



Recommendations for Amendments to

Bill 140

*Strong Communities Through Affordable Housing Act*

Notes to Presentation to the Standing Committee on  
Justice Policy

Bruce Porter

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## Introduction

Thank you Chairperson and Members of the Committee for the opportunity to present before this Committee on a very significant piece of legislation.

As noted in the previous [submission from Leilani Farha from Centre for Equality Rights in Accommodation \(CERA\)](#), international human rights bodies and experts concerned about the growing human rights crisis of homelessness in Canada have, for the last 15 years, called for the adoption by both provincial and the federal governments, of a comprehensive strategy to ensure the right to adequate housing and eliminate homelessness. All of [these human rights bodies and experts have emphasized that the strategy should adopt a human rights framework](#) – based on the recognition that access to adequate housing is a fundamental human right.

What does it really mean, though, to say that housing is a human right? Some people think that the right to housing cannot be taken very seriously under international law, since homelessness is so widespread, particularly in impoverished countries. But nothing could be further from the truth. The right to adequate housing is recognized as one of the most fundamental of all human rights. It is also recognized that the right to housing must be implemented subject to available resources and the means available and that it takes time to fully implement a right to adequate housing. This is what is called, in international human rights, the obligation to “progressively realize” the right to adequate housing, applying the “maximum of available resources” and “by all appropriate means, including particularly the adoption of legislative measures.” ([International Covenant on Economic, Social and Cultural Rights](#), Article 2(1))

This is why UN bodies are particularly concerned at the extent of homelessness in so affluent a country as Canada – and to have seen homeless increase, rather than decrease during times of economic prosperity. This is why the UN Special Rapporteur decided to make one of his special country missions an investigation into the situation in Canada.

A cornerstone of minimal compliance with the right to adequate housing under international human rights law is the adoption of a comprehensive and reasonable strategy to eliminate homelessness and implement the right to adequate housing over time. Most advanced countries now have housing and homelessness strategies that include clear goals and timetables for the reduction and elimination of homelessness. [Ireland](#), the [United Kingdom](#), (with particular initiatives in [Scotland](#), and [Wales](#)) [Finland](#), [Portugal](#), [Denmark](#), [Sweden](#), [Norway](#), [the Netherlands](#), [France](#), [Australia](#), and the [United States of America](#) have all instituted housing strategies or plans to reduce or end homelessness within prescribed periods of time. All of these housing strategies aim to ensure access to adequate housing for all, and prioritize the needs of groups most vulnerable to homelessness, including persons with both mental and physical disabilities, indigenous groups, racialized groups, youth and women, particularly single mothers.

The obligation to adopt, by legislation, a comprehensive housing strategy based on the right to adequate housing is an obligation that is binding on both Canada and the provinces. Ontario has agreed to ensure compliance with international human rights covenants in areas of provincial or shared jurisdiction – including the right to adequate housing. This is an issue about which [the Ontario Human Rights Commission has spoken out clearly](#) – ensuring the human right to adequate housing is a provincial responsibility and legal obligation under international law. Because of the nature of Canadian federalism, any comprehensive “national” housing strategy must include both a federal strategy and provincial strategies.

## **Key Components of a Human Rights Based Housing Strategy**

Bill 140 implements a number of measures to improve housing services. It requires that housing service managers adopt five year plans. It amends the *Planning Act* to ensure that secondary suites will provide additional affordable housing supply. These are important steps, but do not, unfortunately, constitute a housing strategy that implements Ontario’s obligations under international human rights law, or measures up to the standards of housing strategies adopted in other jurisdictions.

As Ms. Farha from CERA has explained, UN human rights bodies, the Special Rapporteur on Adequate Housing and many experts have identified the key features that must be present to make a housing strategy consistent with a human rights based approach. These are:

- Commitment to the right to adequate housing as guaranteed under international human rights law and effective follow-up to concerns and recommendations from UN treaty monitoring bodies
- Meaningful participation of civil society, stakeholders, indigenous representatives, groups vulnerable to homelessness, and local governments in the design, implementation and monitoring of the implementation of the housing strategy
- Measurable goals and timetables for the reduction and elimination of homelessness
- Identification and prioritizing of the needs of groups that are particularly vulnerable to homelessness or face discrimination, including support services that may be necessary for people with disabilities to live in the community
- Transparent accountability mechanisms, including independent monitoring and review of progress and implementation and an individual complaints mechanism for victims of violations of the right to adequate housing.

