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SUBMITTED BY : ACHAR (ASSOCIATION FOR COMMUNITY HOUSING AND RECONSTRUCTION) A VOLUNTARY ASSOCIATION OF THE FOLLOWING ORGANISATIONS : PLANACT, BEGG, CORPLAN, COPE, NLC, LHR, USG, DAG

SUBMISSION TO THE TECHNICAL COMMITTEE ON FUNDAMENTAL RIGHTS DURING THE TRANSITION

We note, with concern, that there is no clause in the Draft Bill Rights specifically dealing with housing/shelter rights. Shelter is a basic necessity for survival and the right to housing is therefore one of the most fundamental of all human rights.

It is also a right which has in the past been systematically and consistently violated in the most serious way. This has resulted in immense suffering and deprivation affecting a large proportion of the population. These past violations of housing rights have been one of the main causes of the present housing crisis and the present distortions within the housing market.

The extent to which housing rights have been violated in the past and the negative impact that this has had on society as a whole is an indication of the need to guarantee the future protection of these rights.

There has been some debate as to whether the right to housing and other socio-economic rights should be included in a Bill of Rights together with civil and political rights. Many articles have been written on the subject and it is not intended to deal with all the arguments for and against the inclusion of socio-economic rights in a bill of rights in this submission. In order to ensure that a serious attempt is made to address the housing crisis it is important that the right to housing be included in the constitution and while the provision of housing may be dependant on the resources available to the state, and may not be enforceable, there are a number of other housing rights components which are easily identifiable, tangible and justiciable and should clearly be protected in a Bill of Rights. The inclusion of a guarantee against eviction in the Draft Bill of Rights reflects a recognition of the fact that at least this component of the right to housing should be protected in a Bill of Rights. There are many other components which should be protected in the same way. We have, therefore, drafted a housing rights clause setting out these components. As it is difficult to separate these aspects from the right to housing as such this has also been included subject to the provision that the right to housing is dependent on the resources available to the state. The proposed clause is set out below.

- * Every person shall have the right to a safe, healthy affordable and secure place to live in peace and dignity in accordance with the resources available to the state, provided that state housing policies shall be transparent and that the state shall not adopt legislation or housing policies which are unfair ; unreasonable or inconsistent with the right to housing.

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