housing needs;
- (e) provides for partnerships between different levels of government and others in the community;
- (f) treats individuals and families with respect and dignity;
- (g) is co-ordinated with other community services;
- (h) is relevant to local circumstances;
- (i) allows for a range of housing options to meet a broad range of needs; and
- (j) ensures appropriate accountability for public funding.

Same

(2) It is also a matter of provincial interest, for the purposes of sections 5 and 6, that a service manager's housing and homelessness plan be consistent with other plans prescribed for the purposes of this subsection.

6. (1) Each service manager shall have a plan to address housing and homelessness.

What plan must include

- (2) The plan must include,
 - (a) an assessment of current and future housing needs within the service manager's service area;
 - (b) objectives and targets relating to housing needs;

- (c) a description of the measures proposed to meet the objectives and targets;
- (d) a description of how progress towards meeting the objectives and targets will be measured; and
- (e) such other matters as may be prescribed.

Requirements relating to provincial interest, policy statements

- (3) The plan must,
 - (a) address the matters of provincial interest under section 4, including each aspect described in a clause of subsection 4 (1); and
 - (b) be consistent with the policy statements issued under section 5.

Prescribed requirements

- (4) The plan must comply with the prescribed requirements.

Consultation with the public, etc.

7. (1) In the course of preparing its housing and homelessness plan, a service manager shall consult with the public and the prescribed persons.

Conduct of consultation

(2) Consultations under subsection (1) shall be conducted in accordance with any prescribed requirements.

Consultation with Minister

8. (1) Before approving its housing and homelessness plan, a service manager shall consult with the Minister by providing the Minister with a copy of the proposed plan.