If You Build It, They Will Claim:
Rights-Based Participation and Accountability in Canada's National Housing Strategy

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Author & Acknowledgements

Emily Paradis has been an activist, researcher, advocate and front-line service provider on issues of housing and homelessness for more than 25 years. Her scholarship and practice aim to support marginalized communities in claiming spaces and rights in the city. Dr. Paradis received her PhD in Adult Education and Community Development in 2009 from Ontario Institute for Studies in Education at University of Toronto. She is an instructor in the Urban Studies Program of Innis College at University of Toronto, and a member of the Right to Housing Coalition. Emily is of white settler ancestry and grew up outside Montréal on Haudenosaunee territory. She now lives in Toronto with her wife and two children. Having never experienced homelessness, she relies on the insight generously shared by lived experts, including colleagues in the Lived Experience Advisory Council and FORWARD.

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Introduction

This paper has been prepared as a submission to the National Consultation on a Human Rights-Based Approach to Housing in Canada's National Housing Strategy (NHS).

Part I draws upon sources from scholarly literature, human rights experts, and people with lived experience of homelessness and inadequate housing, to develop a framework for a human rights-based approach to housing and homelessness in Canada. It examines principles for rights-based participation by, and accountability to, individuals and communities directly affected by homelessness and inadequate housing in the National Housing Strategy. It concludes with a proposed architecture for implementing the right to housing within the NHS. This architecture reflects the principles of accountability, participation, non-discrimination, and inclusion as outlined in the government's Discussion Paper.

Part II reports back on a series of consultations conducted with lived experts in Toronto, Hamilton, Winnipeg, Saskatoon, and Victoria. In keeping with the principles for rights-based participation and accountability outlined in Part I, these consultations aimed to gather input into the proposed architecture for implementing a right to housing in the NHS, from individuals and communities directly affected. It summarizes participants' reflections on four topics relevant to rights-based participation and accountability in the NHS: inclusive processes, access to justice, support for local initiatives, and representation. In formulating their input, participants drew on their personal experiences – but they also contributed their thoughtful analysis and perspectives on complex issues such as inclusion, justice, accountability, and democracy. As one participant noted,

> *"We have more to share than our stories." (Hamilton consultation participant, 18 May 2018).*

Part I   Principles and Mechanisms for Rights-Based Participation and Accountability

A.   Housing, homelessness, and human rights

"Canada ends at the doorstep of the shelters. When you're outside, it's Canada. When you go in, it isn't. When I go in the door I know I've left Canada behind. When I say Canada, I mean everything – the values, the principles, what they stand for, everything."[1]

This powerful statement by an older, racialized, immigrant woman in Toronto gives voice to the profound betrayal represented by homelessness. Certainly, homelessness is the result of a life-threatening failure of Canada's social security systems to protect us at our moments of greatest vulnerability; but it also constitutes a betrayal of Canada's espoused values of rights and human dignity. People facing homelessness[2] and their allies have long called for Canada to address inadequate housing and homelessness as a matter of human rights.[3]

With its National Housing Strategy, the Government of Canada has responded to this call, committing to "progressively implement the right of every Canadian to access adequate housing."[4] This commitment has broad implications. As recognized in the Government's discussion paper on the Rights-Based Approach[5], it engages the obligations set out in the International Covenant on Economic, Social, and Cultural Rights, and in particular, the right to adequate housing. At the same time, a human rights-based approach to housing engages other areas of rights: fundamental human rights, including human dignity and self-determination; civil rights, such as security of the person and freedom of expression; equality rights, including the right to equal benefit of the law regardless of race, gender, national origin, faith, age, disability, sexual

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[1] Participant in a Toronto focus group for mid-life and older single women facing homelessness, quoted in Paradis, E., Bardy, S., Cummings Diaz, P., Athumani, F., & Pereira, I. (2011). *We're not asking, we're telling: An inventory of practices promoting the dignity, autonomy, and self-determination of women and families facing homelessness.* Toronto: The Canadian Homelessness Research Network Press. www.homelesshub.ca/Library/View.aspx?id=55039

[2] Homelessness is a temporary experience, not an identity or permanent trait. People facing homelessness may move between different points on a continuum of housing circumstances, from absolute homelessness to adequate housing.

[3] A recent example is *Tanudjaja v. Canada (Attorney General)*, a Charter challenge on the right to housing.

[4] Government of Canada. (2017). *Canada's National Housing Strategy: A Place to Call Home.* p. 8. https://www.placetocallhome.ca/pdfs/Canada-National-Housing-Strategy.pdf

[5] Government of Canada. (2018). *Discussion paper: A human rights-based approach to housing*, https://www.placetocallhome.ca/pdfs/NHS-Human-Rights-Approach-to-Housing-en.pdf

orientation, gender identity, and other intersecting factors; and, finally, political rights to inclusion and democratic participation. A recent report by the UN Special Rapporteur on adequate housing[6] affirms that a rights-based housing strategy must be based on the central obligation to progressively realize the right to adequate housing, while ensuring that each of these other areas of rights is taken into consideration.

