

**United Nations Special Rapporteur on adequate housing,
Miloon Kothari**

**Mission to Canada
9– 22 October 2007**

**Ottawa, 22 October 2007
Main Ottawa Public Library
Auditorium**

This document includes some preliminary observations of the Special Rapporteur at the end of his visit and is not an official document. The final report on this visit will be presented to the Human Rights Council.

An overview of the right to adequate housing and the mandate of the Special Rapporteur can be found to the annex attached to this document.

UNEDITED VERSION

Table of content

Introduction	3
General observations	3
Housing and living conditions	6
Homelessness	7
Affordability	8
Women’s right to adequate housing	10
Aboriginal peoples right to adequate housing	11
Preparation of the Olympics in Vancouver	12
Good practices	13
Conclusion	14
Information on the Special Rapporteur	15
Annex 1: The right to adequate housing	15
Annex 2: List of vulnerable groups (non-exhaustive)	17

Introduction

Good afternoon everyone. Thank you for coming.

I am Miloon Kothari, the Special Rapporteur on adequate housing of the United Nations Human Rights Council. Special Rapporteurs are independent experts in an honorary and unpaid position.

Today I am finishing a visit to Canada at the invitation of the Government of Canada that started on 9 October. The general objectives of this mission were to examine and report on the status of realization of the right to adequate housing in Canada and to engage in dialogues with the Government and the civil society – what you call in Canada non-governmental organizations – in their efforts to secure these rights.

I visited urban and rural areas, including Montréal, Kahnawake territories, Edmonton, Little Buffalo and Lubicon, Vancouver, Musqueam territories, Toronto and Ottawa. In these locations, I met with high-ranking officials and representatives of various Government agencies. I also took testimonies from many women, men, youth and children across the country that were homeless or living in adequate and insecure housing; I met with community-based housing and homelessness service providers, housing agencies, representatives of Aboriginal peoples and civil society organizations. In all cities I participated in large public forums and hearings.

The right to adequate housing contains many essential elements.¹ I have focused this mission on a number of areas including homelessness, problems of inadequate and secure housing and living conditions, women and their right to adequate housing, Aboriginal populations' adequate housing and the impact of the forthcoming Olympic Games in Vancouver.

This statement provides my preliminary observations based on visits conducted and information received during the mission.

General observations

Everywhere that I visited in Canada, I met people who are homeless and living in inadequate and insecure housing conditions. On this mission I heard of hundreds of people who have died², as a direct result of Canada's nation-wide housing crisis. In its most recent periodic review of Canada's compliance with the International Covenant on Economic, Social and Cultural Rights, the United Nations used strong language to label housing and homelessness and inadequate housing as a "national emergency". Everything

¹ These elements are described in Annex 1.

² As far back as 1999 the UN Human Rights Committee after reviewing Canada's State report expressed concern that "... homelessness has led to serious health problems and even to death. The Committee recommends that the State Party takes positive measures to address this serious problem..."

that I witnessed on this mission confirms the deep and devastating impact of this national crisis on the lives of women, youth, children and men.

Canada has ratified numerous international human rights instruments that not only recognize the right to housing, but also create an obligation on the Government to take steps for the progressive realization of these human rights with the maximum of its available resources. In recent review by United Nations' authorities, including – most recently – the May 2006 period review of Canada's compliance with the International Covenant on Economic, Social and Cultural Rights, Canada's continuing failure to incorporate these international legal standards into Canadian domestic law has been noted with growing concern.

In that context I welcome the commitment in the federal Speech from the Throne delivered on Tuesday 16 October to housing and homelessness:

“...middle-class Canadians and their families worry about affordable housing and the number of homeless people on our streets. Our Government is committed to helping Canadian families meet their needs... Our Government will continue to invest in our families and our future, and will help those seeking to break free from the cycles of homelessness and poverty.”

But this promise needs a greater budgetary allocation and specific commitments.

