



# THE CRISIS ENDS WITH US:

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REQUEST FOR A REVIEW INTO THE  
SYSTEMIC DENIAL OF THE EQUAL  
RIGHT TO HOUSING OF WOMEN AND  
GENDER-DIVERSE PEOPLE IN CANADA

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Submission to the Federal Housing Advocate  
on behalf of the Women's National Housing  
& Homelessness Network



WOMEN'S NATIONAL  
HOUSING & HOMELESSNESS  
NETWORK

June 2022

## The Crisis Ends with Us: Request for a Review into the Systemic Denial of the Equal Right to Housing of Women and Gender-Diverse People in Canada

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### Land Acknowledgement

The authors of this Human Rights Claim would like to acknowledge and recognize that Canada is a settler colonial state on Turtle Island, which for generations has been governed and inhabited by Indigenous Peoples practicing traditional ways of doing, knowing, and being. This Claim acknowledges that the current homelessness crisis, disproportionately impacting Indigenous Peoples, is a direct result of colonial and patriarchal policies that have dispossessed Indigenous Peoples of their lands and homes, and commodified land and housing as profitable assets leading to the concentration of wealth with a privileged few.

This Human Rights Claim is published by the Women's National Housing & Homelessness Network, which is situated in Tkaronto (Toronto, ON), the traditional and unceded territory of many First Nations including the Mississaugas of the Credit First Nation, the Anishinaabeg, the Chippewa, the Hodinöhsö:ni', and the Huron-Wendat. Tkaronto is now home to many diverse First Nations, Inuit, and Métis Peoples. We also acknowledge that Tkaronto is located within the lands protected by the Dish With One Spoon wampum agreement, and is covered by Treaty 13 signed with the Mississaugas of the Credit First Nation, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands.

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## Endorsements

[Keepers of the Circle](#), [National Right to Housing Network \(NRHN\)](#), [Centre for Equality Rights in Accommodation \(CERA\)](#), the [Pan-Canadian Voice for Women’s Housing](#), the [Canadian Lived Experience Leadership Network \(CLELN\)](#), the [Canadian Feminist Alliance for International Action \(FAFIA\)](#), the Feminist Housing Collective, and [Atira Women’s Resource Society](#).

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# Introduction

Across Canada, many women, girls, and gender-diverse people live in insecure or unsafe housing – or are made homeless – due to deliberate policy choices. We disproportionately live in core housing need, head single-parent households, and bear the burden of childcare, putting us at risk of eviction when faced with the impossible choice of paying the rent or feeding our kids. There is a severe lack of affordable and appropriate housing that meets our diverse needs. This affordable housing crisis is exacerbated by systemic issues that keep us trapped in poverty and struggling to access housing in overheated rental markets. With few housing options and overwhelmed emergency shelters, many of us rely on informal networks or dangerous survival strategies to meet our basic needs. The need to remain in situations of hidden homelessness<sup>1</sup> not only places us at risk of exploitation and abuse, it also renders our needs invisible within mainstream systems and policy development.<sup>2</sup>

**Research indicates that the *National Housing Strategy (NHS)* is failing those of us who are suffering the most in the current housing system** – Indigenous women, girls, Two-Spirit, and gender-diverse persons; single moms living on low-incomes; Black and racialized women; women and gender-diverse persons with disabilities; newcomers and refugees; and many others who face intersecting forms of marginalization.

The adoption of the *National Housing Strategy Act (NHS Act)* in 2019 was groundbreaking and has the potential to transform these gender, race, and class-based inequities within the Canadian housing system. The NHS Act establishes housing as a human right in domestic legislation, recognizing “housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities.”<sup>3</sup> This legislation is grounded in international human rights law, including the *International Covenant on Economic, Social and Cultural Rights*, which guarantees that the right to housing “will be exercised without discrimination of any kind” and guarantees the equal right of women and gender-diverse people to “the enjoyment of all economic, social and cultural rights.”<sup>4</sup> This commitment to substantive equality is foundational to addressing the gendered housing crisis in Canada.<sup>5</sup>

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<sup>1</sup> Hidden homelessness refers to persons who are living in temporary housing situations where their homelessness is not visible, but who live without the guarantee of continued residency or immediate prospects for accessing permanent housing. This includes women, girls, and gender diverse people who are in situations of family violence, couch-surfing, trading sex or labour for housing, or residing in overcrowded housing.

<sup>2</sup> Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, T. (2020). *The State of Women’s Housing Need & Homelessness in Canada: Executive Summary*. Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Toronto: Canadian Observatory on Homelessness Press. <http://womenshomelessness.ca/wp-content/uploads/Executive-Summary-State-of-Womens-Homelessness.pdf>

<sup>3</sup> Government of Canada. (2019, June 21). National Housing Strategy Act. <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>

<sup>4</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights*, 16 December 1966, A/RES/2200, <https://www.refworld.org/docid/3b00f47924.html>

<sup>5</sup> It should be noted that the right to equality in Canadian and international law does not mean treating everyone the same. Guarantees of “substantive equality” mean that governments must ensure equal dignity and rights, through positive measures, to address systemic inequality and address diverse circumstances. Under *Jordan’s Principle*, the Government of Canada has recognized that substantive equality requires “the provision of services and benefits in a manner and according to standards that meet any unique needs and circumstances, such as cultural, social, economic and historical disadvantage. Substantive

**In light of this historic legislation, we have come together to utilize the new procedures under the *National Housing Strategy Act* to claim our right to housing and our right to substantive equality.**

Convened by the [Women’s National Housing and Homelessness Network](#) (WNHHN), we have developed this Human Rights Claim for urgent review by the Federal Housing Advocate.

We are single moms trying to make rent. We are women and gender-diverse persons living the sheer terror of homelessness. We are women with disabilities trapped in housing that undermines our health and threatens our life. We are gender-diverse and 2SLGBTQIA+<sup>6</sup> people surviving on minimum wage and checking our mailboxes for eviction notices each morning. We are Indigenous and racialized women facing race-based discrimination in housing markets and public systems. We are young women enduring harassment and violence because we cannot afford our own place. We are newcomers being renocticed by corporate landlords. We are children being removed from our mothers’ care because of poverty and homelessness. We are allies, housing and social service providers, and researchers whose decades of work is overshadowed by the enormity of the housing crisis and policy failures. We are living proof that the housing system in Canada is broken.

**We are here to claim a better future for ourselves, our children, our communities, and the planet. We will no longer accept the unacceptable. We call on the Government of Canada to fully realize our human right to housing and be held accountable for the human rights violations being perpetrated against us.**

When we speak in first person plural throughout this Claim (using “us” and “we”), we are speaking together to amplify our collective voice. Our experiences and community-held wisdom should not be seen as representing a monolithic perspective. We are individuals, each holding unique and profound knowledge, speaking in solidarity to advance this message – one that is vitally important to all of us, and for many, concerns our survival. The way we refer to our collective selves signals our interdependence and solidarity in shouldering this work under the weight of systemic and structural inequities. The authors that bring forward this Claim represent a vast number of diverse communities and occupy distinct social locations, and our use of “we” should be seen as our sometimes imperfect, but vitally necessary, alliance. Our use of “you” is also an invitation – for those who read our words to join in this mutual project, to see yourself in these pages, and in pushing for a livable and equitable future for everyone.

## About the WNHHN & the Claim Development Process

The [Women’s National Housing and Homelessness Network](#) (WNHHN) is Canada’s leading national collective working to eliminate housing need and homelessness for women, girls, and gender-diverse

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equality is both a process and an end goal relating to outcomes that seeks to acknowledge and overcome the barriers that have led to the inequality in the first place.” Further, the Supreme Court of Canada has affirmed that substantive equality is the “animating norm” of the [section 15](#) [equality rights] framework, and that it requires attention to the “full context of the claimant group’s situation,” to the “actual impact of the law on that situation,” and to the “persistent systemic disadvantages [that] have operated to limit the opportunities available to that group’s members.” See *Fraser v. Canada (Attorney General)*, 2020 SCC 28.

<sup>6</sup> 2SLGBTQIA+ is an acronym for Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer and/or Questioning, Intersex, Asexual, and additional affirmative ways in which people choose to self-identify their sexuality.

people. We make change through research, advocacy, community organizing, human rights work, and public education. The WNHHN is composed of over 500 members, organizations, and agencies from across Canada with diverse expertise, including individuals with lived/living experience of homelessness, researchers, grassroots activists, housing and service providers, human rights experts, and community-based organizations. Ending housing need and homelessness is possible, but only if lived expertise is at the centre of solution-generation.

**We are here to end this crisis.**

Over the last several years, the WNHHN has engaged in [extensive community-based research](#) with the goal of exploring, documenting, and highlighting the intersectionally gendered nature of housing need and homelessness in Canada and to identify the most critical systemic issues depriving us of the equal enjoyment of the right to housing. In 2021 we published the [largest national survey on women's housing and homelessness in Canada](#), alongside [a rights-based, Gender-Based Analysis \(GBA+\) analysis of the National Housing Strategy](#). We authored a landmark report for the Canadian Human Rights Commission on the [implementation of the right to housing for women and gender-diverse persons in Canada](#). This work was grounded in an extensive literature review we developed to provide a national portrait on gendered homelessness – [The State of Women's Housing Need & Homelessness in Canada](#) (2020).

Across all our research, one thing has become clear: women and gender-diverse people are facing widespread, systematic violations of their right to housing and their right to substantive equality. **These violations all derive from a common systemic issue: the invisibilization of our unique circumstances, needs, dignity, and rights as women, girls, and gender-diverse people.**

In light of these urgent human rights issues, in 2021 the WNHHN formed a 25-person Task Force to develop a Human Rights Claim for submission to the [Federal Housing Advocate](#) in accordance with sections 13(f) and 13.1 of the NHTA. The Task Force is a group of women and gender-diverse persons from across Canada, with participants spanning regions, demographics, professions, and expertise. Lived expert leadership and guidance was the central pillar of this work.

Between January and June 2022, we convened every 2-3 weeks to develop our analysis, discuss our priorities, and review research and international human rights standards related to housing and homelessness. We debated key issues, developed lists and frameworks, brought in international experts to share their knowledge, and wrote numerous drafts. Task Force members provided contributions and insights through meetings, internal surveys, collaborative writing in shared documents, and over the phone, by e-mail, and on napkins in crowded parks and coffee shops. The Claim you read today is the result of our collective work and vision.

We submit this Claim alongside, and in solidarity with, the Claim developed by the National Indigenous Feminist Housing Working Group - [Homeless on Homelands – Upholding Housing as a Human Right for Indigenous Women, Girls, Two-Spirit, and Gender-Diverse People](#). This Working Group is a grassroots movement of First Nations, Inuit, and Métis women who are dedicated to improving housing and ending homelessness for Indigenous women, girls, Two-Spirit, and gender-diverse persons across Turtle Island. All members have lived or living experience of housing need or homelessness. [Keepers of the Circle](#) and



the WNHHN provide support to the Working Group, but it operates independently and in alignment with its own self-determined processes and praxis. We are honoured and humbled to be able to include (verbatim) some of the key analyses and recommendations offered by the Working Group within this Claim. We do so in order to highlight and amplify this critical work. We strongly encourage the Federal Housing Advocate to urgently review the severe violations of the right to housing experienced by Indigenous women, girls, Two-Spirit, and gender-diverse persons, and to take action on the Working Group's [recommendations](#).

## Claim Structure & Outline

Part 1 articulates our [Central Claim and Systemic Issue](#), under which three pillars of human rights violations are articulated: (1) failure to provide adequate, accessible, and affordable housing; (2) failure to prevent and eliminate homelessness amongst women and gender-diverse people; and (3) failure to regulate the financialization of housing in alignment with the right to housing. Under each pillar, key issues and their human rights dimensions are explored, including issues raised by the National Indigenous Feminist Housing Working Group.

Part 2 outlines relevant international human rights obligations that realize the right to housing under the National Housing Strategy Act, highlighting the ways in which the right to housing has a particular meaning for women, girls, and gender-diverse persons and imposes distinctive obligations on governments in relation to these groups.

Part 3 provides recommendations directed at the Federal Housing Advocate regarding key issues requiring human rights oversight and review. These recommendations should be read and understood in concert with the recommendations articulated in the WNHHN's 2021 report, [Implementing the Right to Housing for Women and Gender-Diverse People in Canada](#).

It must be noted that the human rights violations and systemic issues articulated in this Claim are neither exhaustive nor comprehensive. In accordance with the mandate of the Federal Housing Advocate to review systemic issues identified in submissions and to either submit her opinions and recommendations to the Minister of Housing and Inclusion and Diversity, or to refer the matter to a Review Panel to make findings and recommendations, we have identified particular systemic issues which warrant priority attention under the new procedure. However, the WNHHN Human Rights Task Force acknowledges the breadth of human rights issues facing women and gender-diverse persons experiencing housing need and homelessness. We strongly encourage groups, individuals, and organizations to submit additional claims to the Federal Housing Advocate identifying additional systemic issues or speak to their experiences of the issues we identify here.

## Where do we go from here?

In accordance with her mandate to engage with members of claimant groups, as well as persons with lived experience of housing need and homelessness, it is critical that the Advocate hear directly from



individuals most impacted by housing injustice. It is our hope that this Claim will provide opportunities for meaningful engagement with women and gender-diverse across the country on the issues raised within, thus embodying the NHSA's commitment to participatory processes.

**To advance rights-claiming opportunities, the WNHHN Human Rights Task Force will be conducting community-based, evidence-gathering on systemic human rights violations experienced by women and gender-diverse persons across the country.** The process of engagement and knowledge sharing that forms the foundation of this Claim is far from over: we want to hear from individuals experiencing systemic violations and will be inviting them to reach out to learn more and add their voice to our collective call for justice. This engagement may take the form of people's tribunals, focus groups, sharing circles, roundtables, or other formats. Our intent is to document and illuminate the intersectionally gendered nature of this human rights crisis in Canada. We expect that these processes will assist the Advocate in her review.

### Here's how to get involved:

1. [Join](#) the Women's National Housing & Homelessness Network.
2. [Submit a Claim](#) to the Federal Housing Advocate yourself, or with a group or organization. We would love to include your submission in our virtual database of claims! Please send us a copy at [wnhhnetwork@gmail.com](mailto:wnhhnetwork@gmail.com).
3. Participate in a people's tribunal, focus group, roundtable, or sharing circle in your community. Contact us at [wnhhnetwork@gmail.com](mailto:wnhhnetwork@gmail.com) to find out where the nearest one is being held!
4. Interested in hosting a focus group, roundtable, or sharing circle in your own community? We can help you organize! Reach out to us at [wnhhnetwork@gmail.com](mailto:wnhhnetwork@gmail.com).

# PART I

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## Central Claim and Systemic Issue

The Canadian Government's failure to adequately address housing need and homelessness has manufactured a national human rights crisis for marginalized women and gender-diverse people. It has trapped us in situations of abuse and exploitation, separated us from our children, deepened our poverty, dislocated us from our lands and traditions, and eroded our dignity and self-determination. In some cases, it has cost us our lives.

The patriarchal, colonial, racist, and ableist frameworks that guide Canadian housing policy continue to prioritize profit over our right to a dignified life, to security, and to substantive equality. We disproportionately bear the consequences of the financialization of housing, but those of us who suffer most are rarely at decision-making tables or understood as rights-holders. Every day we watch the existing affordable housing stock dwindle at a rapidly escalating pace, driven by forces we cannot control, and decision-makers who do not hear our voices.

**We see no future for ourselves in the current housing regime. Housing has become, in effect, the new frontier for the subordination of marginalized women and gender-diverse persons in Canada.**

While our present circumstances have been determined for us, the future is not yet decided. We offer this Claim as part of our efforts to author a future for ourselves, our communities, and our planet through which housing is a tool for inclusion, equity, dignity, and interdependence. Out of respect for our right to author our own lives and futures, we urgently call on the Government of Canada to uphold and adopt all necessary measures to ensure our right to adequate housing.

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# *Violation 1: Failure to Provide Adequate, Accessible, & Affordable Housing*

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**The Government of Canada has consistently failed to produce affordable housing options that meet the needs of low-income and marginalized women, women-led families, and gender-diverse persons.** In fact, it has frequently enabled market forces to erode existing available housing stock upon which our wellbeing and survival depends.

**We are most likely to be in core housing need and experience deep poverty, but least likely to benefit from *National Housing Strategy* capital investment programs.** Federal housing policies consistently fail to embed an intersectional GBA+ approach, resulting in our systemic invisibilization and exclusion. Those of us who are Black, Indigenous, racialized, disabled, 2SLGBTQIA+ persons, newcomers, gender-diverse, or multiply-marginalized suffer the most in the current housing market, but housing programs often do not reflect our needs or realities.

The Government of Canada's failure to understand and respond to the intersectionally gendered nature of housing violates our right to substantive equality and our right to housing, including our right to equal participation in the design, construction, and administration of housing policies and programs.

## Key Human Rights Issues

### **1. The *National Housing Strategy* has a discriminatory impact on women and gender-diverse persons, violating the standard of substantive equality and the right to housing.**

The right to housing under international human rights law has a distinctive meaning for women, girls, and gender-diverse persons. It must be interpreted and applied in light of our particular intersectional experiences of violence, oppression, marginalization, and exclusion. The commitment to the right to housing as affirmed in the NHA includes the obligation to take all necessary measures to address structural and systemic inequality that deny women, girls, and gender-diverse persons the full enjoyment of their right to housing. Both international and national law guarantee substantive equality, including in the area of housing, requiring governments to prevent both formal discrimination and substantive discrimination. This means that governments must not only remove policies and practices

that are explicitly discriminatory (e.g., prior laws that prevented women from owning a bank account<sup>7</sup>), but they must also ensure *the equal enjoyment of rights* for women, girls, and gender-diverse people. As articulated by the UN Special Rapporteur on the Right to Adequate Housing,

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*“The right to housing must be recognized as a central component of women’s right to substantive equality, which requires that laws, policies and practices be altered so that they do not maintain, but rather alleviate, the systemic disadvantages that women experience.”<sup>8</sup>*

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Some aspects of the right to housing are subject to “progressive realization”, requiring governments to use “all appropriate means” and the “maximum available resources” to realize the right to housing “in the shortest possible time.”<sup>9</sup> The obligation to ensure that all policies and programs are consistent with both formal and substantive equality is an “immediate” obligation. While some of the systemic issues identified below may require some time to adequately address, others identify existing policies that discriminate by denying substantive equality. **These issues must be corrected immediately.**

Our research and consultations indicate that the *National Housing Strategy* has a discriminatory impact on low-income and marginalized women and gender-diverse people in a number of ways. Three key issues include:

- a) *National Housing Strategy* (NHS) capital investment programs create housing units that are unaffordable for the vast majority of low-income women, women-led families, and gender-diverse persons. The failure to focus on core housing need within NHS investments has a de facto discriminatory effect on women and gender-diverse people given their disproportionate housing need and depth of poverty.**

Multiple evaluations have shown that the federal government’s current housing programs provide support for housing that will disproportionately exclude low-income women and women-led households.<sup>10</sup> For example, [research](#) commissioned by the National Housing Council (NHC) concluded that two key NHS programs – the Rental Construction Financing

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<sup>7</sup> Women in Canada were prevented from opening a bank account without their husband’s signature until 1964. See Red Cross, (8 Mar 2021), *Over 100 years of victories, large and small, of women in Canada*. <https://www.redcross.ca/blog/2021/3/over-100-years-of-victories-large-and-small-of-women-in-canada>

<sup>8</sup> See also <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/289/75/PDF/N2128975.pdf?OpenElement>, para 10 - “Both formal discrimination and substantive discrimination must be eliminated under international human rights law. While formal discrimination refers to laws, regulations or policies that may be discriminatory, eliminating substantive discrimination requires States to take steps to ensure the equal effective enjoyment of rights, even in the absence of any laws or policies of a discriminative nature.”

<sup>9</sup> ICESCR, article 2(2); CESCR General Comment 4, para 14.

<sup>10</sup> Schwan, K., & Ali, N. (2021). *A Rights-Based, GBA+ Analysis of the National Housing Strategy*. Toronto, ON: The Women’s National Housing & Homelessness Network. <https://womenshomelessness.ca/wp-content/uploads/EN-Rights-Based-GBA-Analysis-of-NHS-28-Sept-2021.pdf>. See also Biss, M., & Raza, S. (2021). *Implementing the Right to Housing in Canada: Expanding the National Housing Strategy*. Toronto, ON: Canadian Human Rights Commission. <https://housingrights.ca/wp-content/uploads/NRHN-OFHA-Expanding-the-NHS-2021.pdf>.

Initiative (RCFI) and the National Housing Co-Investment Fund (NHCIF) – have largely financed housing that is unaffordable to low-income, women-led households.<sup>11</sup> Remarkably, only 3% of units funded through the RCFI – the largest program expenditure in the NHS – would be both suitable and affordable for low-income households (households which are disproportionately women-led).<sup>12</sup> This constitutes discrimination that requires immediate correction.

