

SPEAKING UP FOR THE RIGHT TO HOUSING IN CANADA

**The Right to Housing Coalition's Participation in the United Nation's
Committee on Economic, Social and Cultural Rights (CESCR) Sixth
Periodic Review of Canada – February 24 & 25, 2016**



**A REPORT FROM THE ADVOCACY CENTRE FOR
TENANTS ONTARIO**

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SUMMARY

Canada made a promise to the member countries of the United Nations to recognize that everyone has the right to housing as part of the right to an adequate standard of living. But how do the people of Canada who are homeless and poorly housed enforce this promise? The Advocacy Centre for Tenant Ontario (ACTO) has worked with people who have experienced homelessness or precarious housing to put this promise into law in Parliament and in the Courts. However, neither of these institutions has taken responsibility for enforcing the right to housing.

Members of the United Nations expect that countries that make these promises will keep them. They have a Committee that asks for reports and invites people from the country under review for their opinions on how well these promises are being kept. In February 2016, ACTO had the opportunity to go to the Swiss city of Geneva on behalf of the Right to Housing Coalition to give our opinions to the Committee about how Canada was failing to meet these promises. Here is the story of our work there and the impact it may have on Canada's housing policies.

“Rights matter. All people matter. It is time that our country Canada lived up to the right to housing and security of the person.”

Mike Creek, Right to Housing Coalition

INTRODUCTION

Almost 50 years ago, the General Assembly of the United Nations adopted the International Covenant on Economic, Social and Cultural Rights. This is one of the international treaties by which the countries of the world agreed to implement the Universal Declaration of Human Rights. Canada signed and ratified the International Covenant along with many nations all over the world and it came into force in January 1976.

Of fundamental importance to our work is paragraph 1 of 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.

This article provides the basis in international law for people in Canada to seek recognition of a right to housing.

In 2009, ACTO initiated the formation of the Right to Housing Coalition, a group whose members belong to local, provincial and national organizations made up of community activists, indigenous groups, lawyers, academics, and those with lived experience of homelessness. The coalition started with the question: how can we advocate for the right to housing in Canada?

The coalition decided to advocate using several different means, including law reform, public education and litigation. They were particularly active in supporting the application to the Superior Court of Ontario known as *Tanudjaja v. Attorney General of Canada and Attorney General of Ontario*. That case was a claim that Ontario and Canada were violating the *Canadian Charter of Rights and Freedoms* by withdrawing government funding for affordable adequate housing and by failing to take action to address the growing crisis of homelessness. We pointed to Canada's ratification of the Covenant in support of an interpretation of the Charter that would support the right to housing. We asked the Court to tell the government to develop a rights-based national housing strategy.

The Governments of Canada and Ontario claimed that the right to housing and Canada's compliance with international treaties had no place in the Courtroom and the case should be dismissed without hearing any of the extensive evidence we had amassed about the impact of the housing crisis on the health and well-being of Canadians. The single Judge hearing their claim agreed with them and the case was dismissed. Our efforts to have this injustice corrected by the Court of Appeal for Ontario and the Supreme Court of Canada were not successful.

The coalition immediately began considering international advocacy options.

THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

Compliance with the international agreements brought about by the United Nations is monitored by committees of experts from around the world. The Covenant we are working with here is under the jurisdiction of the Committee on Economic, Social and Cultural Rights (CESCR). They hold sessions every 8 - 10 years for each of the countries that have adopted the Covenant to see how well those countries are doing in carrying out the obligations they have agreed to.



