

**WOMEN AND HOUSING IN
CANADA:
BARRIERS TO EQUALITY**

**CERA - CENTRE FOR EQUALITY RIGHTS IN ACCOMMODATION
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Women and Housing in Canada: Barriers to Equality

Table of Contents

Introduction	Page 1
Chapter 1: Re-Defining and Re-Thinking Homelessness	Page 6
Chapter 2: Federal Housing Programs	Page 16
A. Rental Housing	Page 16
B. Homeownership	Page 27
C. Homelessness Secretariat	Page 31
Chapter 3: Aboriginal Women and Housing	Page 33
Chapter 4: Income Support Programs	Page 46
A. Income Assistance – CAP and Beyond	Page 47
B. NCB Supplement	Page 54
C. Employment Insurance	Page 61
Chapter 5: Recommendations	Page 68

INTRODUCTION

Twenty-five years ago, any discussion of the “homeless” in Canada referred to a relatively small number of transient single men living in “flop houses” in Toronto, Montreal or Vancouver.¹ Today, widespread homelessness in Canada is recognized as a “national disaster” that is both rural and urban and which most dramatically affects women and children.²

Women’s experiences of homelessness, however, still tend to be ignored. Homelessness is often equated exclusively with those seen on city streets, predominantly men. Although recent data suggests that in cities like Toronto, as many as one in four people living on the street may be women, street homelessness is not representative of most women’s experiences.³ For women with children, living on the street is an impossible option that is almost certain to mean losing their children. For single women, increased vulnerability to violence and sexual assault make street life something to be avoided at all costs.⁴ Existing shelter surveys indicate dramatic increases in the use of shelters by both single women and women with children, particularly Aboriginal women and black women.⁵ But living in a shelter is also considered a last resort and the increasing number of women in shelters is certainly only a small fraction of the number of women across Canada experiencing housing crises and homelessness in diverse ways – living with the threat of violence because there are no other housing options; living in unsafe or unhealthy accommodation; sacrificing other necessities such as food, clothing and medical needs to pay rent or to make mortgage payments; moving into overcrowded accommodation with family or friends; or losing custody of their children because of

¹ Toronto Social Planning Council, *Report on Homelessness* (City of Toronto, 1976).

² Federation of Canadian Municipalities, *A National Affordable Housing Strategy: Background* (Ottawa, 2001) online at <http://www.fcm.ca/english/national/background-e.html>;

³ City of Toronto Homelessness Report 2001 (Toronto: January, 2001), at 7, online at: www.city.toronto.on.ca/homelessness/homelessnessreport.pdf

⁴ S. Lenon, "Living on the Edge: Women, Poverty and Homelessness in Canada" (2000) 20(3) *Canadian Women's Studies* 123 at 125.

⁵ There was a 130% increase in number of children in Toronto shelters between 1989 and 1999 (City of Toronto Homelessness Report 2001, at 5). The majority are children of single mothers. Thus, while women are still outnumbered by men in the shelter population, it is clear from affordability indicators that they are most at risk of homelessness and affordability problems, etc. The Federation of Canadian Municipalities estimates 4 families at risk of homelessness for every one person in a shelter or on the street (Federation of Canadian Municipalities, *A National Affordable Housing Strategy: Background*, supra, note 2). A recent survey in British Columbia showed that Aboriginal people are over-represented among shelter users and that Aboriginal clients are more likely to be female. This report also suggests that black women and aboriginal women in Toronto are over-represented amongst shelter users. See: British Columbia, Ministry of Social Development and Economic Security, *Homelessness – Causes & Effects: A Profile, Policy Review and Analysis*, Vol. 2 at 23 and Vol. 4 at 8 (March 2001).

inadequate housing.⁶ Most of these individualized “housing crises” do not show up in homelessness counts or media portrayals of homelessness, but they increasingly define the lives of lower income women in Canada.

There has been too little analysis of homelessness as a women’s issue or consideration of various programs and responses to homelessness from the standpoint of the particular barriers facing women in meeting their housing needs. The goal of this research project is to consider homelessness from this neglected perspective, to facilitate collaboration among women in order to address some of the important omissions and failures of current federal programs and to fashion appropriate strategies through which the federal government could respond to the growing crisis of women’s homelessness in Canada.

During an era characterized by the withdrawal of the federal government from the housing field, and given that provinces hold ultimate constitutional responsibility for most housing in Canada, a focus on federal policies and programs may seem anachronistic. However, most of those with whom we have consulted agree that it is important to recognize the unique responsibilities of the federal government and the role that it plays in the various policy areas that have a direct effect on women’s homelessness.

Although special arrangements would need to be made with respect to Quebec, local control and administration of housing and income programs does not remove the need for national co-ordination and leadership. As is noted in s. 36 of the Canadian Constitution, the federal government and the provinces are *jointly* committed to ensuring public services of reasonable quality to all Canadians. It is the federal government which is responsible for reporting on Canada’s compliance with international human rights law guaranteeing the right to adequate housing and for ensuring that all levels of government respond to the strongly worded “concerns” from a number of U.N. human rights treaty monitoring bodies about growing homelessness as a violation of fundamental human rights in Canada. The federal government has constitutional responsibility for First Nations’ Aboriginal housing and thus for addressing what is widely recognized, both in Canada and internationally, as “the most pressing human rights issue facing Canadians.”⁷ Under the Social Union Framework Agreement, the federal government is jointly committed with the provinces to “meeting the needs of Canadians” including ensuring

⁶ M. Hurtig, *Pay the Rent or Feed the Kids: The Tragedy and Disgrace of Poverty in Canada* (Toronto: McClelland & Stewart, 1999); S. Chau, A. Fitzpatrick, J. D. Hulchanski; B. Leslie and D. Schatla, *One in Five: Housing as a Factor in the Admission of Children into Care. A Joint Research Project by the Children’s Aid Society of Toronto and the Faculty of Social Work, University of Toronto*, (Toronto: Centre for Urban and Community Studies, Research Bulletin #5, November 2001).

⁷ United Nations Human Rights Committee, Concluding Observations on Canada, CCPR/C/79/Add. 105 (1999) (7 April 1999) at par. 7.

access “to essential social programs” and providing “appropriate assistance to those in need.”⁸

The *National Housing Act* (NHA) mandates a diverse and significant role for the federal government with respect to “the improvement of housing and living conditions.”⁹ While the Canada Mortgage and Housing Corporation (CMHC) has divested itself of direct responsibility for many social housing programs, it continues to be a partner with provinces in social housing agreements, provides about two billion dollars of subsidy for social housing in a wide range of social housing and rent supplement programs, and has direct responsibility for overseeing federally funded co-operative housing.

As will be seen in the review of federal programs in assisted housing, the federal government historically took the lead role in developing affordable rental housing programs. When the federal government withdrew from funding new social housing programs in recent years, provinces followed suit with cuts in expenditure that were even more dramatic than those initiated by the federal government.¹⁰ Recent attempts at reversing this trend have been spearheaded by the federal government and it is important that these new initiatives be considered from the standpoint of women’s homelessness.

The federal government also plays the lead role with respect to programs and policies related to access to homeownership and assistance for homeowners. While it is true that many low income women are unable to consider the option of homeownership, a considerable proportion of single mothers and other women continue to rely on this option, and many more might benefit from it if discriminatory barriers were removed. Chapter Two of the study focuses on federal government programs specifically related to housing, looking particularly at: A. The federal government role in assisted rental housing; B. Home Ownership and C. Federal Homelessness Initiatives from the standpoint of women’s housing and homelessness.

Aboriginal housing remains a critical component of federal responsibilities toward Aboriginal people. With living conditions on-reserve having been described as “intolerable” by the Royal Commission on Aboriginal Peoples and with Aboriginal women

⁸ A Framework to Improve the Social Union for Canadians: An Agreement between the Government of Canada and the Governments of the Provinces and Territories (February 4, 1999), online at <www.socialunion.gc.ca>. In February 1999, the Social Union Framework Agreement (SUFA) was signed by the federal government, and nine provincial and two territorial governments (Quebec and Nunavut are not signatories). SUFA is a political agreement which establishes a framework for how federal, provincial and territorial governments should relate to one another and civil society in the making of social policy, it establishes rules regarding the federal use of its spending power and it commits governments to several core principles including the equality, rights and dignity of women. SUFA does not, however, refer to housing or the right to an adequate standard of living or adequate rates of social assistance.

⁹ *National Housing Act* R.S., c. N-10.

¹⁰ See Chapter 2.

and children dramatically over-represented among the homeless in urban centers like Vancouver, this area of federal responsibility, reviewed in Chapter Three, is critical with respect to women's homelessness.¹¹

In addition to the federal role in housing programs, it is also important to consider the impact of income policies and programs in which the federal government plays a key role. The protection of income security resulting from unemployment, long term disability and pregnancy and parenting of infants, a federal responsibility under the federal Employment Insurance Program, is critical to security of tenure for women and to ensuring that women have an income with which to pay for housing during times of increased risk of homelessness. Also, federal cost-sharing agreements for social assistance programs have always been an integral component of the protection of income security, critical to meeting women's housing needs, particularly those of single mothers, women with disabilities, newcomers and young women. Adequate financial assistance for costs of housing was a requirement of such programs under the Canada Assistance Plan Act, and subsequent changes in federal/provincial agreements in this area have had a dramatic impact on women's homelessness. In addition, a new reliance in federal provincial agreements on the income tax system as a vehicle for providing financial assistance and funding programs for families living in poverty through the National Child Benefit, establishes a direct link between federal taxation policies and the ability of women with children to meet their housing needs. Chapter Four considers these three critical aspects of federal income policy as they impact on women's homelessness: A. Income Assistance and the repeal of the Canada Assistance Plan; B. The National Child Benefit; and C. Employment Insurance

Prior to commencing our analysis of federal programs and policies in light of women's homelessness, however, it is important to consider in more general terms how we ought to conceive of homelessness from women's perspectives. The first chapter, Re-thinking Homelessness, considers ways in which traditional definitions and approaches to homelessness have failed to include or address women's diverse experiences. We consider some of the inter-connections between housing programs, subsidy eligibility and allocation, income security, access to credit, security of tenure, transportation and service needs which are often neglected but which are central to women's experiences of homelessness. We also consider, in this section, some of the distinctive issues facing rural women, Aboriginal women, young women, immigrant women, single mothers, women with disabilities and racialized women that have been ignored in prevailing conceptions and approaches to homelessness, and which need to be part of the framework within which we consider federal programs and their impacts on women's homelessness.

¹¹*Report of the Royal Commission on Aboriginal Peoples, Vol III, Chapter 4 (Ottawa, 1996).*

Chapter 1: Re-defining and Rethinking 'Homelessness'

The Inadequacy of Traditional Definitions of Homelessness for Women

Because women's housing crises do not commonly manifest in street homelessness, an inclusive analysis of homelessness cannot adopt as its definition of homelessness "sleeping rough on the streets" as some analysts have defined it.¹² At the same time, a frequently used alternative definition based on "affordability criteria", which would categorize a household paying more than 50% of income towards rent as being "at risk of homelessness," is also problematic.¹³

The fact that an increasing number of women are now living on the street is certainly an important indicator of a growing problem, but it would be inappropriate to analyze the nature of the problem of women's homeless in terms of street homelessness. Similarly, it is certainly the case that paying a high percentage of income toward rent is frequently associated with hardship and may often force women to live without adequate food and other necessities in order to pay rent. On the other hand, "rent to income ratios" or generalized "affordability" criteria have often been associated with the assumption that those who must pay high proportions of income toward rent or mortgage costs are more likely to default and face eviction or lose their homes. Since women are more likely to be caring for children and to be paying high percentages of income toward rent, such an assumption has obvious discriminatory implications for women.

Landlords across Canada deny thousands of women access to the most affordable apartments they can find on the basis of arbitrary minimum income criteria or "rent to income" ratios which disqualify the majority of women. Banks and credit companies similarly disqualify most women from mortgages on the basis of similar requirements of minimum incomes in relation to mortgage costs, without any consideration of whether they may have been paying higher monthly payments in rent without default.¹⁴ Human rights tribunals and courts have ruled that there is no evidence to substantiate the use of rent to income ratios as indicators of risk of default on rent and found the use of minimum income criteria discriminatory when used by landlords to disqualify single women, and

¹² The definition of homelessness as "sleeping rough" in public places or living in a shelter is used fairly widely. See, for example, Sabine Springer, "Homelessness: A Proposal for a Global Definition and Classification." *Habitat International*, Vol. 24, 2000 at 475-484.

¹³ The definition of those paying more than 50% of income toward rent as being "at risk of homelessness" was adopted by the Ontario Non-Profit Housing Association and the Co-operative Housing Federation of Canada in their Reports *Where's Home: A Picture of Housing Needs in Ontario* (Toronto: Ontario Non-Profit Housing Association, 1999) at 22 and by the Mayor's Homelessness Action Task Force *Taking Responsibility for Homelessness: An Action Plan for Toronto, Report of the Mayor's Homelessness Action Task Force* (Toronto, January, 1999).

¹⁴ See Chapter Three.

single mothers, social assistance recipients, Black women, newcomers and other equality seeking groups seeking rental apartments.¹⁵ Similarly, the refusal of a mortgage to a single mother on social assistance on the basis of similar reasoning was found by a Quebec tribunal to constitute discrimination on the basis of social condition.¹⁶ Comparative data on the percentage of income paid toward rent or mortgage payments is certainly useful in considering the unique vulnerability of women and is clearly indicative of a risk of homelessness in the sense of having to forego other necessities to pay the rent or perhaps to move out of appropriate housing to avoid default. As an indicator of risk of “homelessness”, however, such data needs to be considered in conjunction with many other factors and clearly distinguished from discriminatory assumptions and policies used to deny women access to housing and credit.

Other definitions of homelessness are derived from a broader concept of housing adequacy, such as the definition suggested by the United Nations Year of Shelter for the Homeless:

Those who have no home and who live either outdoors or in emergency shelters or hostels, and people whose homes do not meet UN basic standards of adequate protection from the elements, access to safe water and sanitation, affordable prices, secure tenure and personal safety, and accessibility to employment, education and health care.

However, it is unclear whether this definition would include within its ambit a woman who is sleeping with her children on the floor of a friend’s apartment or whether “affordable prices” would include the requirement, in the Canadian context, of timely access to adequate income assistance necessary to pay the rent in the event of job loss or other change of circumstance. A focus on housing “adequacy” may divert attention from other critical determinants of homelessness for women. It is particularly important, in our view, to recognize that homelessness relates to more than simply housing and that a review of the causes of homelessness needs to consider a much wider range of government programs and policies than housing programs *per se*.

Women’s housing crises leading to homelessness often result from short-term changes and transitions which are not captured by general affordability or adequacy measures and are often overlooked in programmatic responses to homelessness.

¹⁵*Québec (Comm. des droits de la personne) v. Whittom* (1993), 20 C.H.R.R. D/349 (Qué. Trib), affirmed in (1997), 29 C.H.R.R. D/1 (Qué. C.A.); *Kearney et al. v. Bramalea Ltd et al* (1998), 34 CHRR D/1 (Ont. Bd. Inq.), upheld in part in *Kearney et. al v. Bramalea Ltd. et al.*, [2001] O.J. No. 297, *Vander Schaaf v. M.R. Property Management Ltd.* (2000), 38 C.H.R.R. D/251. *Sinclair v. Morris A. Hunter Investments Ltd.*, [2001] O.H.R.B.I.D. No. 24.

¹⁶ *D’Aoust c. Vallières* (1993), 19 C.H.R.R. D/322 (Que.Trib.).

Women are more likely to be in non-permanent employment and are more vulnerable to lay-offs and changes in income than men. Women assume disproportionate responsibility for dealing with needs which may suddenly arise from illness and disability within the immediate or extended family. Women experience dramatic income loss after separation (an average 23% decrease in income while men experience a 10% increase).¹⁷ On divorce, women who are sole support mothers have an average 33% decrease in household income. Pregnancy and care of young children often results in interruptions in earnings. Domestic violence and sexual assault may suddenly create housing needs that were not anticipated a few months earlier, and may suddenly render emergency housing options or shared accommodation untenable.

These types of unique challenges in women's lives in relation to income stability, daycare, transportation, dependents with disabilities, personal security and the needs of children define the complex interdependencies behind women's homelessness. