

Joint Submission of the Simon Community Northern
Ireland and the Simon Communities of Ireland
in response to
The pre- Consultation Paper on a Charter of Rights
For the Island of Ireland



1. Housing As A Fundamental Right

The establishment of a Charter of Rights offers the opportunity for the governments on this island to endorse agreed measures for the protection of the fundamental human rights.

This joint submission by the of the Simon Communities of Ireland and the Simon Community of Northern Ireland intends to reinforce to the respective Human Rights Commissions the inalienable right that people within the two jurisdictions have to adequate Housing. This joint submission intends to reflect that the right to housing has no national, political social or cultural boundary.

The UN has identified the Right to Housing as

One of the fundamental elements for human dignity, physical and mental health and overall quality of life, which enable one's development...(and which has received a wide recognition as a fundamental human right in a number of international instruments and declarations, regional instruments and national laws¹.

This joint submission intends to communicate to the commissions that certain fundamental rights require constitutional or legislative frameworks in order for them to be enforced and progressed beyond aspiration. We consider housing to be one of these rights. The experience of homelessness undermines human dignity, excludes individuals from active participation in society and is major factor in the deterioration of physical, emotional and psychological health. We consider that the establishment of the Charter of Rights presents a unique opportunity for the two jurisdictions to create constitutional and legislative protection from the deleterious experience of homelessness and establish an inalienable right to housing.

¹ [United Nations High Commissioner for Human Rights, Fact-sheet - Right to Adequate Housing pg. 1 http://www.unhcr.ch/housing/](http://www.unhcr.ch/housing/)

2. Prevalence Of Homelessness

2.1 Republic of Ireland

There are currently at least² 4,176 adults and 1,405 children experiencing homelessness as per the statutory definition. Since the first assessment of homelessness in accordance with the 1988 Housing Act, the official homelessness figures have increased by 374%.

In addition, there are 48,000 households on the Local Authority Housing waiting lists, of whom 85% have an income of less than €15,000 per annum³, and thus clearly are never likely to be in a position to access housing on the open market. Of those 48,000 households 62% have been on the waiting list for more than one year.

2.2 Northern Ireland

In Northern Ireland in 2002/2003 16,426⁴ households presented as homeless to the Northern Ireland Housing Executive. This is an increase of 16 % on the previous year. 52.2% of these households were regarded as meeting the statutory definition of homelessness under the Housing (N.I.) Order 1988. Homelessness has increased in Northern Ireland for the last 10 years.

2.3 How do people become homeless?

Homelessness is usually caused by the experience of some form of personal crisis – such as a relationship breakdown or bereavement, physical or sexual violence in the home combined with the experience of poverty. Young people leaving care, people leaving prison and other institutional settings, in particular mental health institutions are also particularly vulnerable to becoming homeless. The age and gender profile of people who are becoming homeless has substantially altered in recent years, with more women and young people seeking services. The numbers of two parent families experiencing homelessness has also grown indicating that the direct structural effect of the price of accommodation on homelessness is increasing.

People experiencing homelessness make up a growing vulnerable population that has an unacceptably high risk for preventable disease, progressive morbidity and premature death.

² Data on homelessness in Ireland is extremely weak, with the official data providing a substantial underestimation of the extent of the problem.

³ Department of Environment and Local Government, Housing Bulletin, November 2002

⁴ [Northern Ireland Housing Executive.](#)

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Homeless people experience much higher levels of Hepatitis-C, HIV, TB, poor nutrition, drug and alcohol addiction and mental health difficulties than the general population.

According to research from Crisis in the UK⁵, the average age of death of a homeless person sleeping rough is 42 years. This is corroborated by evidence by outreach workers throughout Northern Ireland and the Republic of Ireland.

3. Profile Of Organisations

3.1 The Simon Communities of Ireland

The Simon Communities of Ireland is the federation of Simon Communities in the Republic of Ireland. We have been working as a caring and campaigning movement alongside people who are homeless in Ireland since 1969. There are four Simon Communities in the Republic: Cork, Dublin, Dundalk and Galway. Each Simon Community is independent and autonomous. Services provided include supported housing projects, outreach, emergency shelters, work/training projects and resettlement assistance. Simon works with over 3,000 people per annum.

3.2 Simon Community Northern Ireland

The Simon Community Northern Ireland was established in 1971 and provides a range of services to single homeless people and families. It has a presence in 21 sites throughout Northern Ireland with 300 bed spaces. The services include direct access and move on hostel accommodation, Foyer accommodation, various tenancy sustainment schemes and in house training programmes. 3633 people presented themselves as homeless to Simon Community N.I. and 895 people were accommodated.