Canada is one of the richest countries in the world, which makes the prevalence of this crisis is all the more striking. The Federal Government has had a multi-billion dollar surplus every year since 1998. Canada Mortgage and Housing Corporation, the Federal Government's national housing agency, has had an increasingly large operating surplus – almost \$1 billion in the current year. Canada also has a tremendous range of academic, civil society resources and a very strong legacy before the housing cuts of the 1990s of a deep commitment to a broad range of housing solutions.

The Federal Government needs to commit funding and programmes to realize a comprehensive national housing strategy, and to co-ordinate actions among the provinces and territories, to meet Canada's housing rights obligations.

Canada needs to once again embark on a large scale building of social housing units across the country.

The Federal Government's Affordable Housing Initiative, including the affordable housing trust funds authorized by Parliament in 2005, are due to expire at the end of fiscal 2008. The Federal Government should immediately renew and enhance housing spending over a ten-year period, as part of a comprehensive national housing strategy.

Today marks the Anniversary of the Canadian Human Rights Commission. I believe this is a good opportunity for all human rights commissions in Canada to expand their work on economic, social and cultural rights and focus on the right to adequate housing as one of the main challenges faced by people residing all across Canada. The Ontario Human

Rights Commission, for example, launched a consultation on housing rights in the summer of 2007. The national and provincial human rights commissions across Canada should follow the lead of Ontario in its comprehensive review of housing rights, and in identifying provincial laws and practices that are contrary to the Canadian Charter of Human Rights and international laws and standards.

The Government and Parliament of Canada, along with the provinces and municipalities, are urged to take immediate steps to comply with concluding observations from UN Committee on Economic Social and Cultural Rights that economic, social and cultural rights should be fully recognized in all relevant government legislation and should be fully justiciable including monitoring, implementing, investigative and accountability mechanisms.

Canada had a reputation around the world for its progressive housing policies and programmes. But that is no longer the case. There has been a significant erosion of housing policy rights over the past two decades, including:

- Housing budget cuts at the federal level, and in many provinces,
- Even more dramatic housing cuts in the coming years as the Federal Government “steps out” of its financial commitments under the 1973 to 1993 national housing programme,
- Reductions in income support programmes at the federal level, and in every province, that have left many Canadians with little money to pay for ever-increasing housing costs, and
- A shift in housing policy to provide support for homeownership, mainly through the tax system, while eroding support for social and rental housing.

Canada now relies almost entirely on the private market – especially the ownership market – for new housing. In each of two recent years (2005 and 2006), the private sector has created more than a quarter of a million homes, but only about one in one hundred of those homes are truly affordable for low and moderate-income households. While in many occasions I have been informed of recent programmes to build what has been called affordable housing, but it seems that not that many are truly affordable for a large portion of the population, and especially for the most vulnerable.

Canada’s successful social housing programme, which created more than half a million homes starting in 1973, no longer exists. Canada has fallen behind most countries in the Organization for Economic Co-operation and Development (OECD) in its level of investment in affordable housing. Canada has one of the smallest social housing sectors among developed countries.

Even the private rental sector faces financial challenges. A number of provinces are calling for changes in tax laws to encourage the development of private rental housing are urgently required.

According to Canada Mortgage and Housing Corporation, 1.5 million Canadian households are officially classified as being in “housing core need” which puts them at great risk of homelessness. One-in-four Canadian renter households are in “housing core need”, which means that they are living in housing that is unaffordable, inadequate or

unsuitable – or sometimes all three. Many thousands more are at risk of becoming homeless, or being forced into inadequate housing conditions.

Given this context of a national housing crisis, a national commitment over a ten-year period is required. Federal, provincial and territorial housing ministers in Canada met in September of 2005 and promised that they were “accelerating work” on a national housing framework. The ministers have not met since then, nor have they issued a draft housing policy. I was encouraged to hear from the Government of British Columbia that a national housing summit will be held in February of 2008. Many government and civil society representatives that I met underlined the urgent need for this national summit and for a national housing plan.