We now have a bill at third reading before the Parliament of Canada, [Bill C-304, An Act to Ensure Accessible and Affordable Housing for Canadians](#), which provides us with an excellent model for what a housing strategy based on the above principles looks like in the Canadian context. Introduced as a private member's bill by Libby Davies, the Act was significantly amended at Committee, with a number of amendments introduced by Gerard Kennedy, in order to comply with the above principles of a rights based strategy. While the bill is now unlikely to pass before an election, the strong support it enjoys from the majority of parliamentarians as well as from a wide range of groups including the Federation of Canadian Municipalities and

Aboriginal communities ensures that it will almost certainly be reintroduced in the next parliament.

We have distributed to the Committee members a copy of [Bill C-304 with the key components highlighted which create the framework for a human rights based strategy](#). Our proposal is that Bill 140 be amended along similar lines, to include in the new *Housing Services Act* the same components that make Bill C-304 a broadly supported, rights- based housing strategy that has been welcomed by the Special Rapporteur on Adequate Housing.

## **1. Reference to the Right to Adequate Housing**

Bill C-304 refers to the sources of the right to adequate housing under international human rights law in the preamble as well as in the description of the housing strategy that is to be developed by the Minister in consultation with other levels of government, stakeholders, civil society etc. This accords with a key recommendation from the Senate Report [In From The Margins: A Call To Action On Poverty, Housing, And Homelessness](#), in which the Senate Sub-Committee, chaired by Senator Art Eggleton, recommended that a housing and homelessness strategy should incorporate a human rights framework and that relevant legislation should explicitly cite Canada's obligations under international human rights law. The new *Housing Services Act* needs to have a reference to the right to adequate housing similar to references to relevant international human rights law in the preamble to Bill C-304 and to the description of the housing strategy in section 3(1) "designed to respect, protect, promote and fulfill the right to adequate housing as guaranteed under international human rights treaties ratified by Canada."

We would suggest that this Committee consider adding to the definitions section, the following definition of the "right to adequate housing":

**In this act "the right to adequate housing" means the right to adequate housing as guaranteed under international human rights**

**law ratified by Canada with the agreement of the Province of Ontario.**

Section 4(1) could then be amended to add, as subsection (a)(bis), the following additional provincial interest:

**(a) Complies with Ontario's *Human Rights Code*, the *Canadian Charter of Rights and Freedoms*, and Ontario's obligations under international human rights law to respect, protect, promote and fulfill the right to adequate housing within available resources and by all appropriate means;**

## **2. Meaningful Participation of Civil Society, Key Stakeholders and Vulnerable Groups**

The obligation to ensure meaningful participation in the development and implementation of both the provincial and local housing strategies needs considerable strengthening in Bill 140. While the Bill in its current form provides for public consultations by Service Managers, a rights based approach to a provincial housing strategy requires that clearer principles and policies be developed in consultation with stakeholders and vulnerable groups to address the structural causes of homelessness. Prior to the development of local plans, what is needed is a meeting, comparable to the meeting that is provided for in Bill C-304 on a national basis, to develop the key components of a rights based provincial housing strategy. It is this strategy which would then guide the development of local five year plans.

We therefore recommend that a provision be included, perhaps in an amendment to section 5, to provide for a meeting, convened by the Minister, and including representatives of municipalities and key stakeholder groups to develop the basic principles and requirements of the Ontario Housing Strategy, which will then guide the development of local housing plans. Modeled on section 5 of Bill C-304 an amendment could read as follows:

**The Minister shall, within 180 days after the coming into force of this enactment, convene a conference of representatives of municipalities, Aboriginal communities, non-profit and private sector housing providers and civil society organizations, including those that represent groups in need of adequate housing, in order to develop the principles and requirements of an Ontario Housing Strategy, including budgetary commitments ....**

Ongoing involvement in of all of these groups, particularly in the evaluation and monitoring of the implementation of a housing strategy, should also be a principle that is affirmed in the Ontario Housing Strategy, as it is in the federal strategy described in Bill C-304. A provision along the following lines could be considered:

**The provincial-municipal housing strategy will include principles of an agreement between provincial government and municipalities, Aboriginal communities, non-profit and private sector housing providers and civil society organizations, including those that represent groups in need of adequate housing, for the development, delivery, monitoring and evaluation of programs necessary to the implementation of the housing strategy.**

### **3. Measurable goals and timetables for the reduction and elimination of homelessness**

Including measurable goals and timetables for the reduction and eventual elimination of homelessness is critical to a housing strategy. Such timetables and targets are key components of strategies to address homelessness in most other jurisdictions. There must be a provincial commitment to eliminating homelessness over time, as well as parallel commitments and strategies at the municipal level. We therefore recommend that *Housing Services Act* require, as does C-304, that the provincial strategy as well as municipal strategies be required to:

**develop standards and set objectives and targets for the realization of the objectives of the Ontario Housing Strategy, including targets to end homelessness — with clear timelines and accountability mechanisms, and develop programs to carry out the strategy;**

#### **4. Identifying Barriers and Prioritizing the Needs of Vulnerable Groups**

A key component of both the provincial and municipal housing and elimination of homelessness strategies should be identifying barriers and addressing the needs of groups most vulnerable to homelessness. The right to housing for people with disabilities, in particular, must be understood as including supports necessary to community living and including barrier-free design for persons with physical disabilities. The following, based on section 4 of Bill C-304 could be added as a requirement of the provincial – municipal housing strategy:

**(4) The Ontario Provincial-Municipal housing strategy shall 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, including:**

- (a) those who have not had secure, adequate, accessible and affordable housing over an extended period;**
- (b) those with special housing requirements because of family status or size or because of a mental or physical disability;**
- (c) members of groups denied housing as a result of discrimination; and**
- (d) those who are experiencing violence or who are at risk of experiencing violence.**



## **5. Transparent accountability mechanisms, including independent monitoring and review and an individual complaints mechanism**

The final critical component of a rights based housing strategy is meaningful accountability mechanisms. Governments, municipalities and other actors must be made accountable to their human rights obligations. Vulnerable groups and those affected by homelessness must have a place to go to identify problems that still need to be solved. UN bodies and the Special Rapporteur on Adequate Housing have made it clear that independent monitoring and an effective complaints system for violations of the right to housing are critical to an effective strategy. Many jurisdictions have developed innovative accountability mechanisms, some relying at least in part on their human rights institutions. The Human Rights Commission may be one institution that could play a role in this respect. Or it may require the appointment of a Housing Commissioner with authority to hold hearings or inquiries into identified concerns. Municipalities will likely need their own accountability mechanisms.

An additional component of accountability with respect to the right to adequate housing is enhanced provincial and municipal accountability to international human rights review and monitoring processes. UN bodies have repeatedly raised concern that while provinces have key jurisdiction with respect to the right to housing and other social and economic rights, there is no public and transparent mechanism for provincial follow-up to concerns and recommendations from UN Human Rights bodies.

The details of the necessary mechanisms can be left to the provincial/municipal housing strategy developed jointly out of a conference and ongoing consultations. What is most important to include in Bill 140, however, is commitments to accountability similar the commitments contained in Bill C-340 at the federal level. Therefore, we would propose that something along the following lines, modeled on Bill C-340 be included as a requirement of the provincial-municipal housing strategy:

**The provincial/municipal housing strategy will include processes for the independent review, addressing and reporting of complaints about possible violations of the right to adequate housing as well as processes 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 relevant to Ontario.**

## **Conclusion**

The adoption of a provincial housing strategy, along with implementing legislation is long overdue in Ontario. It has been urged upon governments in Canada by UN bodies and experts for well over a decade. All have urged the adoption of a human rights framework. The experience both in Canada and internationally is that it is only when housing and the eradication of homelessness are approached as fundamental human rights issues, with appropriate legislative and budgetary commitments and accountability, that housing strategies are effective. This is an historic opportunity in Ontario to finally implement a human rights based strategy. We hope this Committee will take seize this opportunity to amend Bill 140 in order to create the human rights based strategy that Ontarians need and deserve.

Thank you very much.