B. Applying a rights-based analysis to housing policies and programs

> *"Homelessness and poverty are not just about inadequate housing and incomes. More fundamentally, they are about exclusion."*[7]

A rights-based approach to the National Housing Strategy (NHS) will require a recognition of the right to adequate housing, and the application of other areas of rights, in the design, implementation, and evaluation of initiatives under the Strategy. Progressive realization of the right to adequate housing includes a duty to dedicate the maximum available resources, and incorporates immediate obligations to address urgent violations, as well as longer-term responsibilities to show progress over time.[8] The Strategy must demonstrate immediate impacts for those who are most vulnerable, and expand over time to address the needs of all for whom adequate housing is unattainable through Canada's housing system. This will entail resources dedicated through the National Housing Strategy, but it will also require evidence-based assessment of Canada's housing system as a whole, and efforts at all levels of government to address barriers and violations throughout that system, through regulation, policy, and resource allocation.[9]

1.   *Recognizing the right to adequate housing*

The NHS must ensure rights-based accountability to Canada's obligations to respect, protect, and fulfill the right to adequate housing. The right to adequate housing includes, among others, components of affordability, legal security of tenure, habitability, and accessibility. In Canada, each of these is the purview of different

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[6] See UN Human Rights Council, 37th Session (26 Feb – 23 March 2018). Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. A-HRC-37-53, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/007/65/pdf/G1800765.pdf?OpenElement

[7] Jarrett, H. (2016). Nothing about us without us: Lived experience leaders from across the country call for inclusion in the design of Canada's National Housing Strategy. Homeless Hub. http://homelesshub.ca/blog/nothing-about-us-without-us-lived-experience-leaders-across-country-call-inclusion-design

[8] UN HRC, see above at note 4, para 17.

[9] Hulchanski, D. (2017). No, Ottawa has not put forth a national housing strategy. *The Globe & Mail,* 4 December 2017. https://www.theglobeandmail.com/opinion/no-ottawa-has-not-put-forth-a-national-housing-strategy/article37173057/

actors; for example, provincial landlord-tenant law governs security of tenure, while municipal licensing and standards regulate habitability. The role of a national strategy does not replace these; instead, it provides leadership and coordination, establishes a set of common rights-based criteria for federal funding programs including the NHS, and implements mechanisms for the enforcement of those criteria.

2.   *Housing rights are indivisible from other human rights*

At the same time, human rights principles of indivisibility, inter-dependence, and inter-relatedness[10] insist that measures to provide adequate housing must also uphold other human rights and freedoms, including security of the person and human dignity. In other words, the provision of material supports such as housing and income is not sufficient, if these are provided in a way that violates human dignity and undermines the inherent worth of recipients.

In Canada, as in many States, this entails a culture shift away from what Order of Canada member Jean Swanson terms "poor bashing"[11] in social services. The United Nations Special Rapporteur on extreme poverty and human rights has pointed to the need for state social provision systems to transform their understanding of beneficiaries "from undeserving poor to rights holder."[12] In the Canadian context, this means that affordable housing projects don't meet human rights obligations if their residents are subjected to surveillance and control of their private lives. Likewise, provincial social assistance programs are unacceptable if their administrative procedures expose recipients to "rituals of degradation"[13]. This is of particular importance in measures to address homelessness, because those who experience it face a degree of stigma and dehumanization so extreme that scholars refer to it as "social death."[14] When policies and programs for social provision reinforce stigma through their depiction and treatment of people facing homelessness, they violate recipients' rights even as they fulfill material needs.

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[10] The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies. http://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies

[11] Swanson, J. (2001). *Poor bashing: The politics of exclusion.* Toronto: Between the Lines.

[12] Sepulvéda, M. (2014). *From undeserving poor to rights-holder: A human rights perspective on social protection systems.* Oxford: Development Pathways.

[13] Herd, D., Mitchell, A., & Lightman, E. (2005). Rituals of degradation: Administration as policy in the Ontario Works programme. *Social Policy and Administration,* 39(1), 65-79.

[14] Liggett, H. (1991). Where they don't have to take you in: The representation of homelessness in public policy. *Journal of Planning Education and Research,* 10 (3), 201-208.

3.   The right to housing within a substantive equality framework

Programs and policies to fulfill the right to adequate housing must also provide equal benefit to equity-seeking groups, including Indigenous peoples, members of racialized communities, women, persons with disabilities, immigrants and refugees, members of LGBTQ2S communities, and others. A rights-based approach applies a substantive equality analysis, to ensure that programs and policies are equitable not only in intent, but in effect. The Government's commitment to Gender-Based Analysis Plus within the NHS must be coordinated and aligned with the rights-based approach, not seen as separate from it.

A Canadian example can be found in the implementation of Housing First as federal policy. Housing First, a service model in which people facing homelessness are provided with immediate access to housing of their choice with no preconditions, represents an important paradigm shift in Canada's homelessness services system, re-orienting it towards ending homelessness rather than managing it. Proponents of the model have argued that it is a rights-based intervention; with its core principles of providing access to adequate housing, consumer choice, and self-determination, Housing First indeed embodies a rights-based approach in many respects.

But when the Government of Canada adopted Housing First as policy, it imposed criteria that have led to inequitable outcomes. Service managers in major centres funded through the federal Homelessness Partnering Strategy were required to dedicate 65% of their HPS funds to Housing First programs serving people with a mental health diagnosis who met the definition of "chronic homelessness." These criteria, however, do not reflect the diverse manifestations of homelessness for specific populations, in particular women and families, young people, racialized immigrants and refugees, and Indigenous people. Further, as a model, Housing First does not meet the needs of many women experiencing homelessness, including those fleeing violence.[15] Accounts from service providers in the women's sector have suggested the HPS requirement that communities dedicate 65% of their funds to Housing First programs addressing "chronic homelessness" has resulted in the reduction or elimination of supports for other groups whose experience of homelessness differs from this definition. Paradoxically, this policy has compromised the housing security of women and other groups.

This demonstrates the importance of a substantive equality analysis in the National Housing Strategy, and the need for data disaggregated by gender, race, and other

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[15] YWCA Canada. (2013). Housing First, women second? Gendering Housing First: A brief from the Homes for Women campaign. YWCA Canada, http://ywcacanada.ca/data/documents/00000382.pdf

factors in monitoring the equity impacts of both federally-funded programs and Canada's housing system as a whole.