In addition, research suggests that existing programs will not adequately meet the government’s target of halving the net number of households in core housing need by 2027 – households which are disproportionately led by women.<sup>13</sup> The average income for households in core housing need is \$23,000, equating to a monthly maximum rent of \$575.<sup>14</sup> And yet the vast majority of loans and grants are being provided to private sector developers to create housing that is unaffordable to this group. This is substantiated in the 2019 Parliamentary Budget Office’s [Report on Federal Program Spending on Housing Affordability](#), which concluded that NHS spending largely represents a net transfer of targeted funding for low-income households towards middle-income households, stating “it is not clear” that the NHS “will reduce housing need relative to 2017 levels.”<sup>15</sup> Not surprisingly, the result has been a proliferation of short-term unaffordable homes that fail to address the housing needs of low-income women and gender-diverse persons across the country. Reviewing NHS spending to date, a recent report commissioned by the [Pan-Canadian Voice on Women’s Housing](#) found that it “appears likely that housing need outcomes will worsen under the *National Housing Strategy* as it is currently designed.”<sup>16</sup> This failure to prioritize addressing core housing need is contrary to the obligation to progressively realize the right to housing.

The unaffordability of NHS-funded housing units is directly linked to the affordability guidelines within NHS programs. The RCFI, for example, requires that developers offer 20% of units at 30% of the median total income for families in the area, for ten years.<sup>17</sup> However, studies have consistently shown that tying affordability criteria to median income or median rent in no way reflects the capacity of low-income renters or households to pay.<sup>18</sup> For example, in Toronto, a

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<sup>11</sup> Blueprint ADE & the Wellesley Institute. (2022). *Analysis of Affordable Housing Supply created by Unilateral National Housing Strategy Programs: A Research Report*. Ottawa, ON: Government of Canada. <https://www.placetocallhome.ca/national-housing-council/media-newsroom/analysis-affordable-housing-supply-created-unilateral-nhs-programs>

<sup>12</sup> *Ibid.*

<sup>13</sup> Canada Mortgage and Housing Corporation. (2019). *Core Housing Need Data — By the Numbers*. CMHC – SCHL. <https://www.cmhc-schl.gc.ca/en/data-and-research/core-housing-need/core-housingneed-data-by-the-numbers>.

<sup>14</sup> Canada Mortgage and Housing Corporation. (2021). *Labour Market Outcomes and Incomes of Households in Core Housing Need*. CMHC – SCHL. <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-research/research-reports/housing-needs/labour-market-outcomes-incomes-households-core-housing-need>

<sup>15</sup> Segel-Brown, B. (2021). *Federal Program Spending on Housing Affordability in 2021*. Ottawa: Parliamentary Budget Office. <https://distribution-a617274656661637473.pbo-dpb.ca/c14c97d8ca19d3036782918415de2bd3c976a66ed53e0030daf83b206c8d36e1>. P.1.

<sup>16</sup> Whitzman, C. (2021). *Pan-Canadian Voice on Women’s Housing – Progress on 2018 Six Calls to Action*. Vancouver, BC: PCVWH. <https://atira.bc.ca/wp-content/uploads/Pan-Canadian-Voice-for-Women-update-on-calls-report.pdf>. p.7.

<sup>17</sup> See Canada Mortgage Housing Corporation. (n.d.). *Rental Construction Financing*. <https://assets.cmhc-schl.gc.ca/sites/cmhc/nhs/rentalconstruction-financing/nhs-rcfi-highlight-sheet-en.pdf?rev=e821c3c7-9991-42e2-947d-5f50e28e1126>

<sup>18</sup> Pomeroy, S. (2020, July). *Recovery for All: Proposals to Strengthen the National Housing Strategy and End Homelessness*. Canadian Alliance to End Homelessness. <https://caeh.ca/wp-content/uploads/Recovery-for-All-Report-July-16-2020.pdf>

one bedroom unit offered at 80% of market rent would still be three times the housing benefit allocated for a single person under the Ontario Disability Support Program (\$375).<sup>19</sup> Similarly, in Ontario, a single mother on social assistance with 2 children receives a maximum shelter allowance of \$756. The rate has not changed since 2018. The average price of a two-bedroom apartment for rent in Toronto in April 2022 is \$2,776 per month, an increase of over 16% in one year.<sup>20</sup> This means it is impossible for a single mother on social assistance in Toronto to obtain an apartment through the RCFI.

The effect of these policy decisions is that while low-income women and gender-diverse people are most likely to be in core housing need (particularly if they are lone-parents, racialized, Indigenous, or have disabilities), we are least likely to benefit from *National Housing Strategy* capital investment programs. This contravenes a number of international human rights standards identified in Part 2, including the right to non-discrimination and to housing programs that prioritize those who are most in need. It may also contravene the [Canadian Charter of Rights and Freedoms](#) guarantee of the equal protection and benefit of all government action and the guarantee of equality in the Canadian Human Rights Act.<sup>21</sup>

**b) *National Housing Strategy* gender-equity targets are not proportionate to the scale and depth of housing need experienced by women, women-led households, and gender-diverse persons in Canada. Further, a majority of NHS programs have not embedded gender-specific equity targets or conditions for funding, and there are few mechanisms through which to track progress towards the realization of the right to housing for women and gender-diverse people.**

Research suggests there is a profound lack of safe, affordable, adequate, and appropriate housing for women, girls, and gender-diverse peoples in communities across Canada. In particular, research reveals very few women-only, trauma-informed housing services within Canada,<sup>22</sup> particularly for Indigenous women.<sup>23</sup> In fact, the most commonly cited barrier to housing security identified by service providers and women experiencing homelessness across the country – including mothers in Calgary,<sup>24</sup> Indigenous women in Winnipeg,<sup>25</sup> and street-

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<sup>19</sup> Whitzman, C. (2020). *A Canada Wide Definition of Affordable Housing and Housing Need*.

<sup>20</sup> See, e.g., Rentals.ca. *April Rent Report*. <https://rentals.ca/national-rent-report>.

<sup>21</sup> In the case of *Action Travail des Femmes*, CN was required to take measures to remedy the under-representation of women among employees of CN to ensure proportionate representation based on the general workforce. Federal housing programs may similarly be required under the Canadian Charter or the Canadian Human Rights Act to adopt measures to ensure, at a minimum, that women-led households are not disproportionately excluded in comparison to other tenant households in the area. (*CN v. Canada (Canadian Human Rights Commission)*, [1987] 1 S.C.R. 1114.

<sup>22</sup> See Fotheringham, S., Walsh, C. A., & Burrowes, A. (2014). 'A place to rest': the role of transitional housing in ending homelessness for women in Calgary, Canada. *Gender, Place & Culture*, 21(7), 834-853.

<sup>23</sup> Martin, C. M. & Walia, H. (2019). *Red women rising: Indigenous women survivors in Vancouver's downtown eastside*. <https://dewc.ca/resources/redwomenrising>

<sup>24</sup> Milaney, K., Ramage, K., Fang, X. Y., & Louis, M. (2017). *Understanding mothers experiencing homelessness: A gendered approach to finding solutions for family homelessness*.

[https://www.homelesshub.ca/sites/default/files/attachments/Family\\_Homelessness\\_Report.pdf](https://www.homelesshub.ca/sites/default/files/attachments/Family_Homelessness_Report.pdf)

<sup>25</sup> Drabble, J. (2017). *Finding Her Home: A gender-based analysis of the homelessness crisis In Winnipeg*. Centre

level/survival sex workers in Ottawa<sup>26</sup> – is the acute lack of housing options for women in their respective communities. For instance, frontline workers have expressed that finding suitable family housing is the most significant barrier to implementing Housing First for families across Canada, a frustration echoed by many families.<sup>27</sup> This is particularly concerning for women-led families fleeing violence as lengthy wait times for safe and affordable housing can place women and their children at risk for further violence and homelessness.<sup>28</sup>

In light of these distinct challenges, the federal government articulated it “aims to put [33% of the Strategy’s investments](#), with a minimum of 25%, towards serving the unique needs of women and their children.”<sup>29</sup> However, the only NHS program that embeds this commitment is the [Rapid Housing Initiative](#). Other NHS programs provide grants, loans, and mortgages to developers without conditions or stipulations regarding the provision of housing for women and their children.<sup>30</sup> It appears that developers are not required to undergo human rights due diligence, or a GBA+ review of outcomes related to the housing they produce (e.g., how many units they create are occupied by newcomer, women-led families).

Similarly, a majority of NHS programs do not articulate clear targets, timelines, or indicators for their impact on women and gender-diverse people, including for those who are experiencing intersectional discrimination and the most severe forms of housing instability (e.g., refugee women-led families fleeing violence). This prevents ongoing monitoring of progress on the realization of the right to housing for these groups. Further, it makes it difficult to assess whether the NHS is reaching its overall goal of ensuring 33% of resources are dedicated to women and their children. In CMHC’s 2020 [National Housing Strategy Progress Report](#), gender equality outcomes were tracked for only one of the nine major NHS programs – the National Housing Co-Investment Fund (NHCF).<sup>31</sup> As stated, as of December 31, 2020, only 17.5% of all investments funded under the NHCF are “expected to directly benefit women and children in Canada.”<sup>32</sup>

Most importantly, the federal government’s commitment to allocate [33% of NHS funding](#) to

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for Policy alternatives, Manitoba.

[https://www.policyalternatives.ca/sites/default/files/uploads/publications/Manitoba%20Office/2017/03/Finding\\_Her\\_Home\\_%20low-res.pdf](https://www.policyalternatives.ca/sites/default/files/uploads/publications/Manitoba%20Office/2017/03/Finding_Her_Home_%20low-res.pdf)

<sup>26</sup> McAleese, S. & Schick, L. (2018). *Housing, shelter, and safety: Needs of street-level/survival sex workers in Ottawa*. <https://static1.squarespace.com/static/5a4d46cdb1ffb6b826e6d6aa/t/5b60c76088251b66765a7423/1533069154119/HSSW+Final+Report+-+FINAL+-+May+22+2018.pdf>

<sup>27</sup> Noble, A. (2015). Beyond housing first: A holistic response to family homelessness in Canada. Raising the Roof. [https://www.raisingtheroof.org/wp-content/uploads/2015/10/2015\\_HousingFirstReport\\_EN-WEB.pdf](https://www.raisingtheroof.org/wp-content/uploads/2015/10/2015_HousingFirstReport_EN-WEB.pdf)

<sup>28</sup> *Ibid.*

<sup>29</sup> Government of Canada. (2019, June 21). National Housing Strategy Act. <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>. P.11.

<sup>30</sup> Schwan, K., & Ali, N. (2021). *A Rights-Based, GBA+ Analysis of the National Housing Strategy*. Toronto, ON: The Women’s National Housing & Homelessness Network. Online at: <https://womenshomelessness.ca/wp-content/uploads/EN-Rights-Based-GBA-Analysis-of-NHS-28-Sept-2021.pdf>

<sup>31</sup> CMHC. (2020). *Building the Future Together: 2020 National Housing Strategy Progress Report*. <https://assets.cmhc-schl.gc.ca/sites/place-to-call-home/pdfs/nhs-triennial-report-en.pdf?rev=7619f9f0-9c76-4aa6-a418-366e01ea2832>

<sup>32</sup> *Ibid*, p. 23.



serve “the unique needs of women and their children”<sup>33</sup> does not appear to be evidence-based or human-rights compliant. As a matter of law, the NHSA requires that the government target federal housing investments to those of us who are in greatest need. [Forty percent of households are led by women](#), and women-led households are almost twice as likely to be in housing need.<sup>34</sup> The majority of funding to lift households out of housing need should thus be going to women-led households.

**c) Single mothers and their children continue to face the deepest poverty and core housing need in Canada, and distinct forms of discrimination in housing markets, and yet benefit the least from major *National Housing Strategy* investments. Similarly, there are no targets or timelines for the elimination of core housing need or homelessness for children – children who are disproportionately cared for by women.**

Single mothers face overwhelming structural challenges to accessing safe, affordable, and adequate housing in Canada. National data indicate that women-led, lone-parent family households are more likely to be in core housing need than men-led households (27% vs. 16%),<sup>35</sup> and that single mothers experience greater levels of poverty than other demographic groups.<sup>36</sup> Canadian Census of Population (2016) data indicates that “lone-parent households, particularly lone-parent households led by women, are far more likely to be in core housing need than other family types,”<sup>37</sup> with research showing “36% of those in lone-parent families were in core housing need, a far higher rate than couples without children (5%) and couples with children (8%).”<sup>38</sup> Housing need and homelessness is often heightened for women and children experiencing multiple forms of marginalization, particularly Indigenous women, girls, Two-Spirit, and gender-diverse people. For example, the rate of shelter use for Indigenous children (ages 0-15) is 9.2 times higher than non-Indigenous children,<sup>39</sup> and research consistently shows that Indigenous mothers face unique burdens to regaining housing stability, such as racist and discriminatory treatment by landlords.<sup>40</sup>

Research demonstrates discrimination against single mothers in the housing market<sup>41</sup> and

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<sup>33</sup>CMHC. (29 July 2021). *Serving women and their children through the National Housing Strategy*. <https://www.cmhc-schl.gc.ca/en/nhs/nhs-project-profiles/2021-nhs-projects/serving-women-children-through-national-housing-strategy>

<sup>34</sup> Prentice, J., & Simonova, E. (March 2019). *Housing Conditions of Female-Led Households*. CMHC. [https://publications.gc.ca/collections/collection\\_2019/schl-cmhc/nh70-1/NH70-1-4-2019-eng.pdf](https://publications.gc.ca/collections/collection_2019/schl-cmhc/nh70-1/NH70-1-4-2019-eng.pdf)

<sup>35</sup> CMHC, 2019.

<sup>36</sup> Fotheringham, Walsh, & Burrowes, 2014.

<sup>37</sup> Statistics Canada. 2016 *Census of Population*. Ottawa, ON: Government of Canada. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm>

<sup>38</sup> *Ibid.*

<sup>39</sup> Employment and Social Development Canada (ESDC). (2017). *The national shelter study 2005-2014: Emergency shelter use in Canada*. [https://publications.gc.ca/collections/collection\\_2017/edsc-esdc/Em12-17-2017-eng.pdf](https://publications.gc.ca/collections/collection_2017/edsc-esdc/Em12-17-2017-eng.pdf)

<sup>40</sup> Martin & Walia, 2019.

<sup>41</sup> Vecchio, K. (2019). *Surviving abuse and building resilience – A study of Canada’s systems of shelters and transition houses serving women and children affected by violence*. Report of the Standing Committee on the Status of Women. <https://www.ourcommons.ca/Content/Committee/421/FEWO/Reports/RP10429173/feworp15/feworp15-e.pdf>

discrimination against mothers in the labour market.<sup>42</sup> For example, landlords across the country use rent-to-income ratios as a justification for denying rental units to women, which human rights tribunals and courts have ruled as discriminatory towards single women, single mothers, Black women, women on social assistance, young people, and other equity-seeking groups.<sup>43</sup> Similarly, human rights cases have been brought against banks and other financial companies who have refused to provide mortgages to single mothers on the basis of “rent to income” ratios.<sup>44</sup> For example, a Quebec tribunal ruled that the refusal of a mortgage to a single mother on the basis of her receipt of social assistance constituted discrimination on the basis of social condition.<sup>45</sup>

Despite the severe housing need and discrimination faced by many lone-parent, women-led households, the *National Housing Strategy* does not identify this group as a priority population. Further, major NHS programs largely do not reach this group. A recent [report](#) commissioned by the National Housing Council concluded, “very few (4%) new units produced by the Rental Construction Financing Initiative could lift lone-parent families out of CHN [core housing need], a group that is disproportionately in need of affordable housing.”<sup>46</sup> The same report indicated that the RCFI – which represents 40% of NHS funding – will likely produce no units for single moms who are homeless with their children.<sup>47</sup>

Importantly, a majority of NHS loans are provided to developers without stipulations or targets regarding the creation of multi-room units for larger families, including lone-parent families. In the absence of such stipulations, developers will continue to prioritize building one-bedroom units because they are more profitable,<sup>48</sup> thereby excluding families from many NHS-funded building projects.

The NHS also articulates no targets, timelines, or indicators for the elimination of housing need or homelessness for children (90% of homeless families with children are led by women<sup>49</sup>). Tools for enumerating homelessness (e.g., coordinated access, by-name lists) rarely collect data on children’s homelessness, making it impossible to track progress towards the realization of the right to housing for this vulnerable group. This is contrary to the obligation under the ICESCR and the NHA to adopt clear timelines to eliminate homelessness and ensure access to adequate housing, prioritizing those who are most vulnerable to housing precarity. It is also contrary to the [Convention on the Rights of the Child](#). As the Committee on the Rights of the

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<sup>42</sup> Milaney et al., 2017.

<sup>43</sup> Callaghan et al., 2004; *Kearney v. Bramalea Ltd. (No. 2)* 1998 CanLII 29852 (ON HRT); *Shelter Corp. v. Ontario (Human Rights Comm.)*, 2001 CanLII 28414 (ON SCDC). See also *Whittom v. CDPQ*, 1997 CanLII 10666 (QC CA), [1997] RJQ 1823 (CA), p. 1826-1827, Judgment of the Quebec Court of Appeal confirming the decision of the Human Rights Tribunal in: *Quebec Human Rights Commission and Léonard Whittom & Al.*, (1994) 20 CHRR D/349.

<sup>44</sup> Callaghan et al., 2002.

<sup>45</sup> D’Aoust c. Vallières (1993), cited in Callaghan et al., 2002.

<sup>46</sup> Blueprint ADE & the Wellesley Institute, 2022.

<sup>47</sup> *Ibid.*

<sup>48</sup> Ontario Non-Profit Housing Association. (2007, October). *Implementing Inclusionary Policy to Facilitate Affordable Housing Development in Ontario*. <http://www.focus-consult.com/ResearchFiles/By%20Year/2007/Inclusionary%20Zoning%20to%20Facilitate%20Affordable%20Housing%202007.pdf>

<sup>49</sup> ESDC, 2017.

Child [recently noted](#), “Women and children are particularly vulnerable to housing insecurity due to a variety of reasons including family violence, a lack of affordable housing, low wages, under employment and low social assistance rates.”<sup>50</sup>

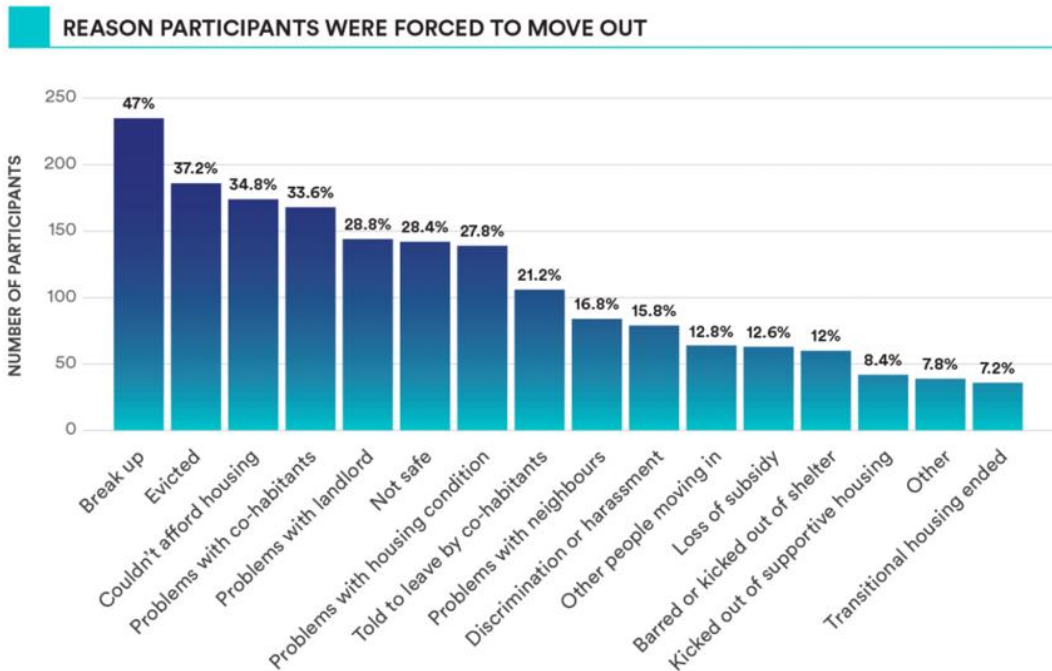
## **2. Marginalized women and gender-diverse persons experience widespread evictions into housing precarity and homelessness due to breakups, violence, and the actions of co-inhabitants, indicating gendered violations of their right to security of tenure that remain unaddressed in federal housing policy.**

Under human rights standards, women and gender-diverse person’s security of tenure should not depend upon their relationship status, as explained by the UN Special Rapporteur on the Right to Adequate Housing: “The independent right of women to security of tenure, irrespective of their family or relationship status, should be recognized in national housing laws, policies and programmes.”<sup>51</sup> Unfortunately, available data indicates that our housing is often dependent upon relational and familial ties. For example, the [Pan-Canadian Women’s Housing & Homelessness Survey](#) indicates that amongst women and gender-diverse persons experiencing homelessness, their most recent housing loss was because of a breakup (47% reported this experience). This reason outpaced all affordability issues, concerns about safety, experiences of violence, loss of income or subsidies, or poor housing conditions (although these were frequently co-occurring). Importantly, almost half of this group (45.6%) also reported some form of violence in their current or most recent home, illustrating how violence undermines security of tenure for women and gender-diverse persons.