4. Defining The Right To Housing

Our organisations warmly welcomed the inclusion in the draft Bill of Rights for Northern Ireland of the right to housing. In particular, we welcomed the specific reference to homelessness, i.e. 'to prevent and reduce homelessness with a view to its gradual elimination'.

We welcome paragraph 39 of the pre-consultation document, which specifically enumerates the right to housing. However, we strongly believe that it is critical to mention people who are homeless as a specific target group within that right. We would recommend that the Charter replicates Article 31 of the Revised European Social Charter / the right to housing

⁵ Crisis Annual Report 1999-2000

enumerated in the draft bill of rights for Northern Ireland. We discuss later the definition of adequate housing as outlined in General Comment No 4 from the UN Committee on Economic, Social and Cultural Rights and propose this as the model both for the definition itself and any programmatic implementation which may be proposed.

5. Proposed Model For A Charter Of Rights

5.1 Model C

The United Kingdom has ratified numerous international conventions and declarations which

aim to protect fundamental rights including the European Convention on Human Rights, and the International Covenant on Economic Social and Cultural Rights. Many of these conventions expressly define and refer to the right to housing. However these have not been translated into a legislative imperative to define what constitutes the right to housing or oblige the implementation of programmatic strategies in Northern Ireland. Recent homelessness figures demonstrate the abject failure of such declarations to oblige governments to achieve meaningful solutions for people who are homeless. Existing legislation such as the Human Rights Act of the Housing Order are clearly deficient in reaching the goal of underpinning a right to adequate housing or providing a legislative imperative to identify homeless people as a priority group for government intervention.

Similarly the Republic of Ireland has ratified five international covenants⁶ which specifically enumerate the right to housing, most important of these being the ratification in 1989 of the International Covenant on Social, Economic and Cultural Rights. The UN in its reporting on the Republic of Ireland's compliance with the Covenant⁷ has noted: the lack of a rights based approach to housing and poverty strategies; specific on-going housing discrimination

⁶ [In addition to the ICESCR, the International Convention on the Elimination of All Forms of Racial Discrimination, CEDAW, Convention on the Rights of the Child, 1951 Convention relating to the Status of Refugees.](#)

⁷ [Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ireland. 17/05/2002 E/C. 12/1/Add.77](#)

against certain groups; and have called on the Irish Government to incorporate social and economic rights into the Constitution. This international commentary coupled with the very real experience of those denied access to housing on a daily basis in the Republic of Ireland demonstrates how current legislative measures which fail to put a statutory obligation on housing authorities to house those considered homeless fall far below our stated international commitments.

Thus it is the firm conviction of both organisations that Model C, which allows for justiciable housing rights, should be pursued. For those on the very margins of our society, experience has taught us that in the absence of legal protection their basic rights will be at best ignored and at worst actively denied...

Our organisations acknowledge the stated preference of the two commissions for Model B. We further recognise that the goal of legislation complimentary to achieve "a common foundation of fundamental rights" in both jurisdictions may not be presently achievable in the current political or constitutional environment. Thus we suggest below best practice whereby Model B could be strengthened and made a practical force for positive change.

5.2 Strengthening Model B

The three key elements we suggest are:

- Progressive realisation
- Meaningful Policing of the Charter
- Ultimate legal recourse.

Progressive Implementation

Model B proposes a charter with a complimentary programme for the implementation of the rights outlined therein. Good practice on the parameters for programmatic implementation exist both in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and specifically in relation to the right to housing, in General Comment no 4 from the Committee on the Covenant.

In outlining Model B the pre consultation paper references the ICESCR highlighting that it 'says what rights are to be recognised in states... but does not provide specific standards which have to be met immediately in all states'.

However, it is worth noting that Article 2.1 of the Covenant⁸ sets out what Governments must do and what they should refrain from doing in the process leading to the society wide enjoyment of rights enshrined in the Covenant. This model of progressive realisation could usefully be applied in order to strengthen the impact of Model B.

Three key phrases in Article 2.1 could usefully be examined in order to provide a solid framework for the realisation of the rights in the proposed Charter.

These are: a) "undertakes to take steps . . . by all appropriate means"; (b) "to the maximum of its available resources"; and (c) "to achieve progressively".

The first of these implies immediacy – states must take action directly upon ratification not only to establish what the current situation is but how it should be addressed. The Committee has noted that 'all appropriate means' refers not only to legislative procedures but also to judicial, administrative, economic social and educational steps must also be taken. Particularly in relation to the right to housing this includes developing a national housing strategy, identifying and allocating resources and engaging in meaningful consultation on this process with all social sectors, including those experiencing homelessness and their representatives and organisations.