The meeting planned for February is an important step towards implementing the national housing framework that ministers have promised, and that Canadians urgently require. Such a national housing framework will help the Canadian government to meet its obligations in international law to realize the right to housing in this country.

Canada’s federal structure, along with almost two decades of funding cuts and downloading by the Federal Government and many provinces, has complicated the delivery of housing programmes in recent years. Canada has a history of successful cost-shared federal-provincial programmes. More recently, there have been constitutional arguments and other jurisdictional issues that have frustrated the development of a new national housing strategy.

It is important to note that many Canadians face multiple barriers in accessing their right to adequate housing. Specific programmes and policies need to be funded and implemented that address this “intersectionality (multiple discriminations)” approach. It is inconsistent with basic human rights principles to leave marginalized groups as an anonymous part of general housing and anti-poverty programmes.

As part of a comprehensive national housing strategy, particular funding and should be directed to groups that have been forced to the margins, including women, Aboriginal people, elders, youth, members of racialized communities, immigrants and others.

Housing and living conditions

Everywhere that I visited, I heard testimonies and received voluminous reports from independent bodies, about substandard and inadequate housing and living conditions. This included aging housing stock in both the public and private sectors, on Aboriginal reserves and in urban areas. I heard about a series of specific major health concerns, including through bed bugs, cockroaches, mice and other infestations, and chronic mold. I heard about inadequate heating systems, and high energy costs.

The Federal Government’s housing renovation programme, called the Residential Rehabilitation Assistance Program (or RRAP), has been expanded in recent years and is

being used in many parts of the country to improve housing conditions. However, this valuable federal programme is due to expire at the end of fiscal 2008.

The Federal Government should immediately extend and enhance the RRAP programme to make the funding permanent and increase the amount available to renovate housing across the country, as part of a comprehensive national housing strategy.

I also heard that housing co-operatives funded under a part of the *National Housing Act* called “section 95” that they are being forced to reduce the amount of subsidy because of funding decisions by the Federal Government. Providing subsidies, or housing allowances, to people living in social housing is one of the most cost-effective ways to meet the housing needs of low-income households.

The Federal Government should provide a comprehensive and complete fix for the “section 95” funding gap that has led to a reduction in the amount of subsidy available to lower-income households living in housing co-ops.

The international right to housing is indivisible with the human right to water. I was disturbed to learn that up to one-quarter of all Aboriginal households do not have access to potable water, or their water is seriously at risk. Water is fundamental to human life, and Canadian NGOs are among the leaders in the global campaign for the right to water and water security.

The Federal Government should commit the funding and resources to ensure all households have access to potable water and proper sanitation consistent with the recognition of water as a human rights and recommendations for State policies as detailed in General Comment Number 15 of the CESCR.

Homelessness

Homelessness is one of the most visible and most severe signs of the lack of respect for the right to adequate housing. It is even more shocking to see the number of homeless people in such a developed and wealthy country as Canada. Unfortunately the Government of Canada could not provide reliable statistics on the number of homeless in the country (something that many other countries are doing). The National Homelessness Secretariat has suggested that there might be 150,000 homeless people, but notes that its number is not reliable. Experts and academic institutions have suggested that the actual number of homeless people may be at least double that amount.

Homelessness is especially severe for elderly, women, including young girls, and children. The risk of being homeless is not only a gender issue but also a racial issue. Aboriginal people constitute a large majority among the homeless population. For instance in Edmonton, Aboriginal people make up 38% of the total homeless population – many times higher than the share of Aboriginal people in the general population.³ The

³ Out in the Cold, A Count of Homeless Persons in Edmonton, October 2006

situation is similar or worse in other cities of Canada –in Winnipeg 70% of total homeless population consists of Aboriginal people.

I heard presentation on the Federal Government's national homelessness programme, called the Homelessness Partnering Strategy. This programme has provided support for a wide variety of important and successful services, and has helped to fund new transitional housing. But it is due to expire at the end of fiscal 2008, and the current funding – divided among 61 communities – is not adequate for the entire country.

