



Written Submission of the Center on Housing Rights and Evictions (COHRE) to the Human Rights Committee at its 87th Session (2006)

I. Introduction

1. The following report is respectively submitted to the Human Rights Committee (Committee) in order to provide information for consideration in the context of the Committee's review of the periodic report of the Government of the United States.
2. This report addresses housing issues that rise to violations of Article 6 (the right to life) and Article 26 (prohibition of discrimination) of the International Covenant on Civil and Political Rights.

II. Article 6

3. In its Concluding Observations on the fourth periodic report of the Government of Canada, issued in 1999, the Committee expressed its concern "that homelessness has led to serious health problems and even to death" and recommended "that the State party take positive measures required by Article 6 to address this serious problem."¹
4. While this issue is not adequately addressed in the List of Issues, the Committee must apply the same standard to the Government of the United States that it applied to the Government of Canada in 1999. Indeed, the proportion of homelessness vis-à-vis State wealth and income is even more egregious in the United States than in Canada.
5. The United States is failing to meet its obligations regarding the right to life, including through inadequate or inadequately implemented housing policies. Presently, at least 840,000 people are homeless on any given day within the United States. As people transition in and out of homelessness, more than 3.5 million people are affected within a given year, 1.35 million of whom are children. Many are unable to obtain access to emergency shelter, often being turned away by overburdened, inadequately funded providers. Some 33% of requests by homeless families for emergency shelter are turned down, and of those who manage to obtain emergency shelter, many are required to separate. For those homeless persons unable to obtain emergency shelter, the system's failure can be deadly, particularly during the winter. It can also lead to criminal punishment with homeless

¹ Concluding Observations of the Human Rights Committee: Canada, UN Doc. CCPR/C/79/Add.105 (7 April 1999).



people in urban areas increasingly being targeted by municipal police forces for criminal offenses such as “illegal lodging” or panhandling in designated areas.²

6. While millions are affected by homelessness, even more are at risk because of the lack of affordable housing. There are 4.7 times more poor households in need of rental housing than there are available affordable units. Some 14.3 million households, representing almost one in seven households in the United States, are severely burdened by the cost of housing, meaning that housing payments account for more than 50% of their income. Of these, some 12.5 million are at grave risk of becoming homeless, because wage levels, particularly for those working at minimum wage, are woefully insufficient to meet the rising costs of housing. According to a federal government survey, 44% of homeless people report that they work full- or part-time and yet are still unable to afford housing.³ Full time minimum wage workers cannot afford basic one bedroom apartment at the fair market rate and 38% of elderly renters are severely cost burdened.⁴

7. While federal law supports a goal of adequate housing for all Americans, and federal housing programs offer assistance to low-income people, they are not adequately funded. For instance, only 34% of the United States’ 9.9 million households which are all eligible for housing assistance actually receive it. Indeed, many cities have stopped accepting applications for housing assistance programs because waiting lists have become so long.⁵

8. In addition, in 2004 new Department of Housing and Urban Development guidelines restricted federal housing assistance further, threatening an estimated 250,000 households with the loss of their housing. Moreover, Congress cut appropriations for low-income housing as well as assistance for homeless people for 2005.⁶

9. According to the National Low Income Housing Coalition, in Fiscal Year 2006 alone, the public housing capital fund (used for modernization and rehabilitation of public housing) will be cut by \$252 million. The public housing operating fund (used for building maintenance, utilities, resident services, etc.) will be cut by \$25 million. The Resident Opportunities and Self Sufficiency (ROSS) Program, designed to link public housing residents with supportive services, resident empowerment activities and other assistance, would be cut in half. Similar cuts in housing programs meant to assist the poor have been seen all across the board.⁷

² Testimony of the National Law Center on Homelessness and Poverty to the Inter-American Commission on Human Rights (March 2005).

³ Testimony of the National Law Center on Homelessness and Poverty to the Inter-American Commission on Human Rights (March 2005).

⁴ Testimony of the National Law Center on Homelessness and Poverty to the Inter-American Commission on Human Rights (March 2005).

⁵ Testimony of the National Law Center on Homelessness and Poverty to the Inter-American Commission on Human Rights (March 2005).