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<sup>50</sup> UN Committee on the Rights of the Child, Concluding Observations on Canada (9 June, 2022) CRC/C/CAN/CO/5-6 [https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/CAN/CRC\\_C\\_CAN\\_CO\\_5-6\\_48911\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/CAN/CRC_C_CAN_CO_5-6_48911_E.pdf)

<sup>51</sup> A/HRC/43/43, No. 9. Para 53 (a).



*Figure 1. Reasons women and gender-diverse persons experiencing homelessness in Canada lost their most recent housing (Schwan et al., 2021).*

**This research suggests that women and gender-diverse people’s security of tenure is often under the control of an intimate or sexual partner (most frequently a man), and that many of us have to remain in an intimate and/or sexual relationship in order to stay housed.** A review of the literature also indicates that when women lose their housing due to a breakup, we often lose so much more– in some cases our property, our savings, our pets, access to services and supports, our community, and in some cases custody of our children.<sup>52</sup>

<sup>52</sup> Schwan et al., 2020.



*Figure 2. Women’s National Housing & Homelessness Network members discussing gendered security of tenure issues at the 2021 CAEH Annual Conference on Ending Homelessness. Clockwise from left to right: Hilary Chapple, Kaitlin Schwan, Alex Nelson, Marie McGregor Pitawanakwat, Khulud Baig, and Hilary Marks.*

Secondly, research also indicates that the actions of co-inhabitants are frequently the cause of housing loss (and pathways into homelessness) for women and their children, even within public housing.<sup>53</sup> A recent analysis of illegal evictions within housing provided by the Toronto Community Housing Corporation – one of the largest housing providers in North America – found that “90% of people threatened with eviction for the actions of third parties are women,” indicating “women are far more likely than men to be evicted for actions that they did not personally commit.”<sup>54</sup> The research report concluded:

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*“Any policy targeting leaseholders and holding them culpable for the actions of others in their homes will by its very nature disproportionately impact women ... illegal act evictions have a devastating impact on women, punishing them harshly for actions that they have not committed. In a public housing context, the consequences of these laws are particularly severe.”<sup>55</sup>*

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<sup>53</sup> Smith, L. (2017). The Gendered Impact of Illegal Act Eviction Laws. *Harv. CR-CLL Rev.*, 52, p.537.

<sup>54</sup> *Ibid*, p. 537, p. 556.

<sup>55</sup> *Ibid*, p. 559.

Both studies illuminate that security of tenure is a deeply gendered issue. A woman's access to housing still depends in large part upon her relationship with a man, as well as whether that man engages in criminalized activities or violence against her, her children, or others. This dependence is part of broader patriarchal patterns that undermine women and gender-diverse people's economic stability more broadly. For example, available research indicates that women experience a more dramatic decrease in income loss following divorce or separation (a 23% decrease, compared to 10% for men),<sup>56</sup> undermining their ability to access housing. **While these may appear to be interpersonal issues, underpinning these outcomes are policies and public system failures that create, foster, and enforce women's dependence on men for housing and income.**

### HOW DID THE CRIMINAL JUSTICE SYSTEM CONTRIBUTE TO YOUR HOMELESSNESS?

*"My husband went to prison and our house was auctioned off as a fine."*

*"My aggressor was removed from the home, but I lost my housing as a result."*

*"No contact order and the man owned the house, I had to leave only being on a disability income."*

- Lived experts quoted in Schwan et al., 2021.

### **3. The Government of Canada's failure to produce a sufficient stock of adequate, affordable housing directly affects women and gender-diverse people's ability to remain with their children. This failure leads to unnecessary child-parent separation and child apprehension, contrary to human rights standards, and creates the conditions for chronic and intergenerational homelessness.**

Women and gender-diverse people's ability to remain with their children is deeply dependent upon their capacity to access adequate, affordable, and safe housing. In many cases, this access is dependent upon their economic status. The feminization of poverty has been well-documented in Canada,<sup>57</sup> with data indicating women often survive on lower incomes, are overrepresented in minimum-wage and part-time jobs,<sup>58</sup> assume disproportionate responsibilities for housework and childcare,<sup>59</sup> and their employment and income is more likely to be interrupted in the event of pregnancy and/or child rearing.<sup>60</sup> Income inequality is particularly evident for Indigenous and racialized women, with research indicating that racialized women in Canada earn only 55.6% of the income earned by non-racialized

<sup>56</sup> Galarneau, D. & Sturrock, J. (1997). *Family Income After Separation*. Statistics Canada. [https://www150.statcan.gc.ca/n1/en/pub/75-001-x/1997002/3073-eng.pdf?st=RQb\\_qFbs](https://www150.statcan.gc.ca/n1/en/pub/75-001-x/1997002/3073-eng.pdf?st=RQb_qFbs)

<sup>57</sup> Fotheringham, Walsh, & Burrowes, 2014.

<sup>58</sup> Canadian Women's Foundation. (2018). *Fact Sheet: Women and Poverty in Canada*. <https://canadianwomen.org/the-facts/womens-poverty/>. See also Moyser, M. & Burlock, A. (2018). Time use: total work burden, unpaid work, and leisure. Statistics Canada. <https://www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/54931-eng.htm>

<sup>59</sup> Burt, M. R. (2001). Homeless families, singles, and others: Findings from the 1996 national survey of homeless assistance providers and clients. *Housing Policy Debate*, 12(4), 737-780. See Fotheringham et al., 2014, p. 834-853.

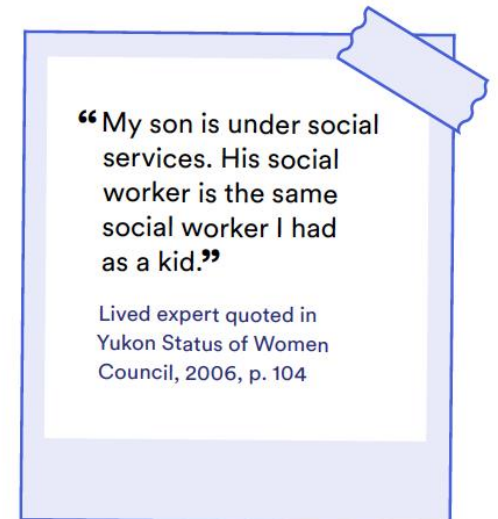
<sup>60</sup> Vecchio, 2019.



men.<sup>61</sup> This gendered economic inequality, in the context of overheated housing markets, means many women and their children are forced to remain in situations of violence and/or inadequate housing. For example, research demonstrates women will remain in abusive situations for years because they cannot afford any other housing in their community, or available housing does not meet their children's needs (e.g., proximity to transportation, schools), and/or they fear for their children's safety in the care of their partners.<sup>62</sup> Mothers who do leave situations of intimate partner violence with their children often experience housing need and profound, systemic challenges in accessing supports and regaining housing stability.<sup>63</sup>

This collision of poverty, violence, and inadequate housing creates the conditions for child welfare involvement – including because poverty and housing conditions are frequently conflated with neglect in child welfare investigations.<sup>64</sup> Housing instability is frequently perceived as an indicator of adverse parenting behaviours, specifically neglect, resulting in apprehension of children.<sup>65</sup>

Once child welfare apprehension occurs, a horrendous cycle of harm often begins. Studies indicate that children and youth with experiences of child welfare involvement are at greater risk of becoming homeless as young people,<sup>66</sup> and that losing custody of one's child is a traumatic crisis that can precipitate homelessness for some women.<sup>67</sup> Child welfare involvement has been linked to lifelong experiences of eviction,<sup>68</sup> and studies indicate child and youth experiences of housing instability and violence are predictive of adult homelessness,<sup>69</sup> parent-



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<sup>61</sup> Block, S., Galabuzi, G. E., & Tranjan, R. (2019). *Canada's Colour Coded Income Inequality (Report No. 978-1-77125-478-6)*. Canadian Centre for Policy Alternatives. Retrieved from: <https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/12/Canada%27s%20Colour%20Coded%20Income%20Inequality.pdf>

<sup>62</sup> See Schwan et al., 2020; Schwan et al., 2021.

<sup>63</sup> Vecchio, 2019. See also Gulliver-Garcia, T. (2016). *Putting an end to child homelessness in Canada*. <http://www.raisingtheroof.org/wpcontent/uploads/2015/10/CFReport-Final.pdf>

<sup>64</sup> OACAS (Ontario Association of Children's Aid Societies). (2016). One vision one voice. Changing the Ontario child welfare system to better serve African Canadians. <http://www.oacas.org>. See also Trocmé, N., Knoke, D., & Blackstock, C. (2004). Pathways to the overrepresentation of Aboriginal children in Canada's child welfare system. *Social Service Review*, 78: 577-600.

<sup>65</sup> OACAS, 2016. See also Park, J.M., Ostler, T., & Fertig, A. (2015). Physical and psychological aggression toward a child among homeless, doubled-up, and other low-income families. *Journal of Social Service Research*, 41, 413-423.

<sup>66</sup> Gaetz, S., O'Grady, B., Kidd, S., & Schwan, K. (2016). *Without a home: The national youth homelessness survey*. <https://homelesshub.ca/sites/default/files/WithoutAHome-final.pdf>

<sup>67</sup> van Berkum, A. & Oudshoorn, A. (2015). *Best practice guideline for ending women's and girl's homelessness*. <http://londonhomeless.ca/wp-content/uploads/2012/12/Best-Practice-Guideline-for-Ending-Womens-and-Girls-Homelessness.pdf>

<sup>68</sup> The [Pan-Canadian Survey on Women's Housing & Homelessness](#) indicates that child welfare involvement is predictive of eviction over the lifecycle. It found that “those who reported child welfare involvement as an adult, as well as those who had child welfare involvement during both childhood and adulthood, reported significantly more evictions than those with no histories of child welfare involvement.”

<sup>69</sup> See Caplan, R. (2019). “Invisible” parent experiences of homelessness and separation from their children in Canada. (Doctoral dissertation). Wilfrid Laurier University, Waterloo, Ontario.



child separation,<sup>70</sup> and violent victimization.<sup>71</sup> This suggests that chronic homelessness, adult homelessness, and intergenerational homelessness are linked to experiences of homelessness during childhood and youth, which are often inseparable from mothers' experiences of inadequate housing.



### HOW DID THE CHILD WELFARE SYSTEM CONTRIBUTE TO YOUR HOMELESSNESS?

*"You have to have your children 'living with you' in order to obtain social housing. But FCS [Family and Child Services] says you have to have adequate housing in order to get your kids back."*

*"Had children apprehended so I couldn't afford the house I was currently in."*

- Lived experts quoted in Schwan et al., 2021.

Once children have been separated from their mothers, housing precarity is a barrier to reunification<sup>72</sup> and can undermine housing stability and income for mothers.<sup>73</sup> A review of the literature indicates that "Most social assistance systems cut entitlements for a mother as soon as her child is apprehended by child welfare, putting her in a position of losing her housing (which is not easily re-established). This dramatically affects her ability to have her children returned to her care [because she needs to have proof of access to adequate housing, of a sufficient size, in order to be reunited with her children]. Similarly, housing providers often consider a woman immediately over-housed if she loses custody of her children or will not consider the mother's family size for housing entitlement if her children are not currently in her care."<sup>74</sup>

The Government of Canada's failure to provide a sufficient stock of adequate, affordable housing that is financially accessible to low-income households led by women and gender-diverse persons violates a number of obligations under international human rights law, as discussed in Part 2. This includes obligations under article 11 of the [ICESCR](#) to ensure an adequate standard of living (including adequate housing), and under article 10 to accord the widest possible protection and assistance to the family, particularly for its establishment and while it is responsible for the care and education of dependent children. It is also contrary to the obligation under the [Convention on the Rights of the Child](#) (article 27) to assist parents and others responsible for the child to implement the right to a standard of living adequate for the child's physical, mental, spiritual, moral, and social development, and in case of need, to provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing.

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<sup>70</sup> Shelton, K. H., Taylor, P. J., Bonner, A., & van den Bree, M. (2009). Risk factors for homelessness: Evidence from a population-based study. *Psychiatric Services*, 60(4), 465-472.

<sup>71</sup> Burczykca, M. (2018). *Police-reported intimate partner violence in Canada, 2018*. Statistics Canada. <https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00018/02-eng.htm>

<sup>72</sup> van Berkum & Oudshoorn, 2015.

<sup>73</sup> Schwan et al., 2020.

<sup>74</sup> Schwan et al., 2020, p. 34.

#### 4. Women, women-led families, and gender-diverse persons with disabilities are systematically excluded from accessing housing that is affordable, accessible, safe, and enables them to maintain their health, self-determination, and relationships. This systemic exclusion violates numerous human rights, including the right to a dignified life.

Canadian research and data have long-demonstrated that women and gender-diverse persons with disabilities are severely disadvantaged in the Canadian housing market. Statistics Canada data indicates that nearly half (46%) of all women in Canada who report having ever experienced homelessness have a disability.<sup>75</sup> The [Pan-Canadian Survey on Women’s Housing Need & Homelessness](#) paints an even darker picture. In a sample of 500 women and gender-diverse persons experiencing homelessness across Canada, 79% reported some form of disability, with almost half of the sample (46.4%) reporting a psychiatric or mental health disability of some kind.<sup>76</sup> On average participants reported living with 3 disabilities, with some participants reporting as many as 11.<sup>77</sup> The overrepresentation of women and gender-diverse persons with disabilities in situations of homelessness illuminates the severe lack of adequate, accessible, and affordable housing stock that meets their needs.



The Pan-Canadian Survey also illuminates a persistent accessibility gap in housing stocks and shelters across Canada, significant affordability problems for many persons with disabilities, and a heightened risk of eviction. Difficulties with finding a place because of affordability issues was significantly higher for persons with mental health disabilities (73.0% vs. 40.3%), substance use problems (77.0% vs. 49.8%), cognitive/intellectual disabilities (77.7% vs. 55.2%), and physical disabilities (65.0% vs. 53.0%) compared to women and gender-diverse people who are homeless but not disabled. Women and gender-diverse persons are often forced to sacrifice either housing that is affordable or housing that is accessible and/or otherwise adequate to their needs, well-being, and dignity. This group also reported more frequently that they did not have the supports or services necessary to get or keep a place (22.3% vs. 12.5%) and that the places they could afford were in bad condition (49.0% vs. 12.5%).

Lived expert quoted in Schwan et al., 2021.

Housing precarity and exposure to violence for these groups is invariably tied to income. Studies across Canada have shown that the current rates of financial assistance (disability support programs) for those living with disabilities in Canada are rarely enough to afford recipients with access to adequate housing

<sup>75</sup> Importantly, Statistics Canada reports: “Having a disability is associated with hidden homelessness. Out of the 7.2 million Canadians aged 15 and over who reported having a disability, 13% also reported having experienced hidden homelessness, compared with 6% of Canadians without a disability.” See Cotter, A. (2018). *Violent victimization of women with disabilities, 2014*. Statistics Canada. <https://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54910-eng.htm>

<sup>76</sup> A total of 60% reported a physical disability, 38.2% reported a substance use problem, and 22.4% reported some form of cognitive, intellectual, or memory-related disability.

<sup>77</sup> Schwan et al., 2021

and a decent quality of life.<sup>78</sup> This problem is compounded by the fact that living with a disability often requires individuals to incur significant additional expenses, frequently not covered by social assistance programs.<sup>79</sup> Alarming, in-community, accessible, and supportive housing options for women and gender-diverse persons with disabilities have been chronically underfunded in place of institutional and carceral forms of “warehousing” – in group homes, long-term care homes, homeless shelters, and jails. It is under-acknowledged that Canada continues to operate large, congregate institutions where persons with intellectual and developmental disabilities are locked away, facing dire human rights abuses.<sup>80</sup> There is a system-wide overreliance on institutional and carceral responses to persons with disabilities, which is even steeper for those who experience multiple forms of marginalization. This reality is only deepening as congregate spaces receive funding to expand their services, while persons with disabilities are routinely denied resources to live with dignity in their chosen communities.<sup>81</sup> In some cases, the cost of housing persons with disabilities in their community of choice is leveraged to warehouse and institutionalize people against their will.<sup>82</sup>

Despite these stark realities, current definitions exclude experiences within institutional settings as forms of homelessness, even when for many, institutionalization and incarceration result in deep human rights violations and a denial of our dignity. As many of our community members will tell you – institutions are not home. Research also shows that exposure to gender-based violence (exacerbated by housing precarity) puts women and gender-diverse people at risk of becoming disabled or further disabled.<sup>83</sup> Chronic overexposure to violence – as well as exposure to environmental stressors such as extreme heat and cold, and contaminants like mould and pollution – leads to increased and worsening debility and disability for many women, girls, and gender-diverse people. This occurs in situations of homelessness, but also living underhoused in inadequate or poorly maintained units.<sup>84</sup> In one striking example, the June 2022 [Report to the Chief Coroner of British Columbia](#) revealed that 98% of heat-related deaths in BC during the record-breaking summer of 2021 occurred indoors.<sup>85</sup> The review panel

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<sup>78</sup> For a review of these studies, see Schwan et al., 2020.

<sup>79</sup> Dumais, L., Ducharme, M. N., & Prohet, A. (2014). *Identification des coûts supplémentaires généraux liés aux déficiences, incapacités et situations de handicap assumés par les personnes handicapées et leur famille*. Ecole de travail social. Université du Québec à Montréal.

<sup>80</sup> Spagnuolo, N. & Earle, K. (2017). *Freeing our people: Updates from the long road to deinstitutionalization*. Canadian Centre for Policy Alternatives. <https://policyalternatives.ca/publications/monitor/freeing-our-people-updates-long-road-deinstitutionalization>

<sup>81</sup> Biss, M., Porter, B., Raza, S. & Desbaillets, D. (2022). *Progressive Realization of the Right to Adequate Housing: A Literature Review*. The National Right to Housing Network. Pg 14. <https://housingrights.ca/progressive-realization-right-to-housing/>

<sup>82</sup> Rankin, A. (2021). *Disability rights advocate Vicky Levack wins battle for home in the community*. Saltwire. <https://www.saltwire.com/halifax/news/disability-rights-advocate-vicky-levack-wins-battle-for-home-in-the-community-100628469/>.

<sup>83</sup> Alimi, S., Singh, S., & Brayton, B. (2018). *Parliamentary Brief A Brief Prepared for the Standing Committee on the Status of Women in Canada (FEWO) for their Study of the System of Shelters and Transition Houses in Canada*. [https://www.dawnCanada.net/media/uploads/page\\_data/page-63/dawn\\_canada\\_brief\\_to\\_fewo\\_on\\_access\\_to\\_shelters\\_november\\_16\\_2018.pdf](https://www.dawnCanada.net/media/uploads/page_data/page-63/dawn_canada_brief_to_fewo_on_access_to_shelters_november_16_2018.pdf)

<sup>84</sup> See Gutnik, A., & Roth, M. (2018). *Disability and Climate Change: How climate-related hazards increase vulnerabilities among the most at risk populations and the necessary convergence of inclusive disaster risk reduction and climate change adaptation*. Lyon: Humanity & Inclusion. [https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/Disabilities/Humanity\\_and\\_Inclusion.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/Disabilities/Humanity_and_Inclusion.pdf); Hwang, S. J. (2001). Homelessness and Health. *Canadian Medical Association Journal*. (164) 2.

<sup>85</sup> British Columbia Coroners Service Review Panel (2022). *Extreme Heat and Human Mortality: A Review of Heat-Related Deaths in B.C. in Summer 2021*. British Columbia Coroners Service. <https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage->

noted that these tragic deaths were higher amongst persons living with a range of chronic diseases and disabilities, were more likely to occur amongst people residing in “socially or materially deprived neighbourhoods,” and were mostly people living in homes without adequate cooling systems.<sup>86</sup> Similarly, in a US-based study, a team of researchers began to lay out the links between early-life air pollution exposure, neighbourhood poverty, and asthma – finding that life-long exposure to air pollution not only increased risk and severity of asthma, but could also result in epigenetic changes.<sup>87</sup> In other words, this toxic exposure continues to hold both deadly and long term impacts for us as individuals, but also for our communities, and our families.