C.   Rights-based participation

> *"Researchers, politicians, and service providers may be coming from good intentions, but most lack first-hand knowledge of what it is like to have insecure housing. In order to be effective, the NHS must be inclusive to and led by those directly affected by poverty and homelessness, including Indigenous people, women, families, single men, survivors of violence, people with disabilities, people who have been criminalized, and illicit drug users."[16]*

The Government of Canada has committed to the core principles of accountability, participation, non-discrimination, and inclusion as the foundation for its rights-based approach. These principles will be operationalized through mechanisms including legislation, a Federal Housing Advocate, a National Housing Council, a Community-Based Tenant Initiative and a public relations campaign. In order to uphold the right to adequate housing and the interdependent rights to dignity and equality as described above, these mechanisms must be entrenched in legislation so as to enable rights-based participation and effective accountability.

1.   *Beyond consultation: Meaningful participation*

> *"People with lived experience are often put on committees for our expertise, and to bring reality to the group, but how often are we really listened to."[17]*

The UN Special Rapporteur distinguishes between consultation—in which governments solicit input but make decisions without considering constituents' contributions—and rights-based participation, which "emerges from community action and is led by rights holders who identify what is lacking and what needs to change. Governments must respond accordingly."[18] She calls for meaningful participation by people and communities directly affected, in the planning, implementation, and monitoring of national housing strategies.

Similarly, an account of a People's Commission on Rooming Houses conducted in Montréal points to the contrast between State-led urban renewal processes in which participation is a means to implement a pre-set agenda for economic and social development, versus bottom-up organizing among urban inhabitants. The authors

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[16] Jarrett, see above at note 6.

[17] Lived Experience Advisory Council. (2016a). Nothing about us without us: Seven principles for leadership & inclusion of people with lived experience of homelessness. Toronto: The Homeless Hub Press. http://www.homelesshub.ca/NothingAboutUsWithoutUs

[18] UN HRC, see above at note 4, para 62.

conclude that, in order to fulfill its democratic function, participation must respect the rights and input of all social groups directly affected by policies, and give priority to those who have been silenced, marginalized, and excluded.[19]

In that spirit, the Lived Experience Advisory Council (LEAC), a network of leaders with lived experience of homelessness from across Canada, outlines seven principles for the leadership and inclusion of people facing homelessness in all efforts to end it:

> *"1.   Bring the perspective of our lived experience to the forefront.*
>
> *2.   Include people with lived experience at all levels of the organization.*
>
> *3.   Value our time and provide appropriate supports.*
>
> *4.   Challenge stigma, confront oppression, and promote dignity.*
>
> *5.   Recognize our expertise and engage us in decision-making.*
>
> *6.   Work together towards our equitable representation.*
>
> *7.   Build authentic relationships between people with and without lived experience."*[20]

Canadian policy processes—and even international human rights settings[21]--all too often invite service and advocacy organizations to stand in for direct participation by people with lived experience. And yet, as Jarrett emphasizes above, these organizations cannot speak on behalf of the interests, perspectives, and experiences of people directly affected. Rights-based participation and accountability entails the re-orientation of these processes and settings to engage rights holders directly.

2.   *Addressing barriers in participatory settings*

> *"Plan to include a "critical mass" of diverse lived experience leaders and participants in your event. People with lived experience should make up a large portion of attendees for visibility, comfort, and to feel included, and to have influence on the atmosphere and content of the event."*[22]

Any setting in which policies and programs on housing and homelessness are being determined must include a significant proportion of people directly affected among its participants. Further, lived experience delegates should reflect diversity along a range

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[19] Gagné, J. & Despars, M. (2011). Participation citoyenne et intervention communautaire: la Commission populaire pour la sauvegarde des maisons de chambres. *Nouvelles pratiques sociales* 23 (2), 65-82.

[20] Lived Experience Advisory Council, see above at note 15.

[21] Paradis, E. (2015). Do us proud: Poor women claiming adjudicative space at CESCR. *Journal of Law and Social Policy*, 24, 109-134.

[22] Lived Experience Advisory Council. (2016b). Checklist for planning inclusive and accessible events. Toronto: The Homeless Hub Press. http://www.homelesshub.ca/NothingAboutUsWithoutUs

of axes including gender, race, Indigenous identity, place of origin, dis/ability, region, and experience of inadequate housing and homelessness. Policy settings must accommodate the participation of persons with lived experience; but, as the above quote suggests, they must also be transformed by this participation.

Accommodation entails a number of practical changes in how these settings and processes are planned and carried out. To equitably engage persons who are living in poverty and with disabilities requires first that barriers be addressed: travel costs, for example, must be covered directly; locations must be accessible and close to needed amenities; people's embodied needs for rest and nutrition must be taken into account. Because these settings have traditionally been planned by, for, and with professionals, class-based assumptions are embedded in mundane procedures. For example, an email for attendees of the very meeting for which this paper is being prepared, informs participants that "The hotel will require your credit card at check-in for any incidentals." Assumptions such as these pose a very real material barrier to persons living in poverty. More profoundly, though, they communicate an exclusionary message about who does and does not belong in policy processes, and to whom those processes belong.

Accordingly, rights-based participation requires not only a change in procedures, but a change in the professionalized, bureaucratic culture of policy settings. This entails a range of nuanced shifts in communication: from speaking about people facing homelessness to speaking with them; from taken-for-granted racial and gendered hierarchies of whose voice is accorded authority, to intentional and equitable distribution of speaking time; from presumed professional "objectivity" to a recognition that all participants' perspectives are informed by their lived experience – including those with experiences of privilege. In addition, settings must be trauma-informed, holding space for the powerful emotions that accompany discussion of experiences of homelessness. Finally, they must make room for what legal theorist Lucie White has referred to as "subordinated speech," that is, class-, race-, and gender-coded forms of self-expression that have been traditionally devalued and invalidated in bureaucratic settings.