Here are the current members of the Committee and their nationalities:

Mr. Aslan Abashidze (Vice-Chairperson) - Russian Federation
Mr. Mohamed Ezzeldin Abdel-Moneim - Egypt
Mr. Clement Atangana - Cameroon
Ms. Maria-Virginia Bras Gomes - Portugal
Mr. Shiqiu Chen - China
Mr. Chandrashekhara Dasgupta - India
Mr. Olivier De Schutter - Belgium
Mr. Zdzislaw Kedzia - Poland
Mr. Azzouz Kerdoun - Algeria
Mr. Mikel Mancisidor De La Fuente (Vice-Chairperson) - Spain
Mr. Sergei Martynov - Belarus
Mr. Ariranga Govindasamy Pillay (Rapporteur) - Mauritius
Ms. Lydia Ravenberg - Suriname
Mr. Renato Zerbini Ribeiro Leão (Vice-Chairperson) - Brazil
Mr. Waleed Sadi (Chairperson) - Jordan
Mr. Nicolaas Jan Schrijver - Netherlands
Ms. Heisoo Shin - Republic of Korea
Mr. Rodrigo Uprimny - Colombia

The country under review is asked to provide a report to the Committee on how they are complying with the Covenant. Civil society organizations from that country are invited to provide their views. This information is first provided in writing and then the country is invited to make an oral presentation and respond to questions by the Committee. These questions are informed by the submissions of the civil society organizations and by formal and informal meetings between the Committee members and these organizations.

Canada's last review was in May 2006, and ACTO had participated in that review along with a number of other community-based organizations. We were instrumental in getting the Committee to recommend that homelessness and inadequate housing must be treated as a national emergency to be addressed by social housing programs, support for disadvantaged people and a national strategy for the reduction of homelessness. There was also a strong recommendation that those affected by evictions be provided alternative accommodation and not be faced with homelessness.

Thus it was important for us to show how little progress had been made in almost 10 years and how our efforts to enforce these rights through our Charter's guarantees of "life, liberty and security of the person" and "freedom from discrimination" had been blocked by our governments and the Courts.

PREPARATIONS FOR THE SESSION

Our journey to Geneva began in earnest with the mid-December meeting of the Right to Housing Coalition. Our Court case was over; the Federal election was over; the Province was slowly rolling out its piecemeal solutions to the ongoing crisis in affordable housing and there were a number of international options to be considered for raising the profile of our issues. After much discussion and debate, it was decided that we would seek to send two members of our Coalition to Geneva to participate in the CESCR Review of Canada. While our delegates would have to be available for international travel and be ready to speak to an international committee of human rights experts and the media, we would have a person with lived experience and a person with legal expertise. We would later decide that Mike Creek of Working for Change and me from ACTO would represent the Coalition in Geneva.

We then got to work preparing our written submissions, making our travel arrangements and securing our credentials to appear before the Committee. Tracy Heffernan, coordinating input from several coalition members, prepared the written submission, emphasizing the depth and breadth of the housing crisis in Canada and the process by which our efforts to have the right to housing addressed under the Charter had been derailed. The submission asked the Committee to make two broad recommendations:

1. Canada must ensure access to justice for marginalized groups. We urge Canada to allow individuals and organizations to claim social and economic rights before courts and tribunals on a full evidentiary record.
2. Canada and Ontario must clarify their housing commitments. Specifically, we urge Canada and Ontario to commit to rights-based housing strategies which includes the right to adequate, affordable, and accessible housing for all, and a definition of affordability as 30% of household income for low income and marginalized communities

We then obtained the commitment of the ACTO Board of Directors to financially support the attendance of our delegates, which was generously provided along with a significant financial commitment from Working for Change. Permission was sought and received from Legal Aid Ontario to authorize my international travel and we applied for and received our credentials from the United Nations Office at Geneva. ACTO staff efficiently made the travel arrangements and we were ready to go.

With the assistance of Bruce Porter of the Social Rights Action Centre and Leilani Farha of Canada Without Poverty, we made connections with many of the other groups who would be attending and made advance plans to co-

ordinate our efforts. Bruce and Leilani also worked tirelessly to put together a compilation of the concerns and recommendations of the many groups participating. This was a valuable document in organizing our presentations and acted as an agenda for working with the Committee.

We made particular efforts to publicize our participation in this process. With the hard work of Helen Luu, ACTO's Outreach Co-ordinator, we received excellent coverage of what we were seeking to accomplish, particularly an extensive article in the Toronto Star on Saturday, February 20 by social issues reporter Laurie Monsebraaten in a story entitled "[Advocates taking Canada's housing policy to UN](#)".

