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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Written statement* submitted by Europe-Third World Centre, a non-governmental
organization in general consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[20 February 2008]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

Lack of Access to Adequate Housing¹

In France, a country with 3.3 million persons inadequately housed or homeless, and 6 million in a situation of real precariousness, it is urgent to create the conditions necessary for the implementation of the right to adequate housing!

From Words to Reality!

Given the texts that have been ratified, the official positions, and the vote on the law regarding the right to adequate housing justiciable² (5 March 2007), who could doubt France's commitment to guarantee the right to adequate housing? However, the expectations of the right to adequate housing persist and cover many situations: situations of occupation without legal protection, overcrowding, indecent lodgings unworthy of human habitation, people relegated to campgrounds, slums, lodgings in hotels and in group homes, people living in the street...

France has signed the major texts adopted within the framework of the United Nations, which closely link the protection of adequate housing to the notion of human dignity.³ At the European level, France recognizes that adequate housing is part of the respect to a private and normal family life (ECHR⁴, 1950) and has committed itself to assuring the effective enjoyment of the right to adequate housing and to protection against poverty and social exclusion (Art. 30 of the *Revised European Social Charter*, 1996).

In France, the right to adequate housing is recognized by law as a fundamental right and recognized since 1995 as a constitutional objective. The right to housing is, with the Law of 5 March 2007, "justiciable" in the sense that one can take legal action against a public authority for failing to fulfill its obligation to provide a housing solution.

However, this text is not binding for the public authorities:

- the legal basis for appealing to the courts is limited. A special jurisdictional appeal is open only to persons classified as having priority through an administrative decision. The judge is limited in his power of implementation. There is no guarantee that a judgment will be carried out. The plaintiff is not compensated if he is not properly housed;
- the right to adequate housing is the right to have and remain in a decent, safe and independent dwelling. The right to housing is not the right to lodging. French law remains confused on the right that it wishes to confer, by allowing at any time during the judicial procedure the offer of a lodging rather than adequate housing. Although lodging may be part of a social re-insertion plan, it cannot be a solution adapted to

¹ This declaration was drafted in collaboration with the AITEC (Association internationale des techniciens, experts et chercheurs), la FAPIL (a network of social association organizers working for the right to a lodging adapted to the needs of each persons) and the DAL (Droit au logement).

² DALO (*Droit au logement opposable*) Law.

³ We refer to, inter alia, the ratification of the *Universal Declaration of Human Rights* (1948, Art. 25); the *International Covenant on Economic, Social and Cultural Rights* (1966, Art. 25); the Vancouver Declaration on Human Settlements in 1976, the Istanbul Convention "Habitat II" in 1996, other United Nations and International Labor Organization texts concerning specific populations (refugees, children, workers, women...). V. also the CETIM brochure *The Rights to Housing*, published in 2007.

⁴ V. the *European Convention on Human Rights* and the *Convention for the Protection of Human Rights and Fundamental Freedoms*.

the needs of the poorest populations, contrary to what certain legal measures provided for by the law seem to suppose;

- in order to claim adequate housing, foreigners must fulfill conditions of permanent residency that are more restrictive than those applied to French nationals. This provision excludes those whose situation is nonetheless in conformity with the law, thus it constitutes an unjustified inequality of treatment in violation of the guarantee of a fundamental right;
- implementation of this law is without funding, and direct aid to the poorest represents less than 1% of the funds devoted to housing policies.

These texts are without effect if they are not accompanied by ambitious public policies such as to guarantee the recognized right. All indications are that there is a degradation of living conditions among those who are most vulnerable: the policies being implemented and the choices made, in fact, are contrary to an effective right to adequate housing, and the current housing crisis continues to get worse each year.⁵

Public Policies That Do Not Meet Needs!

The socio-demographic trends have not been anticipated by the government: children no longer living with their parents, divorces, aging, have all generated an ever greater demand on the part of the lowest earners. The increase of unemployment and the precariousness of so many people's situations also have their effect: in parallel to the housing crisis, France faces a serious social crisis.