Different stakeholder groups may also require different forms of preparation in order to engage productively with participatory policy processes. While those with lived experience may need information on how policies and programs are developed, government officials and other professionals may require anti-oppression training and exposure to the realities of homelessness.

The best way to ensure that settings are appropriate and accessible, LEAC points out, is to engage people with lived experience in their planning and implementation.

Importantly, lived experts should be equitably compensated for their contributions to policy settings, whether as planners or participants.

Also critical is to engage lived experts on equal footing with other participants. For example, if most participants in a process are expert advocates representing organizations, delegates with lived experience should likewise be representing organizations. This raises a dilemma, because there are few funded organizations representing persons with lived experience. One response to this dilemma is to ensure that policy-making happens via a variety of settings and processes that invite a range of forms of participation, from broad popular input to expert policy advice. But just as important is the creation of funded infrastructures for representation and accountability of people facing homelessness, so that these constituencies can be appropriately represented at all levels of the policy process – including in the rarefied settings where the real decisions get made.

3. *Infrastructures for participation and accountability*

> *"Decades of top-down research, service provision, and policy-making have not ended homelessness, because ending homelessness requires fundamental changes to our economic and social system. These changes will only be possible if our priorities and insights are brought to the forefront."*[23]

A companion submission[24] to the Consultation prepared by this author and social rights expert Bruce Porter outlines a proposed architecture for the rights-based elements of the NHS, including the legislation, Federal Housing Advocate, National Housing Council, Adjudcative Panel, and Community-Based Tenant Initiative. Key proposals include:

- That the legislation affirm the right to adequate housing as defined in international law, establish claiming mechanisms to remedy systemic issues, and set mandates for the Office of the Housing Advocate and the National Housing Council.
- That the Office of the Housing Advocate be independent and adequately resourced. It should be mandated to undertake investigations, make formal recommendations to government, require remedial action, and support communities directly affected by homelessness and inadequate housing to identify systemic issues and bring complaints to hearing before an adjudicative body.

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[23] Lived Experience Advisory Council, 2016a, see above at note 15.

[24] Paradis, E. & Porter, B. (2018). Implementing the human right to housing in Canada's National Housing Strategy. Ideas Paper submitted to the National Consultation on a Human Rights-Based Approach to Housing. http://www.socialrights.ca/2018/2ps.pdf

- That the National Housing Council include members chosen by and from affected communities. It should monitor progress of initiatives under the NHS to ensure accountability to the obligation to progressively realize the right to housing.
- That an Adjudication Panel be appointed by the National Housing Council to hear claims regarding systemic issues and make remedial recommendations to government. Panels should include representatives of affected communities and human rights experts.
- That Community-Based Initiatives led by and with affected communities support local education and organizing on the right to housing, enable action on local and systemic issues, and bring forward claims to the Office of the Housing Advocate.

While maintaining the core elements already defined in the Government's discussion paper, this architecture would improve accountability through the creation of monitoring and enforcement mechanisms, and the provision of support to affected communities to participate in them. There is room for flexibility regarding the details of a precise architecture for rights-based accountability, but the key components must be included in the legislation and ensured in any future housing strategy. The legislation must recognize the right to housing as a fundamental human right and ensure that governments are accountable for its progressive realization. It must ensure independent monitoring and accountability with effective participation of representatives of those affected; provide for participatory mechanisms for hearings into systemic issues affecting the realization of the right to housing; and ensure support for rights-based community initiatives to promote and claim the right to housing.

A critical feature of this proposed architecture is the engagement of people with lived experience at all levels: not only as rights claimants in enforcement processes, but also as active members of community initiatives, monitors and advisors on the National Housing Council, and decision-makers on the adjudicative body.

If grounded in the principles outlined above, this architecture would infuse the planning, implementation, monitoring, and enforcement of the National Housing Strategy with the unique insights of lived experience, and empower communities to demand the systemic changes necessary to ensure the right to adequate housing for all.

Part II   Perspectives from Lived Expertise

A.   Testing policy proposals through a rights-based participatory process

"Thank you for breaking down this change and the NHS – it can seem so big – and having a thorough understanding of what it actually means. We have a lot of work to do." (Hamilton participant, 18 May 2018)

In keeping with the principles of rights-based participation and accountability outlined above, these proposals were tested with lived experts through a series of consultations hosted in Toronto, Hamilton, Winnipeg, Saskatoon, and Victoria. Using a structured discussion guide[25], these consultations sought input from people with lived experience of homelessness and inadequate housing into the proposed architecture for implementing the right to housing in the NHS.

1.   *Rights-based participation in action*

The consultations were organized with attention to the principles and practices described above, in order to ensure an accessible and empowering process. The consultations in Winnipeg, Saskatoon, and Victoria were convened and facilitated by lived experience leaders who drew on their deep knowledge of their communities to assemble participants and conduct the meetings in a way appropriate to their local context. The Toronto and Hamilton meetings were facilitated by this author; participants were convened through on-the-ground networks of agencies and grassroots groups which referred members to participate. The Hamilton consultation had a gender focus and was limited to women and trans-identified participants. Because the discussion was focused on rights-based participation and accountability, efforts were made to identify participants who had previous experience with mechanisms such as policy advisory bodies, speakers' bureaus, human rights claims, tenant councils, and grassroots groups.

The gatherings followed the Lived Experience Advisory Council's guidelines for inclusive events[26]: locations were barrier-free, participants were compensated for their time, a meal was provided, and transportation costs were covered. The meeting organizers in Winnipeg, Saskatoon, and Victoria were paid an appropriate fee for their work. Participants received materials in advance to help them prepare for the discussion, and these were reviewed thoroughly during the meeting.

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[25] See Appendix A

[26] Lived Experience Advisory Council, 2016b, see above at note 20.

2.   Participants

A total of 61 people took part in the five discussions, including 43 women, 16 men, and two trans persons. The groups were diverse: at least 18 participants were Indigenous, 15 were racialized, and 10 were born outside Canada. A wide range of ages was represented, with 12 young people under thirty and 14 elders over sixty. While 52 identified as having lived experience with homelessness and inadequate housing, six identified themselves as allies and five were front-line workers (some of whom also shared lived experience).

In introducing themselves, participants shared a wide range of experiences with homelessness and inadequate housing: 30 had been in homeless shelters; 15 had lived in social housing; 13 had been involved with child welfare in connection with their housing circumstances as either young people and / or as parents; 9 had experienced hidden homelessness; and 6 had stayed in Violence Against Women (VAW) shelters.

Participants also identified with many challenges associated with homelessness, including: incarceration and criminalization; physical disabilities, chronic health issues, and HIV; mental health concerns; illicit substance use and addiction; displacement and eviction; English as a second language; discrimination in housing on the basis of race, income, gender, Indigenous identity, immigrant status, and family status; separation from children due to housing circumstances; and being taken from their birth families in the "sixties scoop."

Finally, in addition to lived expertise on issues of homelessness and inadequate housing, participants brought a wealth of other knowledge and experience. The meetings included social workers, front-line workers, community advocates, researchers, public speakers, artists, Housing First workers, two Charter Challenge litigants, trainers, group leaders, organization founders, and students in community college, GED, Law, MSW, and PhD programs.

B.   Lived experts' input into the architecture for implementing a right to housing in Canada

"Your voice can make a difference and you'll never know who may be listening." (Saskatoon participant, 22 May 2018).

The consultation meetings sought input on four topics relevant to rights-based participation in the NHS: inclusive processes, access to justice, support for local initiatives, and representation. Facilitators first introduced the context, providing an overview of the NHS, the government's discussion paper, and the proposed architecture for implementing the right to housing. Participants were then invited to discuss the four topics through a series of structured questions.

1.   ***The context for rights talk: Everyday rights violations & disenfranchisement***

> *"I don't understand what is going to make a difference. Just because they say it is a right - does that make it a right? Will the housing fairy come and make homelessness disappear?" (Hamilton)*

When invited to talk about human rights in relation to the NHS, participants often began by discussing the everyday violations of their rights they experience in local state-funded systems. In most meetings, lived experiences with local systems came to the fore in the discussions, and formed the context for participants' perspectives on the rights-based architecture of the NHS.

Participants pointed to ongoing violations of their rights and freedoms such as:

- surveillance, policing, and policies prohibiting visitors in supportive housing;
- demeaning treatment by social assistance workers, and low rates that prevent recipients from affording necessities of life;
- discrimination and exploitation by landlords;
- avoiding services for fear of deportation or apprehension of children;
- discrimination on the basis of Indigenous identity, and cuts to Indigenous-specific services;
- forced eviction because of urban development; and
- unfair treatment in criminal courts and quasi-judicial tribunals.

Implicit in these discussions was that adding more funding to the current system through the NHS will not be sufficient to address these concerns: existing systems, including the housing system, need to be rights-based and accountable. Some, like the woman quoted above, questioned whether this could be achieved through the rights-based approach for the strategy.

Relatedly, a sense of profound exclusion and frustration was the starting place for many participants in these discussions. Their experience has shown them that their rights and needs are not taken into account in policies, let alone their knowledge and perspectives. As a result, they do not expect or trust that government actions will promote their interests. Many greet the idea of a Human Rights-Based National Housing Strategy with wariness and skepticism, and question whether rights-based participation and accountability will be genuine. This extends to these consultation meetings:

> *"People have been over-consulted and there hasn't really been any movement."*
> *(Toronto participant, 14 May 2018).*

Exclusion and disenfranchisement were seen to be the first and largest barriers to rights-based participation – both because they impede policy-makers' ability to hear

and act on information from people with lived experience, and because they diminish people's trust and motivation to engage in rights-based processes.

2. *Inclusive processes: National Housing Council*

> *"We do not feel we are being heard or listened to. Change this and really listen to us and value our input. No more tokenism." (Saskatoon)*

The first topic of discussion was inclusion of members of affected communities in the National Housing Council. Participants were asked to think about barriers and facilitators to participation they had encountered in other settings. They then applied those experiences to considering two questions: What measures would ensure that the Council would be accessible and inclusive to its members with lived experience? And, what kinds of information, resources, and support would all members of the National Housing Council need in order to carry out their work effectively?

Some barriers to participation were circumstantial, such as transportation and childcare: these could be remedied simply by providing assistance in these areas. Of much greater concern to participants across all groups were barriers created by exclusionary attitudes and practices. Key among these was language: literacy issues, the need for translation, and language that was unclear, overly technical, and intimidating. In the words of one young participant,

> *"The language is not accessible! How do we explain the concept of what we are doing? A person who is quiet has input, but may not be understanding the language." (Victoria participant, 22 May 2018).*

Some anticipated that people with lived experience would not be taken seriously in policy settings – that their dress, way of speaking, race, gender, newcomer status and social status would mark them as not credible. In the words of two Toronto participants:

> *"I showed up dressed down, sat among suits and EDs. I didn't feel I was being taken seriously based on how I looked." (Toronto).*

> *"How do I know they are going to listen to someone with addictions and mental health?" (Toronto)*

Participants also raised concerns about tokenism in participatory processes. One explained,

> *"As a woman of colour, I find it uncomfortable when I am the token diversity candidate." (Toronto)*

Indigenous participants, meanwhile, pointed to the systematic exclusion of Indigenous people from decision-making bodies:

"Even our CAB [Community Advisory Board for the Homelessness Partnering Strategy] has only two out of sixteen members who are Indigenous." (Winnipeg participant, 25 May 2018).