Another [detailed story](#) went across Canada through the Canadian Press.



RIGHT TO HOUSING COALITION IN GENEVA

After a long overnight flight and a quick trip from the airport via Geneva's amazing public transit system, we checked in to our modest (i.e. tiny) hotel rooms on Sunday afternoon and prepared for the busy week ahead. The first event was an informal dinner meeting that evening with the representatives of about 15 of the Canadian NGOs that would be participating in the Review. Here we began the co-ordination of the oral statements that were to be delivered by the groups the next morning. As well, the groups approved an urgent statement prepared by Alex Neve of Amnesty International addressed to the Canadian Cabinet Ministers that were responsible for the government presentation to the Committee. This statement expressed our deep disappointment that Canada was continuing to assert the position it took in the *Tanudjaja* case that the *Charter of Rights and Freedoms* does not protect the full range of economic, social and cultural rights of the most vulnerable people in Canada, including access to housing, food, water, and health care.

An early meeting was called for the next morning to organize and co-ordinate almost 20 groups to make their oral presentations to the Committee's 10:00 a.m. opening session. Like all our NGO meetings and the Committee's sessions, this meeting was held in one of the many amazing meeting rooms in the Palais des Nations building. This is the building that was built as the headquarters for the League of Nations in the 1920's and is a beautiful example of Modernist architecture filled with artworks from around the globe. It forms the heart of the UN's offices in Geneva which primarily house the many UN agencies that are headquartered there (UNHCR, UNICEF, etc.).

The Committee's session opened with the Committee reviewing its "program of work" for this session and discussing its plans for celebration of the 50th anniversary of the Covenant later this year. This was followed by submissions from two NGOs from Kenya on the need to address equality between men and women in the review of that country, which was also going on that week. This left little more than an hour to fit in over 20 submissions from Canadian NGOs. With remarkable co-operation of all, Bruce, Leilani and Alex were able to prepare a speakers' list that fit us all into this tight timetable. Mike Creek took the floor for the Right to Housing Coalition to address housing issues along with Francois Saillant of the Quebec tenant group FRAPRU and DJ Larkin of Vancouver's Pivot Legal Society. Mike's four-minute speech was a hard-hitting indictment of the housing policies of Canada and Ontario that had left so many people vulnerable to misery, ill-health and even death.

He drew on his own experience of homelessness and the work he does every day with disadvantaged people and concluded:

I think about the men and woman who I see on our streets every day. I think about the men and women who struggle with poverty, who are steps away from being

homeless. I think of the systemic discrimination experienced by those living at the bottom of society.

Homeless people often feel disillusioned, often bashed into silence. When you are beaten down by homelessness, you sometimes stop struggling and give into the feeling that nothing can change. Rights matter, all people matter, it is time that our country Canada lived up to the right to housing and security of the person. It is time we lived up to our international obligations and our Canadian Charter of Rights should reflect these obligations. Will the darkness of homelessness continue or will our new Prime Minister's Sunny Ways reach down to the bottom and recognize that we have rights that are being denied?

I hope that this review of my country will state in the strongest terms possible that Canada must do more, that Article 11, the right to adequate housing, must be entrenched in our Charter. Human Rights matter. They are more than just words.



Other groups making oral presentations that day included the Indigenous Bar Association, the Charter Committee on Poverty Issues, Amnesty International Canada, Colour of Poverty/Colour of Change, the Canadian Council for Refugees, Canada Without Poverty, the Canadian Civil Liberties Association, Grassy Narrows First Nations and the David Suzuki Foundation. A long list of extremely important issues were raised by these groups, all seeking international support for measures to achieve human rights outcomes that had long been neglected by our governments.

The Committee listened to them with interest and growing concern. They also raised a number of questions about the submissions which the organizations undertook to answer. Our next meeting with the Committee would be at the “luncheon briefing” on Wednesday where we would give advice to the Committee members about how to respond to Canada’s disappointing official submissions, to be delivered at the Review sessions on Wednesday afternoon and Thursday morning.

After having lunch at the Palais des Nations cafeteria with our NGO colleagues, we assembled again to de-brief and make plans to respond to the Committee’s questions in a way that would not interfere with our efforts to get the Committee to focus on the issues that we felt were most important for our respective constituencies. This we delegated six groups to prepare a written response to related groups of questions and developed a plan for consultation on and approval of these responses in the next 24 hours. We also went over our plans for the luncheon briefing on Wednesday. We decided that the highest priority was to develop proposals in each area of human rights that could form the basis for Concluding Observations by the Committee that would recommend concrete actions by Canadian governments. Mike joined up with the anti-poverty groups to prepare answers on the Committee’s questions about social assistance.





Once we had split up, we all got to work on setting up individual meetings with interested Committee members to share our concerns directly with them and on getting the message about our work through social and conventional media. I was delegated by the housing groups to seek meetings with two of the Committee members who showed particular interest in our issues. I was also tasked with preparing a draft of the housing issues that we wanted the Committee to comment on and to present these issues to the Committee at the luncheon briefing.

This work took up the rest of the day on Monday and much of Tuesday morning. Early on Tuesday afternoon, the four housing organizations had a brief, informal meeting with Judge Pillay of Mauritius - the Committee Member who seemed to be the most concerned with housing and homelessness. We worked with him on developing questions for the Canadian delegation and on ideas for recommendations to Canada in their Concluding Observations. It was very interesting to hear the perspective of a senior human rights advocate from a small, far-away country on Canada's lack of effort on behalf of its disadvantaged people. We followed up our meeting with a note to him summarizing the major issues we wanted to see in the Observations and some of the factual basis for seeking such recommendations. On his recommendation, we forwarded this document along with further supporting material to the Committee's secretariat for distribution to the Members.

All the NGO representatives were invited to a reception that evening at the Canadian mission, hosted by Canadian Ambassador and Permanent Representative to the United Nations, Ms. Rosemary McCarney. This provided an opportunity for us to get to know the members of the Canadian delegation and to have some informal discussion with them about the Review. The Ambassador and the Head of Delegation, Rachel Wernick, made brief speeches and introduced the delegation and the NGO representatives. Representatives of a number of federal departments and senior officials from the governments of

Ontario, Quebec and British Columbia made up the delegation and were in attendance there. From informal discussions with them, it became clear that the change of government in Ottawa had not resulted in any change to the position that rights under the Covenant were not enforceable in Canadian Courts under the Charter or otherwise. It was on this fundamental issue that the positions of the government delegation and the NGOs were most at odds.

Wednesday started early with the meeting of the NGOs at which we would organize and co-ordinate our presentations to the critical luncheon briefing later that day. Again, Bruce, Leilani and Alex led the group in a process by which we clarified our priorities and shared out the available time to ensure that all the issues we had come to address would be covered. The significant number of representatives of indigenous groups felt that they could best co-ordinate their presentations if they caucused together outside of the larger group. But in agreeing to that, we all confirmed that the other groups stood in solidarity with the indigenous communities and their concerns were not separate from ours. By the time the morning was over, we had pulled together an impressive series of short presentations on the vital Articles of the Covenant and the shortcomings in Canada's response to the concerns of the Committee as set out in their written submissions.



After sharing quick sandwiches in the corridors outside the meeting room, the Committee Members and the NGO representatives met for the luncheon briefing to assist the Members in preparing for the appearance of the Canadian delegation later that afternoon. Over twenty presentations were made during the next hour and a half, including my presentation on the housing issues. The relationship of the Covenant to the Charter and their enforceability through Canadian Courts was an overarching theme that had been addressed in depth throughout all our discussions with the Members, so my presentation focussed on the substantive housing issues.

The housing groups had decided to summarize our issues in a series of direct questions which we offered to the Committee to put to the Canadian delegation. These questions were:

1. *As people continue to die in the streets, will Canada treat its ongoing housing and homelessness crisis as a national emergency?*
2. *Will Canada implement a national housing strategy based on the recognition of human rights and reflective of views of people with lived experience and the unique rights? Such a strategy must reflect the views of people with lived experience and the particular needs of women and of indigenous and racialized people.*
3. *Will Canada immediately invest in new social housing that is accessible to people who are marginalized? As you have heard, many people in Canada are marginalized by very low incomes, homelessness, disability, race, family status and immigration status.*
4. *Will Canada immediately address the expiry of non-profit housing operating agreements that are putting thousands of affordable homes at risk?*
5. *Will Canada commit to working with its provinces, territories and municipalities to revoke laws that discriminate against and criminalize homeless people for behavior necessary for survival, such as sleeping or erecting shelter in public places?*
6. *Will Canada ensure that all housing strategies include provisions for accessibility and appropriate supports and community services for people with disabilities to ensure that they are not compelled to live in segregated institutions?*

CANADIAN GOVERNMENTS' PRESENTATION

Once all the presentations were complete and some final questions answered by the NGO representatives, there was a short recess and the Canadian delegation was invited to make its oral presentation. This presentation was introduced by Ms Wernick, the Head of Delegation and was presented by the members of the delegation according to their areas of expertise, including the three provincial representatives. It focussed on Canada's "peaceful pluralism", its open society and its strong commitment to its constitution and independent judiciary and pointed out the gender balance in the newly appointed Cabinet. It emphasized that, although the Charter did not provide means to enforce rights under the Covenant, Canadians had plenty of opportunities to assert these rights in other forums. It pointed out the renewed commitment to reconciliation with indigenous people, the commitment to a broad program of poverty reduction and Canada's commitment to open and generous policies on immigration and refugees as illustrated by the welcoming of (at that point) 23,000 Syrian refugees.



The Committee Members then took turns in raising the questions they had developed through their reading of the written submissions and their meetings with the NGO's. As befitting the wide range of rights enumerated in the Covenant and the broad mandates of the NGOs, these questions covered a huge scope, ranging from the role of Charter litigation to the duty to consult indigenous people to the decline in social spending to the failings in gender equity to regulation of Canadian companies doing business in other countries. After a number of questions were asked, the Committee recessed to permit the delegation to prepare answers to these questions and decided which ones would receive further discussion in written responses.

In response to the Committee's strong concern about access to the Courts arising from the Tanudjaja case Josée Filion, Department of Justice counsel, set out the government's position that the Covenant permitted flexibility in how redress for violations was effected and the Charter was only one method. She stated that its use was restricted by the Courts to situations where there was a deprivation of rights by the state which was not the situation in cases where this argument had been used. She acknowledged the Committee's concern and advised that the Minister was mandated by the Prime Minister to review the Department's position in litigation and that review was ongoing. She also pointed out that there were many other avenues in the Canadian legal system for redress of violations including legislative and constitutional change, judicial review of administrative action, administrative tribunals (the Landlord and Tenant Board?) and civil torts.

The Committee then entered into another round of questions, focussing on poverty, equality of the sexes including violence against women, food and health policy and indigenous issues. After this, the Committee adjourned for the day with a further question and answer session scheduled for the next morning. By that point, everyone concerned was pretty well exhausted.

But, after a good night's sleep, we were back at it again on Thursday morning. The day started with the Canadian delegation's response to the questions from the day before, highlighting Canada's current and planned responses to poverty and homelessness. These included the new Canada Child Benefit, increase to the Guaranteed Income Supplement, the planned review of the Employment Insurance program, the December 2015 tax cuts and the planned consultations on the National Poverty Reduction Strategy.

On homelessness, Doug Murphy, the Director of the Social Development Policy Directorate acknowledged that it was a "persistent issue" and that 150,000 people used emergency shelters in the past year. He affirmed that the commitment to reduce homelessness was shared by all governments in Canada and that programs were in place to find solutions. He placed particular emphasis on the "Housing First" model where people who were chronically homeless were placed directly into permanent housing. He also highlighted the steps taken by municipalities and DSSABs in Ontario, which have spent over \$4 billion on affordable housing since 2003, including the Community Homeless Partnership Initiative with its current annual budget of \$294 million. He referred to the recent report of the Expert Advisory Panel on Homelessness which provided advice on defining and measuring homelessness and which led to the target set by the Ontario government to eliminate chronic homelessness in 10 years and setting priority areas for addressing other forms of homelessness.

Further responses were provided on the issues of access to water, particularly on reserves, support for immigrants and refugees and healthcare for migrant workers.

CANADA'S REVIEW CONCLUDES

The session drew to a close with some comments by the Members with the issue of access to the Courts and justiciability of Covenant rights being a predominant theme. One Member insisted that the delegation answer the question about enforcement of these rights while another asked, if the rights cannot be enforced in Court, “what should a person do? What is the way?” Finally, the Committee Chair, Mr. Sadi, told the delegation the “saying you are committed is not enough” and stated his opinion that the provisions of the Covenant should be justiciable in Canada’s courts. The delegation repeated its assertions that there were numerous avenues for redress available to Canadians for Covenant violations under our strict adherence to the rule of law. The Committee advised that its Concluding Observations would be approved on March 4 and would be provided to the Canadian mission on March 7 when they would be available to the public.

After one last walk around the Palais des Nations complex, I went back to my hotel and sent out a copy of the previous day’s submission to the Committee and responded to some emails. Once that was done, I had a few hours to explore the medieval parts of Geneva with its cobblestone streets, ancient buildings and high-end art galleries and antique stores among the university and municipal buildings. The final event of the trip was a wrap-up dinner with all the Canadian NGO representatives. By that point Mike had had enough and was back in his room resting up for the flight early the next morning.



But I had to be there for the final scene. About 30 people from Canadian NGO’s huddled together in the upstairs dining room of the Café de Soleil for wine and cheese fondue. As we gathered there, Alex Neve from Amnesty and Brenda Gunn of the Indigenous Bar Association were putting the finishing touches on their op-ed piece for the Globe & Mail, focusing in the structural flaws that Canada refused to address at the Review - the enforceability of ESC rights in Canadian courts, and the need to stop using federalism as an excuse for half- measures. Advice and input on this short piece was freely given. Once

everyone had gathered, Alex led a toast to the work of Bruce and Leilani in preparing, consolidating and coordinating our work there and everyone shared in the pleasure of having carried out a difficult task to the best of our abilities. Now all that was left was the long trip home and waiting for the Committee's observations and recommendations.

THE COMMITTEE'S CONCLUDING OBSERVATIONS

On March 4 the Committee met to consider and adopt its concluding observations. These were released at noon Toronto time on March 7, the following Monday. The Committee began by acknowledging some areas where Canada was making progress on Economic, Social and Cultural Rights including ratification of the Convention on the Rights of Persons with Disabilities in 2010 and the recent commitment to implement the UN Declaration on the Rights of Indigenous Peoples. In the other 60 of the 64-paragraph document, the Committee expressed concerns about Canada's human rights record and made recommendations about how it could be improved. There are a broad range of recommendations but a significant number address housing issues and our efforts to have housing rights adjudicated in Canadian Courts.

The concerns and recommendations directly concerned with housing are quite straightforward and echo the concerns that the housing groups raised in written and oral submissions. Here is what the Committee said:

Right to Housing

The Committee is concerned about the persistence of a housing crisis in the State party. It is particularly concerned at the:

- (1) absence of a national housing strategy;*
- (2) insufficient funding for housing;*
- (3) inadequate housing subsidy within the social assistance benefit;*
- (4) shortage of social housing units; and,*
- (5) increased evictions related to rental arrears.*

The Committee recommends that the State party:

- (a) Progressively increase federal and provincial resources allocated to housing, and reinforce the housing subsidy within the social assistance benefit so as to be commensurate to living costs;*
- (b) Take effective measures to substantially increase the availability of social and affordable housing units;*
- (c) Regulate rental arrangements with a view to ensuring that tenants enjoy the right to affordable and decent housing and are not vulnerable to forced evictions and homelessness;*

(d) Ensure that its legislation on forced evictions is compatible with international norms, particularly with respect to its obligation to ensure that no persons find themselves homeless or victims of other human rights violations due to evictions, and that compensation or alternative accommodation is provided to victims.