Once homeless, women and gender-diverse persons face a profound lack of emergency shelters and services as well. A DAWN Canada study reports that only 75% of homeless shelters have a wheelchair accessible entrance, 66% provide wheelchair accessible rooms and bathrooms, 17% provide sign language, and 5% offer braille reading materials.<sup>88</sup> While in the emergency shelter system, women, girls, and gender-diverse people with disabilities face increased surveillance, disciplinary action, criminalization, discrimination, and violence – particularly if they are also Black, Indigenous, or racialized, or if they are trans, Two-Spirit, or nonbinary.<sup>89</sup>

**The consequences of the Government of Canada’s failure to provide an affordable, accessible housing stock for people in Canada is perhaps most vividly illustrated in the recent emergence of cases wherein women with disabilities are pursuing medical assistance in dying (MAID) because they cannot find appropriate, accessible, and affordable housing.**<sup>90</sup> An [article](#) published in May 2022 reports:

*“A 31-year-old disabled woman in Toronto is nearing final approval for medical assistance in dying (MAID) after her efforts to secure suitable housing were denied. The chronically ill woman, who uses a wheelchair due to a spinal cord injury, has been diagnosed with Multiple Chemical Sensitivities (MCS), which triggers rashes, difficulty breathing, and blinding headaches ... the woman, identified in media reports by the pseudonym Denise, is seeking a medically assisted death because she cannot find an affordable apartment that does not aggravate her illness. Research has shown that people with MCS often improve in chemically cleaner environments.”<sup>91</sup>*

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[and-divorce/deaths/coroners-service/death-review-panel/extreme heat death review panel report.pdf](#).

<sup>86</sup> British Columbia Coroners Service Review Panel, 2022, p.5.

<sup>87</sup> Kravitz-Wirtz, N., Teixeira, S., Hajat, A., Woo, B., Crowder, K., & Takeuchi, D. (2018). Early-Life Air Pollution Exposure, Neighborhood Poverty, and Childhood Asthma in the United States, 1990–2014. *International Journal of Environmental Research and Public Health*, 15(6): 1114. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6025399/>

<sup>88</sup> Alimi, Singh, & Brayton, 2018.

<sup>89</sup>Toronto Shelter Network (2020). *Transforming the Emergency Homelessness System: Two Spirited, Trans, Nonbinary and Gender Diverse Safety in Shelters Project*. Toronto Shelter Network. <https://static1.squarespace.com/static/5728db86b09f95bc05bf8dae/t/5fad6dbd0e8bbf646ff1e3b6/1605201345593/Final+Report+Transforming+the+Shelter+System+Two+Spirited%2C+Trans%2C+and+Gender+Diverse+Safety+in+Shelters+Project+Novem+ber+12+2020.pdf>

<sup>90</sup> See Hill, S. (9 May 2022). Disabled Ontario woman pursues medically assisted dying after being denied access to suitable housing. *WSWS*. <https://www.wsws.org/en/articles/2022/05/10/uaat-m10.html>. See also: The Guardian. “Are Canadians being driven to assisted suicide by poverty or healthcare crisis?” <https://www.theguardian.com/world/2022/may/11/canada-cases-right-to-die-laws>

<sup>91</sup> Hill, 2022.

Stark examples, such as this, highlight the dire consequences of not building accessible, affordable, safe housing for women and gender-diverse people with disabilities. Accessible housing must fit the diverse needs of disabled people in Canada, including those who are parents, live alone, or have partners. The [UN Convention on the Rights of Persons with Disabilities](#), which has been ratified in Canada, ensures that “persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obligated to live in a particular living arrangement” (Art. 19.a), and Article 9 highlights Canada’s obligation to address accessibility in building housing. Studies consistently indicate Canada’s failure to uphold this standard, and especially women and gender-diverse people.

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## *Violation 2: Failure to Prevent & Eliminate Homelessness amongst Women, Girls, & Gender-Diverse People*

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**The Government of Canada has failed to implement any coherent strategy to prevent and end homelessness amongst women and gender-diverse people.** Definitions of homelessness, chronic homelessness, housing need, and affordability employed in federal policy do not reflect our experiences of housing precarity or homelessness, nor the depth of poverty we live in. There are few gender-specific *National Housing Strategy* targets and investments, and existing investments are insufficient to address the scale or nature of this gendered crisis. This means that women-focused and women-led housing programs and organizations are chronically underfunded and overwhelmed. Those of us who suffer most are rarely at decision-making tables or understood as rights-holders.

Homelessness is a *prima facie* violation of the right to housing. The very existence of homelessness in Canada is a human rights violation under the NHTA and international human rights law. The *National Housing Strategy* does not reflect this legal reality, or the legal requirement that governments immediately adopt measures that ensure access to adequate housing, in the shortest possible time, using the maximum available resources. In the absence of rights-based action, many of us will continue to experience a chronic, chaotic churn of precarious housing and homelessness – much of it hidden from view.

### Key Human Rights Issues

**1. The Government of Canada has failed to adopt a coherent strategy to prevent and end homelessness amongst women and gender-diverse persons in Canada. There are no policy targets, timelines, indicators, or metrics to assess progress towards this goal.**

The Government of Canada has not yet adopted a Strategy to prevent and end homelessness amongst women and gender-diverse persons in Canada. The existing federal commitment to end chronic homelessness by 2030 does not specify how this target will be reached for women and gender-diverse persons, especially given that chronic homelessness is commonly *hidden* chronic homelessness for this

population (e.g., chronic situations of abuse, couch-surfing, and/or relying on dangerous survival strategies to pay rent, such as trading sex for payment). As has been documented extensively elsewhere, current data collection methods (e.g., PiT Counts, Street Needs Assessments, By-Name Lists) are largely unable to capture experiences of hidden homelessness.<sup>92</sup> As a result, these gendered experiences are inadvertently invisibilized, making it difficult to track progress towards the elimination of homelessness amongst women and gender-diverse people.

Under the NHSA and international human rights law, the Government of Canada is required to establish human rights-based targets, timelines, outcomes, and indicators regarding the immediate elimination of homelessness and the progressive realization of the right to housing.<sup>93</sup> In some cases this has been done (e.g., federal commitment to eliminate chronic homelessness by 2030), many other targets have not been articulated (e.g., timeline for the elimination of children’s homelessness). Similarly, while the federal government has committed to allocating “[33% of the Strategy’s investments](#), with a minimum of 25%, towards serving the unique needs of women and their children,” it remains unclear how this has been achieved with respect to homelessness specifically. In CMHC’s [2020 progress report](#) on the *National Housing Strategy*, gender-specific outcomes were noted for only one program – the National Co-Investment Fund – which does not address homelessness.<sup>94</sup> More broadly, much reporting to date on the impact of the National Housing Strategy has taken the form of reporting on dollars spent rather than *outcomes*,<sup>95</sup> such as the number of individuals and families lifted out of core housing need and homelessness.

The Government of Canada recognizes the importance of gendered analysis and has committed to employing a Gender-Based Analysis Plus (GBA+) approach across all areas of policy, including the *National Housing Strategy*.<sup>96</sup> This framework, provided by Women and Gender Equality Canada, means that the Government of Canada has committed to “taking a gender and diversity-sensitive approach to [their] work. Considering all intersecting identity factors as part of GBA+ [that ensures] the inclusion of women, men and gender-diverse people.”<sup>97</sup>

However, a robust GBA+ analysis of federal policy on homelessness is lacking in a number of ways, including: definitions of homelessness and chronic homelessness; collection and reporting of gender-disaggregated data (including data on children’s homelessness); measurement tools and data collection methods; the provision of funding and supports to women-led, women-focused organizations, housing developers, non-profits, and service-providers; and ongoing, public reporting on



<sup>92</sup> Bretherton, J. (2017). Reconsidering Gender in Homelessness. *European Journal of Homelessness*, 11(1),1-21.

<sup>93</sup> CMHC. (2020). *Building the Future Together: 2020 National Housing Strategy Progress Report*. <https://assets.cmhc-schl.gc.ca/sites/place-to-call-home/pdfs/nhs-triennial-report-en.pdf?rev=7619f9f0-9c76-4aa6-a418-366e01ea2832>

<sup>94</sup> National Housing Strategy (NHS), 2017, p. 24.

<sup>95</sup> Status of Women Canada. (n.d.). *GBA+ Research Guide*. <https://cfc-swc.gc.ca/gba-ac/research-recherche-eng.pdf>

<sup>96</sup> National Housing Strategy (NHS), 2017, p. 24.

<sup>97</sup> Status of Women Canada. (n.d.). *GBA+ Research Guide*. <https://cfc-swc.gc.ca/gba-ac/research-recherche-eng.pdf>



the impact of NHS funding and programs on women, women-led families, and gender-diverse persons.

In the Canadian context, pathways to engagement for women and gender-diverse persons – as rights-holders – are underdeveloped, and often fail to take a gender-sensitive, trauma-informed, and culturally appropriate approach. When women and gender-diverse people share their narratives and experiences of housing need, they are not always expressed in the language decision-makers find valid or valuable, so our stories may go ignored and unconsidered when making housing-related policies. Homelessness amongst women and gender-diverse people rests against a backdrop of a broader culture that assesses the stories women and gender-diverse people tell about their lives and experiences, and routinely dismisses them or finds them unreliable. This is rooted in broader trends of not “believing women” and serves to further marginalize voices that are not relatable to many who hold positions of power. Communities with lived experience, who are most impacted by decisions about policy, programs, and funding, need to be engaged at all stages of decision-making. Unfortunately, the agenda is often set well before we are consulted, if we are included at all.

## **2. Definitions of “homelessness” and “chronic homelessness” used in government policy do not reflect the distinct causes, conditions, or experiences of homelessness amongst women, girls, women-led families, and gender-diverse persons. Definitions also tend to be Eurocentric and fail to account for Indigenous ways of understanding and experiencing homelessness.**

In the Canadian context, governments tend to focus on addressing visible homelessness, often in the form of rough sleeping (or ‘unsheltered homelessness’), with investments and programs targeting people experiencing chronic homelessness.<sup>98</sup> Reaching Home and its predecessor, the Homelessness Partnering Strategy, prioritize addressing chronic homelessness in its programs,<sup>99</sup> and the [2020 Throne’s Speech](#) committed the federal government to ending chronic homelessness in Canada. However, the definition of chronic homelessness used by Reaching Home<sup>100</sup> fails to account for the often hidden forms of homelessness that women, girls, women-led families, and gender-diverse persons experience.<sup>101</sup>

These include conditions such as:

- “Remaining in an abusive relationship in order to maintain housing
- Living in inadequate or dangerous housing in order to keep the family together or maintain custody over one’s children
- Engaging in survival sex in order to access housing

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<sup>98</sup> Advisory Committee on Homelessness, 2018.

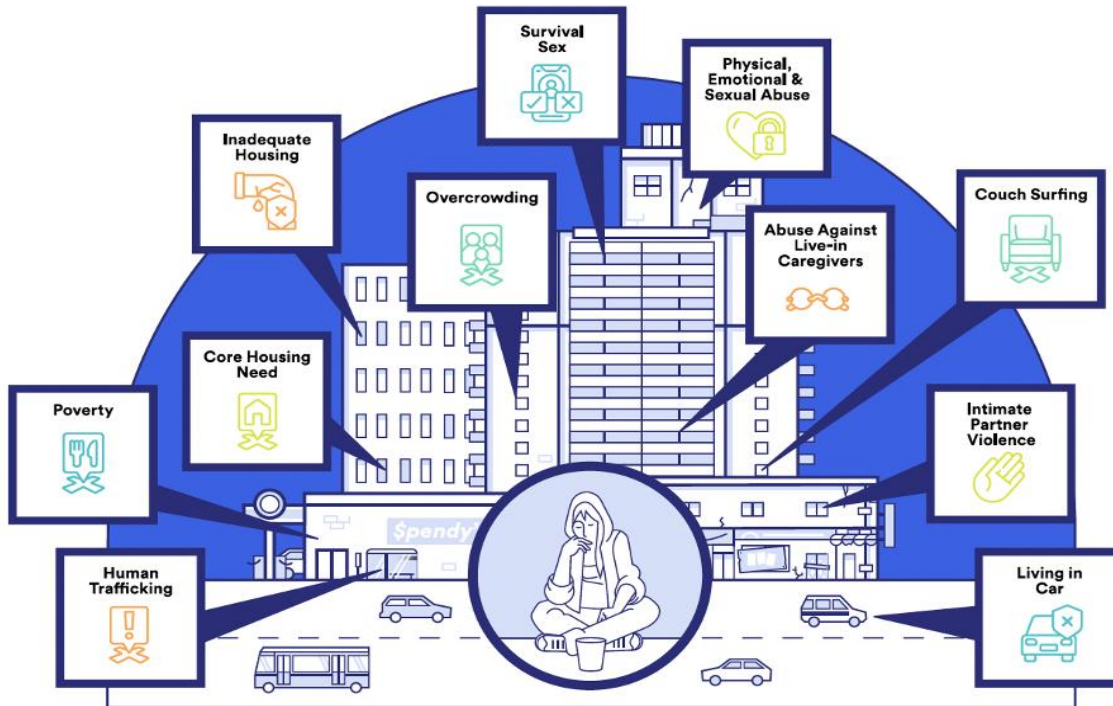
<sup>99</sup> Chronic homelessness refers to individuals who are currently experiencing homelessness and who meet at least 1 of the following criteria: they have experienced a total of at least 6 months (180 days) of homelessness over the past year; or they have had recurrent experiences of homelessness over the past 3 years, with a cumulative duration of at least 18 months (546 days).

<sup>100</sup> Chronic homelessness refers to individuals who are currently experiencing homelessness and who meet at least 1 of the following criteria: they have experienced a total of at least 6 months (180 days) of homelessness over the past year; or they have had recurrent experiences of homelessness over the past 3 years, with a cumulative duration of at least 18 months (546 days).

<sup>101</sup> Schwan & Ali, 2021.

- Couchsurfing with family, friends, or strangers in order to avoid shelters, or because shelter services and affordable housing are unavailable or unsafe<sup>102</sup>

## ***Hidden Homelessness*** Amongst Women, Girls, & Gender Diverse People



**FIGURE 1**

While we may imagine homelessness as the person asking for change on the street corner, women's homelessness is often hidden behind closed doors. It includes couch surfing with friends, trading sex for housing, or living in a tiny, overcrowded apartment.

Commenting on these issues in 2018, the [Advisory Committee on Homelessness](#) articulated:

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*“The prioritization of chronic homelessness inadvertently excludes many women for being eligible for Homelessness Partnering Strategy funding because chronic homelessness is interpreted as chronically homeless emergency shelter users (where women are often under-represented) and chronically homeless individuals (many women are accompanied by children in homelessness) and does not consider the high degrees of situational vulnerability and high acuity homeless women often experience ... women experiencing homelessness are often not considered homeless for the purposes of Homelessness Partnering Strategy funding.”<sup>103</sup>*

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<sup>102</sup> Schwan et al., 2020, p. 55.

<sup>103</sup> Advisory Committee on Homelessness, 2018, p. 22.

Regrettably, this feedback was not integrated into federal policy approaches, including within the *National Housing Strategy*. This failure to capture the unique experiences of women and gender-diverse persons within federal definitions of homelessness and chronic homelessness likely contributes to gender-based inequities in funding, and contributes to severe gaps in supports, services, and emergency housing. Further, it means that women and gender-diverse people may not be considered candidates for “priority housing lists” and Housing First programs because the ways in which they experience chronic homelessness are often distinct (e.g., multiple years trapped in a violent home vs. chronic shelter users). As such, the effect of the current definition of chronic homelessness contravenes the obligation that governments guarantee substantive equality and non-discrimination in the area of housing.<sup>104</sup>

Further, the definitions of homelessness employed in federal policy tend to be Eurocentric and fail to account for Indigenous ways of understanding and experiencing homelessness. Most definitions fail to account for the unique structural and systemic oppressions that shape homelessness for Indigenous women, girls, gender-diverse peoples, including: genocidal violence, intergenerational trauma, institutional betrayal, racism and discrimination, staggering levels of sexual violence and homicide, and criminalization.<sup>105</sup> [The Definition of Indigenous Homelessness in Canada](#) (2018) articulates that Indigenous homelessness is rooted in isolation from “relationships to land, water, place, family, kin, each other, animals, cultures, languages and identities.”<sup>106</sup> As Métis-Cree scholar Jesse Thistle explains,

“Indigenous homelessness has been incorrectly understood by settlers as being without a structure of habitation or being roofless (Somerville, 1992), when Indigenous homelessness is also about being without All My Relations. Being without a physical structure is only a symptom of the root causes of Indigenous homelessness, which are being without healthy social, cultural, spiritual, emotional and physical relationships (Christensen, 2013).”<sup>107</sup>

This is echoed in the [Human Rights Claim offered by the National Indigenous Feminist Housing Working Group](#), which articulates: “The homelessness of our mothers, grandmothers, sisters, daughters, aunts,

**“The form of women’s homelessness often takes is referred to as ‘hidden homelessness’. Their bodies – or our bodies – literally go unseen, our needs unmet, and our stories unheard. The crisis of women’s homelessness, because of this lack of visibility, is much worse than even best estimates can fathom; we need to be seen if we want to end homelessness.”**

**Alex Nelson** – Community Outreach Coordinator, National Right to Housing Network; lived expert

<sup>104</sup> A/HRC/43/43, No. 8, para 48.

<sup>105</sup> Thistle, J. (2017). *Definition of Indigenous Homelessness in Canada*. Canadian Observatory on Homelessness Press. <https://www.homelesshub.ca/indigenoushomelessness>. See also Christensen, J. B. (2013). *Homeless in a Homeland: Housing (In)security and Homelessness in Inuvik and Yellowknife, Northwest Territories, Canada*. Montreal, QC: McGill University. <http://citeseerx.ist.psu.edu>; Patrick, C. (2014). *Aboriginal homelessness in Canada: A literature review*. Toronto: Canadian Homelessness Research Network.

<sup>106</sup> Thistle, 2017, p. 6.

<sup>107</sup> Thistle, 2017, p. 16.

and cousins is in itself a legacy of the residential school systems that tears our families apart and prevents us from building and keeping our relationships with lands, waters, and kin.”

Canada’s inadequate response to homelessness among women, girls, and gender-diverse people constitutes an egregious violation of international human rights law. As explained in Part 2, under international human rights law, homelessness is considered “a *prima facie* violation of the right to housing and violates a number of other human rights in addition to the right to life, including non-discrimination, health, water and sanitation, security of the person and freedom from cruel, degrading and inhuman treatment.”<sup>108</sup>

### **3. Emergency shelters for women and gender-diverse persons are inequitably and systemically underfunded and overwhelmed. This has been the case for many decades. Governments have failed to adequately respond to the scale and nature of the gendered homelessness crisis we face, despite their human rights obligations to do so.**

Homelessness is a *prima facie* violation of the right to housing.<sup>109</sup> International human rights standards require that governments eliminate homelessness in the shortest possible time with the maximum available resources.<sup>110</sup> Despite this, the vast majority of homelessness shelters and Violence Against Women (VAW) shelters continue to operate at or over capacity each day,<sup>111</sup> and the length of shelter stays amongst women-led families has increased significantly in recent years.<sup>112</sup> ESDC’s [National Shelter Study](#) (2019) found that while the number of emergency shelter beds across Canada changed very little between 2005 and 2014 (hovering around 15,000 beds), the demand for shelter beds has increased.<sup>113</sup> On any given night in 2014, 92% of Canada’s shelter beds were in use. In 2005, by comparison, just over 80% of shelter beds were in use across Canada.<sup>114</sup> VAW shelters are similarly at or over capacity in almost every community, with the majority only offering short-term lodging to women fleeing violence (less than 3 months).<sup>115</sup> The most recent national data indicates that 78% of VAW shelters across Canada are short-term (428 out of 552 shelters), and the top challenge facing women when they leave abusive situations is lack of affordable and appropriate long-term housing options.<sup>116</sup>

As demand for shelter beds increases, women and gender-diverse people face some of the greatest

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<sup>108</sup> Guidelines on the Implementation of the Right to Adequate Housing, *supra* para 30; See UN Human Rights Committee, Concluding Observations on the U.S.A. CCPR/C/USA/CO/4.

<sup>109</sup> A/HRC/31/54, para. 4.

<sup>110</sup> A/HRC/43/43, No. 5.

<sup>111</sup> Schwan et al., 2020.

<sup>112</sup> Segaert, A. 2017. *The National Shelter Study: Emergency shelter use in Canada 2005-2014*. Homelessness Partnering Secretariat. Employment and Social Development Canada. [https://publications.gc.ca/collections/collection\\_2017/edsc-esdc/Em12-17-2017-eng.pdf](https://publications.gc.ca/collections/collection_2017/edsc-esdc/Em12-17-2017-eng.pdf)

<sup>113</sup> It should be noted that the *National Shelter Study* did not include VAW shelters or transitional housing.

<sup>114</sup> Segaert, 2017.

<sup>115</sup> Statistics Canada. (2016). *Survey of Residential Facilities for Victims of Abuse*. Statistics Canada Catalogue. Ottawa. <https://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=3328>

<sup>116</sup> Statistics Canada. (2019). *Canadian residential facilities for victims of abuse, 2017/2018*. Statistics Canada Catalogue. Ottawa. <https://www150.statcan.gc.ca/n1/en/catalogue/85-002-X201900100007>

disadvantages. There continues to be a lack of equitable investment in emergency homeless shelters and shelter beds for women across the country, contravening human rights obligations of non-discrimination in funding allocation. Across Canada, there are fewer women-specific emergency shelter beds – 68% of shelter beds are co-ed or dedicated to men, compared to 13% dedicated to women.<sup>117</sup> Men’s shelters also have more than double the number of beds that women’s emergency shelters have (4,280 beds compared to 2,092 beds).<sup>118</sup> Further, while 38% of beds are reported to be within “general” emergency shelters across Canada<sup>119</sup> – meaning shelter beds that are co-ed or open to all genders – research consistently demonstrates that many women will avoid co-ed shelters for fear of violence or because they have experienced violence within those spaces.<sup>120</sup>

## Emergency shelter beds by clientele served, PiT 2018

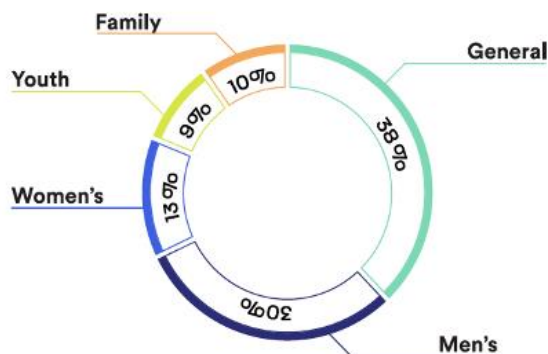


FIGURE 5 Source: (ESDC, 2019b)

The [Shelter Capacity Report 2018](#) also indicates a very uneven spread of emergency shelters across the Canadian provinces/territories. For example, there are only two women-specific emergency shelters across all three territories, with a total of 37 beds across them.<sup>121</sup> Remarkably, the report revealed that some provinces and territories had zero women-specific emergency shelters in 2018, including PEI and the Yukon.<sup>122</sup> Similarly, data indicates that 70% of northern reserves have no safe houses or emergency shelters for women escaping violence, despite evidence that gender-based violence is particularly high in many of these communities.<sup>123</sup>

Despite the profound violence and trauma that women and their children face on the streets, many are turned away from VAW and homelessness shelters each day due to capacity issues. Many shelters, if not most, simply do

not have the number of beds needed to meet demand. A 2019 [Report by the Standing Committee on the Status of Women](#) recently reviewed national data, research, and testimonies on this trend in the VAW sector, reporting:

“The Committee heard that violence against women shelters and transition houses often operate at capacity. Almost every witness told the Committee that shelters and transition houses often turn away women and children fleeing violence because of a lack of space.”<sup>124</sup>

This is perhaps most dramatically demonstrated in Statistics Canada’s 2019 report, [Canadian Residential Facilities for Victims of Abuse, 2017/2018](#). The study coordinated simultaneous data collection at VAW

<sup>117</sup> ESDC, 2019.

<sup>118</sup> ESDC, 2019.

<sup>119</sup> ESDC, 2019.

<sup>120</sup> Bretherton, 2017; National Inquiry into Missing and Murdered Indigenous Women, 2019.

<sup>121</sup> ESDC, 2019.

<sup>122</sup> ESDC, 2019.

<sup>123</sup> Martin & Walia, 2019.

<sup>124</sup> Vecchio, 2019, p. 27.

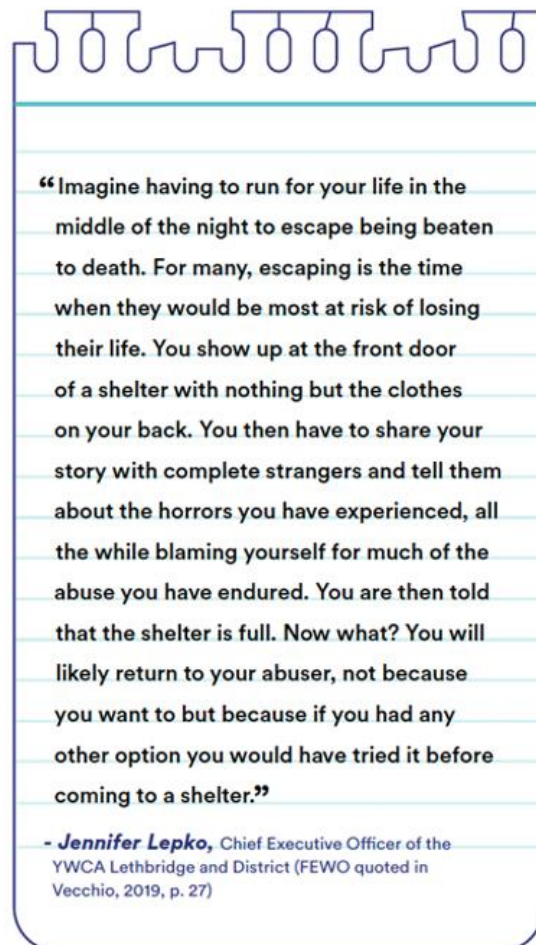


shelters across the country on a single day, finding that:

“On the snapshot day of April 18, 2018, 669 women, 236 accompanying children, and 6 men were turned away from residential facilities for victims of abuse. The most common reason reported for a woman being turned away was that the facility was full (82%).”<sup>125</sup>

Given that shelters are often the last resort for many women, this lack of capacity within the VAW and homelessness sectors may contribute to the perpetuation of homelessness and associated trauma for some women.

Being unable to access a shelter bed has severe consequences for women and gender-diverse persons. The [Pan-Canadian Survey on Women’s Housing Need & Homelessness](#) found that amongst a sample of 500 women and gender-diverse persons who had experienced homelessness, almost a third (32.6%) were unable to access a shelter bed when they needed one – primarily due to shelter capacity issues.<sup>126</sup> When asked what they did when they couldn’t access a shelter bed, many participants described experiences of rough sleeping, survival sex, returning to situations of abuse, and begging friends or acquaintances to take them in for the night.<sup>127</sup>



<sup>125</sup> Statistics Canada, 2017, p. 3.

<sup>126</sup> Schwan et al., 2020.

<sup>127</sup> *Ibid.*

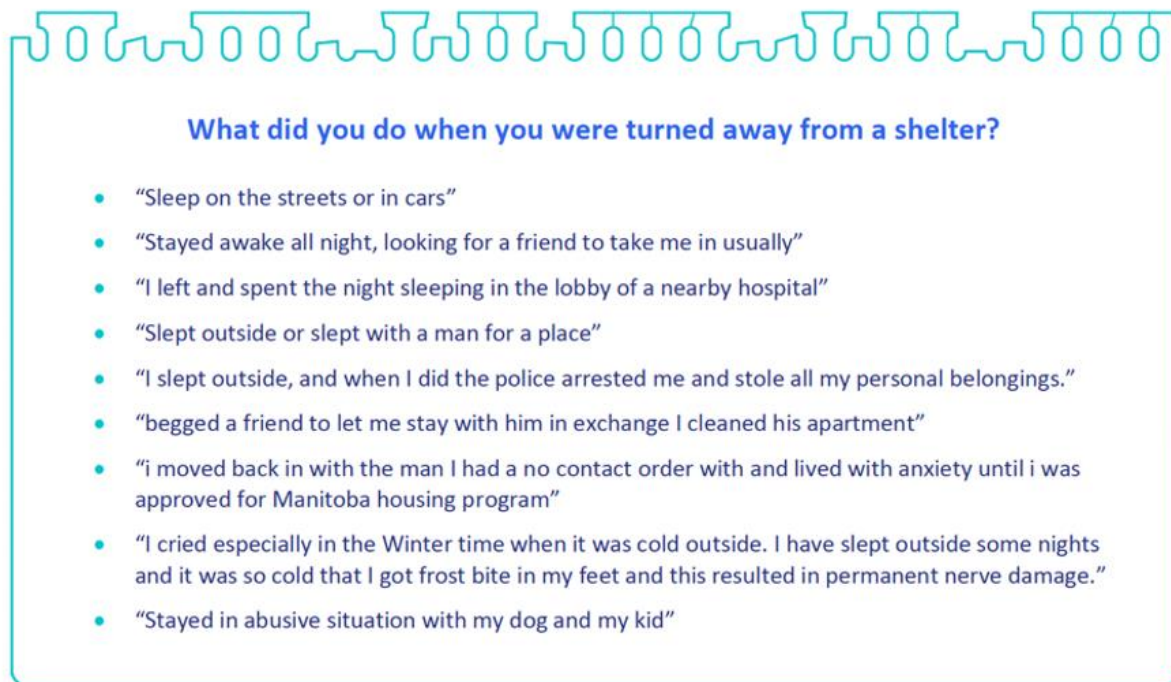


Figure 3. Responses from participants in the Pan-Canadian Survey on Women’s Housing Need & Homelessness (Schwan et al., 2021).

### ***SPOTLIGHT – Right to housing violations experienced by 2SLGBTQIA+ and Two-Spirit, transgender, nonbinary, and gender-diverse people within shelter systems***

The unsafety of the shelter system is compounded for Two-Spirit, transgender, nonbinary, and gender-diverse people. With limited 2SLGBTQIA+-inclusive services and shelter spaces, the discrimination, exclusion, and violence that lead to homelessness for many queer people is reproduced in the homelessness sector. The shelter system is, as one researcher put it, an “atmosphere of normalized oppression,”<sup>128</sup> causing deep feelings of displacement and isolation. The VAW sector holds additional - sometimes steeper - barriers for gender-diverse persons. The rigidly binaric nature of resources and spaces in the VAW sector (including favouring the term “Violence Against Women” over more gender neutral terms like “Intimate Partner Violence”) are inappropriate and alienating for many gender-diverse people – and the women-centric language pervasive across this sector perpetuates this exclusion.<sup>129</sup> Attempts to access mainstream homeless and VAW services leads to routine experiences of transmisogyny, coercive feminization of transmasculine people, and transphobia while navigating these spaces. According to a 2020 [Report](#) from the Toronto Shelter Network:

<sup>128</sup> Abramovich, A. (2017). Understanding how policy and culture create oppressive conditions for LGBTQ2S youth in the shelter system. *Journal of Homosexuality*, 64(11), 1484-1501. P. 2.

<sup>129</sup> Toronto Shelter Network (2020). *Transforming the Emergency Homelessness System: Two Spirited, Trans, Nonbinary and Gender Diverse Safety in Shelters Project*. The Toronto Shelter Network. [https://static1.squarespace.com/static/5728db86b09f95bc05bf8dae/t/5fad6dbd0e8bbf646ff1e3b6/1605201345593/Final+Report+Transforming+the+Shelter+System+Two+Spirited%2C+Trans%2C+and+Gender+Diverse+Safety+in+Shelters+Project\\_November+12+2020.pdf](https://static1.squarespace.com/static/5728db86b09f95bc05bf8dae/t/5fad6dbd0e8bbf646ff1e3b6/1605201345593/Final+Report+Transforming+the+Shelter+System+Two+Spirited%2C+Trans%2C+and+Gender+Diverse+Safety+in+Shelters+Project_November+12+2020.pdf)



“Gender diverse clients, especially those who are Black and/or transmasculine, and/or are ‘non-passing’ transfeminine individuals experience heightened surveillance, bullying, discrimination, harassment, punishment, service restrictions/refusal and police intervention. Against this backdrop, it is understandable that many gender diverse people are hesitant to access services, and why some prefer to stay on the street, in emotionally abusive situations or in encampments.”<sup>130</sup>

This discriminatory and harmful setting is heightened for 2SLGBTQIA+ seniors and young people. Homelessness for many 2SLGBTQIA+ people begins in their youth, when they are pushed out of their family unit. As articulated in a 2019 [House of Commons Standing Committee on Health Report](#):

“LGBTQIA2 youth are at greater risk of being homeless than heterosexual and cisgender youth. This disparity affects their health and well-being. Witnesses estimated that, of the 40,000 homeless youth in Canada, between 25% and 40% identify as LGBTQIA2. Family conflict relating to sexual orientation or gender identity is the main reason LGBTQIA2 youth become homeless.”<sup>131</sup>

These individuals then experience similar dynamics within the mainstream homelessness system, leading many to choose sleeping rough outdoors over accessing shelter spaces.<sup>132</sup> Recent reporting also shows a lack of critical awareness in relation to 2SLGBTQIA+ seniors, many of whom are forced to leave their social support networks and go “back into the closet” when moving away from their communities and into retirement or long-term care homes.<sup>133</sup>

#### **4. There is a lack of tenant protections for women and gender-diverse persons residing in transitional housing and other forms of second-stage or supportive housing, as well as long-term care homes. This violates the right to security of tenure for these residents, leaving them vulnerable to unlawful eviction and re-entry into homelessness, contrary to their right to housing.**

Transitional, second-stage, social housing, and rent-g geared-to-income housing frequently provides critical support and housing to marginalized women, women-led families, and gender-diverse persons who are homeless.<sup>134</sup> In some cases, women and gender-diverse persons are able to transition from these units into stable, affordable housing (though the unavailability of such housing frequently prevents this from occurring, and some individuals cycle back into homelessness or situations of abuse<sup>135</sup>). Nonetheless, forms of housing defined as being temporary (e.g., transitional housing) do not

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<sup>130</sup> Toronto Shelter Network, 2020.

<sup>131</sup> Standing Committee on Health. 2019. *The Health of LGBTQIA2 Communities in Canada: Report of the Standing Committee on Health*. Standing Committee on Health. P. 29.

<https://www.ourcommons.ca/Content/Committee/421/HESA/Reports/RP10574595/hesarp28/hesarp28-e.pdf>

<sup>132</sup> Standing Committee on Health, 2019.

<sup>133</sup> Johnstone, H. (2019). 'Back into the closet': LGBTQ seniors face housing discrimination. *CBC News*.

<https://www.cbc.ca/news/canada/ottawa/lgbtq-seniors-housing-discrimination-ottawa-1.5356024>

<sup>134</sup> Vecchio, 2019.

<sup>135</sup>

offer residents security of tenure and protection under landlord tenant legislation, and the relationship between residents and housing providers is not a typical landlord-tenant relationship.

In the case of transitional housing, women and gender-diverse persons often sign a “program agreement,” rather than a lease, which requires that they move out by a fixed end date and comply with program rules. Program rules may include participation in life-skills training, curfews, guest restrictions, and abstinence from drugs or alcohol. Their privacy may be limited, and they may be subject to room checks. Protections from eviction for failing to comply with program rules are non-existent, and there is no appeal mechanism for tenants who feel they have been unjustly exited from their unit by the housing provider.<sup>136</sup> These conditions are inconsistent with the right to housing given that eviction into homelessness constitutes a violation of the right to housing under international human rights law.<sup>137</sup> Preliminary research suggests that eviction from this type of housing can have severe consequences for women and gender-diverse persons who are experiencing some of the deepest forms of marginalization.<sup>138</sup>

An [inquiry into rental housing and human rights](#) by the Ontario Commission on Human Rights in 2008 identified similar issues in social housing, with particular policies having a disproportionately negative impact on women and women-led families. For example:

“Guest policies under the Social Housing Reform Act (SHRA) were also described as having a disproportionate impact on lone mothers. Section 21(3) of the SHRA allows housing providers to establish rules for the temporary accommodation of guests in its rent-geared-to-income units. Consultees told the Commission that these rules seem to be aimed at “boyfriends” or partners whose incomes were not considered by the housing provider when calculating the subsidy amount. The Commission was told that strict enforcement of these policies can have far-reaching effects on the ability of tenants to maintain their privacy and lead normal lives while at the same time maintaining their housing. If the guest is deemed to be an illegal occupant, the tenant’s subsidy can be revoked and the tenant may be evicted. The Hamilton Mountain and Community Legal Clinic provided this example:

*In one case at this office, a single mother of four children relied on her ex-husband to babysit while she attended the hospital with her four-year-old undergoing cancer treatment. She was repeatedly requested to provide proof that he was not staying overnight. Despite supplying affidavits and proof of his residency elsewhere, the provider removed her subsidy and brought an application to the housing tribunal to evict her family on the basis of sightings by neighbours and the superintendent (sic) of his alleged overnight stays. When the so-called evidence was challenged, the matter was withdrawn, but not before serious suffering was inflicted on the entire family over the extended period.”<sup>139</sup>*

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<sup>136</sup> Chen, L. (2022). ‘Supportive Housing’ Is No Solution to Homelessness. *The Tyee*.

<https://thetyee.ca/Analysis/2022/05/16/Supportive-Housing-No-Solution-Homelessness/>

<sup>137</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22 para 16. <https://www.refworld.org/docid/47a70799d.html>

<sup>138</sup> Chen, 2022.

<sup>139</sup> Ontario Human Rights Commission. (2008). *Right at Home – Report on the Consultation on human rights and rental housing*

Additional issues have been raised with respect to long-term care homes, which many marginalized women and gender-diverse peoples find themselves residing in at some point in their lives. Like transitional housing, in many provinces/territories individuals that live in a long-term care home are not protected under landlord-tenant legislation. In Ontario, for example, long-term care home residents are protected under the [Long-Term Care Home Act](#), but not under the Residential Tenancies Act.<sup>140</sup> COVID-19 has exposed the severe housing rights violations experienced by older women and gender-diverse people living in long-term care homes – particularly those that are for-profit. Studies demonstrate that outbreaks of COVID-19 are more likely in for-profit than not-for-profit long-term care homes.<sup>141</sup> Higher fatalities in for-profit homes are underpinned by the growing financialization of long-term care facilities in Canada - where profits are pursued at the expense of quality operation of care facilities.<sup>142</sup> Specifically in Ontario in 2020, “...financial operators (REITs, private equity and institutions) had higher death rates than other for-profits, with 30% of beds and 48% of Ontario long-term care deaths.”<sup>143</sup>

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in Ontario. Toronto, ON.

[https://www.ohrc.on.ca/sites/default/files/attachments/Right at home%3A Report on the consultation on human rights and rental housing in Ontario.pdf](https://www.ohrc.on.ca/sites/default/files/attachments/Right%20at%20home%3A%20Report%20on%20the%20consultation%20on%20human%20rights%20and%20rental%20housing%20in%20Ontario.pdf), p. 15.

<sup>140</sup> Centre for Equality Rights in Accommodation. (2022). *FAQs: Housing laws in Ontario*.

<https://www.equalityrights.org/frequently-asked-questions/housing-laws-in-ontario>

<sup>141</sup> Stall, N. M., Jones, A., Brown, K. A., Rochon, P. A., & Costa, A. P. (2020). For-profit long-term care homes and the risk of COVID-19 outbreaks and resident deaths. *Cmaj*, 192(33), E946-E955.

<sup>142</sup> August, M. (2020, July 26). *The coronavirus exposes the perils of profit in seniors' housing*. <https://theconversation.com/the-coronavirus-exposes-the-perils-of-profit-in-seniors-housing-141915>

<sup>143</sup> August, 2020.

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## *Violation 3: Failure to Regulate the Financialization of Housing in Alignment with the Right to Housing*

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Canada's failure to regulate the financialization of housing is a failure of equality rights for women and gender-diverse people. Marginalized women and gender-diverse people disproportionately suffer the effects of financialized housing markets and the resultant loss of affordable housing. While every segment of the Canadian economy depends on our labour – paid and unpaid – we do not share in the profits of financialization, nor do we share in decision-making power about it. We disproportionately face unsustainable rent increases, evictions, renovictions, and demovictions – often alongside our children – only to enter overheated housing markets where we cannot afford any housing that is safe, accessible, or adequate. By deepening our poverty and narrowing our housing options, the financialization of housing creates the conditions for increased violence against us by landlords, property-managers, co-inhabitants, and partners.

At an ever-increasing pace, financial actors and real estate developers continue to dispossess Indigenous women, girls, and Two-Spirit people of their lands and homes, extracting profit while creating intergenerational poverty and homelessness. These actors are often aided by federal housing policies, rather than constrained by them. Further, the financialization of housing contributes to climate emergencies that inequitably impact us and destroy the planet for generations to come.

The failure to regulate the financialization of housing is not only a policy failure; it is a failure of equality rights for women and gender-diverse people.

