

Court File No. CV-10-403688

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**JENNIFER TANUDJAJA, JANICE ARSENAULT, ANSAR MAHMOOD,  
BRIAN DUBOURDIEU, CENTRE FOR EQUALITY RIGHTS IN ACCOMMODATION**

Applicants

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA,  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,  
ATTORNEYGENERAL OF CANADA and  
ATTORNEY GENERAL OF ONTARIO**

Respondents

APPLICATION UNDER Rule 14.05(3)(g.1) of the *Rules of Civil Procedure*, R.R.O. 1990, O. Reg. 194 and under the *Canadian Charter of Rights and Freedoms*

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**AFFIDAVIT OF MILOON KOTHARI**

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I, **Miloon Kothari**, of the City of New Delhi in the country of India, AFFIRM AS FOLLOWS:

## **A. Qualifications**

1. I am an international expert in housing, land rights, homelessness and the right to adequate housing. I served as the United Nations Special Rapporteur on Adequate Housing for the years 2000 – 2008.
2. UN Special Rapporteurs are independent experts appointed by and reporting to the United Nations Human Rights Council. They are mandated to investigate states' compliance with international human rights either within a particular country or in relation to a particular theme, investigating, monitoring and recommending solutions to human rights problems. They act independently of governments and conduct fact-finding missions, following an invitation by the respective government, to countries to investigate problems or allegations of human rights violations, though they may only visit countries that have agreed to invite them. They write reports on their visits and also research and write reports on other topics relevant to their mandate.
3. One of the primary areas of the work of Special Rapporteurs is to assist states to translate international human rights law into domestic law and policy. This involves participating in international processes to establish norms and principles to provide guidance to states on the measures necessary for compliance with international human rights (international standard-

setting processes) as well as providing advice to governments on aligning domestic law with international human rights norms in particular circumstances.

4. As UN Special Rapporteur on Adequate Housing it was my mandate to report to the Human Rights Council on the state of housing rights worldwide and to support the cultivation of positive working relationships between states, international bodies, and other stakeholders in order to promote compliance with the right to adequate housing.

5. In my capacity as the Special Rapporteur on Adequate Housing I conducted a mission to Canada in 2007 to assess the situation with respect to the right to adequate housing in Canada, with particular attention to the problem of homelessness, the situation of women and Aboriginal communities, and the possible effects of the Vancouver Olympics. I consulted with stakeholders, experts and government officials, visited a number of communities, and conducted research in order to prepare a report on the state of housing rights in the country and to suggest practical solutions to problems by listing concerns and recommendations. That report was submitted to the UN Human Rights Council on February 17, 2009 at its tenth session. A copy of my report on my mission to Canada (UN Doc A/HRC/10/7/Add.3) is attached and marked as Exhibit A to this Affidavit.

6. I am an architect by training and graduated from the Pratt Institute, Columbia University and the Maharaja Sayajirao University (Baroda, India). My life's work, however, has been in the area of housing and human rights. I am currently the Coordinator of the South Asian Regional

Programme of Habitat International Coalition's Housing and Land Rights Network and I act as a consulting expert on housing and human rights in a variety of contexts.

7. I have been a guest lecturer at the International Institute of Human Rights (Strasbourg, France), the School of Architecture and Planning (Delhi, India), Cornell University, Delhi University, Kwa-Zulu Natal University, Barcelona University, National University of Ireland, University of Melbourne, Lancaster University, New York University Law School, University of British Columbia, University of Toronto, and other academic institutions. I have over 50 publications on areas such as housing and land rights, women and housing, globalization and its impact on human rights and the environment, health and human rights, rural housing and natural resources, the use of indicators to assess compliance with the right to adequate housing, and urbanization and housing rights.

8. I have written numerous papers on the right to adequate housing that have been published in journals such as *Environment and Urbanization*, *Development and Social Action*, and *Social Watch*. I am regularly invited to provide keynote speeches at major international conferences and participate in high level expert group meetings, annual lectures, and seminars at leading universities on issues related to housing, health, and poverty.

9. Since the early 1990s, I have participated as an expert consultant at the United Nations on a wide range of issues related to housing and human rights. In recent years, I participated in many of the procedures at the international level in which human rights standards, norms, principles and obligations applying to the right to adequate housing were developed by UN

bodies or experts, including the UN Commission on Human Rights (subsequently the UN Human Rights Council), the UN Committee on Economic, Social and Cultural Rights, the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and the UN Centre for Human Settlements. I have also participated in numerous Experts Meetings at which global experts are brought together to develop norms and guidelines for implementation of and compliance with international human rights.

10. My involvement in these international standard setting procedures dates back to my participation in the development of the Maastricht Guidelines on Economic, Social and Cultural Rights in 1997. These guidelines, which have been widely cited by human rights bodies and experts, were prepared by a group of more than thirty experts who met in Maastricht in January 1997 to elaborate on the nature and scope of violations of economic, social and cultural rights and appropriate responses and remedies. I have also provided expert assistance to UN Committees preparing General Comments to clarify the nature of state obligations under various human rights treaties on the right to adequate housing. During my mandate as Special Rapporteur, I prepared and presented to the Human Rights Council, a number of texts devoted to clarifying obligations with respect to the right to adequate housing, described below, including the “Basic Principles and Guidelines On Development-Based Evictions and Displacement”. A copy of my 2007 report as Special Rapporteur on adequate housing (UN Doc A/HRC/4/18) is attached as Exhibit B.

11. I have previously provided expert opinion to courts on issues of homelessness and the right to adequate housing. Recently, the Delhi High Court in India requested me to prepare a

report and short-term strategy on tackling homelessness in Delhi, which I submitted to the Chief Justice of the Court. This report was used by the Court in its interim orders directing municipalities in Delhi to provide sufficient and adequate shelters for homeless individuals. In the winter of 2010-2011, in response to these directives from the High Court, the Delhi government increased the number of shelters available from 12 to approximately 80. Delhi's response is now being applied as a model in other Indian cities. A copy of my *Strategy for the Provision of Shelters for the Homeless*, which was provided to the Delhi High Court, is attached as Exhibit C. The relevant interim orders of the Delhi High Court are attached as Exhibit D and E, respectively.

12. In 2009, I provided an Affidavit for use by the Constitutional Court in South Africa in *Abahlali baseMjondolo Movement SA v. Premier of the Province of Kwazulu-Natal*, which successfully challenged the Kwazulu-Natal Provincial Legislation on the Elimination and Prevention of Re-emergence of Slums Act. A copy of the Court's decision in *Abahlali baseMjondolo Movement SA v. Premier of the Province of Kwazulu-Natal*, [2009] ZACC 31, is attached as Exhibit F.

13. In 2008, I was called as an expert witness and participated in hearings before Canada's Standing Senate Committee on Social Affairs, Science and Technology to give testimony on housing issues including homelessness, affordability, and the development of a human rights approach to housing and income policies in Canada. In keeping with my testimony and my Mission Report, as well as the testimony of a range of other experts, the Subcommittee recommended the adoption of a national housing strategy based on a human rights focused

approach. A copy of the Senate Subcommittee's report *In From the Margins: A Call to Action on Poverty, Housing and Homelessness* (December 2009) is attached as Exhibit G.

14. I have been interested and involved in issues of the right to adequate housing in Canada since the beginning of the 1990s. I became aware of issues in Canada related to homelessness and evictions when I was Co-Director of the Centre on Housing Rights and Evictions in Geneva. My involvement has continued through my tenure as Special Rapporteur as well as subsequent to the expiration of my mandate. For example, when I visited Vancouver in November 2009, I was invited to meet with the Mayor of Vancouver, who sought my views on housing in the lead up to the Winter Olympics and on the human rights implications of some new provincial legislation - the *Assistance to Shelter Act*. I was also consulted by MP Libby Davies and civil society organizations regarding a federal bill, which she introduced to develop a national housing strategy. I have worked with many civil society organizations in Canada, including the Wellesley Institute, Rights and Democracy, and Human Rights Internet.

15. I was consulted by the Ontario Human Rights Commission regarding their work on human rights in housing. I met with members of the Commission to discuss how international human rights law and the right to adequate housing could be applied in the interpretation and application of Ontario's Human Rights Code. The Commission incorporated information from our meeting in the development of their *Policy on Human Rights and Rental Housing*, adopted in July 2009, which is attached as Exhibit H.

16. My further qualifications, lists of publications and presentations are outlined in my *curriculum vitae*, attached and marked as Exhibit I to this Affidavit.

17. In this Affidavit, I have been asked to describe my work in assessing the compliance of governments in Canada with the right to adequate housing under international law, to describe the situation in Canada in relation to access to adequate housing, and to provide my opinion as to appropriate measures that can be taken to remedy violations of the right to adequate housing in Canada.

## **B. International Human Rights System and the Right to Adequate Housing in Canada**

### **(i) Relevant International Human Rights Instruments and the Meaning of Adequate Housing**

18. Since the adoption of the *Universal Declaration of Human Rights* (1948), housing has been recognized as a fundamental human right within the United Nations system, both within declarations adopted by the United Nations General Assembly as a whole, and within specific human rights treaties that are opened for signature and ratification and are legally binding on states which have ratified them.

19. The *Universal Declaration of Human Rights* (UDHR) states in Article 25 that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his

family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” A copy of the UDHR (UN Doc A/810) is attached as Exhibit J.

20. A more recent declaration relevant to the protection of the right to adequate housing is the *Declaration on the Rights of Indigenous Peoples* (DRIP), adopted by the United Nations General Assembly in 2007. While Canada did not support the adoption of the DRIP in 2007, it has more recently endorsed it. The DRIP recognizes in Article 21(1) that “Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.” It also affords special consideration in this regard to indigenous elders, women, youth, children and persons with disabilities. Article 23 states that “Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development” and “to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.” A copy of the UN DRIP (UN Doc A/61/53) is attached as Exhibit K.

21. The right to adequate housing is also recognized in a number of international human rights treaties. Canada has ratified all of the major treaties in which the right to adequate housing is recognized.

22. The *International Covenant on Economic, Social and Cultural Rights* (ICESCR), which came into force in 1976 and was ratified by Canada in that year, is one of two sister covenants adopted by the United Nations in 1966 to put into treaty form the rights contained in the UDHR. The sister covenant to the ICESCR is the *International Covenant on Civil and Political Rights* (ICCPR), which also came into force and was ratified by Canada in 1976. The ICESCR recognizes in Article 11.1 that everyone has the right "to an adequate standard of living for himself and his family, including adequate food, clothing and housing." The same provision further requires that "States Parties will take appropriate steps to ensure the realization of this right." A copy of the ICESCR (993 UNTS 3) is attached as Exhibit L.

23. The *Convention on the Elimination of All Forms of Racial Discrimination* (CERD), which entered into force in 1969 and was ratified by Canada in 1970, states at Article 5(e)(iii) that "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 right to housing." A copy of the CERD (660 UNTS 195) is attached as Exhibit M.

24. The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW), which entered into force and was ratified by Canada in 1981, states in Article 14(2)(h) that "States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from the ability" to enjoy "adequate living conditions, particularly in relation to housing." A copy of the CEDAW (1249 UNTS 13) is attached as Exhibit N.

25. The *Convention on the Rights of the Child* (CRC) entered into force in 1990 and was ratified by Canada in 1991. It recognizes in Article 27 “the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development” and requires in Article 27(3) 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 case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.” A copy of the CRC (1577 UNTS 3) is attached as Exhibit O.

26. The *Convention on the Rights of Persons with Disabilities* (CRPD) came into force in 2008 and was ratified by Canada in March 2010. It addresses the specific housing needs of persons with disabilities in Article 28, requiring that “States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.” Article 28(2)(d) specifically requires States Parties “to ensure access by persons with disabilities to public housing programmes.” A copy of the CRPD (UN Doc A/61/611) is attached as Exhibit P.

27. As a State Party to all of the above treaties, Canada submits periodic reports and undergoes review before the relevant treaty monitoring body every five years or so, depending on each committee’s schedule and the timing of the submission of Canada’s report. The treaty

monitoring bodies are composed of independent experts appointed by the United Nations Economic and Social Council. They review State Party compliance with the treaties through the periodic review procedures, at the end of which they issue “Concluding Observations,” identifying areas of concern and making specific recommendations with respect to the implementation of treaty rights and obligations. Treaty monitoring bodies also clarify the content of rights and the nature of state obligations through the adoption of “General Comments.” In addition, where relevant, treaty monitoring bodies consider and give views on individual complaints alleging violations of a treaty, through optional complaints procedures. The opinions given by human rights treaty monitoring bodies as to the content of rights and the nature of state obligations under the treaty are the most authoritative sources for the interpretation and application of the treaties. They are widely used by domestic and regional courts and by other UN human rights bodies for guidance in determining more precisely the nature of state obligations.

28. The UN Committee on Economic, Social and Cultural Rights (CESCR) has adopted two General Comments which clarify their interpretation of the right to adequate housing and the nature of States Parties’ obligations: General Comment 4 on the right to adequate housing and General Comment 7 on forced evictions. These General Comments are authoritative sources with respect to the content of the right to adequate housing internationally and have been relied on by governments and courts around the world to clarify the nature of obligations and rights related to adequate housing. Copies of the CESCR’s General Comment 4 (UN Doc E/1992/23) and General Comment 7 (UN Doc E/1998/22) are attached and marked as Exhibit Q and R, respectively.

29. General Comment 4 established that the right to adequate housing should not be interpreted narrowly, as a right to basic shelter or a roof over one's head, but rather, "as the right to live somewhere in security, peace and dignity." The Comment clarified that the right to housing "is integrally linked to other human rights" and to "the inherent dignity of the human person." The Committee thus emphasized that "the right to housing should be ensured to all persons irrespective of income or access to economic resources." The Committee also expressed a central concern with the problem of homelessness, noting that "significant problems of homelessness and inadequate housing also exist in some of the most economically developed societies."

30. In addition, General Comment 4 established that although circumstances and policies will vary from state to state, an over-riding obligation of State Parties to the Covenant is to develop a coherent and coordinated strategy to address homelessness and inadequate housing.

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" ... [S]uch 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.<sup>1</sup>

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, *General Comment 4: The Right to Adequate Housing* (sixth session, 1991), UN Doc E/1992/23 at para 12.

31. In General Comment 4, the CESCR also outlined a number of key features to consider when assessing whether housing is adequate. The Committee identified seven constituent elements of “adequate” housing: (1) legal security of tenure; (2) availability of services, materials, facilities, and infrastructure; (3) affordability; (4) habitability; (5) accessibility; (6) location; and (7) cultural adequacy. The CESCR noted that detailed information must be considered with respect to the most vulnerable and disadvantaged individuals, 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.”

32. In 1997, subsequent to General Comment 4, the CESCR adopted General Comment 7 on forced evictions. As in the case of General Comment 4, General Comment 7 noted that forced evictions frequently violate other human rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family, and home, and the right to the peaceful enjoyment of possessions. The CESCR stipulated that forced evictions should never result in rendering people homeless or vulnerable to violations of other human rights. Where those individuals affected cannot provide for themselves, State Parties must take all appropriate measures to ensure that adequate alternative housing or resettlement is available.

33. The authoritative commentary from the CESCR on the right to adequate housing has made it clear that adequate housing and housing security are fundamental preconditions to exercising and enjoying other civil, political, social, economic and cultural rights. Without housing security other fundamental rights cannot be enjoyed.

34. The General Comments also establish that while homelessness is less severe and less widespread in more developed countries, it is still a significant problem and because resources are available to address it in these contexts, the obligations of states parties to remedy the problem are of a different order. The Committee recognizes that although the right to adequate housing may take time to fully implement, there are immediate obligations on states to take active steps within a coherent and targeted strategy to ensure that adequate and active housing security is realized within a reasonable time frame.

## **(ii) Monitoring Canada's Compliance with the Right to Adequate Housing by UN Committees**

35. As noted, each of the above-mentioned human rights treaties is subject to periodic monitoring by a UN Committee mandated with this task. Canada has been reviewed under all of these treaties on a number of occasions, except for the *Convention on the Rights of Persons with Disabilities* which has only recently come into force. In addition, a new procedure has been instituted at the UN Human Rights Council through which all member states of the United Nations are subject to a more general review every four years of their record with respect to all international human rights. In Canada's periodic reviews by treaty monitoring bodies as well as under its first Universal Periodic Review before the Human Rights Council, strong concerns have been expressed about increasing homelessness and violations of the right to adequate housing in Canada.

36. In this section of the Affidavit, I will review some of the relevant findings of the following monitoring bodies:

- The Committee on Economic Social and Cultural Rights - monitoring compliance with the International Covenant on Economic, Social and Cultural Rights
- The Human Rights Committee - monitoring compliance with the International Covenant on Civil and Political Rights
- The Committee on the Rights of the Child – monitoring compliance with the Convention on the Rights of the Child
- The Committee on the Elimination of Discrimination Against Women – monitoring compliance with the Convention on the Elimination of All Forms of Discrimination Against Women
- The UN Human Rights Council – reviewing Canada's human rights record, under the new Universal Periodic Review Procedure

**a) The UN Committee on Economic, Social and Cultural Rights**

37. Concerns about homelessness in Canada began to emerge among UN human rights bodies in the early 1990s. In its 1993 review of Canada, the CESCR expressed concern about homelessness and inadequate living conditions in Canada, high rates of poverty among single mothers and children, and evidence of families being forced to relinquish their children to foster care because of an inability to provide adequate housing or other necessities. The Committee found on the basis of data from the National Welfare Council and non-governmental

organizations (NGOs) that welfare entitlements in Canada were inadequate to cover the cost of housing and other necessities. It expressed concern at evidence of widespread discrimination in housing against families with children and inadequate protection of security of tenure for low-income households. The Committee also raised as a concern that many discharged psychiatric patients were ending up on the street, while others suffered from inadequate housing, with insufficient support services.

38. In its recommendations, the Committee drew Canada's attention to the various dimensions of adequate housing that States Parties are required to ensure, as outlined in its General Comment 4. It also recommended legislative measures such as the extension of security of tenure to include all tenants and expanding protections in human rights legislation to include ICESCR rights such as the right to adequate housing. A copy of the Committee's 1993 Concluding Observations (UN Doc/E.C.12/1993/5) is attached as Exhibit S to this Affidavit.

39. In its next review of Canada in 1998, the CESCR found that the situation in Canada in relation to the right to adequate housing had seriously deteriorated, to the point that homelessness had been declared a "national disaster" by the mayors of the ten largest cities in Canada. The CESCR expressed concern "that the State Party did not take into account the Committee's 1993 major concerns and recommendations when it adopted policies at federal, provincial and territorial levels which exacerbated poverty and homelessness among vulnerable groups during a time of strong economic growth and increasing affluence." In particular, the Committee was concerned with homelessness and insecure tenure amongst the following groups:

women, particularly single mothers and women in abusive relationships, Aboriginal people, young people, young families and persons with disabilities.

40. In light of these concerns, the CESCR included the following recommendations with respect to housing and homelessness in its Report:

The Committee recommends that the federal, provincial and territorial governments address homelessness and inadequate housing as a national emergency by reinstating or increasing, as the case may be, social housing programmes for those in need, improving and properly enforcing anti-discrimination legislation in the field of housing, increasing shelter allowances and social assistance rates to realistic levels, providing adequate support services for persons with disabilities, improving protection of security of tenure for tenants and improving protection of affordable rental housing stock from conversion to other uses. The Committee urges the State party to implement a national strategy for the reduction of homelessness and poverty.<sup>2</sup>

41. The CESCR has also emphasized the urgent situation of Aboriginal people in relation to the right to adequate housing. In 1998, the Committee found that there had been “little or no progress” since 1993 in alleviating social and economic deprivation among Aboriginal people. It observed “the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal people from their lands” and recommended urgent action to implement the recommendations of the Royal Commission on Aboriginal People. The Committee also expressed concern that Aboriginal women living on reserves do not have the right to an equal share of matrimonial property at the time of marriage breakdown. This means that Aboriginal women may be forced to choose between remaining in an abusive situation and seeking housing off-reserve away from their community, kin and networks of support. A copy

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<sup>2</sup> Committee on Economic, Social and Cultural Rights, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Canada* (nineteenth session, 1998), UN Doc E/C.12/1/Add.31 at para 46.

of the Committee's 1998 Concluding Observations (UN Doc E/C.12/1/Add.31) is attached and marked as Exhibit T to this Affidavit.

42. In 2006, in a report considering the combined fourth and fifth periodic reports from Canada, the CESCR again found that homelessness had only increased, despite rigorous economic growth, and that Canada had again failed to respond meaningfully to its concerns and recommendations from the previous review. It noted that its previous recommendations with respect to the adequacy of welfare rates, minimum wage and other concerns had not been implemented. It was concerned that the disparity between Aboriginal people and others had persisted in a number of areas, including housing.

43. In 2006, the Committee reiterated its key findings and recommendations from 1998 and 1993 and called upon Canada "to address the specific subjects of concern that date back to its second and third periodic reports and strongly reiterate[d] that the State party should consider implementing the Committee's suggestions and recommendations in this regard." This is relatively strong language in the context of UN treaty body review, indicating a serious level of concern that the Committee's recommendations were being ignored.

44. With respect to the right to adequate housing, the CESCR called upon "federal, provincial and territorial governments to address homelessness and inadequate housing as a national emergency by reinstating or increasing, where necessary, social housing programmes for those in need, improving and properly enforcing anti-discrimination legislation in the field of

housing, increasing shelter allowances and social assistance rates to realistic levels, and providing adequate support services for persons with disabilities.”

45. The Committee “note[d] with particular concern that many evictions occur on account of minimal arrears of rent, without due consideration of the State party’s obligations under the Covenant.” The Committee “strongly recommend[ed] that, before forced evictions are carried out, the State party take appropriate measures, legislative or otherwise, to ensure that those affected by forced evictions are provided with alternative accommodation and thus do not face homelessness, in line with the Committee’s general comment No. 7 (1997).”

46. Most importantly, the CESCR has also called on Canada to “implement a national strategy for reduction of homelessness that includes measurable goals and timetables, consultation and collaboration with affected communities, complaints procedures, and transparent accountability mechanisms, in keeping with Covenant standards.” A copy of the Committee’s 2006 Concluding Observations (UN Doc E/C.12/CAN/CO/4) is attached and marked as Exhibit U to this Affidavit.

47. Compliance with the right to adequate housing under international human rights law requires not only consistent policies and programs to implement the right to adequate housing but also the development of a legal and institutional framework for the protection of the right and the provision of effective remedies for those whose rights have been violated. The CESCR has emphasized obligations on both provincial and territorial governments and the federal government to ensure effective legal and administrative remedies with respect to the right to

adequate housing. The Committee consistently recommended the extension of human rights legislation to include economic, social and cultural rights and urged provinces and territories to adopt legislative measures to protect Covenant rights. It also recommended that a national housing strategy should include an independent review and complaints system.

48. Of particular importance to the CESCR has been the extent to which the *Canadian Charter of Rights and Freedoms* (*Canadian Charter*) may provide effective remedies for those who are denied access to adequate housing, and the positions taken by governments before the CESCR and before domestic courts on this issue.

49. In response to questions about the nature of the remedies provided by the *Canadian Charter* at its 1993 review, the Government of Canada informed the CESCR that the protection of ‘life, liberty and security of the person’ in the *Canadian Charter* at least guarantees that people are not to be deprived of basic necessities such as food, clothing and housing. At its 1998 review, Canada confirmed its position that the scope of section 7 of the *Canadian Charter* had not changed from the time of its 1993 review.

50. At that time the CESCR was also informed in submissions made by Canada of the decision of the Nova Scotia Court of Appeal in *Dartmouth Housing Authority v. Sparks*. It noted as a positive aspect in its Concluding Observations that the Court had applied section 15 so as to extend security of tenure protections to a disadvantaged group that was previously denied these protections.

51. The CESCR has expressed concern, however, that governments have argued before domestic courts that the *Canadian Charter* should not be interpreted to provide protection for the right to an adequate standard of living or the right to housing. The Committee has drawn Canada's attention to its General Comment 9 on the Domestic Implementation of the Covenant, emphasizing that Canada has an obligation to provide effective remedies to Covenant rights, including the promotion of interpretations of domestic law which provide remedies to those whose right to an adequate standard of living or adequate housing have been infringed. A copy of the CESCR's General Comment 9 (UN Doc E/C.12/1998/24) is attached and marked as Exhibit V.

**b) The UN Human Rights Committee**

52. Violations of the right to adequate housing also implicate other human rights, including civil and political rights, such as the right to life, the right to security of the person and the right to non-discrimination. Thus, it has not only been in reviews of compliance with the right to adequate housing that UN human rights bodies have expressed concern about homelessness and inadequate housing.

53. The *International Covenant on Civil and Political Rights* (ICCPR) is the primary international human rights treaty codifying civil and political rights, including the right to life (article 6), the right to liberty and security of the person (article 9) and the right to equality and non-discrimination (articles 2 and 26). The UN Human Rights Committee (HRC) is mandated with reviewing State Parties' compliance with the ICCPR, considering complaints of violations

filed under an optional communications procedure and issuing General Comments clarifying the nature of state obligations under the ICCPR. The jurisprudence of the HRC is highly influential internationally, and is frequently relied upon by domestic courts.

54. In its review of Canada's compliance with the ICCPR, the HRC has underscored the direct link between governments' failures to address homelessness and the right to life, protected in article 6 of the ICCPR. The HRC was informed by civil society and Aboriginal organizations of deaths resulting from hypothermia on the streets of Canadian cities in the winter, which highlighted for the Committee the importance of positive measures to protect the right to life by ensuring access to adequate housing in the Canadian context. The HRC made it clear for the first time in its 1999 Concluding Observations on Canada that 'positive measures' to address homelessness are required to comply with the right to life under the ICCPR.

55. The HRC has also echoed a number of the other concerns of the CESCR about the effect of social program cuts on women and the children in their care. The HRC called for the implementation of the recommendations of the Royal Commission on Aboriginal Peoples. A copy of the HRC's 1999 Concluding Observations (UN Doc CCPR/C/79/Add.105) is attached and marked as Exhibit W to this Affidavit.

56. In its 2006 review of Canada, the HRC again raised concerns about adequate housing, this time in relation to housing for people with mental disabilities and rights to non-discrimination and to life, liberty and security of the person. The Committee expressed concern that in some provinces and territories, people with mental disabilities were remaining in

detention because of the insufficient provision of community-based supportive housing. It was recommended that provincial and territorial governments increase their efforts to ensure that sufficient and adequate community-based housing is provided to people with mental disabilities. A copy of the HRC's 2006 Concluding Observations (UN Doc CCPR/C/CAN/CO/5) is attached and marked as Exhibit X to this Affidavit.

**c) The UN Committee on the Rights of the Child**

57. The United Nations Convention on the Rights of the Child (CRC), to which Canada is a party, entrenches the special rights of children in customary international human rights law. The Committee on the Rights of the Child, an inter-governmental body responsible for monitoring state compliance with the CRC, reiterated in 2003 the CESCR's concern about homelessness, noting again that the mayors of 10 major cities in Canada had declared homelessness a national emergency. The Committee on the Rights of the Child recommended that Canada strengthen the support services it provides to homeless children while taking measures to reduce and prevent child homelessness. A copy of the 2003 Concluding Observations (UN Doc CRC/C/15/Add.215) from the Committee on the Rights of Child is attached and marked as Exhibit Y to this Affidavit.

**d) The UN Committee on the Elimination of Discrimination Against Women**

58. The UN Committee on the Elimination of Discrimination Against Women is mandated to monitor the implementation of the *Convention on the Elimination of Discrimination Against Women* (CEDAW), to which Canada is a party, and to receive communications from individuals

or groups, which allege deviations from the Convention's terms. At its review of Canada in October 2008, the Committee noted with regret the absence of a national housing strategy and expressed concern about the current severe housing shortage, particularly in Aboriginal communities, and the high cost of rent and its impact on women. A copy of the Committee's 2008 Concluding Observations (UN Doc CEDAW/C/CAN/CO/7) is attached and marked as Exhibit Z to this Affidavit.

**e) The UN Human Rights Council – Universal Periodic Review**

59. The Human Rights Council is an inter-governmental body, the successor to the United Nations Commission on Human Rights (UNCHR), and is a subsidiary body of the United Nations General Assembly. It is made up of 47 states elected from the members of the United Nations, and is responsible for strengthening the promotion and protection of human rights around the globe. The UN General Assembly created the Council in March 2006. Its main purpose is to address and make recommendations regarding situations of human rights violations. The Council works closely with the Office of the High Commissioner for Human Rights (OHCHR) and engages the United Nations' Special Procedures.

60. A key element of the work of the Human Rights Council is the Universal Periodic Review (UPR) mechanism through which the human rights situations in each of 192 UN Member States are reviewed every four years. It is a peer review process whereby States assess to what extent other States respect their human rights obligations contained in: the Charter of the United Nations, the UDHR, human rights treaties ratified by the state concerned, voluntary

pledges and commitments made by the state, and applicable international humanitarian law. Concerns and recommendations are made by other states with respect to subjects of concern in the state being reviewed. The state under review then has until the subsequent session of the Human Rights Council to respond to the concerns and recommendations by stating which of the recommendations it accepts. The result of each review is then reflected in an “Outcome Report” listing the recommendations made to the state under review and identifying those that have been accepted.

61. Canada underwent its first review under the UPR in February 2009. A number of states expressed concern regarding levels of poverty, homelessness and inadequate housing in a country as rich as Canada. In response, the Government of Canada accepted specific recommendations “to better ensure the right to adequate housing, especially for vulnerable groups and low income families” and to consider implementing the recommendations that were included in my mission report, which are summarized below. Canada is expected to implement these commitments in good faith and will be required to report on its implementation at its next review scheduled for 2013. A copy of the Report of the Working Group on the UPR for Canada (UN Doc A/HRC/11/17) is attached to this Affidavit and marked as Exhibit AA.

### **iii) Role of the United Nations Special Rapporteur**

62. Special Rapporteurs are mandate-holders appointed by the United Nations Human Rights Council and are part of its Special Procedures system. They are appointed to address either

country-specific situations or thematic issues, such as adequate housing. There are currently 33 thematic and 8 country mandates. Mandate-holders of the Special Procedures serve in their personal capacity and do not receive salaries or any other financial compensation for their work. The independent status of the mandate-holders is crucial in order to be able to fulfill their functions in all impartiality. The Office of the High Commissioner for Human Rights acts as the Secretariat for the work of the Special Rapporteurs and provides personnel research and logistical support.

63. During my tenure as Special Rapporteur, I wrote 8 thematic reports focusing on different areas related to adequate housing including: homelessness, forced evictions, and discrimination and inequality. I wrote 14 country specific reports. I spent four years specifically looking at the issue of women and the right to land and 3 reports were produced on this subject. I conducted fact-finding missions to investigate concerns with respect to the right to adequate housing in Canada, South Africa, Spain, Australia, Lebanon/Israel, Iran, Cambodia, Brazil, Kenya, Afghanistan, Peru, Mexico, Romania, and the Occupied Palestinian Territories. At the conclusion of each fact-finding mission, I wrote a report summarizing my findings and recommendations. Each of these reports was presented to the Commission on Human Rights (in the first years of my mandate) or the Human Rights Council (which replaced the Commission in 2006). I also monitored the situation in many other countries, and prepared 4 reports, including summaries of regular communications on specific cases and policy initiatives in different countries.

64. As Special Rapporteur, I developed, in consultation with relevant experts and affected constituencies, a framework for indicators, benchmarks and monitoring mechanisms for assessing the implementation of the right to adequate housing in various contexts. In the development of indicators, I emphasized the importance of disaggregated data to describe the situation of groups most vulnerable to homelessness and of participatory mechanisms for accessing necessary information and providing accountability to stakeholders. I identified three important types of indicators that are necessary:

- structural indicators to consider the extent of legislative or programmatic coverage of the various components of the right to housing, such as the coverage of a national housing strategy, including affordable housing supply, adequate income or rent supplements and necessary support services;
- process indicators, including goals, timetables or “milestones” to assess and ensure progress in implementing the right to adequate housing; and
- outcome indicators to assess the extent to which the right to adequate housing has been successfully implemented, considering data such as the number of households who are homeless or in housing need.

I presented my work on indicators to the UN Human Rights Council in my 2007 Report (UN Doc A/HRC/4/18), which is attached and marked as Exhibit B to this Affidavit.

65. As a result of my functions as the Special Rapporteur and of the information coming to me, I became concerned about the situation in Canada. I followed the work of the UN Committees reviewing the situation in Canada and was aware of disturbing evidence of homelessness and of the serious health consequences of widespread homelessness in Canada. As

noted above, increased levels of homelessness and inadequate housing in one of the richest countries of the world had become a dominant issue of concern among UN human rights bodies.

66. While problems of homelessness and inadequate housing in Canada are not as severe in absolute terms as they are in many developing countries, the obligation to fulfill the right to adequate housing under international law is assessed in relation to available resources and the relative situation of vulnerable groups. Canada has abundant resources necessary to ensure that no one is denied access to adequate housing. In that context, governmental policies and measures leading to homelessness in Canada and failures of governments to adopt measures to effectively address the crisis of homelessness in Canada among vulnerable groups were of particular concern from the standpoint of international human rights compliance.

67. Information I received from a wide range of sources within civil society, government officials and academic experts indicated that there had been very little implementation of recommendations of UN human rights bodies, and particularly in relation to the right to adequate housing. I continued to receive information regarding homelessness in Canada and evidence of serious consequences of homelessness for the protection of health, personal security and life.

68. I also received information of a serious human rights crisis with respect to housing and homelessness in Canada when I hosted a UN Consultation on Women and the Right to Adequate Housing in North America in Washington, D.C. on October 15-17, 2005. This was one of five regional consultations I held on this issue. Witnesses from across Canada and the U.S. attended the consultation to present testimony of their struggles to find and maintain safe, decent housing

for themselves and their children. The testimony of the women at these consultations, which included Aboriginal women and women with disabilities, demonstrated a systematic neglect of women's right to housing in Canada and the United States, particularly of women facing multiple forms of discrimination. The Canadian government admitted in its response to the Consultation that there were problems that needed to be addressed.

69. In light of all of these indications of a serious problem with respect to the implementation of the right to adequate housing and of recommendations from UN human rights bodies, I decided to undertake a mission to Canada. I hoped that my mission would provide assistance to governments, human rights institutions and stakeholders in improving their capacity to address the crisis of homelessness in Canada and to encourage various actors to adopt necessary remedial measures in order to more effectively implement the right to adequate housing.

#### **iv) Fact-Finding Mission to Canada as Special Rapporteur**

70. I conducted my official mission to Canada at the invitation of the Canadian Government from October 9-22, 2007. My visit focused on five areas that I had identified as priorities prior to the mission: i) concerns related to adequate housing; ii) homelessness; iii) women and their right to adequate housing; iv) Aboriginal peoples' adequate housing; and v) the potential impact of the 2010 Olympic Games on the right to adequate housing in Vancouver. I also assessed the legal and institutional framework for protections of the right to adequate housing in Canada.

71. During the course of my mission, I visited urban and rural areas, including Toronto and Ottawa. I met with high-ranking federal and provincial officials as well as with representatives of Government agencies. I also met with political parties' officials and with a large number of representatives of civil society organizations, community-based housing and homelessness service providers, and representatives of Aboriginal peoples. I attended many public fora and received a large number of first hand testimonies.

72. I also had the opportunity to visit a number of centres and shelters accommodating homeless people, women fleeing violence, Aboriginal women, persons living with HIV/AIDS, children with disabilities, and those suffering from drug addictions that were fully or partially funded by state programs.

73. After conducting my mission, I wrote a report of my findings and recommendations, which was presented by the current Special Rapporteur Raquel Rolnik to the United Nations Human Rights Council. Both Ms. Rolnik and I have continued to monitor the situation in Canada, as has the Human Rights Council.

#### **v) Summary of Findings from my Mission to Canada**

74. In my mission to Canada, I found that the concerns of the CESCR dating back to 1993 were valid and that their recommendations were supported by a wide range of experts and stakeholders with whom I consulted. In this light, the recommendation of the CESCR for a national housing strategy was particularly important. The CESCR had emphasized that a

national strategy in the context of Canadian federalism required a solid framework for federal-provincial-territorial commitment and collaboration and that it must be more than an affirmation of policy goals. Rather, it must incorporate strong measures of accountability through measurable goals and timetables for the elimination of homelessness, an independent monitoring and complaints procedure and engagement with a range of key stakeholders in the design and implementation of the strategy. While the details of a national housing strategy would need to be worked out in consultations among all levels of government, stakeholders, Aboriginal Communities, and relevant experts, the key to such a strategy would be a governmental commitment to implementing the right to adequate housing and ending homelessness. Such strategies, based on a commitment to adequate housing as a human right, have been proven critical in other countries, and I was confident that such a strategy, properly designed and implemented, could virtually eliminate homelessness in Canada within a reasonable period of time. I therefore adopted the recommendation of a national housing strategy based on strong measures of accountability to the right to adequate housing as a human right as a central recommendation to Canada in my 2009 Report (UN Doc A/HRC/10/7/Add.3), which is attached as Exhibit A.

75. The most striking feature of my mission to Canada was the contrast between the abundance of resources available and the dire living conditions facing the most vulnerable in society.

76. The United Nations Development Program (UNDP) ranked Canada fourth out of 182 countries in its Human Development Index at the time of my mission, measuring general degree

of well-being but not factoring in gender or income inequality or overall respect for human rights. With an abundance of land and resources, Canada is in a position to ensure that everyone has access to adequate housing. At the time of my mission, the Federal Government had enjoyed a multi-billion dollar surplus for a decade. Canada Mortgage and Housing Corporation, the federal government's national housing agency, had an increasingly large operating surplus – almost \$1 billion in 2007. I was also impressed by the other resources available to Canada to realize the right to adequate housing. Canada has a tremendous range of academic and civil society resources and a very strong legacy of commitment to a broad range of housing solutions. And yet, everywhere that I visited in Canada, I met people who were homeless and living in inadequate and insecure housing conditions. I received reliable evidence that people had died as a direct result of Canada's nation-wide housing crisis

#### **(a) Concerns Related to Adequate Housing**

##### Affordability and Core Housing Need

77. The Canada Mortgage and Housing Corporation (CMHC) has established a definition of people living in “core housing need.” A household is said to be in core housing need if its housing falls below at least one of the adequacy, affordability or suitability standards, and it would have to spend 30 per cent or more of its total pre-tax income to pay the median rent of alternative local housing that is acceptable (i.e., that which meets all three standards).

78. As noted in my Report, Statistics Canada reported in 2006 that three million Canadian households - 24.9 per cent of the overall population - are spending 30 per cent or more of their income on housing. Spending 30 per cent or more of household income on housing can potentially jeopardize the amount of money available for other essentials: food, medicine, energy, transportation, and childcare, particularly in low-income households. Income and shelter cost data from Canada's 2006 Census released in May and June of 2008 appear to confirm the testimonies that I received during my fact-finding mission.

79. The CMHC definition of core housing need is a useful indicator of the extent of the problem of inadequate housing in Canada. There are other aspects of adequacy that also need to be considered and addressed, however. The CESCR's General Comment 4 on the right to adequate housing lists, in addition to affordability and habitability (which are contained in the core housing need definition), legal security of tenure, access to services, accessibility, location and cultural adequacy.

80. The high number of households paying 30 per cent or more of their income on shelter is due to the fact that shelter costs increased 18.5 per cent from 2001 to 2006, which was substantially higher than the inflation rate of 11.26 per cent over those same years. At the same time, social assistance rates across the country were decreasing. Between 1989 and 2005, when the cost of living rose by 43 per cent, social assistance benefit rates declined in both absolute and relative terms in all provinces except Quebec and Newfoundland and Labrador. As a result of cuts to benefits, welfare incomes stand at their lowest level since the mid-1980s. None of the provinces have welfare incomes that match Statistic Canada's Low Income Cut Offs, which

identify families that spend a disproportionate share of their income on basics (food, clothing, and shelter) and serve as an indicator of substantial financial need. Indeed, in 2006, welfare incomes of single women averaged 40 per cent of this poverty line.

81. This situation put additional pressure on households, especially on those already facing payment problems. In Ontario, 66,746 renter households, the majority in private housing, received applications for eviction in 2006, an increase of 21 per cent since 1998.

### Social Housing

82. During my mission to Canada I observed a shortage of social housing stock across the country. While 40 per cent of all housing in the Netherlands is social housing, 22 per cent in the United Kingdom and Sweden, 14 per cent in Germany, France and Ireland, and 10 per cent in Finland, Canada has only 5 per cent of its overall housing stock as social housing.

83. According to the Federation of Canadian Municipalities, “CMHC estimates Canada will need 45,000 new rental units each year for the next 10 years just to keep up with current demand; at least half of these will have to be affordable units. At the same time, construction of new rental units has plummeted from 25,000 to fewer than 15,400 per year in the last decade. Demolition and conversion eats away at the affordable rental stock, while many affordable houses crumble.”<sup>3</sup> Some government officials expressed to me their concerns about the progressive deterioration of public housing.

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<sup>3</sup> Federation of Canadian Municipalities, “National Affordable Housing Strategy” (nd), online: Federation of Canadian Municipalities <<http://www.fcm.ca/english/View.asp?mp=813&x=814&pf=1>>.

## Human Rights Legislation

84. Despite the legal prohibition on discrimination with respect to housing, investigations into social and private housing in Canada reveal the persistence of discrimination against some groups on the basis of race, country of origin, sex, age, marital status, family status, sexual orientation, disability and social condition (including poverty and reliance on social assistance). It also appears that no action has been taken in response to the repeated recommendations of the CESCR to include economic, social and cultural rights in the *Canadian Human Rights Act* and in provincial and territorial human rights legislation. The Paris Principles on the status and functioning of national institutions for protection and promotion of human rights, adopted by the UN General Assembly in 1993, state that one of the roles which human rights institutions should have within their mandate is “To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation.”

85. In the absence of effective monitoring, review or complaints procedures under human rights legislation, I was concerned that there did not appear to be any alternative procedures or institutional mechanisms for monitoring and remedies with respect to violations of the right to adequate housing in Canada.

## **(b) Homelessness**

86. I remain concerned about the significant number of homeless people in all parts of Canada and by the fact that the federal government could not provide reliable statistics on the number of people who are homeless.

87. While there are no reliable national numbers on homelessness, local surveys in communities like Toronto, Calgary,<sup>4</sup> Vancouver,<sup>5</sup> Edmonton<sup>6</sup> and Ottawa all report that homelessness has increased over the last decade.

88. Homelessness takes many forms in Canada, ranging from living on the streets or in shelters, to what is commonly referred to as “couch surfing” – moving from place to place by staying with friends or family, to living in precarious, unsafe or otherwise inadequate or unaffordable housing. The impact of the various types of homelessness on health and life has been documented. As noted by the Human Rights Committee in 1999, “homelessness has led to serious health problems and even to death in Canada.” A more recent study has shown that serious health effects are experienced among both the “vulnerably housed” and those who are living in shelters and on the streets.<sup>7</sup>

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<sup>4</sup> City of Calgary, Community and Neighbourhood Services, *Facts and Stats on Homelessness and Affordable Housing* (Calgary: Social Research Unit, 2007) online: <[http://www.calgary.ca/docgallery/bu/cns/homelessness/ff-07\\_facts\\_stats\\_homelessness\\_affordable\\_housing.pdf](http://www.calgary.ca/docgallery/bu/cns/homelessness/ff-07_facts_stats_homelessness_affordable_housing.pdf)>

<sup>5</sup> Social Planning and Research Council of British Columbia, *Still on Our Streets: Results of the 2008 Metro Vancouver Homeless Count* (Vancouver: Greater Vancouver Regional Steering Committee on Homelessness, 2008).

<sup>6</sup> Edmonton Committee to End Homelessness, *A Place to Call Home: Edmonton's 10 Year Plan to End Homelessness* (Edmonton: Edmonton Committee to End Homelessness, 2009).

<sup>7</sup> Emily Holton, Evie Gogosis & Stephen Hwan, *Housing Vulnerability and Health: Canada's Hidden Emergency* (Toronto: Research Alliance for Canadian Homelessness, Housing, and Health, 2010).

89. The lack of action to address homelessness has a high cost for society not only in moral but also in financial terms. It is difficult to quantify the wide range of financial costs to governments, which result from a failure to address homelessness. Costs to governments of homelessness include immense short term and long term healthcare costs, loss of economic productivity among those affected, social services for affected families and children, costs of emergency shelter and many other hidden costs.

90. Some studies have also attempted to quantify the financial impact of homelessness and housing insecurity in Canada. For instance, it is estimated that it costs taxpayers more than \$50,000 per year to support each homeless resident in British Columbia and \$4.5 and \$6 billion annually for an estimated 150,000 homeless in Canada.<sup>8</sup> In Alberta, the provincial government estimated the cost to be closer to \$100,000 per year to support an individual homeless person.<sup>9</sup> In my opinion, this is a conservative estimate of the longer-term costs of homelessness.

91. It is certainly the case in Canada that it is more affordable for governments to adopt necessary measures to provide access to adequate housing than to meet the healthcare, social service, policing and many other costs associated with homelessness and inadequate housing. As noted by the B.C. Auditor General, the cost to society of not addressing homelessness is significantly higher than the cost of providing housing and intervention services. On this basis, the Auditor General prepared a report on the effectiveness of B.C.'s housing strategy as an

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<sup>8</sup> British Columbia, Ministry of Social Development and Economic Security, *Homelessness - Causes and Effects: The Costs of Homelessness in British Columbia*, vol 3 by Margaret Eberle et al (Vancouver: Ministry of Social Development and Economic Security, 2001).

<sup>9</sup> Alberta Secretariat For Action On Homelessness, *A Plan for Alberta: Ending Homelessness in 10 years* (Edmonton: Ministry of Housing and Urban Affairs, 2009) at 8.

aspect of that government's fiscal responsibility to ensure efficient use of public resources.

Copies of the Auditor General of British Columbia's report, *Homelessness: Focus Needed*

(2009) and *A Plan for Alberta – Ending Homelessness in 10 years* (2009) are attached as

Exhibits BB and CC, respectively.

92. In the Alberta government's 10-year plan to end homelessness, the province calculated they could save up to \$7 billion over the next ten years by providing permanent housing and follow-up services to homeless individuals, as opposed to maintaining the status quo. A study in Toronto of the cost of providing necessary financial support to enable the homeless residents of Tent City to live in adequate housing found that the total cost was about \$1,000 per month.<sup>10</sup>

### **(c) Women's Right to Adequate Housing**

93. During my visit, I heard many testimonies from women concerning their inadequate living conditions. Testimonies included descriptions of derelict and overcrowded houses, social assistance entitlements which were grossly inadequate to cover the cost of rent for adequate or appropriate housing combined with other living expenses, and the lack of shelter spaces for homeless women and women fleeing violence. I also heard evidence that sexual abuse is a major cause and consequence of homelessness among young women. I was provided with a study by Street Health which found that 1 in 5 homeless women interviewed reported having been sexually assaulted while on the streets or homeless. A copy of the *Street Health Report 2007* is attached as Exhibit DD.

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<sup>10</sup> Gloria Gallant, Joyce Brown & Jacques Tremblay, *From Tent City to Housing: An Evaluation of The City of Toronto's Emergency Homelessness Pilot Project* (Toronto: City of Toronto, 2004) online: <<http://intraspec.ca/tentcity5.pdf>>

94. In testimonies to me, I learned that with few housing options, women often have little choice but to return to abusive households, move from place to place (“couch surf”) among family and friends, or take a chance on the streets. For women with children, homelessness may lead to the apprehension of their children by child protection agencies. Once a woman loses her children, it is very difficult for her to get them back. Her welfare entitlement is reduced, making adequate accommodation (essential to get her children back) inaccessible. The Ontario Human Rights Commission stated in its *Right at Home: Report on the Consultation on Human Rights and Rental Housing in Ontario* that it was “extremely troubled to hear that children in Ontario continue to be relinquished or apprehended by children’s aid societies because of inadequate housing - concerns that were previously noted by the CESCR.” A copy of the Ontario Human Rights Commission’s *Right at Home* Report (2008) is attached and marked as Exhibit EE to this Affidavit.

