



## **BRIEF ON BILL C-304**

**Presented to the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities**

**10 November 2009**

### **1. Introduction**

This brief sets out Amnesty International Canada's ("Amnesty") position on Bill C-304, An Act to ensure secure, adequate, accessible and affordable housing for Canadians. The principal change to housing policy brought about by Bill C-304 would be the obligation of the Minister responsible for the Canada Mortgage and Housing Corporation to establish a national housing strategy.

Amnesty supports the passage of Bill C-304 as the establishment of a national housing strategy would enable Canada to comply with one of its key obligations with respect to the right to housing under international law and would have the potential to better ensure the right to housing for all Canadians, including populations that are particularly vulnerable to homelessness and inadequate housing and their negative repercussions.

This brief proceeds as follows. Section 2 sets out the scope and content of the right to housing in international law and its bearing on Bill C-304. Section 3 briefly discusses the importance of Canada establishing a national housing strategy in light of Amnesty's work on the right to housing in Canada and abroad. Section 4 concludes with one suggested amendment to the text of Bill C-304 as it now stands.

### **2. Bill C-304 and the Right to Housing under International Law**

Amnesty supports Bill C-304 because its passage would enable Canada to comply with one of its key obligations with respect to the right to housing under international law, namely the obligation to establish a national housing strategy.

The right to housing is recognised in a number of international instruments, to which Canada is a signatory or a party, most notably the *Universal Declaration of Human Rights*,<sup>1</sup> the *International Covenant on Economic, Social, and Cultural Rights*,<sup>2</sup> the

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<sup>1</sup> Adopted 10 December 1948, GA Res. 217A (III), 3 U.N. GAOR, U.N. Doc A/810 at 71 (1948). Article 25(1) provides that: "Everyone has the right to a standard of living adequate for the health and well-being

*International Convention on the Elimination of all forms of Racial Discrimination*,<sup>3</sup> the *Convention on the Rights of the Child*,<sup>4</sup> and the *Habitat Agenda*.<sup>5</sup>

According to the U.N. Committee on Economic, Social and Cultural Rights, one of the steps to be taken immediately towards the full realization of the right to housing, regardless of the status of available resources in a given country, is the adoption of a national housing strategy, developed in consultation with those particularly affected, including the homeless, the inadequately housed and their representatives.<sup>6</sup>

The adoption of a national housing strategy by Canada has accordingly been identified by a number of U.N. bodies as an important measure to enable Canada to be in full compliance with its obligations under international human rights law.

In 2006, the U.N. Committee on Economic, Social and Cultural Rights urged the Government of Canada to “implement a national strategy for the reduction of homelessness that includes measurable goals and timetables, consultation and

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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.”

<sup>2</sup> adopted 16 December 1966, GA Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force 3 January 1976. Article 11(1) provides that: “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.”

<sup>3</sup> adopted 21 December 1965, GA Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force 4 January 1969. Article 5(e)(iii) provides that: “In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to 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 [...] economic, social and cultural rights, in particular [...] the right to housing.”

<sup>4</sup> adopted 20 November 1989, UNGA Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force 2 September 1990. 27(3) provides that: “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 the case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

<sup>5</sup> adopted June 14, 1996, United Nations Conference on Human Settlements (Habitat II), U.N. Doc. A/Conf. 165/14. Article 39 provides that: “We reaffirm our commitment to the full and progressive realization of the right to adequate housing, as provided for in international instruments. [...] We commit ourselves to the goal of improving living and working conditions on an equitable and sustainable basis, so that everyone will have adequate shelter that is healthy, safe, secure, accessible and affordable and that includes basic services, facilities and amenities, and will enjoy freedom from discrimination in housing and legal security of tenure. We shall implement and promote this objective in a manner fully consistent with human rights standards.”

<sup>6</sup> U.N. Committee on Economic, Social and Cultural Rights, General Comment no 4, 13 December 1991, U.N. Doc. E/1992/23, at para. 12. Other such steps include, for instance, effectively monitoring the situation with respect to housing, most notably the full extent of homelessness (*ibid.*, at para. 8).

collaboration with affected communities, complaints procedures, and transparent accountability mechanisms, in keeping with Covenant standards.”<sup>7</sup>

In 2008, the U.N. Committee on the Elimination of Discrimination Against Women asked the Government of Canada to take action to address their concerns regarding the absence of a national housing strategy.<sup>8</sup>

In 2009, the U.N. Special Rapporteur on Adequate Housing expressed concern about the lack of a national housing strategy in Canada, noting that “Canada is one of the few countries in the world without a national housing strategy.”<sup>9</sup> The U.N. Special Rapporteur thus called for the Government of Canada “to adopt a comprehensive and coordinated national housing policy based on indivisibility of human rights and the protection of the most vulnerable” and recommended that this national strategy include “measurable goals and timetables, consultation and collaboration with affected communities, complaints procedures, and transparent accountability mechanisms.”<sup>10</sup> The U.N. Special Rapporteur also recommended that the Government of Canada “adopt a coordinated national strategy for reduction of homelessness”<sup>11</sup> and that it work with the provinces to develop “a comprehensive and coordinated housing strategy based on a human rights approach, in collaboration with Aboriginal governments and communities, to address effectively their responsibility to ensure adequate housing for on and off reserve Aboriginals.”<sup>12</sup>

Bill C-308 would thus enable Canada to implement the recommendations made by these U.N. human rights bodies, thereby ensuring that Canada is in fuller compliance with its obligation to fulfil the right to housing.

### **3. Bill C-304 and Amnesty’s Work on the Right to Housing**

The right to housing has become an increasingly important area of Amnesty’s work on economic, social and cultural rights. Amnesty has urged all states to comply with their obligations under international law to respect, protect and fulfil the right to housing under international law.

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<sup>7</sup> UN Committee on Economic, Social and Cultural Rights, Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada, 22 May 2006, U.N. Doc. E/C.12/CAN/CO/5, at para. 62.

<sup>8</sup> U.N. Committee on the Elimination of Discrimination Against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women: Canada 7 November 2008, U.N. Doc. CEDAW/C/CAN/CO/7, at para. 39.

<sup>9</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari: Addendum: Mission to Canada (9 to 22 October 2007), A/HRC/10/7/Add.3, 17 February 2009, at para. 18.

<sup>10</sup> *Ibid.*, at para. 90.

<sup>11</sup> *Ibid.*, at para.101.

<sup>12</sup> *Ibid.*, at para.105.

Amnesty emphasizes that the right to housing is a fundamental prerequisite for the exercise and enjoyment of many other human rights. As the U.N. Committee on Economic, Social and Cultural Rights has stated, 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,” but “should be seen as the right to live somewhere in security, peace and dignity.”<sup>13</sup> Violations of the right to housing are all the more serious given that they often disproportionately affect disadvantaged groups, such as those living in precarious socio-economic circumstances, women, Indigenous people, and people with disabilities.

Abroad, Amnesty has most notably campaigned against mass forced evictions in Angola, Cambodia, Kenya, Nigeria, Zimbabwe and elsewhere,<sup>14</sup> called for the recognition of indigenous people’s land rights in Brazil,<sup>15</sup> raised awareness of the inadequate housing available to adult orphans in Albania,<sup>16</sup> campaigned against the significant escalation of the Israeli policy of demolishing the homes of Palestinians in the Occupied Territories,<sup>17</sup> and protested against the arrest of housing rights activists in Cambodia.<sup>18</sup>

In Canada, Amnesty’s work on the right to housing has focused on the widespread problems of homelessness and inadequate shelter facing Indigenous families throughout Canada, both on and off reserve. Indigenous people are disproportionately at risk of being homeless. For example, while Indigenous people make up only 2 per cent of Vancouver’s population, they make up 30 per cent of all homeless people. Indigenous families are also four times more likely than non-Indigenous people to live in homes needing major repairs and five times more likely to live in overcrowded homes. Among Inuit, the problem is even greater, with more than 30 per cent of Inuit living in overcrowded homes.<sup>19</sup> Inadequate and overcrowded housing is associated with the spread of communicable disease as well as family tension and violence against women and children. Finally, homelessness, coupled with the lack of emergency shelters or transitional homes for women, has contributed to the social and economic

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<sup>13</sup> U.N. Committee on Economic, Social and Cultural Rights, General Comment no 4, 13 December 1991, U.N. Doc. E/1992/23, at para. 7.

<sup>14</sup> Angola, “Mass forced evictions in Luanda – a call for a human rights-based housing policy,” AI Index AFR 12/007/2003; Cambodia, “Rights razed: Forced evictions in Cambodia,” AI Index ASA 23/002/2008; Kenya, “Nowhere to go: Forced evictions in Mau Forest,” AI Index AFR 32/006/2007; Nigeria, “Making the destitute homeless - forced evictions in Makoko, Lagos State,” AI Index AFR 44/001/2006; Nigeria, “Making the destitute homeless - forced evictions in Makoko, Lagos State,” AI Index AFR 44/001/2006; Zimbabwe, “No justice for the victims of forced eviction,” AI Index AFR 46/005/2006.

<sup>15</sup> Brazil, “‘Foreigners in our own country’: Indigenous Peoples in Brazil,” AI Index AMR 19/002/2005.

<sup>16</sup> Albania, “Albania: ‘No place to call home’ – adult orphans and the right to housing,” AI Index EUR 11/005/2007.

<sup>17</sup> Israel and the Occupied Palestinian Territories, “Under the Rubble – House demolition and destruction of land and property,” AI Index MDE 15/040/2004.

<sup>18</sup> Cambodia, “Facing the threat of eviction,” AI Index ASA 23/005/2008; Cambodia, “Making the poor homeless,” AI Index ASA 23/004/2008; Cambodia, “A risky business - defending the right to housing,” AI Index ASA 23/014/2008.

<sup>19</sup> Statistics Canada. Inuit, Métis and First Nations, 2006 Census Findings, available at <http://www12.statcan.ca/census-recensement/2006/as-sa/97-558/index-eng.cfm>, visited 8 September 2009.

marginalisation of Indigenous women as well as a heightened and unacceptable risk of violence against them in Canadian cities.<sup>20</sup>

Like the U.N. Committee on Economic, Social and Cultural Rights and other human rights bodies, Amnesty strongly believes that the adoption of a national housing strategy can play an important role in enabling states, including developed states like Canada, to respect, protect and fulfil the right to housing under international law. In particular, Amnesty believes that a national housing strategy would be an important starting point for Canada to better ensure the right to housing for all Canadians, particularly those groups that are affected by homelessness and other housing rights violations.

#### **4. Recommendations**

Numerous U.N. human rights bodies have repeatedly raised concerns about Canada's failure to address homelessness and its need to better ensure the right to housing as part of its obligations international human rights law.<sup>21</sup> Amnesty believes that the passage of Bill C-304 would enable Canada to respond to some of these concerns and would put it on the path towards ensuring the right to housing for all Canadians. For these reasons, Amnesty supports Bill C-304 and recommends that the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities vote for its passage.

In addition, Amnesty recommends the following amendment to one aspect of Bill C-304. In its preamble, Bill C-304 defines "adequate housing" as "housing that is habitable and structurally sound, and that provides sufficient space and protection against cold, damp, heat, rain, wind, noise, pollution and other threats to health." Amnesty recommends that the notion of adequate housing should also encompass the need for housing to be culturally appropriate.

In defining the notion of the adequacy of housing, the U.N. Committee on Economic, Social and Cultural Rights specifically concluded that housing had to be culturally appropriate: "The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity

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<sup>20</sup> See Canada, "No More Stolen Sisters – The Need for a Comprehensive Response to Discrimination and Violence against Indigenous Women in Canada," AI Index AMR 20/012/2009; Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari: Addendum: Mission to Canada (9 to 22 October 2007), A/HRC/10/7/Add.3, 17 February 2009.

<sup>21</sup> See, e.g., UN Committee on Economic, Social and Cultural Rights, Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada, 22 May 2006, U.N. Doc. E/C.12/CAN/CO/5; Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari: Addendum: Mission to Canada (9 to 22 October 2007), A/HRC/10/7/Add.3, 17 February 2009; Universal Periodic Review, Report of the Working Group on the Universal Periodic Review, 3 March 2009, U.N. Doc. A/HRC/11/17 (particularly recommendations no 47 and 48).

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, inter alia, modern technological facilities, as appropriate are also ensured.”<sup>22</sup>

Accordingly, Amnesty recommends that Bill C-304 define “adequate housing” in the following manner: “housing that is habitable and structurally sound, that provides sufficient space and protection against cold, damp, heat, rain, wind, noise, pollution and other threats to health and that is **culturally appropriate**.” This would ensure that the notion of adequacy of housing in Bill C-304 is in line with the way it is understood in international human rights law.

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<sup>22</sup> *Ibid.*, at para. 8.