## Key Human Rights Issues

**1. The financialization of housing has a disproportionate and discriminatory impact on marginalized women and gender-diverse persons given the depth of our poverty and core housing need. Financialization results in the rapid removal of affordable housing upon which we rely, resulting in displacement from our communities, employment, education, healthcare, and other critical resources. Federal housing policy is failing to adequately respond to the escalating crisis of financialization and its effects on housing affordability, and in some cases is**

## incentivizing it.

The housing crisis in Canada, particularly for women and gender-diverse individuals, is a two-fold challenge underpinned by the increased financialization of housing and deepening poverty for those on low incomes or social assistance. Financialization is “marked by the increasing penetration of financial practices, logics, and strategies into non-financial sectors.”<sup>144</sup> As defined in [The Shift Directives – From Financialized to Human Rights-Based Housing](#):

“The ‘financialization of housing’ refers to structural changes in housing and financial markets and global investment whereby housing is treated as a commodity or asset, a means of accumulating wealth and often as security for financial instruments that are traded and sold on global markets. It refers to those institutional investors in housing who cater predominantly to their shareholder or investor clients and in the process – inadvertently or not – cause harm to tenants. It refers to the way capital investment in housing increasingly disconnects housing from its social function of providing a place to live in security and dignity and hence undermines the realization of housing as a human right.”<sup>145</sup>

In effect, the financialization of housing positions governments as primarily accountable to investors rather than rights-holders, including marginalized women and gender-diverse persons.<sup>146</sup>

Given its emphasis on deregulation and profit-generation, financialization leads to a concentration of wealth and power that reinforces gender, socio-economic, and race-based inequities.<sup>147</sup> Increased house prices and rental costs that result from financialization have a *gendered* effect because of women’s disadvantaged position in the workforce, their lower wages, and the greater care burdens they face.<sup>148</sup> The financialization of housing thus leaves marginalized women and gender-diverse persons in a uniquely vulnerable position because of economic inequities they face – inequities deepened in financialized housing markets. It does not escape our attention that large-scale financial actors in the housing space are largely under the leadership of white men.<sup>149</sup>

Emerging data indicates that financial actors are increasingly targeting housing that has been historically

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<sup>144</sup> August, M. & Walks, A. (2018). Gentrification, suburban decline, and the financialization of multi-family rental housing: The case of Toronto. *Geoforum*, 89: 124-125.

<sup>145</sup> Farha, L., Freeman, S., Gabarre de Sus, M., Perucca, J., & McMurdy, A. (2022). *The Shift Directives – From Financialized to Human Rights-Based Housing*. The Shift. <https://make-the-shift.org/wp-content/uploads/2022/05/The-Directives-Formatted-DRAFT4.pdf>. The Directives go on to state -“Housing, or residential real estate, has become the investment of choice for many, including institutional investors, who most often acquire housing for the profits or income that can be generated from it and convert homes into financial instruments that are traded on global markets. Residential real estate is attractive for its potential to offer secure income yielding investments, a hedge against inflation, portfolio diversification, and low volatility compared to other asset classes. Simply put, the housing sector has been taken over by finance. It has become a place to park, grow, leverage, and/or hide unprecedented amounts of capital.”

<sup>146</sup> UNHRC. (2021). “Financialization of Housing.” *UNHRC*.

<https://www.ohchr.org/EN/Issues/Housing/Pages/FinancializationHousing.aspx>.

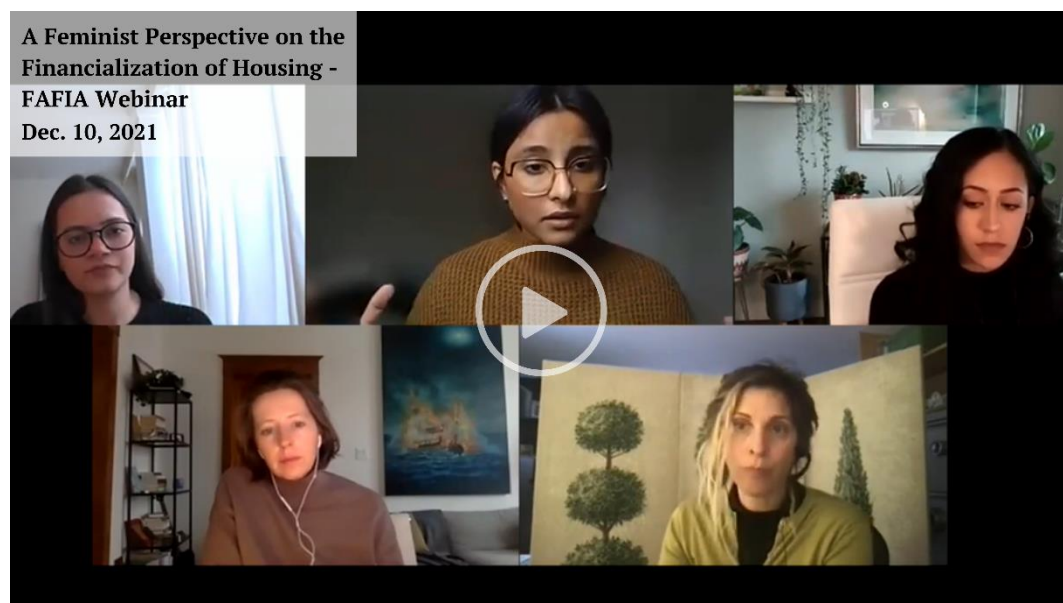
<sup>147</sup> Dantzler, P. A., & Reynolds, A. D. (2020). Making Our Way Home: Policy, Racial Capitalism, and Reparations. *Journal of World-Systems Research*, 26(2). <https://jwsr.pitt.edu/ojs/jwsr/article/view/1008>.

<sup>148</sup> Schwan et al., 2020.

<sup>149</sup> See, for example, Pollard, J. (2013). Gendering capital: Financial crisis, financialization and (an agenda for) economic geography. *Progress in Human Geography*, 37(3), 403-423.

occupied by low-income and marginalized groups in Canada, including racialized, Indigenous, and newcomer women-led families.<sup>150</sup> Across the country, large investment firms are rapidly purchasing deteriorating apartment buildings, social housing, mobile homes, and other distressed rental properties, only to renovate and redevelop this housing into luxury units, short-term rentals, high-end rental housing, or other investment opportunities.<sup>151</sup> To achieve this, financialized landlords go to great lengths to evict, renovict, and demovict low-income and marginalized women, women-led families, and gender-diverse persons.<sup>152</sup> It should be noted that these renovictions and demovictions are linked to the federal divestment in social housing in the 1990s.<sup>153</sup> Part of the reason so many of these units are in such a state of disrepair is because they were abandoned by the federal government, creating the ideal circumstances for predatory redevelopment and speculation by financial actors.

Research demonstrates that the long-term effect of financialization is that low-income and racialized women-led households are pushed to the peripheries of cities,<sup>154</sup> resulting in decreased access to public services they rely on for essential needs like childcare, transportation, and healthcare services.<sup>155</sup> For example, given that women often take on the majority of childcare responsibility and that 30% of single parent female-led households are raising children below the poverty line in Canada,<sup>156</sup> access to



<sup>150</sup> See August & Walks, 2018.

<sup>151</sup> August, M. (2021). The rise of financial landlords has turned rental apartments into a vehicle for profit. *Policy Options*. <https://policyoptions.irpp.org/magazines/june-2021/the-rise-of-financial-landlords-has-turned-rental-apartments-into-a-vehicle-for-profit/>

<sup>152</sup> Misra, S., Baig, K., Raza, S., August, M., Farha, L. (2021). *A Feminist Perspective on the Financialization of Housing*. Feminist Alliance for International Action. <https://www.youtube.com/watch?v=RGj5ks5IAf0>

<sup>153</sup> Canada Without Poverty. (2014). *20 years ago Canada had a housing plan*. Canada Without Poverty. <https://cwp-csp.ca/2014/01/20-years-ago-canada-had-a-housing-plan/>

<sup>154</sup> Centre for Equality Rights in Accommodation, The National Right to Housing Network & Social Rights Advocacy Centre. (2021). *Housing Discrimination and Spatial Segregation in Canada*. <https://housingrights.ca/wp-content/uploads/SRAH-Submission-Discrimination-and-Spatial-Segregation-in-Canada-CERA-NRHN-SRAC-May-2021.pdf>

<sup>155</sup> *Ibid.*

<sup>156</sup> Canadian Women's Foundation. (2021). *The Facts about Women and Poverty in Canada*. <https://canadianwomen.org/the-facts/womens-poverty/>.

affordable childcare services is essential to disrupting the cycle of poverty. One of the effects of displacement due to the financialization of housing is that it often reduces access to affordable childcare facilities,<sup>157</sup> which in turn affects women’s ability and right to work outside the home and contributes to the feminization of poverty. Studies indicate that older adults are increasingly negatively

affected, with one-third of older adults who rent or pay a mortgage are having trouble making ends meet.<sup>158</sup>

Importantly, the financialization of housing occurs without our participation, often in boardrooms far away from our communities.<sup>159</sup> As detailed in *The Shift Directives*, “Many residential rental properties are now owned indirectly by investors who have no connection to those properties.”<sup>160</sup> We largely do not know who these investors are, and we lack legal representation and recourse when we face evictions, illegal rent increases, inadequate housing conditions, or harassment by landlords or building managers. The [Pan-Canadian Survey on Women’s Housing Need & Homelessness](#), found that almost a third of women and gender-diverse people experiencing homelessness (27.9%) were unable to access the legal help they needed to address their previous housing situation.<sup>161</sup> This was particularly pronounced for 52.2% of young women and gender-diverse people (age 13 to 24) – a serious barrier to their access to justice. Such experiences are linked to weak tenant protections at the provincial/territorial levels.

As articulated in *The Shift Directives*, “Governments often compromise tenant protections to facilitate profit-making for owners of residential real estate, including by enacting legislation that allows rents to be raised without limits or with tenant turnover, and permitting the exploitation of legal provisions like no-cause or expedited eviction proceedings as a means of increasing rents.”<sup>162</sup> This is well-documented in the Canadian context. For example, the Advocacy Centre for Tenants Ontario (ACTO) recently released a report citing a major rise in no-fault eviction applications in Toronto, with an 84% increase in private landlords filing for ‘own use’ claims and a 294% increase in ‘renovictions’ since 2016.<sup>163</sup> Canada’s international and domestic obligations under the right to housing – including the obligation to prevent evictions into homelessness – are not considered by adjudicators in these eviction proceedings.

While there have been widespread calls for federal leadership to urgently curb the financialization of housing,<sup>164</sup> the *National Housing Strategy* has not challenged these patterns.<sup>165</sup> As explained by housing policy expert Steve Pomeroy,

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<sup>157</sup> Sultana, A. & Ravanera, C. (2020). *A Feminist Economic Recovery Plan for Canada: Making the Economy Work for Everyone*. The Institute for Gender and the Economy (GATE) and YWCA Canada. [www.feministrecovery.ca](http://www.feministrecovery.ca)

<sup>158</sup> Bierman, A., & Lee, Y. (21 February 2022). “One third of Canadian seniors who rent or pay a mortgage are struggling to pay their bills.” *The Conversation*. <https://theconversation.com/one-third-of-canadian-seniors-who-rent-or-pay-a-mortgage-are-struggling-to-pay-their-bills-176122>

<sup>159</sup> Farha et al., 2022.

<sup>160</sup> *Ibid.*

<sup>161</sup> Schwan et al., 2021.

<sup>162</sup> Farha et al., 2022, p. 18.

<sup>163</sup> ACTO, 2019.

<sup>164</sup> Steve Pomeroy. (2020). *The perverse math of homeless investment*. Focus Consulting Inc. <https://www.focus-consult.com/the-perverse-math-of-homeless-investment/>

<sup>165</sup> Biss & Raza, 2021.



“CMHC aids and abets the process of financialization by offering its insured mortgage products to assist these capital funds and REITs to secure the financing required to facilitate their acquisition programs ... This erosion massively negates all efforts of the *National Housing Strategy* to reduce renter need and homelessness – between 2011-16 for every new affordable unit created 15 existing affordable (under \$750/month) were lost.”<sup>166</sup>

Further, while the largest NHS programs – such as the Rental Construction Financing Initiative and the National Housing Co-Investment Fund – require developers to create some “affordable” housing units, two issues persist: one, their affordability criteria are tied to average market rent or median household income such that they remain unaffordable for women and gender-diverse people in deepest housing need; and two, they are only required to uphold these affordability criteria for 10 years or 20 years respectively.<sup>167</sup> After this time, developers can presumably transition these units to whatever the market can bear, resulting in no long-term contribution to affordable housing stock in Canada.

## **2. By deepening our poverty and narrowing our housing options, the financialization of housing creates the conditions for increased violence against marginalized women and gender-diverse persons by landlords, property-managers, co-inhabitants, and exploitative partners.**

It must be understood that the financialization of housing – and the upward pressure it puts on rents - creates the conditions for increased violence against marginalized women and gender-diverse persons. Insofar as the financialization of housing involves the removal of affordable housing from the market, escalating rental costs, increased evictions and renoevictions (or the threat thereof), and the concentration of wealth in the hands of large corporate actors, the result is that many of us have fewer choices and less power in our housing decisions.<sup>168</sup> This does not go unnoticed by exploitative and violent landlords, property-managers, building staff, or other people in our lives.

Reports from lived experts across the country document that exploitative landlords and property-managers leverage our poverty, fear of eviction, fear of separation from our children, and lack of institutional power against us.<sup>169</sup> The [Pan-Canadian Survey on Women’s Housing Need & Homelessness](#), for example, found:

- 45.8% of women and gender-diverse people reported at least one type of safety concern within their most recent housing, with many citing violence, abuse, or harassment from landlords
- 15.8% reported they were forced to move out of their most recent place because of harassment or discrimination by a landlord, property-manager, or building staff
- 32.8% reported that available affordable housing is unsafe
- 80% experienced at least one form of discrimination from a landlord or property manager

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<sup>166</sup> Pomeroy, 2020, n.p.

<sup>167</sup> For analysis see Biss & Raza, 2021; Schwan & Ali, 2021.

<sup>168</sup> See ACTO, 2019; August, 2021; Farha et al., 2022; Misra et al., 2021; Pomeroy, 2020.

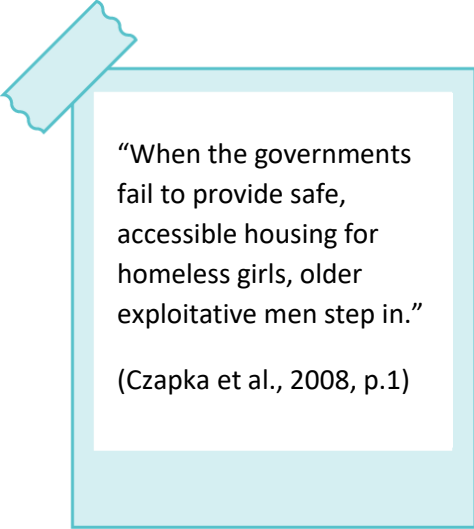
<sup>169</sup> Schwan et al., 2021.

These experiences are more pronounced for those of us from multiple-marginalized groups. For example, a [report](#) on Indigenous women’s experiences of housing in Vancouver revealed widespread exploitation and violence, including: illegal rent increases by landlords, building staff who attempt to elicit sex in exchange for maintenance, and illegal rules such as curfews and room checks.<sup>170</sup>

It is well-documented that poverty and housing need is correlated with increased risk of exposure to violence – particularly for women and other marginalized groups<sup>171</sup> – and as such we can infer that the financialization of housing is correlated with increased risk of violence. Insofar as the financialization of housing deepens our poverty and narrows our access to affordable housing, we are often exposed to harassment, violence, and exploitation that we otherwise might not have experienced. While the financialization of housing affects all low-income groups, it is critical to understand that marginalized women and gender-diverse persons are more likely to be vulnerable to the negative consequences of financialization due to our deeper forms of poverty and core housing need.

### “Free rent for a female that is willing to play the roll (sic) of a wife.”

More broadly, the financialization of housing worsens the conditions wherein desperate women and gender-diverse persons are forced to rely on dangerous survival strategies to pay rent, or trade sex or labour for housing.<sup>172</sup> An illuminating indication of this is the scale of housing ads on websites like Craigslist that advertise [“free rent” for sex acts and/or ongoing sexual relations](#) (sometimes referred to as sex-for-rent arrangements).<sup>173</sup> Craigslist and other similar platforms in most major Canadian cities display ads such as “Nice room available for Hot Young Female” or “Free Rent for Female Student,”<sup>174</sup> often with specifications regarding appearance (e.g., weight and height) and the labour expected (including emotional labour, domestic labour, and the performance of a relationship (e.g., cuddling)).<sup>175</sup> One Vancouver ad read, for example, “Free rent for a female that is willing to play the roll (sic) of a wife.”<sup>176</sup>



“When the governments fail to provide safe, accessible housing for homeless girls, older exploitative men step in.”

(Czapka et al., 2008, p.1)

While undoubtedly these types of exploitative arrangements pre-date the rise of financialized housing markets in Canada, it is the case that the financialization of housing has deepened gendered poverty and tightened housing markets considerably, putting marginalized women

<sup>170</sup> Martin & Walia, 2019, p. 20.

<sup>171</sup> See van Berkum & Odushoorn, 2015; Schwan et al., 2020.

<sup>172</sup> Misra et al., 2021.

<sup>173</sup> Schwartz, B., & Neff, G. (2019). The gendered affordances of Craigslist “new-in-town girls wanted” ads. *New Media & Society*, 21(11-12), 2404-2421.

<sup>174</sup> See Daflos, P., & Mangione, K. (29 April 2016). Shortage of affordable housing behind some sex-for-rent schemes. *CTV Vancouver*. <https://bc.ctvnews.ca/shortage-of-affordable-housing-behind-some-sex-for-rent-schemes-1.2881502>. See also Saltman, M. (29 April 2016). Men on Craigslist offering Vancouver women free rent in exchange for sex. *Toronto Sun*. <https://torontosun.com/2016/04/29/men-on-craigslist-offering-vancouver-women-free-rent-in-exchange-for-sex>

<sup>175</sup> *Ibid.*

<sup>176</sup> Saltman, 2016.

in impossible situations in their efforts to access housing. In response to the rise of these ads in Vancouver (BC), Samantha Grey, spokeswoman for Vancouver Rape Relief and Women’s Shelter, stated:

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*“I think these ads are appearing on Craigslist as a way for men to use their power, their access to housing, as a way to exploit women’s economic desperation. We’re in a housing crisis, women are in poverty.”<sup>177</sup>*

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### **3. The foundational logic of financialization is inherently inconsistent with – and hostile to – Indigenous Peoples’ inherent human rights and treaty rights. The financialization of housing systematically displaces Indigenous women, girls, Two-Spirit, and gender-diverse persons from their lands and homes without regard for their rights and without free, prior, and informed consent.**

It is critical to understand that the financialization of housing has become *the* foundational logic of housing provision in Canada. It is not the exception – it is the rule. Importantly, most policies focused on addressing housing need and homelessness do not attempt to disrupt financialization, but merely soften or mitigate its effects. As articulated in [The Shift Directives – From Financialized to Human Rights-Based Housing](#),

“When housing is understood as an instrument of finance, governments adopt a framework of laws, policies, and resource expenditure based in and to support that understanding. When governments take legislative or policy measures to remedy inadequate housing conditions, they rarely intend for those measures to undo the framework that has caused the deleterious conditions; instead, the purpose of those measures is, more often simply to ameliorate the effects of the framework.”<sup>178</sup>

The financialization of housing also creates unique forms of harm, marginalization, and violence for Indigenous women, girls, Two-Spirit, and gender-diverse persons. As articulated in [the Human Rights Claim authored by the National Indigenous Feminist Housing Working Group](#), the positioning of housing as a commodity for profit generation contradicts Indigenous Peoples’ inherent human rights and ways of knowing, doing, and being – all of which are protected under UNDRIP, the NHSA, and international law. The Claim states:

“We, as right claimants, want to emphasize that this relationship to land is at the heart of inherent rights of Indigenous peoples and underlines all rights that Indigenous Peoples hold under international and constitutional rights covenants, declarations, and committees. This relationship to land is rooted in mutuality and reciprocity, it believes in the stewardship of lands,

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<sup>177</sup> Samantha Grey quoted in Saltman, 2016.

<sup>178</sup> Farha et al., 2022, p. 11.

waters, and resources for generations to come. Being informed by this relationship to land, Indigenous Peoples have traditionally built and engaged in ways of living and doing that are generative and sustainable.

Colonial conceptualizations of land and housing as market goods that are bought, sold, and speculated disrupt the aforementioned relationship of mutuality and reciprocity. It commodifies land and positions housing development as a tool for extracting wealth and profits. The increased financialization of housing that we are experiencing in Canada today deeply relies on disruption and elimination of Indigenous ways of knowing and living.

... Commodification and financialization of housing rely on dispossession of Indigenous peoples from lands that they have inherent rights to. Ensuring the right to housing for Indigenous women, girls, and gender-diverse persons must not only affirm principles of housing as a human right as iterated under NHTS and international law, but it must also reckon with the indivisibility of housing as a human right from inherent Indigenous rights and other human rights iterated under historic treaties and international bodies ... the over-representation of Indigenous women, girls, and Two-Spirit persons in cycles of poverty, homelessness, and housing insecurity is not just a result of extractive commodification of housing, rather the very function of it.”

## PART II

# Relevant International Human Rights Norms under the *National Housing Strategy Act*

Our Claim relies on the National Housing Strategy Act's recognition (NSHA) of the right to adequate housing in international human rights law, which establishes housing as a fundamental human right essential to our inherent dignity and well-being, and to building sustainable and inclusive communities. In making this Claim, we rely on the mechanisms established under the NSHA for access to justice to address our experiences of systemic violations of this right in Canada.

We are planning engagement processes with communities of rights claimants to further develop our Claim. These engagements will help us to clarify how international human rights norms apply to our lived experiences, and to better understand Canadian governments' human rights obligations under international law, as affirmed in the NSHA.

In this section, we summarize a few of the key principles and requirements of the right to housing in international law that will guide us in the further development of our Claim, and to provide guidance to the Federal Housing Advocate or a Review Panel in making findings and recommendations.

### **i) The Right to a Place to Live in Peace, Dignity and Security**

The UN Committee on Economic, Social and Cultural Rights (UN Committee on ESC Rights) has emphasized in its General Comment on the Right to Adequate Housing that the right to housing must not be interpreted narrowly, such as referring to housing as a commodity or a mere physical dwelling. The right to housing is defined as the right to a place to live in peace, dignity, and security.<sup>179</sup> This definition has many components, including seven key components identified in General Comment 4 as security of tenure, availability of services, affordability, habitability, accessibility, appropriate location, and cultural adequacy.<sup>180</sup>

We embark on claiming our right to housing under the NSHA as a process through which the particular meanings of home, dignity, peace (freedom from violence and oppression), and security for women and gender-diverse people can be understood through our diverse experiences and knowledge. As noted in

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<sup>179</sup>UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23, para 7.

<sup>180</sup> *Ibid*, para 8.

the Guidelines for the Implementation of the Right to Adequate Housing: “Women must be empowered to articulate and claim the right to housing in a manner that addresses their experience of housing disadvantage in all of its dimensions.”<sup>181</sup>

The right to a place to live in peace, dignity, and security has particular meanings for Indigenous women, women with disabilities, racialized women, 2SLGBTQIA+ persons, and many others. The content of the right to housing is shaped by history, by diverse circumstances, and multiple intersectionalities. These important dimensions will be explored as we develop and present our Claim through the NHTS procedures.

The UN Committee on ESC Rights also recognizes that the right to adequate housing is “integrally linked to other human rights” and to the recognition of “the inherent dignity of the human person” from which all human rights derive.<sup>182</sup> In the Canadian context, this means that our right to housing is indivisible from our rights to substantive equality, to life, liberty, and security of the person, and to other rights under the *Canadian Charter of Rights and Freedoms*. We note that the Supreme Court of Canada has established that the *Canadian Charter* should be presumed to provide at least the same level of protection as international human rights law.<sup>183</sup> Our Claim relies on a recognition of the interconnectedness of our rights under both Canadian and international law.

The Supreme Court of Canada has also established that administrators making decisions that affect us must give due regard to our rights under international human rights law and that all laws and policies in Canada should be interpreted and applied wherever possible to ensure compliance with international human rights law.<sup>184</sup> Our right to housing, however, has been largely ignored by decision-makers. We advance our Claim with the hope and expectation that our rights under international law and the NHTS will also inform decisions made in multiple other contexts, including zoning, planning, administration of benefits, and eviction proceedings that affect our right to housing.

## ii) Access to Justice under the NHTS

We emphasize that the right to housing under international law as affirmed under the NHTS should never be treated as a mere policy aspiration which the government is free to neglect or ignore. As noted by the Special Rapporteur on Adequate Housing in her report on the right to life and the right to housing, “The right to adequate housing is too frequently disconnected from the human rights values which form its core, and is treated more as a socioeconomic policy aspiration than as a fundamental right which demands effective, rights-based responses and timely access to justice.”<sup>185</sup>

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<sup>181</sup> Report of the Special Rapporteur on Adequate Housing [A/HRC/43/43](#) [Guidelines on the Implementation of the Right to Housing], para 52.

<sup>182</sup> CESCR, [General Comment 4](#), para 7.

<sup>183</sup> *Slaight Communications v Davidson*, 1989 CanLII 92 (SCC), [1989] 1 SCR 1038 [referring to the International Covenant on Economic, Social and Cultural Rights]; See also *R. v. Hape*, [2007] 2 S.C.R. 292, 2007 SCC 26, [para 55](#).

<sup>184</sup> *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 [para 70](#); *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [para 114](#).

<sup>185</sup> Report of the Special Rapporteur on the Adequate Housing [A/71/310](#), para 5.

The Supreme Court of Canada has affirmed that international human rights norms “were not meant to be theoretical aspirations or legal luxuries, but moral imperatives and legal necessities. Conduct that undermined the norms was to be identified and addressed.”<sup>186</sup>

The *Universal Declaration of Human Rights* (1948) states that all fundamental human rights, including economic, social, and cultural rights, must be subject to effective remedies. “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law.”<sup>187</sup> The Committee on ESC Rights has affirmed ESC rights like the right to housing must have effective remedies.<sup>188</sup>

Our Claim relies on the procedures established under the NHTA to provide us with effective remedies to systemic violations of the right to housing. When the Government of Canada introduced critical amendments to the NHTA at third reading in Parliament to clarify the mandate of the Federal Housing Advocate and provide for hearings before Review Panels, these amendments were described as necessary to ensure that the recognition of the right to housing in the NHTA is accompanied by “robust accountability and reporting mechanisms.”<sup>189</sup>

The UN Committee on ESC Rights has accepted that the right to effective remedies does not need to rely on courts. Other independent procedures, such as those under the NHTA, may be more accessible and timely. At the same time, the Committee has emphasized that alternative procedures to courts, such as those under the NHTA, must be effective in achieving compliance.<sup>190</sup> **The findings and recommended measures emerging from our Claim should not be seen by governments as policy advice but as authoritative findings regarding our rights.**

We expect the federal government to respond to and act on any findings in accordance with its obligation under the Vienna Convention on the Law of Treaties to implement the right to housing and other international human rights in good faith.<sup>191</sup> We also expect that provincial, territorial, and municipal governments will respond to any findings and recommendations in line with their own obligations to implement Canada’s international human rights obligations in all areas of their jurisdiction.

### iii) Progressive Realization

We also rely on the core commitment in section 4(d) of the NHTA to the progressive realization of the right to housing as it is guaranteed in the ICESCR.<sup>192</sup> Article 2(1) of the ICESCR identifies four key elements of this obligation. The State must:

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<sup>186</sup> *Nevsun Resources Ltd. v. Araya*, 2020 SCC 5, para 1.

<sup>187</sup> *Universal Declaration of Human Rights* (1948) article 8.

<sup>188</sup> CESCR, *General Comment No. 9, E/C.12/1998/24*, paras 2-3.

<sup>189</sup> *House of Commons Debates*, Volume 148, Number 424, 1st Session, 42nd Parliament Official Report (Hansard), (May 31 2019) at 1220.

<sup>190</sup> CESCR, *General Comment No. 9, E/C.12/1998/24*, para 9.

<sup>191</sup> United Nations, *Vienna Convention on the Law of Treaties* CTS 1980 No. 37 paras 26, 31.

<sup>192</sup> ICESCR *article 2 (1)*.



- adopt measures
- using all appropriate means
- applying the maximum of available resources
- to achieve progressively the full realization of the right

These obligations must be applied in accordance with article 2(2) of the Covenant, which requires that States “guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind.”

Complying with these obligations under the ICESCR is the central commitment contained in section 4(d) of the NHPA that must be met by Canada’s *National Housing Strategy*. These are not new obligations, however. Canada’s historic and current failures to comply with its obligations under the ICESCR with respect to women, girls, and gender diverse persons has led to the violations identified in this Claim.

The obligation of progressive realization under the ICESCR does not mean that all obligations are in the future. The CESCR has clarified that the Covenant also imposes “various obligations which are of immediate effect.”<sup>193</sup> Two of the most important immediate obligations are: (i) to eliminate discrimination and, (ii) to implement a plan or strategy for the full realization of the right to housing with clear goals and timelines and accountability mechanisms consistent with the requirements of progressive realization of the right to housing.<sup>194</sup>

Canada has failed to comply with both of these immediate obligations. As documented above, the current *National Housing Strategy* and other policies of multiple orders of government have failed to ensure our right to housing without discrimination. Some of the systemic violations identified are caused, at least in part, by policies which deny women and gender-diverse people the equal benefit of housing financing programs, or which define and address homelessness in a manner which denies equal consideration and benefits to those of us who experience hidden homelessness. These discriminatory policies must be corrected without delay.

The Committee on ESC Rights has made it clear that the obligation of progressive realization is not just an obligation to “make progress.” It is not good enough to simply adopt a strategy to improve housing outcomes or to reduce homelessness without clear goals or timelines for the elimination of homelessness and the realization of the right to housing based on the rigorous standard established in article 2(1) of the ICESCR. The Committee has stated that “the obligation is to demonstrate that, in aggregate, the measures being taken are sufficient to realize the right for every individual in the shortest possible time in accordance with the maximum of available resources.”<sup>195</sup> The point is not simply to make progress but to fully realize the right to housing “moving as expeditiously and effectively as possible towards that goal.”<sup>196</sup> We believe that this goal is entirely achievable in a country as wealthy as Canada.

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<sup>193</sup> CESCR, [General Comment No. 3](#), para 1.

<sup>194</sup> CESCR, [General Comment No. 3](#), para 1 and [General Comment 4](#), para 12.

<sup>195</sup> CESCR, [General Comment No. 4](#), para 14.

<sup>196</sup> CESCR, [General Comment No. 3](#), paras 1, 9.

Progressive realization requires the government to adopt a strategy that “sets out the responsibilities and time frame for the implementation of the necessary measures.” It must “reflect extensive genuine consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives ... ensure coordination between ministries and regional and local authorities ... and provide for external monitoring.”<sup>197</sup>

Housing strategies must “assess which communities and populations are in most desperate need or living in the most hazardous conditions and address their circumstances in a human rights compliant manner.”<sup>198</sup> Governments must make “all possible effort, using all available resources, to realize, as a matter of urgency, the right to housing of persons who ... are in a situation of dire need.”<sup>199</sup>

As noted by the Special Rapporteur on Adequate Housing: “Women’s equal right to housing must be ensured in all aspects of housing strategies.”<sup>200</sup> Strategies must address:

- “Women’s distinct housing experiences, including discrimination with respect to land, property and inheritance, violence against women and the disproportionate impact on women of forced evictions, inadequate water and sanitation and pervasive poverty.”<sup>201</sup>
- “The legacy of colonization and the systemic housing inequality and dispossession experienced by indigenous peoples. This requires specific measures led by Indigenous peoples based on their right to develop their own housing priorities and strategies.”<sup>202</sup>
- “The unique housing experiences that result from intersectional and compound discrimination. For example, women with disabilities are more susceptible to violence in the home and less likely to have access to shelters or alternative accommodation.”<sup>203</sup>
- “The close association between laws and government policies that position housing as a commodity, and the unaffordability of housing for those in the lowest income brackets, leading to growing homelessness and displacement and increased concentration of wealth.”<sup>204</sup>

States also have an obligation to establish gender-responsive budgeting processes to address differing impacts on the housing experiences of women and ensure fiscal decisions that promote women’s equality in housing.<sup>205</sup> Tax systems should also include measures to ameliorate systemic patterns of discrimination against women.<sup>206</sup> Appropriate measures must be taken to ensure women’s equal participation in the design, construction, and administration of housing and reflect the diversity of

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<sup>197</sup> CESCR, *General Comment No. 4*, para 12.

<sup>198</sup> Report of the UN Special Rapporteur on Adequate Housing, *A/HRC/37/53* [[Rights Based Housing Strategies], para 30.

<sup>199</sup> *Ibid*, para 17.5.

<sup>200</sup> *Ibid*, para 37.

<sup>201</sup> *Ibid*, para 37.

<sup>202</sup> *Ibid*, para 38.

<sup>203</sup> *Ibid*, para 39.

<sup>204</sup> *Ibid*, para 33.

<sup>205</sup> *Ibid*, para 74.

<sup>206</sup> *Ibid*, para 82.

communities.<sup>207</sup> Housing strategies must prevent housing systems from sustaining and increasing socioeconomic inequality and exclusion of women.<sup>208</sup>

None of these obligations have been met for women, girls, or gender-diverse people in the existing *National Housing Strategy*. As documented above, Canada's vague commitment to eliminate chronic homelessness is discriminatory against women, whose experiences of homelessness are neglected. The federal government has failed to meaningfully engage with us to identify and implement necessary measures for the realization of our right to housing. It has failed to make "all possible effort" and "all available resources" to realize the right to housing for those of us living "in dire circumstances, as a matter of urgency."<sup>209</sup> The federal government has failed to exercise leadership or to clearly allocate responsibilities and or ensure co-ordination among different orders of government. Our Claim aims to address all of these ways in which the *National Housing Strategy* has failed to comply with our right to housing.

#### iv) Retrogressive Measures

The Committee on ESC Rights has also established that the obligation to progressively realize the right to housing means that any backward movement or "retrogressive measures" will almost always constitute a violation of the right to housing. Any backward movement in protections afforded by legislation, in programs or in the actual housing circumstances of women and gender-diverse persons must be considered a *prima facie* violation of the right to housing that can only be justified in the most exceptional circumstances. In times of severe economic and financial crisis, all budgetary adjustments affecting policies must be temporary, necessary, proportional, and non-discriminatory.<sup>210</sup>

The continued increases in homelessness among women-led households, the erosion of affordability, the decline in social assistance rates in relation to the cost of housing and living, the corporate capture of housing by private equity firms and other backward movement affecting our right to housing identified above can in no way be justified in the contexts of Canada's relative economic growth and prosperity.

#### v) The Obligation to Eliminate Homelessness

Under international law, homelessness is considered a *prima facie* violation of the right to housing.<sup>211</sup> It is a profound assault on dignity, social inclusion, and the right to life.<sup>212</sup> The effects of homelessness on women, particularly women with children, women escaping violence, and women with disabilities has

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<sup>207</sup> Report of the Special Rapporteur on Adequate Housing [A/HRC/43/43](#) [[Guidelines on the Implementation of the Right to Housing](#)] para 24(c).

<sup>208</sup> Report of the UN Special Rapporteur on Adequate Housing, [A/HRC/37/53](#) [[Rights Based Housing Strategies],

<sup>209</sup>CESCR, *Ben Diazia et al v Spain* (20 Jun 2017) E/C.12/61/D/5/2015, para 17.6.

<sup>210</sup> Report of the UN Special Rapporteur on Adequate Housing, [A/HRC/37/53](#) [[Rights Based Housing Strategies] para 33.

<sup>211</sup> Report of the Special Rapporteur on Adequate Housing, [A/HRC/43/43](#) [[Guidelines on the Implementation of the Right to Housing](#)] para 30

<sup>212</sup> *Ibid.*

been a particular subject of concern among UN Treaty bodies.

The existence of widespread homelessness in so affluent a country as Canada and its disproportionate effect on women with children, Indigenous Peoples, persons with disabilities, and racialized groups has been one of the foremost issues of shock and concern among UN treaty monitoring bodies reviewing Canada's compliance with international human rights. For almost thirty years, the Committee on ESC Rights has been urging Canada in increasingly strident terms (given the very diplomatic and mild language usually adopted at the UN) to address homelessness. In 1998 the Committee urged Canada to address homelessness as "a national emergency." It stated:

The Committee recommends that the federal, provincial and territorial governments address homelessness and inadequate housing as a national emergency by reinstating or increasing, as the case may be, social housing programmes for those in need, improving and properly enforcing anti-discrimination legislation in the field of housing, increasing shelter allowances and social assistance rates to realistic levels, providing adequate support services for persons with disabilities, improving protection of security of tenure for tenants and improving protection of affordable rental housing stock from conversion to other uses. The Committee urges the State party to implement a national strategy for the reduction of homelessness and poverty.<sup>213</sup>

The following year in its review of civil and political rights in Canada, the UN Human Rights Committee stated for the first time that a failure to address homeless may constitute a violation of the right to life, stating that: "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."<sup>214</sup>

UN Treaty Bodies have repeatedly emphasized the particular obligations of Canada to address the effects of homelessness on women threatened with violence and responsible for the care of children.<sup>215</sup>

In its more recent General Comment on the right to life, the Human Rights Committee reaffirmed that the duty to protect and ensure the right to a dignified life under the International Covenant on Civil and Political Rights life requires States to address homelessness and may require measures such as social housing programs.<sup>216</sup> Yet when women have claimed in court that governments' failures to take necessary measures to address homelessness violates their right to life by forcing them to live in situations where they are exposed to violence, the federal government has rejected this claim and successfully prevented the claim from being fully considered by the courts.<sup>217</sup>

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<sup>213</sup> UN Committee on Economic, Social and Cultural Rights, *Concluding Observations: Canada* (10 December 1998) E/C.12/1/Add.31, available at: <https://www.refworld.org/docid/3f6cb5d37.html> para 28.

<sup>214</sup> UN Human Rights Committee: *Concluding Observations: Canada*, 7 April 1999, CCPR/C/79/Add.105 para 12.

<sup>215</sup> See for example, UN Committee on Economic, Social and Cultural Rights, *Concluding Observations: Canada* E/C.12/CAN/CO/6 paras 33-34.

<sup>216</sup> UN Human Rights Committee, *General comment no. 36, Article 6 (Right to Life)*, (3 September 2019) CCPR/C/GC/35 para 26.

<sup>217</sup> In *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852 the claimants, supported by organizations including the Women's Legal Education and Action Fund, argued that homelessness disproportionately affects women and threatens their lives and security. Canada brought a motion to strike the claim, which was successful, so the evidence of the effect of homelessness on women was never considered.

The Committee on ESC Rights has emphasized the need to address violence against women in a “holistic” manner by ensuring access to long term affordable housing and the integration of a “disability lens” into all housing plans and policies in Canada.<sup>218</sup>

The Committee on the Elimination on All Forms of Discrimination Against Women (CEDAW) has noted the disproportionate effect of inadequate housing and homelessness on women, particularly Indigenous women. At its most recent review of Canada, the CEDAW Committee recommended that Canada:

- “Ensure that the national poverty reduction strategy and the national housing strategy protect the rights of all women, with a focus on the most disadvantaged and vulnerable groups, by integrating a human rights-based and gender-based approach.”<sup>219</sup>
- Increase the amounts of transfer payments to provinces and territories, earmark sufficient funds specifically for social assistance and make transfer payments to provinces and territories conditional on their setting their social assistance rates at levels that are sufficient to ensure an adequate standard of living and to prevent the discriminatory effects of inadequate incomes for women;<sup>220</sup> and
- Provide “affordable and adequate housing options, including in indigenous communities, with priority being given to low-income women.”<sup>221</sup>

The CEDAW Committee utilized its rare Inquiry Procedure to conduct a special visit to Canada to assess Canada’s response to missing and murdered Indigenous women and girls. The Committee’s report pointed to the inadequacy of on-reserve housing, Indigenous women’s homelessness, and their experience of grossly disproportionate violence as being intricately connected with the vulnerability to murder and disappearance and to systemic discrimination in the legal system.<sup>222</sup>

Just a few days before the filing of our Claim, the UN Committee on the Rights of the Child issued its concluding observations on its review of Canada. The Committee noted that: “Women and children are particularly vulnerable to housing insecurity due to a variety of reasons including family violence, a lack of affordable housing, low wages, under employment and low social assistance rates.”<sup>223</sup> The Committee recommended that Canada establish timelines and priorities to achieve targets to end children’s homelessness. It recommended that Canada “progressively guarantee all children from low-income families stable access to adequate and affordable long-term housing that provides physical safety, adequate space, protection against the threats to health and structural hazards, including cold, damp,

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<sup>218</sup> CESCR, Concluding Observations on Canada (2016) E/C.12/CAN/CO/6, para 46.

<sup>219</sup> Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations: Canada (2016) CEDAW/C/CAN/CO/8-9, para 47.

<sup>220</sup> *Ibid.*

<sup>221</sup> *Ibid.*

<sup>222</sup> Committee on the Elimination of Discrimination against Women, Report of the inquiry concerning Canada under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (30 March 2015) CEDAW/C/OP.8/CAN/1, para 112.

<sup>223</sup> Committee on the Rights of the Child, Concluding Observations: Canada (2022) CRC/C/CAN/CO/5-6, para 38 (b).

heat and pollution, and accessibility for children with disabilities.”<sup>224</sup>

The violations identified in our Claim have directly resulted from Canada’s failure to give due regard to the concerns of UN Treaty Bodies and to implement their recommendations. While these recommendations, like the recommendations of the Federal Housing Advocate and the Review Panel under the NHSA, are not directly enforceable by courts, all orders of government have a legal obligation under both Canadian and international law to implement international human rights obligations within their jurisdiction in good faith. The federal government has failed to implement recommendations within its jurisdiction and has exercise the national leadership and co-ordination necessary to ensure good faith responses and co-ordinated actions by provincial/territorial and municipal governments. We have borne the costs of these failures.

## **vi) Equality, Non-Discrimination, and Intersections with Other Human Rights**

The ICESCR guarantees in Article 3 that women have an equal right to enjoy all Covenant rights, including the right to housing and that States must guarantee Covenant rights without discrimination of any kind (Art. 2.2).

The right to equality and non-discrimination is an immediate obligation. It is not, itself, subject to progressive realization. In other words, where the programs in the *National Housing Strategy* do not equally address women’s homelessness or housing precarity, or fail to provide equal outcomes for women, girls, and gender-diverse people, this must be addressed immediately as a violation of the right to non-discrimination and equality.