The large number of people in Canada living in poverty, the growing number of food banks, and studies show that the number of people that cannot afford housing or sustain their rent is increasing, resulting in an increase number of homeless. One major cause of growing homelessness is the high cost of rents and the overall decline in renter household incomes in recent years.

The Federal Government should extend the national homelessness programme for at least five, or even ten years, and should increase the funding available across the country, as part of a comprehensive national housing strategy.

Affordability

Lack of sustainable affordable housing is one of the main issues that jeopardize the realization of the right to housing in Canada. Affordability is critical to ensure people keep their homes, no matter what the market dictates, and also to provide alternatives for a wide range of people that have lost their homes or are at risk, for those who have finished programmes of transitional housing.

The increase of housing prices and the lack of affordability is growing in all sectors of the population. I could observe how due to the shortage of social housing stock, the original target population has changed and programmes are distorted, needing to meet the necessities of a growing and more diverse population than originally assessed.

One dramatic indicator of the growing affordability crisis is the record-breaking number of evictions in Ontario (there are no comprehensive national statistics). The year 2005 saw the greatest number of households facing eviction in the history of Ontario. The year 2006 set a new record high of 60,000 evictions. There are no comprehensive national statistics on evictions, but the high cost of rent set against the decrease in tenant incomes is a critical national issue.

Rising rents and declining income has evident impact on tenants' ability to address their other fundamental needs including food and clothing. Many testimonies that I received confirm this. Unfortunately, studies show that the situation has not evolved positively since 2001 and the results of the last survey that will be made available in the coming months will confirm this.⁴

⁴ Indicators of the Alliance to End Homelessness (Third Report Card on ENDING Homelessness in Ottawa, Jan-Dec 2006) show that in 2006, the number of different individuals using emergency shelters in

A large number (30 to 50%) of people in shelters are working. This is most dramatic in Calgary, where municipal officials report that half the people in that city's homeless shelters have jobs, but are unable to find adequate, affordable homes. A similar situation is reported in Edmonton, while Toronto's 2006 street count identified that one in four of every shelter user had some form of employment.

The implementation of subsidies to complement the cost to rent and other mitigation measures are commendable. However, it seems nevertheless that a greater number of social housing units need to be built by the State as the needs are not being currently met.

Tenant protection, rent regulation and income assistance programmes differ across the country depending on provincial or territorial policies. This uneven patchwork leaves tenants in most parts of the country extremely vulnerable.

The Federal Government needs to work with the provinces and territories to create a consistent framework of tenant protection and rent regulation laws across the country that meet the standards set in international housing rights law, as part of a comprehensive national housing strategy.

Additional housing allowances, funded by the federal and provincial governments, are an immediate (although short-term) solution, as part of a comprehensive national housing strategy.

Provincial and municipal authorities need to review planning and zoning criteria to remove barriers to the development of truly affordable housing, and to require a proper mix of affordable housing in all new developments.

Canada lacks a national poverty reduction strategy, and only a handful of provinces have implemented provincial poverty reduction plans. A comprehensive poverty reduction strategy addresses housing and income as part of a holistic approach.

Grossly inadequate social assistance rates are trapping many of the lowest-income Canadian households into chronic poverty and inadequate housing. The Federal Government made major cuts to social spending, and cancelled the Canada Assistance Plan in 1995 (CAP provided a framework of national standards for income assistance) and virtually every province has allowed income assistance levels to drop to extremely low levels since then.

The Federal Government needs a comprehensive and properly-funded poverty reduction strategy based on its human rights obligation, and complementary plans should be implemented in the provinces and territories – linked to a comprehensive national housing strategy.

Ottawa increased by 1.8% to 9,010, the number of single women using shelters increased by 14.5%, the number of youth using shelters increased by 11.8% and the number of children using shelters increased by 12.4%, even though the number of families decreased by 7.9%.