Homelessness

The Committee is concerned at:

- the increasing number of homeless persons in the State party*
- the lack of adequate measures to prevent homelessness*
- the shortage of adequate emergency shelters, and*
- the existence of anti-camping and other by-laws that penalize homeless persons in some jurisdictions.*

The Committee recommends that

- the State party adopt a national strategy on homelessness to examine the root causes for the increase in the number of homeless persons and*
- collect data on the extent of homelessness disaggregated by geographic location, ethnicity, sex and social condition, and to combat homelessness*
- the State party take effective measures to ensure the availability of adequate emergency shelters throughout the country, and*
- repeal provincial by-laws that penalize homeless persons for finding solutions necessary for their survival and well-being.*

Adequate standard of living

The Committee is concerned:

- that indigenous peoples, notably the Inuit and First Nations, encounter poor housing conditions, including overcrowding, that among others generate health challenges for the concerned communities.*
- at the restricted access to safe drinking water and to sanitation by the First Nations as well as the lack of water regulations for the First Nations living on reserves*

The Committee urges the State party to:

- intensify its efforts to address indigenous peoples' housing crisis,*

in consultations with indigenous governments and organizations
- live up to its commitment to ensure access to safe drinking water and to sanitation for the First Nations while ensuring their active participation in water planning and management. In doing so, the State party should bear in mind not only indigenous peoples' economic right to water but also the cultural significance of water to indigenous peoples.

Housing for persons with disabilities

The Committee recommends that:

- a disability perspective is integrated in all housing plans and policies at all levels;*
- the State party increase the availability of affordable and social housing units for persons with psycho-social and intellectual disabilities as well as community-based services;*
and
- the State party ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.*

But beyond the housing issues, the Committee was very concerned about the inability of Canadians to access the Courts in Canada when their rights under the Covenant have been violated. This problem was most clearly illustrated in the *Tanudjaja* case. There, our efforts to hold the provincial and federal governments accountable for the harm that our clients suffered as a result of the failure of those governments' housing policies were blocked by the Courts' restrictive interpretation of *Charter* rights. This interpretation, along with the dismissive treatment of Canada's international commitments, was strongly urged on the Courts by these governments.

This was a very important issue throughout the Review. The Committee seemed to feel that there was no real commitment on Canada's part to realization of the objectives of the Covenant since there was no means by which anyone could seek legal redress for any failure to meet the objectives.

The Committee was clear in its Observations about who was being hurt by this approach. Perhaps most surprisingly, they located the problem in "the judiciary, law enforcement and public officials", recommending some remedial education in human rights for them. They said:

Domestic application of the Covenant

The Committee is concerned that, despite certain promising developments and the Government's commitment to review its litigation strategies, economic, social and cultural rights remain

generally non-justiciable in domestic courts. The Committee is also concerned at the limited availability of legal remedies for victims in the event of Covenant rights' violation, which may disproportionately impact disadvantaged and marginalized groups and individuals, including homeless persons, indigenous peoples and persons with disabilities.

The Committee recommends that the State party take the necessary legislative measures to give full effect to the Covenant rights in its legal order, and ensure that victims have access to effective remedies.

The Committee recommends that the State party implement its commitment to review its litigation strategies in order to foster the justiciability of the economic, social and cultural rights. The State party should engage civil society and organizations of indigenous peoples in this revision with a view to broadening the interpretation of the Canadian Charter of Rights and Freedoms, notably sections 7, 12 and 15, to include economic social and cultural rights, and thus ensure the justiciability of Covenant rights.

The Committee also recommends that the State party improve human rights training programmes in order to ensure better knowledge, awareness and application of the Covenant, in particular among the judiciary, law enforcement and public officials.

GETTING THE OBSERVATIONS ON THE PUBLIC AGENDA

A report from an international body in far-off Geneva sitting on the shelf in the Department of Heritage in Ottawa is not going to do anything to improve the housing situation of disadvantaged Canadians. So we knew that it was important that what the Committee had to say about Canada was heard by Canadians.

That meant reaching out again to the media. Even though we received good press in advance of our trip, there was no guarantee that they would be interested in the outcome. Again, ACTO's Helen Luu coordinated a media event for us - an event that presented a number of challenges.

First, we wanted to ensure that editors and reporters would not think that the story was "old news". So we decided to hold the media event on the afternoon of March 7 - the day that the Committee was scheduled to release their Observations. After we had made that decision, we found out that the Committee would not be making its report public until 6:00 p.m. that day, Geneva time. As this is 12:00 Toronto time, we only had two hours to read the

report, summarize its contents and decide how we were going to divide our remarks up among the changing cast of speakers we were lining up. And what if we couldn't get the report as soon as it was released?

Then there was the problem of where to hold the event. ACTO was still in its temporary office space which did not include any rooms big enough to hold five speakers and one camera operator - let alone the swarm of reporters we were hoping would attend. And none of our partner organizations had any better facilities. So, we decided to hold it on the street. In particular, Parliament Street, in front of the constituency office of Bill Morneau, the Finance Minister. Being early March, there was no telling what the weather was going to be like. Or what kind of reception we were going to get from his office staff.

In the end, the report was released on time and we were able to prepare appropriate things to say. We were able to finalize our list of speakers - me, Mike Creek, Mercy Okalowe of the ODSP Action Coalition, Grace-Edward Galabuzi, from the Colour of Poverty/Colour of Change Coalition and Renee Griffin on behalf of the Centre for Equality Rights in Accommodation. Helen's Media package was ready and when 2:00 came we were on the street in front of four TV cameras, a group of reporters from diverse media organizations and an enthusiastic group of Right to Housing Coalition members. Thanks to Coalition member Emily Paradis we were even able to do an interview in French for Radio- Canada.



The event went really well and we received quite a bit of media coverage including [an article in the Toronto Star](#), following up from their earlier article .

Radio-Canada did a short piece on their evening television news and put out

[a summary](#) (with pictures!) on their website.

[CBC posted a story](#) on their website the next day and after we were able to get our media release translated into French, L'Express, Toronto's Francophone daily, also did [an article](#).

Once the media had gone, we held a brief meeting with the constituency office staff of Minister Morneau and made some plans to have a discussion with him about housing in the budget.



SO NOW WHAT?

On March 22, 2016, Minister Morneau released the 2016 Federal Budget. Among the announcements were an increase in funding to support the construction of new affordable housing, particularly for seniors and victims of violence, to repair existing affordable housing and to provide income support to some tenants.

Funds were allocated to repair aging social housing units, particularly to increase energy and water efficiency. Some money was re-allocated to support rent subsidies in federally administered social housing. A fund was set up to “test innovative approaches to building affordable housing”. Additional money was pledged to fund communities to provide projects to prevent and reduce homelessness. Significant additional funds were committed to address housing needs of First Nations people living on reserves including new funding to support shelters serving victims of family violence living in First Nations communities.

Details of these plans can be found in [Chapter 2 of the Budget document](#). There are many questions raised about the extent to which these investments and program changes will address the issues raised by our delegation to Geneva and the recommendations made in the Committee’s Concluding Observations. But the Minister also announced that, in the coming year, the Government of Canada will “consult with provinces and territories, Indigenous and other communities and key stakeholders ... to develop a National Housing Strategy.” This has been a key demand of our work in this area for almost a decade.

We must now ensure that the voices of the low-income and marginalized people who are suffering the effects of the ongoing housing crisis are heard in this consultation. We must fight for the inclusion of the Committee’s recommendations as meaningful components of this Strategy. If we are able to do that, our trip to Geneva and the years of litigation, lobbying and organizing that led up to it will have been well worth it.