The increase of real estate prices and of rents has contributed to the increase in social precariousness and excludes the most vulnerable from access to adequate housing as a common right. In six years, the cost of housing in the private sector has increased twice as fast as household earnings. Today, housing has become the biggest item in the budget, crowding out other essential needs. This increase in the price of housing makes landlords more demanding, and the lack of housing results in discriminatory selection criteria for tenants. The exclusion touches an ever greater category of persons, and wage earners are also affected.

Aid for housing decreases in effectiveness: increases by the government are well below the increase in rents and do not take into account the substantial increase in utilities that is taking place with the recent deregulation of electricity and gas.

The shortage of housing has only increased over the past twenty years: the accumulated deficit in the production of housing is estimated at 800,000 units in 2007. It goes without saying that there is construction, but it is not oriented to the demand. This gap only reinforces the inequalities.

Reducing Public Housing

The law on the social cohesion program, revised in 2007, provides for the construction of 591,000 public housing units, construction that is to be carried out over five years. Given the level of financing and the rents provided for, the accent has been on the production of housing units for the most solvent households.

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Taken from the annual report on inadequate housing by the Abbé Pierre Foundation, 2007.

A national urban renewal program provides for the demolition of 250,000 housing units: 3.5 million persons are affected in 531 neighborhoods throughout France. It will be necessary to relocate these households, and new construction takes time. Yet the 1/1 rule is not being observed, in other words, one unit is not being constructed for every one demolished. Accordingly, those evicted by demolitions are often relocated to former low-income housing that has not been rehabilitated and, worse, is run down: they lose on the deal while they have not asked for the demolitions.

At the same time, the government is planning the sale some public housing to its occupants: 40,000 units per year will be leaving the public housing sector for the private sector.⁶ Private investment is favored through tax breaks. Speculative mechanisms are thus being encouraged.

The shortage of affordable housing relates also to local foot-dragging: 742 communes are under obligation to assure that at least 20% of the housing in their jurisdictions is public housing, this by virtue of Article 55 of the SRU⁷ Law of 13 December 2000. This obligation has not been respected, as many of the communes prefer paying an insufficiently dissuasive fine to building anything.

The housing crisis is also a land crisis: the problem of the cost of land is without any resolution, and there are not policies tending in this direction.

The very existence of public housing is threatened by the weakening of its financing mechanisms. Coupled to the policy of an ever greater sale of public housing, the reform of the *Livret A* (savings accounts whose funds in part are used to finance public housing⁸) accentuates the commodification of public housing.

A certain number of authorities working in the interest of the right to adequate housing have been delegated or transferred outright by the government to territorial jurisdictions in the interest of proximity. However, this scattering of those responsible allows each to push his responsibilities off onto others and contributes nothing to the implementation of a coherent policy.

The Right to Adequate Housing for All is Neither Effective nor Enforced!

In the current state of affairs of allocated means, the government can guarantee the right to adequate housing to only one-tenth of those potentially in need⁹.

In six years, the average waiting period for housing has increased by more than six months and can last as long as ten years in Paris. The households of the poor and immigrants are those who wait longest. The principle of housing according to income levels has become an excuse for local governments and public landlords to refuse their requests.

Even if housing conditions improve overall, the public health question remains significant: some one million persons are living in 400,000 to 600,000 substandard units, not counting

⁶ To these should be added low-income housing that has lost its classification as such.

⁷ *Loi relative à la solidarité et au renouvellement urbains (Loi SRU).*

⁸ In 2005, loans granted by the *Caisse des dépôts* from funds derived from the *Livret A* represented 71.6% of financing of public housing.

⁹ This is based solely on potential applicants (estimated at 600,000) recognized as priority cases by the DALO (*Droit au logement opposable*) Law.

those households that cannot get into public housing. The health of the tenants is cause for concern owing to the number of substandard and dangerous units and the lack of proper monitoring of compliance with requirements for occupation. The failure in the implementation of protective measures for individuals violates the right to health and to human dignity.