Women's right to adequate housing

Homelessness and inadequate housing particularly impacts women. Studies clearly show that women and especially single mothers are disproportionately affected by the issue of affordability or discrimination. During the visit, I heard many testimonies in this regard. Women told me that social assistance entitlements are insufficient and do not match the cost of housing and other living expenses. I also heard some very disturbing testimonies on women whose children were taken away because they were living in inadequate housing, an issue that particularly affects Aboriginal women.⁵

In meetings with local officials it was reported that there is a lack of funds to create new social housing units which particularly affects women headed households in core housing need. Although women leaving abusive relationships have priority for social housing (except for in the three Territories), a woman with maximum priority to access housing, due to her situation, may still need to wait up to three years to get a home. The lack of affordable housing and alternative accommodation, inadequate social assistance rates, as well as related services, pushes women to stay with a violent partner or to return to violent relationship to avoid homelessness.

Amongst the many forms of violence that aboriginal women suffer, studies show that they endure three times higher rate of spousal violence than non-Aboriginal⁶. In this context, the lack of protection law for women living on a reserve, or the impossibility to file complaints to the Canadian Human Rights Commission constitutes one of the greatest barriers to the enjoyment the right to housing and a life free of violence. Another major barrier that needs to be overcome at the earliest is the family and matrimonial real property laws on reserves. Overcrowding houses, accommodating up to 3 generations in some regions, is one of the major causes for abuse, violence and homelessness. Women and young girls off reserve are experiencing violence in a daily basis.

Specific, flexible and culturally adequate solutions have to be provided to for aboriginal populations, especially where homeless is not an option due to climate reasons. Adequate shelters conceived according to cultural needs and specificities as well transitional and long term housing policies need to be implemented at the earliest.

In view of the current situation women face throughout the country, I was surprised to receive information on significant cuts to the budget and the modification the mandate of Status Women Canada, the only Federal agency focused on women. This might contradict the legal obligation of allocating maximum available resources and the non-retrogression with respect to human right that is mandated in Article 2 of the ICESCR. Moreover, I am concerned that some women's organizations have been defunded for their service provision to women, research and advocacy activities.

⁵ Reference can also be made to Women and Housing reports of the Special Rapporteur available at: <http://www.ohchr.org/english/issues/housing/women.htm>

⁶ Douglas A. Brownridge, « Male Partner Violence Against Aboriginal Women in Canada, an Empirical Analysis », *Journal of Interpersonal violence*, Vol. 13, n° 1, January 2003.

Canada should implement measures to address urgent, short term and long term needs of women in the country. Immediate implementation at all levels of the government of the recommendations from the United Nations treaty bodies on these specific measures, would eliminate the various barriers that women face both in urban and rural context in their daily life.

Very progressive legislations to address violence against women are being implemented in several provinces. These legislations should include, among other components, the sustainable access to housing for all women.

The implementation of policies, to comply with international and domestic legislation addressing the fulfillment of women's right, needs to be supported by the necessary funds and resources at all levels of the government.

Accountability on the creation, funding and implementation of programmes and policies that address housing and domestic violence must be undertaken at levels of the Government. Effective participation and consultation with women is not only a right but the best manner to ensure that policies and laws achieve their objectives.

Aboriginal peoples right to adequate housing

Throughout the mission I was disturbed to see the devastating impact of the paternalism that marks federal and provincial government, legislations, policies and budgetary allocation for Aboriginal people on and off reserve. These policies have seriously compromised the right to self determination that Aboriginal people enjoy under the original treaties and the International Covenant on ESCR.⁷

Housing and homelessness conditions facing Aboriginal people both on and off-reserve are shocking. Overcrowded and inadequate housing conditions, as well as difficulties to access basic services, including water and sanitation, are major problems for Aboriginal peoples.⁸ For instance, during my visit to the Lubicon Lake Nation, I could witness how families still live without access to water in sanitation and appalling living conditions and how development projects and continue to lead to the loss of lands and the asphyxiation of livelihoods and traditional practices.