95. Despite efforts in this field, shelters are nonexistent in some parts of Canada and shelter operators report that demand for beds often exceed the capacity of shelters to accommodate homeless people.

96. I was also informed that the supply of subsidized housing in most parts of Canada is inadequate to meet the needs of those who need more affordable housing. I learned that waiting lists in Canada’s largest cities exceed 5 years, or even 10 years in Toronto. This prevents some segments of the population, including migrants, from accessing subsidized housing in any reasonable period of time. Because of the shortage in subsidized housing, most low income

households, particularly women-led households, have to rely on the private rental market, where they are often confronted with discriminatory practices mentioned above.

**(d) Aboriginal Peoples' Right to Adequate Housing**

97. Another Special Rapporteur appointed by the UN who has assessed the situation in Canada is the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples. That Special Rapporteur issued a Report on Canada in 2005, in which he recommended to the Government of Canada that it intensify measures to close the human development indicator gap between Aboriginal and non-Aboriginal Canadians, including on housing. The Special Rapporteur recommended that adequate housing in a large number of Aboriginal communities be declared a priority objective and that adequate credits, investment and other resources be appropriated to solve this urgent problem within the shortest possible time frame. A copy of the report on Canada of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples (UN Doc E/CN.4/2005/88/Add.3) is attached as Exhibit FF.

98. Aboriginal people remain the most severely affected by homelessness in Canada. The disproportionate numbers of Aboriginal people among the homeless in major cities has been estimated to be as high as 15 to 25 per cent in Toronto. I was also very disturbed at the evidence of inadequate on-reserve housing. Overcrowded and inadequate housing conditions, as well as difficulties accessing basic services, including water and sanitation, are major problems for Aboriginal peoples. These challenges have been identified for many years but progress has been

very slow, leaving entire communities in poor living conditions for decades. There are also widespread concerns among Aboriginal people about their need for culturally appropriate housing.

#### Aboriginal Women's Right to Adequate Housing

99. During my mission, I met with many Aboriginal women and associations. Aboriginal women face some of the most severe housing conditions and challenges in the country - whether they live off or on reserve, or in rural, urban, northern or remote communities. Aboriginal women are often forced to relocate to urban areas as a result of circumstances beyond their control. Major issues affecting Aboriginal women include family and matrimonial real property laws on reserves, overcrowding, violence and homelessness. Aboriginal women with disabilities suffer further barriers to affordable housing, both on and off reserve.

100. Aboriginal women face a much higher rate of gender violence than non-Aboriginal women. This includes violence in the family as well as racially motivated attacks carried out often with impunity in the larger society. The lack of protective legislation for women living on reserves, similar to that available to those living off-reserve, constitutes an important barrier to the enjoyment of the right to housing and to a life free of violence. There are also concerns about the absence of emergency and transitional shelter on most reserves, which are even more pronounced in northern communities where geographic isolation is also a factor.

101. On reserve, housing concerns for Aboriginal women include gender discrimination as a consequence of the operation of the *Indian Act*, including the lack of matrimonial property

protection. In all provinces and territories, legislation governing marital breakdown provides for equal sharing of assets between spouses; often, the main family asset being the house. Due to the constitutional division of powers, the Supreme Court of Canada has held that provincial legislation does not apply in cases where real property on reserve is affected by such breakdown. Some First Nations have adopted rules in regard to matrimonial property division. Yet, neither the *Indian Act* nor any federal legislation provides for a division of property on reserve upon marital breakdown. Such a legislative void has caused dramatic results. In some cases, women and their children are forced to choose between staying in a bad and/or violent situation and leaving the matrimonial home. Often, the choice to leave results in the woman and her children facing housing uncertainty or forfeiting their property rights to the home.

102. In urban areas, the key housing concerns of Aboriginal women include discrimination in access to safe, quality, affordable, appropriate housing and insufficient emergency and transitional housing designed to meet the distinct needs of Aboriginal women.

103. Lack of affordable housing is impacted by and can lead to the criminalization of Aboriginal women, forcing them to live on the streets, exposed to drugs and exploitation in the sex trade and in conflict with laws prohibiting vagrancy. In their attempts to find and secure affordable housing with limited incomes, Aboriginal women are at risk of exploitation by some landlords and gangs. Additionally, without affordable housing, Aboriginal women face the threat of having their children apprehended by the state into the child welfare system.

### **C. Discrimination: Stereotyping and Criminalization of the Homeless**

104. It was clear to me in my mission to Canada that patterns of discrimination and prejudice against homeless people contributes significantly to the growing social exclusion, marginalization and deprivations facing this group. The phenomenon of discrimination against homeless people, including measures to criminalize or penalize behavior associated with the necessary use of public spaces, is common to many countries. Discrimination against homeless people appears to be particularly prevalent in Canada.

105. In my mission, I heard from homeless people of measures taken by municipal and provincial authorities, as well as by private actors, to prohibit begging or other measures to eek out a livelihood, and to prevent sleeping or establishing temporary shelter in public places – often the only places available for homeless people to sleep. Homeless people in Canada and in other countries are increasingly subject to discriminatory stereotypes based on the false notion that they have chosen to be homeless and that they are irresponsible, lazy or violent. Measures are taken to try to remove homeless people from public view. I am aware that measures were taken in Vancouver to remove homeless people from sight prior to the Olympics. These types of attitudes and actions are highly destructive of dignity and security of people who are homeless. They also result in ineffective and expensive policy responses to homelessness, leading to vastly inflated costs for policing and incarceration, which exceed the costs of simply providing adequate housing.

106. It is extremely important that discrimination against the homeless be prohibited and that

relevant human rights protections be effectively enforced in Canada. The CESCR has recognized that governments must prohibit discrimination on the ground of “economic status” in order to protect those living in poverty or homelessness. I am aware that the Canadian Human Rights Act Review Panel recommended a decade ago that the ground of “social condition” be added to federal human rights legislation, so as to provide protection from discrimination on the ground of poverty and homelessness, but no action has yet been taken to implement this recommendation. The CESCR has also expressed concern about the failure to include the ground of “social condition” in human rights legislation. In its last review of Canada, it urged governments in Canada “to protect poor people in all jurisdictions from discrimination because of social or economic status.”<sup>11</sup> In my Mission Report, I also recommended that a number of measures be taken to combat discrimination against vulnerable groups and to prevent the further criminalization of those who are living in poverty or homelessness.

#### **D. Housing Strategies and Plans to Eliminate Homelessness**

107. Over the last ten years, states across the developed world have moved to institute housing strategies. Such strategies have included concrete plans to reduce or eliminate homelessness within realistic time frames. Ireland, Scotland, Wales, Finland, Portugal, Denmark, Sweden, Norway, the Netherlands, France, Poland, Australia, and the United States of America have instituted national housing strategies and plans to end homelessness. Many, including France, Norway, and Sweden, address housing specifically as a matter of human rights. National strategies feature increasingly systemic approaches to homelessness, which consider the issue in

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<sup>11</sup> *Supra* note 2 at para 51.

its social context. As a result, the strategies pay particular attention to the specific needs of vulnerable groups, which are at an increased risk of homelessness. Many states are introducing objective indicators of the success of these initiatives and providing for measurable goals with concrete timelines for implementation. While some plans have not been entirely successful in meeting targets, particularly during the recent global recession, the widespread adoption of national and sub-national strategies to reduce and eliminate homelessness represents a significant advancement in governments' commitment and accountability to addressing housing and homelessness within a human rights framework.

108. France, in its 2010 report, *French Homeless and Poorly Housed People National Strategy*, calls access to emergency accommodation a matter of "access to fundamental rights to the most excluded people." The focus of that national program is to "refound" the approach to housing issues in France by creating a national public service to manage the homelessness initiative and to prioritize housing concerns in planning within other governmental departments. The national housing strategy is key to a commitment by the French government to reducing poverty by one third of its 2007 rate by 2012. A copy of the *French Homeless and Poorly Housed People National Strategy* (2010) is attached and marked as Exhibit GG.

109. Australia, in its *The Road Home: Homelessness White Paper* (White Paper) relied on the recommendations made in my Report on my mission to that country,<sup>12</sup> stating that it is committed to addressing homelessness from a social inclusion framework and addressing the structural causes of homelessness. The three levels of government in Australia have jointly

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<sup>12</sup> UN Human Rights Council, *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 Australia (31 July to 15 August 2006)* (fourth session, 2007), UN Doc A/HRC/4/18/Add.2.

committed to reducing homelessness by half and providing accommodation to all rough sleepers by 2020. A number of practical initiatives, based on my recommendations have been followed by Australia since it adopted *The Road Home*. A copy of *The Road Home* (2008) is attached and marked as Exhibit HH.

110. Finland provides a good example of the effectiveness of housing strategies with clear goals and timetables and good indicators. Initiatives, which were commenced in the 1980s, succeeded in reducing homelessness by half between 1987 and the mid 1990s with a further 20% reduction by 2005. In 2008, Finland initiated a further homelessness reduction program, which has already exceeded some of its targeted goals. A copy of Finland's *Long-Term Homelessness Reduction Program 2008-11* is attached as Exhibit II.

111. In the United States, the HEARTH Act (the *Homeless Emergency Assistance and Rapid Transition to Housing Act* of 2009) mandated the Inter-Agency Council on Homelessness "to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness." The Inter-Agency Council has adopted a Strategic Plan to Prevent and End Homelessness centered on the principle that "no one should be without a safe, stable place to call home." The Plan is focused on four key goals: (1) Finish the job of ending chronic homelessness in five years; (2) Prevent and end homelessness among Veterans in five years; (3) Prevent and end homelessness for families, youth, and children in ten years; and (4) Set a path to ending all types of homelessness. A copy of the Inter-Agency Council's *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness, 2010* is attached as Exhibit JJ.

112. In other jurisdictions similar to Canada, the responsibility for housing is a shared jurisdiction among different levels of government, or primarily allocated to sub-national levels of government. It is critical that sub-national levels of government adopt housing strategies or plans to reduce homelessness in coordination with the national government's strategy. There are a number of examples of sub-national government bodies that have adopted strategies to reduce and eliminate homelessness using a rights-based approach, including goals, timetables and targets for the reduction of homelessness. Two European examples include the housing strategies adopted in Scotland in 2005 and in Wales in 2009. Copies of the 2005 *Homes for Scotland's People: A Scottish Housing Policy Statement* and the *Ten Year Homelessness Plan for Wales: 2009 – 2019* are attached as Exhibits KK and LL, respectively.

113. In the United States, 24 state governments have implemented 10-year plans to end homelessness, each with particular goals and targets. Louisiana's strategy, for example, includes the goal of reducing incarceration of persons with mental illness and creating 3,000 units of permanent supportive housing.<sup>13</sup> In Minnesota, the implementation of the plan involved an advisory body consisting of government representative, homeless individuals, developers and service providers.<sup>14</sup>

114. An increasing number of cities and municipalities are also designing and implementing strategies to eliminate homelessness and protect the right to adequate housing. In the United States, more than 230 communities have created plans to end homelessness. In Europe, a

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<sup>13</sup> Louisiana, *Ten-Year Plan to End Homelessness: The Road to Supportive Housing* (2009).

<sup>14</sup> Minnesota, Department of Human Services, *Heading Home: Business Plan to End Long-Term Homelessness* (2004).

number of major cities have partnered to create an ongoing forum, Habitact, to exchange ideas on how to address homelessness at the local level.

115. Canadian cities and municipalities have also been involved in developing their own plans. In Alberta, municipal governments in seven communities, including Calgary and Edmonton, each produced their own 10-year plan to end homelessness. Copies of *A Place to Call Home: Edmonton's 10 Year Plan to End Homelessness* and *Calgary's 10 Year Plan to End Homelessness 2008-2018* are attached as Exhibit MM and NN, respectively. Municipal plans, however, can only be effective if they are supplemented by provincial/territorial and federal plans.

116. Effective housing strategies acknowledge that homelessness and insecure housing affects vulnerable groups differently and that each will require unique services, approaches, and means of measuring outcomes. Strategies identify young people and people with disabilities and addictions those escaping domestic violence and racialized minorities as priorities. Australia's White Paper includes indigenous peoples among the groups most affected by homelessness and links the social condition of homelessness to broader issues of indigenous rights policy.

117. Since my Report on Canada was issued, there have been some important responses to my recommendations. Most significantly, a private member's bill that had been introduced in the Parliament of Canada to implement a national housing strategy was amended, at second reading, to include all of the key recommendations made by UN human rights treaty monitoring bodies and in my Report subsequent to my Mission. Bill C-304 would have implemented, in co-

operation with provinces and territories, representatives of Aboriginal Communities, municipalities, civil society, stakeholders, housing providers and representatives of those most affected by homelessness, a national strategy based on the right to adequate housing.

118. The Bill required the development and implementation of a national strategy that would:

- i. respect, protect, promote and fulfill the right to adequate housing as guaranteed under international human rights treaties ratified by Canada;
- ii. ensure that the cost of housing in Canada does not compromise an individual's ability to meet other basic needs;
- iii. give priority to ensuring the availability of secure, adequate, accessible and affordable housing to those without housing and to members of groups particularly vulnerable to homelessness;
- iv. set targets to end homelessness — with clear timelines and accountability mechanisms;
- v. establish a process for the independent review, addressing and reporting of complaints about possible violations of the right to adequate housing; and
- vi. develop a process for review and follow-up on any concerns or recommendations received from United Nations human rights bodies with respect to the right to adequate housing in Canada.

Bill C-304 was before the Parliament of Canada for third reading, with indications of support from the majority of parliamentarians, though not from the Government itself, when parliament

was dissolved and an election called. A copy of the most recent version of Bill C-304 is attached as Exhibit OO.

119. Ontario has also adopted a *Long-Term and Affordable Housing Strategy* and recently passed into law Bill 140, the *Strong Communities through Affordable Housing Act, 2011*, to provide for the implementation of key components of the strategy. I was disappointed by the content of Ontario's housing strategy because it had none of the key components of an effective housing strategy as recommended by UN human rights bodies and experts. In particular, it made no reference to the right to adequate housing, which Ontario is obliged to implement within its own jurisdiction, had no targets for the reduction and elimination of homelessness, no independent monitoring or complaints mechanism and no commitment to address the obstacles facing vulnerable groups, including persons with disabilities. Copies of Ontario's *Long-Term and Affordable Housing Strategy* and Bill 140 are attached as Exhibit PP and QQ, respectively.

120. I expressed my concerns about these omissions from Bill 140 and Ontario's Housing Strategy in a letter to Ontario's Minister of Municipal Affairs and Housing. During the clause by clause debate of the bill before the Standing Committee on Justice Policy, MPP Cheri DiNovo tabled key amendments on April 7, 2011 to add provisions to Bill 140 to make it more effective and consistent with international human rights obligations. Copies of my letter to the Minister, the key amendments tabled by MPP DiNovo, and the Hansard of the debate regarding the amendments are attached as Exhibits RR, SS and TT, respectively.

## **E. Summary of Recommendations**

121. In my report, I made 24 recommendations for Canada to follow in order to implement and protect the human right to adequate housing. A selection of these recommendations are included below.

122. My over-arching recommendation is for Canada to adopt a comprehensive and coordinated national housing strategy based on the recognition of the right to adequate housing, the indivisibility of human rights and the protection of the most vulnerable. Canada is one of the few countries in the world without a national housing strategy.

123. Designing and implementing efficient policies and programs within the national strategy will require improved collaboration among various actors, including federal, provincial and territorial authorities, municipal governments, Aboriginal governments and communities, service providers and civil society.

124. The legal recognition of the right to adequate housing is an essential first step for any State to implement the human right to adequate housing of the people under its protection. Therefore, in my report, I strongly recommend that the right to adequate housing be recognized in relevant federal and provincial legislation such as human rights legislation, housing and anti-poverty strategies, landlord and tenant legislation, and planning acts.

125. As emphasized in my Recommendations, a national housing strategy based on the right to adequate housing should include measures to address the following:

- improving legal remedies for violations of the right to adequate housing;
- measurable goals and timetables including both short-term and long-term measures;
- consultation with affected communities;
- measures targeted to groups most vulnerable to homelessness;
- complaints procedures for alleged violations of the right to adequate housing;
- transparent accountability mechanisms;
- improved social housing programs;
- improved and better enforced anti-discrimination legislation;
- increasing shelter allowances and social assistance rates to realistic levels;
- adequate support services for persons with disabilities;
- ensured access to potable water and sanitation particularly in Aboriginal communities;
- a consistent framework of tenant protection law in all provinces consistent with international human rights obligations;
- special measures for families with children to ensure that children are not placed into care because of lack of adequate housing;
- development of a targeted Aboriginal housing strategy under Aboriginal control and with effective participation from Aboriginal women; and

- implementation of matrimonial property legislation to address inequalities faced by Aboriginal women living on reserve.

126. Measurable goals and timetables should include goals and timetables for the reduction and elimination of homelessness, as well as a range of indicators for the implementation of the right to adequate housing. Indicators should include, as described in my 2007 Report to the Human Rights Council on indicators (attached as Exhibit B): i) simple, comprehensive indicators; ii) disaggregated data which allows for the monitoring of specific disadvantaged groups; and iii) explicit and precise indicators with clear methodology and publically accessible reporting. All indicators should be worked out in consultation with stakeholders and groups vulnerable to homelessness.

## F. Conclusion

127. My assessment of the situation with respect to adequate housing in Canada leads me to the following conclusions:

- i. There is a serious crisis of homelessness and inadequate housing in Canada that is unacceptable from the standpoint of international human rights law, considering the resources available and the high average living standards.
- ii. Homelessness and inadequate housing has a particularly adverse effect on vulnerable groups, including people with mental and physical disabilities,

Aboriginal people, racialized groups, youth and women, particularly single mothers. Homelessness and inadequate housing, both in numbers affected and severity of consequences, disproportionately affect all of these groups.

- iii. Homelessness and inadequate housing have led to serious consequences for those affected, including serious health consequences and in some instances, death.
- iv. Homeless people, both those living on the streets and in shelters and those who are precariously housed in unsafe or inadequate accommodation, are subject to many negative stereotypes and prejudices, including many forms of social exclusion and criminalization.
- v. The federal government and provincial and territorial governments have failed to respond effectively to concerns and recommendations from United Nations human rights bodies, domestic human rights bodies and many experts with respect to violations of the right to adequate housing in Canada.
- vi. Inadequate legal and institutional remedies available with respect to the right to adequate housing in Canada should be strengthened in line with consistent recommendations from UN human rights bodies.
- vii. Cuts to social programs, income support and housing programs in the last two decades and the failure of governments to adequately respond to emerging housing

issues are key factors in the extent of homelessness and inadequate housing in Canada.

- viii. In comparison with other countries, Canada has not applied available resources reasonably to address the crisis of homelessness and inadequate housing. Countries with fewer resources have, through the adoption of housing strategies, achieved more progress in eliminating homelessness and greater enjoyment of the right to adequate housing than is the case in Canada. Expenditures in Canada have often been misdirected toward punitive measures against the homeless.
- ix. My opinion now, as it was at the time of my Report on my Mission, is that it is of utmost importance that federal and provincial housing strategies be developed and implemented on an urgent basis, including the components identified above, in order to address the crisis of homelessness and better ensure the right to adequate housing in Canada.

128. My acknowledgement of my duty to the Court on Form 53 is attached as Exhibit UU to this Affidavit.

129. I affirm this affidavit in order to provide evidence on the application herein and for no other or improper purpose.

**AFFIRMED BEFORE ME** at \_\_\_\_\_ )  
  )  
the City of \_\_\_\_\_,                         ) \_\_\_\_\_  
in the Country of \_\_\_\_\_ )  
  )     **MILOON KOTHARI**  
\_\_\_\_\_, this \_\_\_ day of \_\_\_\_\_ 2011.   )

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## **List of Exhibits**

**Exhibit A:** *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)*, UN Human Rights Council, 10th Sess, UN Doc A/HRC/10/7/Add.3, (2009).

**Exhibit B:** *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari*, UN Human Rights Council, 4th Sess, UN Doc A/HRC/4/18, (2007).

**Exhibit C:** *Report and Short-Term Strategy for the Provision of Shelters for the Homeless* submitted to the Delhi High Court on 24 and 25 February 2010 by Mr. Miloon Kothari.

**Exhibit D:** *Delhi High Court on its Own Motion versus Government of NCT Delhi and ANR*, Order of 17 February 2010, New Delhi High Court W.P. (C) 29.2010.

**Exhibit E:** *Delhi High Court on its Own Motion versus Government of NCT Delhi and ANR*, Order of 25 February 2010, New Delhi High Court W.P. (C) 29.2010.

**Exhibit F:** *Abahlali baseMjondolo Movement SA v. Premier of the Province of Kwazulu-Natal*, [2009] ZACC 31, [2010] 2 B Const LR 99 (CC) (available on SAFLII), (S Afr Const Ct).

**Exhibit G:** Senate, Subcommittee on Cities of the Standing Senate Committee on Social Affairs, Science and Technology, *In from the Margins: A Call to Action on Poverty, Housing and Homelessness* (December 2009) (Chair: Honourable Art Eggleton, P.C.).

**Exhibit H:** Ontario Human Rights Commission, *Policy on Human Rights and Rental Housing* (Toronto: Queen's Printer for Ontario, 2009).

**Exhibit I:** Miloon Kothari, *Curriculum vitae* (12 May 2010).

**Exhibit J:** *Universal Declaration of Human Rights*, GA Res 217(III), UNGAOR, 3d Sess, Supp No 13, UN Doc A/810, (1948) 71.

**Exhibit K:** *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 53, UN Doc A/61/53, (2007) [DRIP].

**Exhibit L:** *International Covenant on Economic, Social and Cultural Rights*, 19 December 1966, 993 UNTS 3, Can TS 1976 No 46 (entered into force 3 January 1976, accession by Canada 19 May 1976) [ICESCR].

**Exhibit M:** *International Convention on the Elimination of All Forms of Racial Discrimination*, 7 March 1966, 660 UNTS 195, Can TS 1970 No 28 (entered into force 4 January 1969, ratified by Canada 14 October 1970) [CERD].

**Exhibit N:** *Convention on the Elimination of All Forms of Discrimination against Women*, 1 March 1980, 1249 UNTS 13, Can TS 1982 No 31 (entered into force 3 September 1981, ratified by Canada 19 December 1981) [CEDAW].

**Exhibit O:** *Convention on the Rights of the Child*, 20 November 1989, 1577 UNTS 3, Can TS 1992 No 3 (entered into force 2 September 1990, ratified by Canada 13 December 1991) [CRC].

**Exhibit P:** *Convention on the Rights of Persons with Disabilities*, GA Res 61/106, UNGAOR, 61st Sess, Supp No 49, UN Doc A/61/611, (2007) 2 [CPRD].

**Exhibit Q:** *General Comment 4: The right to adequate housing (Art.11.1)*, UNCESCROR, 6th Sess, UN Doc E/1992/23.

**Exhibit R:** *General Comment 7: The right to adequate housing (Art.11.1): forced evictions*, UNCESCROR, 16th Sess, UN Doc E/1998/22.

**Exhibit S:** *UN Committee on Economic, Social and Cultural Rights: Concluding observations: Canada*, UNCESCROR, 1993, UN Doc E/C.12/1993/5.

**Exhibit T:** *UN Committee on Economic, Social and Cultural Rights: Concluding observations: Canada*, UNCESCROR, 19th Sess, UN Doc E/C.12/1/Add.31, (1998).

**Exhibit U:** *UN Committee on Economic, Social and Cultural Rights: Concluding observations: Canada*, UNCESCROR, 36th Sess, UN Doc E/C.12/CAN/CO/4, (2006).

**Exhibit V:** *General Comment 9: The domestic application of the Covenant*, UNCESCROR, 19th Sess, UN Doc E/C.12/1998/24.

**Exhibit W:** *UN Human Rights Committee: Concluding Observations, Canada*, UNHRCOR, 65th Sess, UN Doc CCPR/C/79/Add.105, (1999).

**Exhibit X:** *UN Human Rights Committee: Concluding Observations, Canada*, UNHRCOR, 85th Sess, UN Doc CCPR/C/CAN/CO/5, (2006).

**Exhibit Y:** *UN Committee on the Rights of the Child: Concluding Observations: Canada*, UNCRCOR, 34th Sess, UN Doc CRC/C/15/Add.215, (2003).

**Exhibit Z:** *UN Committee on the Elimination of Discrimination against Women: Concluding Observations: Canada*, UNCEDAWOR, 42nd Sess, UN Doc CEDAW/C/CAN/CO/7, (2008).

**Exhibit AA:** *Report of the Working Group on the Universal Periodic Review: Canada*, UNHRCOR, 11th Sess, UN Doc A/HRC/11/17, (2009).

**Exhibit BB:** British Columbia, Office of the Auditor General, *Homelessness: Focus Needed* (Victoria: Auditor General of British Columbia, 2009).

**Exhibit CC:** Alberta Secretariat For Action On Homelessness, *A Plan for Alberta: Ending Homelessness in 10 years* (Edmonton: Ministry of Housing and Urban Affairs, 2009).

**Exhibit DD:** Erika Khandor & Kate Mason, *Street Health Report 2007* (Toronto: Street Health, 2007).

**Exhibit EE:** Ontario Human Rights Commission, *Right at Home: Report on the consultation on human rights and rental housing in Ontario* (Toronto: Queen's Printer for Ontario, 2008).

**Exhibit FF:** *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen - Addendum - Mission to Canada*, UN Commission on Human Rights, 61st Sess, UN Doc E/CN.4/2005/88/Add.3.

**Exhibit GG:** France, Services du Premier minister, *French Homeless and Poorly Housed People National Strategy / Chantier national prioritaire 2008 - 2012 pour l'hébergement et l'accès au logement des personnes sans-abri ou mal logées* (Paris: Services du Premier minister, 2010).

**Exhibit HH:** Australia, Homelessness Task Force, *The Road Home: A National Approach to Reducing Homelessness* (Canberra, Austl: Department of Families, Housing, Community Services and Indigenous Affairs, 2008).

**Exhibit II:** Finland, *Finnish Government's Programme to Reduce Long-Term Homelessness 2008 - 2011* (Helsinki: Government of Finland, 2008).

**Exhibit JJ:** United States Interagency Council on Homelessness, *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness, 2010* (Washington, DC: United States Interagency Council on Homelessness, 2010).

**Exhibit KK:** Scotland, Scottish Executive, *Homes for Scotland's People: A Scottish Housing Policy Statement* (Edinburgh: Scottish Executive, 2005).

**Exhibit LL:** Wales, Housing Strategy and Services - Housing Directorate, *Ten Year Homelessness Plan for Wales: 2009 - 2019* (Merthyr Tydfil, Wales: Welsh Assembly Government, 2009).

**Exhibit MM:** Edmonton Committee to End Homelessness, *A Place to Call Home: Edmonton's 10 Year Plan to End Homelessness* (Edmonton: Edmonton Committee to End Homelessness, 2009).

**Exhibit NN:** Calgary Homeless Foundation, *Calgary's 10 Year Plan to End Homelessness 2008 - 2018*, (Calgary: Calgary Homeless Foundation, 2011).

**Exhibit OO:** Bill C-304, *An Act to ensure secure, adequate, accessible and affordable housing for Canadians*, 3d Sess, 40th Parl, 2011 (Committee report presented in House of Commons 21 March 2011).

**Exhibit PP:** Ontario, Ministry of Municipal Affairs and Housing, *Building Foundations: Building Futures: Ontario's Long-Term Affordable Housing Strategy* (Toronto: Queen's Printer for Ontario, 2010).

**Exhibit QQ:** Bill 140, *Strong Communities through Affordable Housing Act, 2011*, 2nd Sess, 39th Leg, Ontario, 2011 (assented to 4 May 2011), SO 2011, c 6.

**Exhibit RR:** Letter from Miloon Kothari to Honourable Rick Bartolucci, Minister of Municipal Affairs and Housing (6 April 2011).

**Exhibit SS:** *Key Amendments Moved by Cheri DiNovo, MPP, to Create an Ontario Housing and Homelessness Plan, Ensuring the Right to Adequate Housing and Reducing and Eliminating Homelessness Protect the Right to Adequate Housing* (2011).

**Exhibit TT:** Ontario, Legislative Assembly, Standing Committee on Justice Policy, "Strong Communities through Affordable Housing Act, 2011" in *Official Report of Debates (Hansard)*, No JP-10 (7 April 2011) at 207.

**Exhibit UU:** Form 53