The second important phrase, 'to the maximum of its available resources' means that even in times of severe economic contraction the rights of vulnerable members of society must be protected. The States obligation is to demonstrate that in aggregate the measures being taken are sufficient to realize the right to adequate housing for every individual in the shortest possible time using the maximum available resources.

The obligation to 'achieve progressively' highlights States duties to move as quickly and effectively as possible towards the full realisation of the rights within the Treaty. Ensuring that these rights are made real cannot be indefinitely postponed, and any deliberately

⁸ Each State Party to the present Covenant undertakes to take step, individually and through international assistance and co-operation , especially economic and technical to the maximum of it available resources, with a view to achieving progressively the full realisation of the right recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

retrogressive measures could constitute a breach of the Covenant. The obligation of progressive realisation exists independently of any increase in resources.

Specifically in relation to the right to housing, it is also worth noting General Comment no 4 on the Covenant (which is appended for reference) the purpose of which is to outline the parameters of the right to housing. Among the key points addressed in General Comment no 4 which could inform the parameters of programmatic implementation are:

The definition of adequacy, (which extends to adequate shelter) and includes detailed guidelines on: Legal security of tenure; Availability of services, material, facilities and infrastructure; Affordability; Habitability; Accessibility; Location; Cultural adequacy.

Specific commentary on: due priority given to those social groups living in unfavourable conditions; the adoption of a national housing strategy; the obligation to demonstrate that, in aggregate, the measure being taken are sufficient to realize the right for every individual in the shortest possible time in accordance with the maximum of available resources; the role of formal legislative and administrative measures.

The justiciability of housing rights, in particular: Legal procedures seeking compensation following an illegal eviction; allegations of any form of discrimination in the allocation and availability of access to housing; Class action suits in situations involving significantly increased levels of homelessness.

Adequate policing of programmatic implementation

It has already been outlined comprehensively how various aspirational declarations have been found to be meaningless in actual legislative and programmatic implementation. It is essential that an adequate model of policing the programmatic implementation of the Charter be set up. It is proposed that this policing is achieved by the setting up of a two tiered system comprising of a local ombudsman/chief commissioner who would be legal conduit for monitoring the implementation of the Charter and investigating any potential breaches. The ombudsman would be accountable to an international monitoring body that could assess whether any alleged breaches have occurred or failures to follow the principles of progressive implementation as outlined earlier in the submission.

Ultimate legal recourse

The pre- Consultation document notes (page 10) in relation to Model B that ‘ *A programmatic charter of this kind could have a more persuasive effect on court and governmental decisions than that called for by Model A and just as much of a persuasive effects as that associated with Model C.*’ While we welcome this acknowledgement that the charter may be considered valid jurisprudence, we believe that the right to legal redress should be more specific than this. We would draw the two Commissions attention to the report of the Disability Legislation Consultation Group (Republic of Ireland), which outlines the preferred elements for the proposed Disability legislation. This model, which in the first instance enshrines access to an independent assessment of needs, also includes ultimately access to the courts in the instance of the denial of an individuals rights. We firmly believe that a similar approach should be taken, and made blatant if Model B is to be pursued.

ENDS

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Appendix 1

*The right to adequate housing (Art. 11 (1)) : . 13/12/91.
CESCR General comment 4. (General Comments)*

Convention Abbreviation: CESCR
GENERAL COMMENT 4

The right to adequate housing

(Art. 11 (1) of the Covenant)

(Sixth session, 1991)*

1. Pursuant to article 11 (1) of the Covenant, States parties "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 human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights.

2. The Committee has been able to accumulate a large amount of information pertaining to this right. Since 1979, the Committee and its predecessors have examined 75 reports dealing with the right to adequate housing. The Committee has also devoted a day of general discussion to the issue at each of its third (see E/1989/22, para. 312) and fourth sessions (E/1990/23, paras. 281-285). In addition, the Committee has taken careful note of information generated by the International Year of Shelter for the Homeless (1987) including the Global Strategy for Shelter to the Year 2000 adopted by

the General Assembly in its resolution 42/191 of 11 December 1987 [1/](#) . The Committee has also reviewed relevant reports and other documentation of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities [2/](#) .

3. Although a wide variety of international instruments address the different dimensions of the right to adequate housing [3/](#) article 11 (1) of the Covenant is the most comprehensive and perhaps the most important of the relevant provisions.

4. Despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate housing, there remains a disturbingly large gap between the standards set in article 11 (1) of the Covenant and the situation prevailing in many parts of the world. While the problems are often particularly acute in some developing countries which confront major resource and other constraints, the Committee observes that significant problems of homelessness and inadequate housing also exist in some of the most economically developed societies. The United Nations estimates that there are over 100 million persons homeless worldwide and over 1 billion inadequately housed [4/](#) . There is no indication that this number is decreasing. It seems clear that no State party is free of significant problems of one kind or another in relation to the right to housing.