I heard a consistent message when I met with Aboriginal leaders at the national, provincial and local levels throughout the country. They said that the Federal Government must honour its treaty and fiduciary responsibility to Aboriginal people. They said that Aboriginal people should be in control of Aboriginal housing and services. The Federal Government has a contractual responsibility to Aboriginal people, and it has a duty under international laws on indigenous peoples.

⁷ Human Rights Committee review in 2006 referred to this phenomenon of having the potential to lead to "... extinguishment of inherent aboriginal rights..."

⁸ Report on the Mission to Canada of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples. E/CN.4/2005/88/Add.3

The Federal Government needs to commit funding and resources for a targeted national Aboriginal housing strategy – both on- and off-reserve – that ensures that Aboriginal housing and services are under Aboriginal control.

Place a moratorium on all oil and extractive activities in the Lubicon region until a settlement is reached with Lubicon Lake Nation. The Federal Government should resume negotiation with the Lubicon Lake consistent to the Human Rights Law instruments including the Declaration on the rights of indigenous peoples.

Preparation of the Olympics in Vancouver

In the visit to Vancouver I also looked into the potential impact of 2010 Olympic Games on the right to housing of low income people. In my mandate I have looked at the negative impact on housing in cities that host mega-events, such as the Olympics, the FIFA World Cup, and the Commonwealth Games. These impacts include forced evictions for construction of infrastructures, city beautification and speculation of land and property and measures to remove homeless people from cities prior to and during the event.

In this context, I have started some collaborative work with the International Olympic Committee (based in Lausanne, Switzerland) to incorporate the right to adequate housing in the bid process of their events at a very early stage.⁹

Vancouver has been an innovative city, incorporating in their bid the Inner-City Inclusive Commitment Statement, developed by a representatives from a variety of inner-city community organizations and government agencies, which seek amongst its main objectives to address issues related to housing, civil liberties and public safety, health and social services, environment, transportation, accessible and affordable Games. The bid also included a sustainability plan aiming at guaranteeing that the social, economic and environmental impacts and opportunities of the event produce lasting benefits, locally and globally.

I believe that the resources generated by such an event should be used to improve adverse housing situation in Vancouver. I met with the CEO of VANOC and he expressed his commitment to ensure that the games would contribute to improve housing conditions of the poor in Vancouver as a positive legacy.

Vancouver Olympic officials, and the relevant city authorities, need to continue to implement specific targets and strategies on housing and homelessness, and to commit funding and other resources to support these targets. The social development plan of the Vancouver Games should be developed and implemented in public, so that the progress of Vancouver officials can be effectively monitored. I would recommend the formation of an independent monitoring body to assist

⁹ These discussions are based on the new Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18).

VANOC in complying with its commitments to improve the housing rights situation in the region where the Olympics will take place.

Good practices

Canada has a long and proud history of housing successes, and has been known around the world for its innovative housing solutions. During this mission, I heard about a number of programmes, laws and policies addressed at housing that are good practices. I visited Centres and shelters accommodating homeless people, women fleeing from violence, aboriginal women, HIV-AIDS positive people, children with disabilities, and people suffering from drug addictions. All these Centres were fully or partially funded by the various programmes of the State.

But the funding support is irregular, groups are often required to rely on voluntary contributions and voluntary labour, and the process of sustaining non-government organizations is occupying a greater amount of time and resources.

During this visit, I was impressed by the large number of NGO, groups and associations working on housing and congratulate them for having adopted the human rights approach of the problem, which has resulted in a number of interesting initiatives and proposals to address the problem in Canada.

But at every point in my mission, I heard from NGOs about inconsistent federal and provincial funding guidelines, inadequate funding, years of delays and the lack of support for the long-term development of the NGO sector. A strong and healthy NGO sector not only delivers substantial benefits to communities, but it also serves as a valuable partner to government in delivering housing and homelessness programmes and services.

Governments should work with civil society to create funding and programmes to sustain non-governmental organizations over the long-term.