Outreach to diverse communities through trusted people and organizations was identified as a key way to make processes inclusive and transcend tokenism. Also important is to recognize all kinds of expertise, to value lived experience, and to acknowledge the capacity of all participants, including those who are younger. Processes must also demonstrate sensitivity to the everyday realities of those facing homelessness, queer and trans community members, and others facing marginalization. In addition, background information may be required to enable everyone to participate:

"People who are participating in community consultation and engagement – you need to make sure everyone has lots of background and that they understand. Just having people with lived experience at the table is not enough." (Hamilton)

Finally, participants emphasized the importance of accountability in participatory processes. They want to know that the information and advice they share is influencing decisions. In the words of one participant,

"[Participation is] not just a check-mark. Have follow-up mechanisms and accountability to utilize our advice." (Toronto)

With regards to the National Housing Council, participants recommended making meetings accessible by providing up-front financial support for travel, accommodations, food, and childcare, and ensuring that locations are barrier-free. Appropriate compensation should also be provided to honour members' time and knowledge. Ironically, the diminished rights of poor and homeless persons make these provisions more complex: participants raised concerns about clawbacks of compensation and travel stipends from social assistance recipients, as well as out-of-province travel restrictions for those on social assistance or with criminal records. Clear language and the provision of training and information are also required for accessibility.

Diversity was a key theme in discussions of Council membership. Participants said it was important to include members who are currently homeless as well as those with past experiences, and that membership should not be limited to those with policy expertise. Training and mentorship can help build capacity among those who are new to the Council. Participants would like to see outreach through local organizations representing diverse communities. Finally, participants raised the importance of a broad definition of lived experience:

*"Change how we think about homelessness and who is "homeless" – women
facing violence, elders, people couch surfing and doubled up – and include these
groups." (Hamilton)*

It was suggested that members with lived experience should be in the majority on the
Council, in order to exert significant influence on voting and decisions. Participants
across cities pointed to the importance of training for members both with and without
lived experience on how to work productively together, as well as training on equity,
anti-oppression, the Truth and Reconciliation Commission's Calls to Action, and
Indigenous understandings of human rights and homelessness. The membership of the
Council should reflect all regions, and include lived experts in leadership roles:

*"The council should have a chair and representatives from across the country,
each province and territory as each faces different problems. There should be
people with lived experience placed in positions of authority, so to not be taken for
granted in the process." (Winnipeg)*

Participants recommended that the Council's role be that of an intermediary between
Parliament and local groups, bringing local recommendations up to government and
demonstrating accountability down to local communities. Its structure should enable
this function through ad-hoc committees that report to the larger Council. In addition, it
should monitor and oversee the allocation of NHS funds at local and provincial levels.

Finally, participants proposed a decentralized approach to complement the work of the
National Housing Council, including local structures, public meetings, and multiple
options for engagement. It is interesting to note that this idea was not prompted by the
discussion guide, but emerged spontaneously in all groups:

"Have lots of local level councils." (Toronto)

*"There have to be multiple processes, different ways to participate – online, local
councils and groups, less formal processes, art and drama. Not necessarily sitting
in formal space." (Hamilton)*

*"Local accountability groups would be set up to deal with [local] issues and report
to the Council member or members and on up." (Winnipeg)*

*"Include us - possibly sub-advisory groups across Canada with budgets."
(Saskatoon)*

"Local Indigenous sovereign leadership in each territory." (Victoria)

Decentralized models were seen to be effective mechanisms for broad participation by,
and accountability to, people directly affected by inadequate housing and
homelessness. Participants agreed that the NHS should engage many more people than

those selected to sit on the Council, and have clear lines of responsibility back to local communities.

3.   *Access to justice: Adjudicative Panel*

> *"How do we change things with the government when it's always us against them?" (Saskatoon)*

The second topic explored was the role and function of the proposed Adjudicative Panel. Participants were first asked to consider their prior experiences with judicial processes, and then to draw upon those experiences in making recommendations for an enforcement mechanism on the right to housing that would be empowering and effective for communities.

Most recounted negative experiences with judicial and quasi-judicial processes. A key reason for this is the imbalance of power and resources between claimants and institutional actors:

> *"Government [respondents] have the ability to find loopholes, access to money, and they have time on their side." (Toronto)*

Many also pointed out that services for claimants are lacking, including legal aid funding, education on rights, experienced advocates, and follow-up supports. Finally, participants decried the way they had been treated in judicial settings, citing a lack of empathy on the part of adjudicators who had never experienced homelessness, and being seen as "just a file," blamed, and even criminalized. One explained how such treatment impeded her access to justice:

> *"I was belittled, had no rights whatsoever. It stopped me from seeking a legal aid worker, because I didn't know who I could trust." (Hamilton)*

Indigenous participants expressed a general mistrust in the justice system due to its role in colonization and ongoing entrenched racism. One commented,

> *"It is automatically assumed we did something." (Winnipeg)*

As a result of these experiences, participants strongly recommended that claimants before the Adjudication Panel have a dedicated advocate to support them; it was suggested that the Office of the Federal Housing Advocate should fill that role. In the hearing process, claimants should not be forced to jump through hoops, or treated like they are at fault. Instead, their expertise should be recognized and respected. The process should be financially accessible, and have reasonable timelines for issuing findings and remedies. Participants also suggested that the Panel's work be grounded in Indigenous understandings of justice and human rights, including restorative justice.

The Panel's membership should include lived experts, and in the words of one Toronto participant, "limit the number of bureaucrats." As with the Council, participants emphasized the importance of diversity among Panel members, and the importance of leadership from lived experts:

> *"It's not enough to have lived experience [members]. A white man's experience of homelessness is different than a woman of colour's." (Toronto)*

> *"The panel should have people with lived experience of poverty at the helm with a variety of other housing experts as members. It should consist of a strong chair position with subcommittees looking after different issues." (Winnipeg)*

Participants recommended term limits for panelists, and that positions on the Panel alternate to provide for both continuity and change. They want to see accountability mechanisms such as provisions for complaints and appeals, and removal processes for panelists who are not fulfilling their role.