5. In some instances, the reports of States parties examined by the Committee have acknowledged and described difficulties in ensuring the right to adequate housing. For the most part, however, the information provided has been insufficient to enable the Committee to obtain an adequate picture of the situation prevailing in the State concerned. This General Comment thus aims to identify some of the principal issues which the Committee considers to be important in relation to this right.

6. The right to adequate housing applies to everyone. While the 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 limitations 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. This "the 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 the right to housing 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 just to housing 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, cooperative 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, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;

(c) Affordability. 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 by appropriate means against unreasonable rent levels or rent increases. 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) Habitability. 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 5/ prepared by WHO which view housing as the environmental factor most frequently associated with conditions for disease 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 centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place 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) Cultural adequacy. 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, inter alia, modern technological facilities, as appropriate are also ensured.

9. As noted above, the right to adequate housing cannot be viewed in isolation from other human rights contained in the two International Covenants and other applicable 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 of 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 to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to adequate housing.

10. Regardless of the state of development of any country, there are certain steps which must be taken immediately. As recognized in the Global Strategy for Shelter and in other international analyses, many of the measures required to promote the right to housing would only require the abstention by the Government from certain practices and a commitment to facilitating "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 cooperation in accordance with articles 11 (1), 22 and 23 of the Covenant, and that the Committee be 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 of 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 2 (1990) (E/1990/23, annex III), despite externally caused problems, the obligations under 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 under the Covenant.

12. While the most appropriate means of 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 paragraph 32 of the Global Strategy for Shelter, "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". 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. Furthermore, steps should be taken to ensure coordination between ministries and regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under 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 demonstrate, inter alia, that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee (E/C.12/1991/1) 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 under 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 Strategy for Shelter (paras. 66-67) has drawn attention to the types 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 particularly 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 helpful 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 eviction 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 cooperation based on free consent". Traditionally, less than 5 per cent 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 proportion of financing is devoted to creating conditions leading to a 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 cooperation, 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.

Notes

- * Contained in document E/1992/23.
- 1/ Official Records of the General Assembly, Forty-third Session, Supplement No. 8, addendum (A/43/8/Add.1).
- 2/ Commission on Human Rights resolutions 1986/36 and 1987/22; reports by Mr. Danilo Türk, Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/1990/19, paras. 108-120; E/CN.4/Sub.2/1991/17, paras. 137-139); see also Sub-Commission resolution 1991/26.
- 3/ See, for example, article 25 (1) of the Universal Declaration on Human Rights, article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 (2) of the Convention on the Elimination of All Forms of Discrimination against Women, article 27 (3) of the Convention on the Rights of the Child, article 10 of the Declaration on Social Progress and Development, section III (8) of the Vancouver Declaration on Human Settlements, 1976 (Report of Habitat: United Nations Conference on Human Settlements (United Nations publication, Sales No. E.76.IV.7 and corrigendum), chap. I), article 8 (1) of the Declaration on the Right to Development and the ILO Recommendation Concerning Workers' Housing, 1961 (No. 115).
- 4/ See footnote 1/.
- 5/ Geneva, World Health Organization, 1990.

No document names homeless people per se as vulnerable

...In addition to the above Covenants and Conventions a substantial number of international declarations and recommendations refer to the right to housing. The right was first articulated in the international area in Article 25.1 of the Universal Declaration of Human Rights. It is noteworthy that while the identified Covenants and Conventions have identified specific minority or vulnerable groups whose housing rights are likely to be at risk, those who are homeless are not specifically identified, despite the obvious and current denial of their right to adequate housing. This absence is not rectified in any of the resolutions on the right to housing including those by the UN General Assembly, ECOSOC, the Commission on Human Rights, the ILO⁹ and the Commission on Human Settlements. In the sixteen declarations identified in the UN Fact Sheet on Housing Rights, none refer to the rights or indeed violation of rights of people who are currently homeless. Indeed the only reference to homelessness is in the collation of accurate data on the extent of homelessness and the impact of forced evictions in increasing the level of homelessness. It seems there has been little or no engagement in the debate on the causes of homelessness - other than forced evictions or a financially inaccessible open housing market - or the contribution that the denial of other basic rights such as education, income, employment, and access to services (particularly health) make to the risks of homelessness. The ICESCR possibly provides the best outline and guidelines on the interdependence of various rights. However, even the comprehensive guidelines fall short of recognizing and monitoring the contributory factors to homelessness.

⁹ Altogether there are 37 ILO conventions and recommendations which mention housing in one respect or another.