⁶ Testimony of the National Law Center on Homelessness and Poverty to the Inter-American Commission on Human Rights (March 2005).

⁷ National Low Income Housing Coalition, The Decline of Federal Investment in Public Housing (April 2005).



III. Article 26

10. Article 26 prohibits discrimination, which is defined as “any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose *or effect* of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”⁸

11. In the United States, racial minorities disproportionately make up the ranks of the homeless and those whose lives are jeopardized or otherwise threatened due to inadequate housing. Indeed, the recent impact of Hurricane Katrina highlights the fact that racial minorities disproportionately live in the most vulnerable housing conditions and that such conditions threaten not only a life with dignity but life itself.

12. While paragraph 16 of the List of Issues addresses Hurricane Katrina issues, it fails to take into consideration that Hurricane Katrina is but one example of a consequence of the disproportionate exclusion of racial minorities from the enjoyment of social rights in the United States. The Committee must address this underlying issue as this is where the lack of implementation of Article 26 lies.

13. Furthermore, there are an estimated 750,000 persons internally displaced due to Hurricane Katrina, mostly as a result of substandard flood protection. The United States fails to accord these internally displaced persons the protections of the United Nations Guiding Principles on Internal Displacement nor the Government of the United States’ own policy in IDPs as articulated in the USAID Assistance to Internally Displaced Persons Policy.

14. Inadequate housing conditions affect not only those in the Gulf region of the United States. Indeed, women, racial and ethnic minorities, the elderly, children, and the poor in all parts of the United States have been disproportionately affected by this lack of affordable housing and inadequate living conditions. They have also suffered discrimination in the housing sphere that precludes them from accessing markets for adequate housing — especially African Americans, Hispanics, and Native Americans.

15. Indeed, in 2000, the Government of the United States admitted to the Committee on the Elimination of Racial Discrimination that “While the scourge of officially sanctioned segregation has been eliminated, *de facto* segregation and persistent racial discrimination continue to exist. The forms of discriminatory practices have changed and adapted over time, but racial and ethnic discrimination continues to restrict and limit equal opportunity in the United States.”⁹ In the same report, the Government also admitted to “continued segregation and discrimination in housing, rental and sales of homes, public accommodation

⁸ Human Rights Committee, General Comment 18, Non-discrimination (Thirty-seventh session, 1989), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 26, para. 7 (1994).

⁹ Third Periodic Report of the Government of the United States to CERD, UN Doc. CERD/C/351/Add.1 at para. 18 (10 October 2000).

and consumer goods. Even where civil rights laws prohibit segregation and discrimination in these areas, such practices continue.”¹⁰

16. The *de facto* discrimination admitted by the Government of the United States may not be deemed to be unconstitutional, given the narrow interpretation that is applied to the Constitution of the United States – namely that to be unconstitutional discrimination must be the result of a discriminatory intent or purpose. However, under the International Covenant on Civil and Political Rights, such discrimination does indeed violate the prohibition on discrimination, as the ICCPR definition of “discrimination” includes discriminatory effect.

17. According to a December, 2000 report of the US Conference of Mayors, the homeless population is about 50 percent African-American, 35 percent white, 12 percent Hispanic, 2 percent Native American and 1 percent Asian. In the United States, African Americans make up approximately 12 percent of the general populations and Native Americans make up less than 1 percent.

IV. Conclusion and Recommended Concluding Observations

18. Based on the above-mentioned facts, the Human Rights Committee should conclude that the Government of the United States is in violation of its obligations under Article 6 and Article 26 of the International Covenant on Civil and Political Rights due to the extent of homelessness and inadequate and vulnerable housing conditions, and the fact that such conditions disproportionately affect racial minorities and other marginalized or vulnerable persons. Consequently, COHRE respectfully requests that the Human Rights Committee consider the following draft concluding observations.

19. The Committee is concerned that homelessness has led to serious health problems and even to death. The Committee recommends that the State party take positive measures required by Article 6 to address this serious problem.

20. The Committee is concerned that racial minorities disproportionately make up the ranks of homeless and those whose lives are jeopardized or otherwise threatened due to inadequate housing. The Committee recommends that the State party take positive measures, including affirmative action measures, required by Article 26 to address this serious problem.

¹⁰ *Id.* at para. 71(f)