As the Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, noted during his visit to France in 2007, squatted buildings and slums are reappearing, and the occupants are being evicted on a large scale with no possibility of relocation. These living conditions are not taken into account in the fight against substandard housing; no legal protection, no right to relocation nor right to lodging is envisioned for these occupants.

The problem of the homeless is not solved, and the homeless are as numerous as ever. Access to housing is not guaranteed them, and the housing authorities are saturated. The evictions of tenants, which create more homeless and inadequately housed, are ever more numerous; 90% of them arise from unpaid rent. Eviction decisions are made without taking into account the economic, social and health situation of the occupants and without any relocation being guaranteed. Between 2000 and 2005, the number of evictions increased by 40%, and those carried out with the support of the public authorities increased 65%.

The number of those whose status of occupation is precarious increases, as rightful public housing is less and less accessible to those in unfavorable and/or modest circumstances. Protections are weakening and even disappearing. Yet it is in securing the rights of tenants in opposition to landlords that the right to adequate housing can be effectively guaranteed.

These last years, use of hotel lodging has been frequent for the most vulnerable, in particular political asylum seekers. Numerous lodging programs have even been criticized for evicting occupants and not following legal due process.

The due-process guarantees are shrinking for certain categories of the population:

- The emergency eviction procedure has been reduced to 72 hours for those occupants with neither right nor title (by the Law of 5 March 2007 that instituted a right to adequate housing recognized by the courts law) and for gypsies (by the law for the prevention of delinquency);
- Evictions no longer require a previous decision by a judge and can be ordered directly by the prefect.

As the Special Rapporteur, Miloon Kothari, noted, in 2007, gypsies were excluded from the right to adequate housing. The Law of 5 July 2000, which obliges communes of more than 5,000 inhabitants to maintain appropriate camping areas for them, is not enforced: fewer than 25% of the 40,000 places which should exist have been created by the communes, leaving 80% of Gypsies with no place to stop. In these conditions, access to services, to facilities essential to health, safety and nutrition is extremely difficult (potable water, energy, sanitary facilities, waste disposal etc.) Settling on land in order to set up even a temporary dwelling without authorization is subject to imprisonment, fine, suspension of one's driver's license and confiscation of one's vehicles. Moreover, these living conditions are characterized as being threatening to health, safety and the general tranquility and constitute a crime.

Other discriminatory treatment affects the households of foreigners and violates the principle of equality before the law, for example:

- the policy regarding migrant workers' households relegates them to a lower level of protection. (Internal rules of housing centers are often draconian and in contradiction to the right to privacy.);
- the housing conditions required for those requesting family unification require space that is much greater than that required for French households. (Before 1998, family reunification made the request for public housing a priority.)

Possible Ways to Hold France Accountable for Implementing the Right to Adequate Housing

The right to adequate housing supposes the existence of an accessible and decent adequate housing stock (public housing, regulation of the private sector, quality of housing) but also¹⁰ legal protection (status of occupation, right of those seeking housing, coverage of social risks) and targeted social services (including those aimed at vulnerable groups and specific services).

To achieve these goals, information and statistics are indispensable in order to:

- measure the gap between the demand of households and the political options being implemented (regarding the type of public housing construction, the budget allocated for this housing, the ANRU (Agence nationale pour la rénovation urbaine) projects...);
- measure the critical situation of inadequate housing and also take into account the effect on the middle classes (sign of the breadth of the housing crisis in France) and the regulatory provisions supposed to remedy it;
- evaluate the decrease of accessible housing stock (privatization, declassification of low-income housing, insufficiency of financing for public housing, rents...);
- evaluate the instruments of land and housing policy;
- measure the discrimination in access to housing.

It is urgent to make an assessment of the rights of tenants and the inadequately housed, while pushing for the large-scale and immediate creation of accessible housing units and the control of rents. Legislative developments should be evaluated with regard to the requirement that there be permanent progression permanent of basic rights.

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¹⁰ These are the conclusions of the European Union Round Table on Social Inclusion, Glasgow, 17-18 October 2005.