Participants were also asked to assess the idea that the Adjudication Panel would not hear individual cases, only systemic ones. Their responses challenged expectations: no-one wanted the Panel to offer individual claimants "their day in court." This is less surprising when the experiences described above are taken into consideration.

Instead, participants suggested that systemic claims be built from multiple individual cases with similar issues. Tracking claims and trends across jurisdictions should be a key monitoring function built in to the government's reporting responsibilities in the NHS. Civil society organizations are important partners in tracking local-level issues, but will need access to resources and high-quality, disaggregated data in order to fulfill this function:

> *"We need legal clinics, advocates, and women's organizations to keep track of trends and barriers – this requires funding." (Hamilton)*

While participants emphasized the importance of having an enforcement mechanism as part of the rights-based approach to the NHS, some pointed out that communities can also enact their own mechanisms to claim and enforce a right to housing.

> *"Protests, collective action, town hall meetings for the right to housing – there are things WE can do without waiting for the government or relying on the adjudicative panel." (Hamilton)*

A participant in Victoria pointed out that this consultation meeting was one such autonomous process, while members in Winnipeg shared information about their involvement in rallies and actions.

4.   *Support for local action: Community-Based Initiatives*

> *"Many times we try to create these groups, for many reasons. And so, over time, if we're actually going to do this, then we're going to need a community model with input from people who would be part of this." (Toronto)*

Next on the agenda was the proposed Community-Based Initiatives program which would fund local projects led by and with members of affected communities. Participants first reflected on the strengths and challenges of peer-led groups they had been involved with. They then considered what kinds of projects the Community Based Initiatives could support, and what those projects would need to reach their goals.

Participants suggested that groups led by and with lived experts tend to be naturally rights-based. They provide spaces of safety, belonging, trust, and empathy, in which tasks are shared based on members' abilities, and everyone has a chance to participate and get to know each other. Through these groups, members strengthen their resilience in the face of adversity, and also build collective power to challenge the oppressive systems affecting their lives. The lived expertise in grassroots groups also contributes to broader progress on issues of housing and homelessness:

> *"Gound level and experiential perspectives bring reality to the cause. Strong voices are needed at this critical stage. PWLE [people with lived experience] bring REASON to the table." (Winnipeg)*

Grassroots groups, though, face a number of challenges. Key among these is funding:

> *"Funding is always running out for groups, making it harder to function and be inclusive." (Saskatoon)*

Small groups led by non-professionals were also seen to be at a disadvantage in competing for limited funds with large, established organizations. In addition, participants noted a tendency of larger organizations to "take over" collaborative projects, infringing on the self-determination of grassroots partners:

> *"[One problem is] large organizations who create "advisories" but make ultimate decisions." (Toronto)*

Community-based groups also face internal challenges, including conflicts between "strong personalities," and power differences among members based on race, gender, disability, and other factors. Members' circumstances also present problems for groups: consistent participation is difficult for those who are currently homeless or have unstable housing. Groups therefore require flexible expectations about attendance, and measures to make participation easier, such as holding meetings and activities in or near shelters and encampments. Groups also need a high tolerance for conflict – in the words of one participant, "We don't have to agree."

Participants would like to see the Community-Based Initiatives program of the NHS fund grassroots, lived-expert-led monitoring, advocacy, and campaigns to address systemic issues as they emerge in local settings. One participant provided this example:

> *"We began to hear from our members that lots of seniors who don't have their own homes were being evicted by [housing provider] because they were living with their adult children and you're not supposed to have extra people in your unit. Our group met with our city Councillor and MPP to raise this issue. They said, "This shouldn't be happening," and they met with [the provider] and took care of it. If our group hadn't existed, these members would never have spoken to anyone about their situation." (Toronto)*

They also recommend that community initiatives be funded to conduct oversight of local NHS program spending, and have a voice in funding allocation decisions, to ensure that the funds are going where they are needed most.

Participants suggest that Community Initiatives funding also be targeted to legal education and advocacy, and projects that provide direct access to information and supports. Education and advocacy on tenant rights is especially important:

> *"Tenants don't know their rights and if you don't know your rights, you can't claim them." (Toronto)*

Many also pointed to the challenges of navigating service systems, and recommended one-stop services all in one site, or projects that provide information about accessing services and entitlements. In addition, some suggested hands-on programs such as gardening.

Key in all of these recommendations is that community members define and lead the funded projects. As one participant put it,

> *"[Community-Based Initiatives should be] creating community solutions by and for people." (Victoria)*

In order to succeed, peer-led projects require models for how to create, structure, and maintain grassroots initiatives. Participants pointed to successful models within their own communities:

> *"The LEC (Lived Experience Council) has a democratic governance model with a chair that works at all levels and brings in LEC to help with groups like this discussion group. The chair is voted in annually, and has an alternate chair, who is there to help the chair. The group is a support group, and everyone's time and opinion is respected. As a successful group for seven years the group feels that there is no reason for this structure to change." (Winnipeg)*

Groups also need resources for accessibility measures, including language interpretation, honoraria, transportation, and childcare. Realistic timeframes are important, to build trust and networks within diverse communities, and help people overcome their fear of getting involved. Projects should provide anti-oppression training for members and staff. Participants envisioned that community-based initiatives could foster local participatory democracy:

> *"We can vote in a democratic way, we can learn how to do it together, we all can bring forward names, LEOH [Lived Experience of Homelessness] can acquire a large enough space where all LEOH can come and bring names forward and all LEOH vote on who goes into positions that insure all are spoken for. We can invite allies to help in this endeavour." (Victoria)*

Participants also suggested that accountability structures be put in place to guide community initiatives, such as a local council of lived experts to oversee all local funded projects. Finally, community initiatives must have the freedom to develop governance structures appropriate to their membership and context:

> *"We shouldn't have the United Way tell groups what the governance model should be. The members direct the governance of the group." (Toronto)*

A number of these recommendations challenge established institutional frameworks for the allocation of government funding, such as requirements for specific organizational structures. In order to foster peer-led projects, institutional policies will need to be reviewed, and creative solutions developed.

5. **Representation and accountability: Democratizing the National Housing Strategy**

> *"How do [the committees] bring people into the processes? And how do they report back and forth – to the big committee and to their communities and local groups?" (Hamilton)*

The final topic examined was representation. Participants were asked to consider how members of the National Housing Council, Adjudication Panel, Office of the Federal Housing Advocate, and Community Initiatives should be selected, and how these structures can remain accountable to and representative of the communities they serve.

Participants problematized the concept of "representation," suggesting that it was often used in a tokenistic way. They pointed out that representation of complex and diverse communities requires an intersectional approach in which race, gender, disability, region, and other factors are considered in addition to lived experience. Others suggested that inequitable and unaccountable participatory structures may be worse than no participation at all:

> *"Unfair representation is more of a hindrance." (Saskatoon)*

Participants across cities agreed that local, democratic, community-based selection processes were required to ensure fair and equitable representation in NHS mechanisms. Further, these processes should be open to all community members:

> *"Don't just look for the usual suspects – do a broad call-out, and let people know they are welcome." (Toronto)*

Many recommended that local subcommittees composed of community members should name their representatives to NHS bodies. The application process should be open and accessible, emphasizing direct experience and service to community over education or employment credentials. Suggestions in this regard included inviting applicants to submit a bio instead of a traditional CV, creative approaches to interviewing, and checking references with community members to verify applicants' credibility within their communities.

> *"How do we select our representatives from our peers? Diversity, skills, experience, voice, someone who can speak with a strong voice to get it out there." (Victoria)*

Once members are selected, NHS bodies should provide training in leadership, public speaking, and anti-oppression for all members. In addition, these mechanisms must operate within a trauma-informed framework that takes into account the needs of all members. Participants suggested that these bodies be renewed regularly, with limited terms for sitting members, rotation of membership to allow for greater diversity, and ongoing mentorship of prospective members. The Council, Panel, Advocate, and Initiatives should also be subject to an ongoing evaluation process to assess what is working well and make changes where needed. Finally, participants raised the importance of having representatives report back to local groups on a regular basis.

Participants pointed out that the NHS need not reinvent the wheel when determining the structure and membership of its participatory bodies. A number of local initiatives provide examples of best practices that can be incorporated. The City of Toronto's Poverty Reduction Strategy Lived Experience Advisory Group, for example, included people with lived experience on the committee that designed and conducted the selection process. The Ontario Premier's Council on Young People has a large and diverse membership, with targeted outreach to young people who were more difficult to reach; the Council often assembles smaller subgroups of its members who have expertise on the specific issue to be discussed. These and other examples offer models that can be incorporated into the participatory accountability bodies of the NHS.

C.   Moving forward with rights-based participation and accountability

A number of insights for rights-based participation and accountability in the NHS emerge from these discussions.

First, it is important to remain cognizant of the fact that people affected by homelessness and inadequate housing are, by definition, experiencing violations of their human rights. While the NHS offers a long-awaited recognition of Canada's obligations to uphold and progressively realize the right to housing, people with lived experience have, until now, faced the denial of that right by governments at all levels. This reality, alongside the social stigma and disenfranchisement they experience, poses obstacles to rights-based participation and accountability on both sides. For people with lived experience, mistrust and fear may discourage their engagement in participatory processes. But even more importantly, for governments, a legacy of denial of the right to housing and other social rights in policy processes must be overcome, in order to create new processes of rights-based accountability.

Secondly, lived experts' input suggests some important modifications to the proposed architecture for implementing the right to housing in Canada. Key among these is the integration of decentralized processes and local bodies to mirror and complement the Office of the Federal Housing Advocate, National Housing Council, and Adjudication Panel. Participants argued that local-level structures would be best positioned to support individuals and communities directly affected by homelessness and inadequate housing, and to conduct rights-based monitoring of local implementation of NHS funding programs. In addition, while the consultations were initially focused on seeking participants' input with regards to rights-based participation, every discussion turned to questions of accountability. Participants made it clear: while having lived experts at the table is important, it is not enough. They insist that their input have meaningful influence, and that the Advocate, Council, and Panel be accountable not only to their members with lived experience, but to the communities they represent.

Finally, these convenings provide a window into the transformative potential of rights-based participation and accountability. Participants across all convenings commented on the importance of meetings like this - for, by, and with people with lived experience. They expressed gratitude, and sometimes astonishment, at having the opportunity to work with others who shared similar experiences, and at being invited to provide input into the development and implementation of policies. The convenings themselves proved catalytic: several participants noted that they or the groups they work with would build on the discussion to develop their own consultation submissions; in one city, the consultation became the inaugural meeting of the new local lived experience council.

Certainly, the National Housing Strategy will not be perfect, and its mechanisms for rights-based participation and accountability will need to "fail forward," continuously integrating new learnings and improved approaches. Having been denied their rights for so long, communities facing homelessness and inadequate housing have grown accustomed to claiming them for themselves. These consultations suggest that they are ready to seize the opportunities offered by the NHS, take ownership of its rights-based mechanisms, and demand accountability of themselves and their governments in the process. Without their involvement, it would be impossible to progressively realize the right to housing in Canada.