In order to evaluate its policies and programme and the realization of the right to adequate housing in Canada, the Government of Canada needs proper tools such as statistics and indicators. In this regard, I invite the Government to look into what is already in place in other countries (such as in Australia), and to the work that is being done in the UN.¹⁰

The Government of Canada should work with provinces, territories, municipalities, Aboriginal organizations and non-governmental organizations to develop proper statistics and indicators for homelessness and housing insecurity.

¹⁰ See for example indicators on the right to housing in the Special Rapporteur 2007 Annual Report. A/HRC/4/18

Conclusion

These are my preliminary observations and recommendations. They are preliminary because mission of this kind necessitates a lot of work and research on the various issues before and also after the conclusion of the visit. I will continue to receive information from Government, civil society, academic institutions and other relevant sources. I will review them and present a final report, containing my definitive conclusions and recommendations to the Human Rights Council in 2008. I hope they will prove to be useful for all actors involved in implementing the right to adequate housing of each and every person in Canada.

I also invite you all to follow the debates at the Human Rights Council at the occasion of the presentation of this report in 2008.

I would once again like to thank the Government of Canada for the invitation to conduct this mission and their support. I would also thank the authorities of the provinces I visited for their welcome. I am confident that the work and dialogue that has been initiated on the implementation of the human right to adequate housing with the authorities will continue and be fruitful.

I also want to thank the many hundreds of civil society representatives that I met across Canada for taking the time to prepare thoughtful and detailed presentations that not only set out the problems, but also offered innovative solutions. The dedication to provide practical assistance to people who are suffering from homelessness and housing insecurity is inspiring, and I commend their commitments to finding solutions even in adverse social and funding environment.

Information on the Special Rapporteur and his mandate

Mr. Kothari was appointed in September 2000 as Special Rapporteur on adequate housing. His mandate involves reporting annually to the Human Rights Council on the status of the realization of the right to adequate housing throughout the world, and identifying practical solutions and good practices towards this end. An architect by training, Mr. Kothari has extensive experience in the area of housing and land rights. Since his appointment as Special Rapporteur, he has carried out many missions and visits to countries such as Romania, Mexico, Peru, Afghanistan, Kenya, Brazil, Iran, Cambodia, Australia, Spain and South Africa.

For further information on the mandate and work of the Special Rapporteur on adequate housing, please consult the website of the Office of the High Commissioner for Human Rights at: <http://www.ohchr.org/english/issues/housing/index.htm>

Annex 1: The right to adequate housing

The right to adequate housing and the related rights are encompassed in the major international human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which Spain is party. For instance, Article 11(1) states that States Parties to the Covenant “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

A number of elements are determining the adequacy of the right to housing¹¹:

- (a) **Legal security of tenure:** The legal right to secure tenure, whether freehold, leasehold, or other form of individual and collective rights to housing, involves protection from forced eviction, harassment and other threats. It also effectively guarantees access to, use of and control over land, property and housing resources.
- (b) **Access to public goods and services:** The right to adequate housing cannot be effectively realized without access to public goods and services, including, water, health-care, transport, fuel, sanitation, lighting and electricity, sewerage and waste disposal, child care and communications.
- (c) **Access to land, water and other natural resources:** Every community must have access to natural resources necessary for its survival and livelihood, including, inter alia, fuel, fodder, water and building materials.

¹¹ For further information on the definition and the elements of the right to adequate housing, please refer to the reports of the Special Rapporteur (available at: <http://www.ohchr.org/english/issues/housing/index.htm>) and the General comments n°4 and 7 of the Committee on Economic, Social and Cultural Rights (available at: <http://www.ohchr.org/english/bodies/cescr/comments.htm>).

(d) **Affordability:** Individuals and communities should have access to affordable housing and must have the corresponding right to livelihood so as to be able to afford decent housing.

(e) **Habitability:** Adequate housing must provide needed space to live in dignity and peace. It must also provide protection from natural elements, structural hazards and disease vectors that are threats to physical well-being. The physical conditions of the home can affect the realisation of other rights, including the highest attainable standard of mental and physical health, as well as education, whereas the lack of conditions are not conducive to learning (especially for children).

(f) **Physical accessibility:** Disadvantaged communities and groups which often include women and female-headed households, must be allowed full and sustainable access to adequate housing and resources, including land, infrastructure and sources of livelihood and the state must take account of special housing needs.

(g) **Location:** Adequate housing must be in a place that enables access to employment, primary health-care, education and other social services and civic amenities. The financial and temporal cost of transport must not place excessive financial and other demands on the household. In addition, both rural and urban housing must be in a location that is safe, particularly from environmental hazards and pollutants.

(h) **Cultural adequacy:** Housing configuration, spatial design and site/community organization should be determined locally and in harmony with a community's cultural preferences and attributes.

(i) **Freedom from dispossession, damage and destruction:** Each individual and community has a right to a place to live without threat of dispossession from land, all forms of their property, their homes and resources, as well as all individual and collective holdings required to sustain livelihood.

(j) **Access to information:** Individuals and communities must have access to appropriate data, documents and intellectual resources that impact upon their right to obtain adequate housing. Having access to appropriate data means being informed about potential industrial and natural hazards, infrastructure, planning design, availability of services and natural resources and other factors that affect the right.

(k) **Participation:** Effective participation in decision-making is essential to the fulfilment of all other rights, as well as the elements of the right to housing. At all levels of the decision-making process in respect of the provision of and right to adequate housing, individuals and communities must be able to express and share their views, they must be consulted and be able to contribute substantively to such processes that affect housing, including, inter alia, location, spatial dimensions, links to community, social capital and livelihood, housing configuration and other practical features. The state must ensure that building and housing laws and policies to not preclude free expression, including cultural and religious diversity.

(l) **Resettlement, restitution, compensation, nonrefoulement and return:** Resettlement may be essential to survival in the case of natural or human-made disasters, including in conflict and post conflict situations. Therefore, the congruent right to freedom of movement can be essential to the fulfilment of all other rights. Any resettlement arrangement, whatever the cause, must be consensual, fair and adequate to meet individual and collective needs.

(m) **Privacy and security:** Every woman, man, youth and child has the right to live and conduct her/his private life in a secure place and be protected from threats or acts that compromise their mental and/or physical well-being or integrity inside or outside the home.

(n) **Access to remedies:** Provision of domestic legal and other remedies is an important part of protecting the right to adequate housing. Individuals and groups must be protected from abuse by landlords, property developers, landowners or any other third party capable of abusing their rights. Where such infringements do occur, public authorities should act to preclude further deprivations as well as guaranteeing access to judicial redress including legal and equitable remedies for any infringement caused.

(o) **Education and empowerment:** Individuals and communities should have access to technical assistance and other means to enable them to improve their living standards and fully realise their economic, cultural and social rights and development potential. The State, for its part, should endeavour to promote and provide for catalysts and mechanisms for the same, including efforts to ensure that all citizens are aware of procedural measures available toward defending and realizing her/his right to adequate housing. Human rights education is a key part of such empowerment strategy.

(p) **Freedom from violence against women:** The state must prevent all forms of violence against women committed by either state or non-state actors to ensure women's right to adequate housing. The definition of violence against women as per the UN Declaration on the Elimination of Violence against Women (1993) is "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". Further, the State is responsible for addressing both individual and structural forms of violence, in the family, the community and by the State and ensures that there is legal redress for any acts or threats of violence against women.

Annex 2: List of vulnerable groups (non-exhaustive)

1. Homeless people
2. Women (including women affected by domestic violence, women in rural areas, pregnant women, women with new-born children and single women with elderly children)
3. Indigenous peoples
4. Groups living in poverty and in low income
5. People with disabilities and health problems (including mental health)

6. Children (including former wards of the State)
7. Youth
8. Elderly
9. Persons with complex needs (e.g. HIV/AIDS, sexual minorities)
10. Single parents
11. Individuals and communities in rural and remote areas.
12. Refugees and asylum-seekers
13. Migrants
14. Prisoners and persons released from detention