Women and gender-diverse people face widespread discrimination in access to housing on multiple intersecting grounds and UN Treaty bodies have repeatedly stated that such discrimination must be addressed.<sup>225</sup>

The right to non-discrimination and equality under international law, however, guarantees more than non-discrimination in existing housing and housing programs. Article 2(2) of the ICESCR guarantees that “the RIGHTS enunciated in the present Covenant will be exercised without discrimination of any kind.” We therefore have a right to measures to address the ways in which the Canadian housing system denies our equal RIGHT to housing.

This guarantee of the equal enjoyment or exercise of the right to housing is also contained in other treaties ratified by Canada.

[Article 6](#) if the [Convention on the Rights of Persons with Disabilities](#) recognizes “that women and girls

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<sup>224</sup> *Ibid*, para 39 (c).

<sup>225</sup> The issue of widespread discrimination in housing was raised in the Committee on ESC Rights’ first substantive review of Canada in 1993, in which the Committee expressed concern about widespread discrimination in housing, including families with children and on grounds related to poverty. UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Canada* (10 June 1993) E/C.12/1993/5, para 20. This concern has been repeated in subsequent reviews of Canada.

with disabilities are subject to multiple discrimination, and in this regard [States] shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms [including the right to housing].”

The [International Convention on the Elimination of All Forms of Racial Discrimination](#) requires, in [Article 5\(e\)\(iii\)](#), that Canada guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law in the enjoyment of the economic, social and cultural rights, and in particular the right to housing.

The [Convention on the Elimination of All Forms of Discrimination against Women](#) in [article 1](#) defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” [Article 3](#) requires that States “take all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms [including the right to housing] on a basis of equality with men.”

The [Convention on the Rights of the Child](#) (Articles [2](#), [27](#)) guarantees the right to an adequate standard of living and to necessary assistance to parents to ensure this right without discrimination of any kind.

## **vii) The Right to Housing of Indigenous Peoples**

The right to housing under international law also includes the rights guaranteed in the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP). UNDRIP was adopted by the UN General Assembly in 2007, endorsed by Canada in 2010, and given application in Canadian law by the [UNDRIP on the Rights of Indigenous Peoples Act](#) in 2021.

The commitment in the NHTSA to the inherent right to a home in which to live in dignity must be understood through Indigenous understandings of dignity and inherent rights, including rights to land and culture.

The UNDRIP affirms that Indigenous Peoples “have the right to the dignity and diversity of their cultures, traditions, histories and aspirations” describing the rights in the UNDRIP as constituting “the minimum standards for the survival, dignity and well-being of the Indigenous Peoples of the world.”<sup>226</sup>

The right to housing in the NHTSA must include the rights of Indigenous women to the improvement of housing conditions, without discrimination, and to be actively involved in developing and determining housing and other economic and social programs affecting them and, as far as possible, to administer

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<sup>226</sup> UN General Assembly, [United Nations Declaration on the Rights of Indigenous Peoples](#) (2 October 2007) A/RES/61/295 [UNDRIP], Articles 15(1), 43.



such programs through their own institutions.<sup>227</sup>

Importantly, the right to housing in the ICESCR and the NHTA must be interpreted and applied in the context of the right of Indigenous Peoples to self-determination that is affirmed both in the ICESCR and in the UNDRIP. This right is closely linked to the right to free, prior, and informed consent in the UNDRIP. Under Article 1 of the ICESCR, Indigenous Peoples have the right to freely determine their political status and freely pursue their economic, social, and cultural development. Canada has an obligation under the ICESCR to “promote the realization of the right of self-determination, and shall respect that right as it applies to Covenant rights, including the right to housing.”<sup>228</sup> Under Article 4 of the UNDRIP, Indigenous Peoples “in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”

As noted by the Special Rapporteur on the Right to Adequate Housing, the right to adequate housing for Indigenous Peoples requires States to guarantee self-determination, free, prior and informed consent, and meaningful consultation. The Special Rapporteur notes that free, prior, and informed consent “is the corollary to self-determination, imposing a duty on States to ensure that indigenous peoples can participate in decision-making and influence outcomes of decisions that affect them.”<sup>229</sup> These rights are particularly important and have a particular meaning for Indigenous women, as described by the Special Rapporteur:

Indigenous women and girls often experience particular forms of violence, including household and sexual violence and even homicide, as a result of the intersection of their indigeneity, gender, socioeconomic and cultural status and their housing status. States must recognize the important role that access to adequate housing plays in preventing such violence. Under article 22 of the Declaration and article 3 of the Covenant, indigenous women and girls must enjoy full protection and guarantees against all forms of violence and discrimination, whether inside or outside their communities. States must meaningfully consult with indigenous women and girls to develop appropriate and responsive housing and related policies and laws on a priority basis.<sup>230</sup>

### **viii) The Right to Housing for Women, Girls, and Gender-Diverse People with Disabilities**

The right to housing in the NHTA must be interpreted and applied with particular attention to the rights of persons with disabilities under the Convention on the Rights of Persons with Disabilities (CRPD), and in line with the requirement in Article 6 of the CRPD, recognizing multiple areas of discrimination and

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<sup>227</sup> *Ibid*, Articles 21, 23. See also Report of the UN Special Rapporteur on Adequate Housing (July 2019) [A/74/183](#) [The Right to Housing of Indigenous Peoples]

<sup>228</sup> ICESCR, [Article 1](#).

<sup>229</sup> Report of the UN Special Rapporteur on Adequate Housing (July 2019) [A/74/183](#) [The Right to Housing of Indigenous Peoples], para 52.

<sup>230</sup> *Ibid*, para 59.

requiring measures to ensure the full and equal enjoyment of the right to housing through the development, advancement, and empowerment of women with disabilities.<sup>231</sup>

As the UN Special Rapporteur on the Right to Adequate Housing notes in her report on the right to housing of persons with disabilities: “For persons with disabilities, choosing where and with whom to live, being part of a community and having access to adequate and accessible housing are central to a life of dignity, autonomy, participation, inclusion, equality and respect for diversity.”<sup>232</sup> This is particularly true of women and gender-diverse people with disabilities.

The indivisibility and interdependence of the right to adequate housing with other human rights are at the heart of the lived experience of persons with disabilities. There is an intricate connection between housing precarity and homelessness of persons with disabilities, and many other intersecting forms of exclusion, discrimination, and stigmatization. States have a particular obligation to address and remedy the criminalization and incarceration of persons with disabilities described by the Special Rapporteur. She notes a typical pattern in which persons with psychosocial or other disabilities lose their housing when their needs are not accommodated or when they do not receive adequate financial assistance and are then criminalized in the context of homelessness, sometimes incarcerated, resulting in further deterioration of mental health and an ongoing cycle of homelessness and incarceration.<sup>233</sup>

States have an obligation under international human rights law to address and remedy these patterns by ensuring that persons with disabilities have access to adequate housing, with “adequacy” understood through a disability lens and on the basis of meaningful engagement and participation of persons with disabilities. As outlined in the Special Rapporteur’s report, all of the components of adequate housing identified by the Committee on ESC Rights in General Comment 4 have a distinctive meaning for persons with disabilities. Security of tenure for persons with disabilities must protect them from being displaced from accessible accommodation and critical connections to community and support. Affordability must be ensured through adequate financial assistance and rent subsidy in line with the right to a place to live in dignity. Habitability must ensure all necessary modifications required for accessibility and safety. Location must ensure access to work, accessible transportation, support services, and health-care facilities and States must ensure that housing that is accessible allows persons with disabilities to express their cultural identity and participate meaningfully in the development of culture within their communities.<sup>234</sup>

The requirement that adequate housing include “available services” is particularly important for persons with disabilities and must be interpreted in accordance with Article 19 of the CRPD, guaranteeing the right to live independently and be included in the community. Article 19 requires that persons with disabilities have the opportunity to choose where and with whom they live, and have access to a range of community support services to facilitate inclusion in the community and prevent isolation or

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<sup>231</sup> *Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106, Article 6.*

<sup>232</sup> Report of the UN Special Rapporteur on Adequate Housing (July 2017) [A/72/128](#) [Right to Housing of Persons with Disabilities], para 1.

<sup>233</sup> *Ibid*, para 14.

<sup>234</sup> *Ibid*, paras 49 – 58.

segregation. States must adopt “effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right.”<sup>235</sup>

In its most recent review of Canada’s compliance with Article 19, the Committee on the Rights of Persons with Disabilities recommended that Canada: adopt a national guideline on the right to live independently and be included in the community; adopt a human-rights based approach to disability in all housing plans; ensure that provinces and territories establish a timeframe for closing institutions and create a comprehensive system of support for community living; ensure that accessibility legislation facilitates inclusion in the community, and; implement appropriate service provision within First Nation communities.<sup>236</sup>

## ix) Security of Tenure

In the Committee on ESC Rights’ General Comment No. 7 (1997), forced evictions are defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.” The legal and other protections from evictions must be in accordance with the right to housing under ICESCR.<sup>237</sup> Forced evictions (evictions that are contrary to international human rights law) are considered a gross violation of international human rights.

The right to security of tenure and protection from forced evictions has a particular meaning for women and gender-diverse people, creating distinct obligations on governments. The Guidelines on the Implementation of the Right to Housing states that: “The independent right of women to security of tenure, irrespective of their family or relationship status, should be recognized in national housing laws, policies and programs.”<sup>238</sup>

Women must be provided with protection from eviction from their homes due to violence: “In situations of household violence, legislation should ensure that, regardless of whether a woman has title, formal ownership, or tenancy rights, she is able to remain in her own home where appropriate and have the perpetrator removed. States should provide immediate access to emergency shelters and prompt access to front-line crisis services. Long-term housing programmes, including those for the allocation of permanent public or social housing, should prioritize women and families escaping violence.”<sup>239</sup>

Women caring for children must be provided particular protections from eviction, based on the requirement in the ICESCR that: “The widest possible protection and assistance should be accorded to the family ... particularly for its establishment and while it is responsible for the care and education of dependent children.”<sup>240</sup>

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<sup>235</sup> *Ibid*, Article 19.

<sup>236</sup> Committee on the Rights of Persons with Disabilities, Concluding observations: Canada (8 May 2017) [CRPD/C/CAN/CO/1](#), para 38.

<sup>237</sup> CESCR, *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions*, 20 May 1997, [E/1998/22](#) para 3.

<sup>238</sup> [A/HRC/43/43](#) [Guidelines on the Implementation of the Right to Housing] para 53.

<sup>239</sup> *Ibid*, para 53(c).

<sup>240</sup> ICESCR, [Article 10](#).

Any application to evict women or women with children must be assessed in the context of its impact, including their experience of violence, disability, and health concerns, and their income status, and whether it places women at risk of homelessness.<sup>241</sup> The Committee on ESC Rights has established that evictions should only be carried out as “as a last resort.” The Committee further states “there must be a real opportunity for genuine prior consultation between the authorities and the persons concerned, there must be no less onerous alternative means or measures available and the persons concerned must not remain in or be exposed to a situation constituting a violation of other Covenant or human rights. In particular, evictions should not render individuals homeless.”<sup>242</sup>

In its recent review of Canada, the Committee on the Rights of the Child noted that legislation governing evictions should ensure that “the best interests of the child are given primary consideration in all eviction matters, and that all avenues for eviction prevention are pursued prior to termination of tenancy.”<sup>243</sup>

The right to security of tenure must also recognize the relationship of Indigenous Peoples to land and be assessed in the context of a history of forced eviction from their lands and territories. As noted by the Special Rapporteur on Right to Adequate Housing: “The right to housing prohibits forced evictions as a gross violation of human rights, in line with the Declaration, which prohibits the forced removal of indigenous peoples from their lands and requires free, prior and informed consent.”<sup>244</sup>

The claims to the right to housing advanced by Indigenous women, girls, and gender-diverse person should be assessed in the context not only of their right to housing, but also in the context of their right to redress for past violations of their rights. As the Special Rapporteur on the Right to Adequate Housing has stated:

“States and other relevant actors must acknowledge past wrongs endured by indigenous peoples, including colonization, dispossession of lands and territories and forced displacement. Once those wrongs are acknowledged, effective redress mechanisms must be established in keeping with the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. Addressing ongoing manifestations of past harm, such as a lack of security of tenure, substandard housing conditions or changing laws and policies that result in discriminatory outcomes, represents an essential contribution in this regard.”<sup>245</sup>

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<sup>241</sup> CESCR. *Views adopted by the Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, concerning communication No. 52/2018*, Rosario Gomez-Limon Pardo ([E/C.12/67/D/52/2018 paras 9.5-9.7](#)).

<sup>242</sup> CESCR, *Ben Djazia et al v Spain* (20 Jun 2017) [E/C.12/61/D/5/2015](#), para 15.1-15.2.

<sup>243</sup> Committee on the Rights of the Child, *Concluding Observations: Canada (2022)* [CRC/C/CAN/CO/5-6](#) para 39 (d).

<sup>244</sup> Report of the UN Special Rapporteur on Adequate Housing (July 2019) [A/74/183](#) [The Right to Housing of Indigenous Peoples], para 7.

<sup>245</sup> *Ibid*, para 50.

# PART III

## Request for Review

In response to the violations identified above, we offer this Claim as a submission under the section 13(f),13(1), and 13(2) of the *National Housing Strategy Act* (NHTSA) and in alignment with the Federal Housing Advocate’s working definition of a systemic issue:

“A systemic housing issue is an issue which inhibits the full and equal enjoyment of the right to adequate housing in Canada and is rooted in the housing system or other public and private market systems.

A systemic housing issue can result from, or be influenced by, actions or inactions by governments or private actors related to legislation, policies, programs, regulations, decision-making processes, spending priorities, business practices, administrative and operational requirements and/or attitudes. Systemic housing issues often intersect with other forms of disadvantage and discrimination, including colonialism, racism, sexism, homophobia and ableism and stigmatization/discrimination based on poverty, homelessness or other social condition.”

Using this definition, our Claim has identified a number of gender-based housing inequities and discriminatory outcomes which stem from a common systemic issue: **the invisibilization of our unique circumstances, needs, dignity, and rights as women, girls, and gender-diverse people**. This has resulted in gender-based violations of our right to housing and our right to substantive equality.

The way to address this systemic issue is precisely as the NHTSA suggests – to engage with those of us who have lived experience and to empower us to give meaning and content to our right to housing.

**We therefore urge that this Claim be considered and reviewed as a single systemic issue, with the voices and experiences of lived experts centred throughout.** This holistic approach would best address the gender-based inequities and discrimination that permeate our housing systems, policies, and programs, while aligning with the spirit of the NHTSA and the Federal Housing Advocate’s definition of a systemic issue.

Traditional legal practice in Canada have denied us effective remedies to systemic violations of the right to housing by insisting that only discrete provisions of legislation or programs can be challenged. We rely on the NHTSA as a new mechanism that allows us to identify systemic patterns of exclusion and injustice throughout a range of housing policies and programs, and which must be considered and addressed in a holistic manner.

This Claim is the first step in defining the right to housing for ourselves, outside of patriarchal and colonial frameworks that have harmed us. This will be an ongoing process for us. However, the human rights crisis facing women and gender-diverse people – particularly Indigenous women, girls, Two-Spirit, and gender-diverse people – must be addressed as a matter of the utmost priority and urgency.

With this in mind, we propose that the Federal Housing Advocate move forward to expeditiously review the federal government's failure to adequately address the circumstances and rights of women, girls, and gender-diverse people in four areas of housing policy: (1) the *National Housing Strategy*, (2) homelessness, (3) eviction and security of tenure, and (4) the financialization of housing. In all of these areas, we request that the distinctive rights and experiences of Indigenous women, girls, Two-Spirit, and gender-diverse persons be considered through parallel processes of engagement led by Indigenous communities themselves.

We also request that the Federal Housing Advocate engage collaboratively with us and other affected communities in her review of this systemic issue. We hope that this will include drawing on the extensive research and analysis already done in the area, including our recent report, [Implementation of the Right to Housing for Women, Girls, & Gender-Diverse People in Canada](#). Finally, we respectfully request that the Advocate utilize the participatory processes and hearings outlined in the NHTA, alongside a robust GBA+ approach, to clarify the legal obligations of all orders of government under international human rights law and support us to claim a better future for ourselves, our children, our communities, and the planet.

## **1. National Housing Strategy**

With respect to the *National Housing Strategy*, we urge the Federal Housing Advocate to review and provide findings with respect to the federal government's failure to support and finance housing that meets the needs of women, girls, and gender-diverse people whose right to housing is being denied or who are at risk of homelessness. This review should:

- Assess whether the NHS meets the requirements of progressively realizing our right to housing in the shortest possible time, and whether it includes adequate indicators, goals, and timelines for monitoring progress as required by sections 4 and 5 of the NHTA.
  - This review should specifically assess whether NHS affordability metrics, prioritization criteria, and definitions of homelessness and chronic homelessness are in alignment with our right to substantive equality.
- Incorporate an Indigenous-led review of the effects and outcomes of the NHS on First Nations, Inuit, and Métis women, girls, Two-Spirit, and gender-diverse people, including those living in urban, remote, and northern communities.
  - This review should assess and provide findings as to whether the NHS adequately responds to the housing-related Calls to Justice outlined in [Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls](#) and the housing-related Calls to Action outlined in [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada](#).
- Provide guidance on transparent and publicly accessible mechanisms to monitor whether substantive gender equality is being achieved in NHS funding allocations and program outcomes, including through the collection of disaggregated data on the experiences of women,

girls, and gender-diverse people.

- Consider relevant recommendations from UN human rights bodies, including the recent recommendations from the Committee on the Rights of the Child requiring timelines for the elimination of children’s homelessness and the prevention of evictions affecting children.

## **2. Homelessness**

With respect to homelessness, we request that the review consider and provide findings on the elimination of homelessness (including hidden homelessness) among women, women-led families, and gender-diverse people, based on the obligation to progressively realize the right to housing using all appropriate means and the maximum of available resources. This review should:

- Consider how federal definitions of homelessness can be revised to better reflect gendered experiences of housing need and homelessness, including hidden homelessness and homelessness amongst Indigenous women, girls, Two-Spirit, and gender-diverse people.
- Investigate systemic violations of the right to housing experienced by low-income, marginalized, and homeless women and gender-diverse persons with disabilities, including within prisons, healthcare centres, long-term care homes, shelters, transitional housing, and other institutional spaces.
- Identify means to ensure that mothers and children have access to adequate housing and are protected from the risk of homelessness, including through laws, policies, practices and programs that effectively prevent the removal of children from their mothers due to poverty or homelessness.
- Investigate and provide findings related to intersectional, gender-based forms of discrimination within emergency shelters and services for women and gender-diverse people experiencing homelessness and/or fleeing violence. Particular attention should be paid to discrimination and exclusion on the basis of ability, sexuality, gender, race, living with a mental illness, and substance use.
- Conduct an inquiry into transitional housing, social housing, and long-term care placements to understand where the gaps are in protecting the rights of women and gender-diverse people who live in these settings.

## **3. Eviction and Security of Tenure**

With respect to eviction and security of tenure, we request that the review investigate and provide findings related to policies and practices that advance security of tenure and prevent evictions for low-income and marginalized women and gender-diverse people, in compliance with international human rights law. The review should:



- Investigate the gendered nature and consequences of evictions, including in social housing, transitional housing, and long-term care homes.
  - Intersections between gender-based violence and eviction should be reviewed, including with regards to whether provincial and territorial landlord/tenant legislation has a direct or indirect discriminatory effect on women, girls, and gender-diverse people.
- Identify measures to advance home ownership and self-determination over housing for marginalized women and gender-diverse persons, including specifically Indigenous women, girls, Two-Spirit, and gender-diverse persons.
- Consider how governments can fulfill their obligation to prevent evictions wherever possible, including by providing necessary financial supports and other assistance.
- Conduct a participatory rights-review of provincial/territorial landlord and tenant decision-making boards or tribunals, seeking to identify decisions that are inconsistent with the right to housing and provide findings related to core access-to-justice gaps for marginalized tenants.

#### **4. Financialization of Housing**

With respect to market regulation and the financialization of housing, we request that the review identify and investigate government practices, policies, and laws that enable the financialization of housing at the cost of women, girls, and gender-diverse persons' human rights. This review should:

- Explore the intersectional and gendered impacts of the financialization on low-income and marginalized women, girls, and gender-diverse people, including the displacement of low-income households from their communities.
- Identify emerging intersections between the financialization of housing and gender-based violence and exploitation, seeking to identify ways in which the financialization of housing fosters or exacerbates this violence.
- Investigate how the financialization of housing dispossesses Indigenous women, girls, Two-Spirit, and gender-diverse people of their land and erodes their self-determination.
- Assess the impact of the financialization of housing on children's right to housing, including children's ability to remain with their parent(s) or caregiver(s).
- Investigate promising and/or successful policy and regulatory measures to curb the financialization of housing that align with the federal government's human rights obligations, including with respect to taxation and the regulation of private market housing systems and actors.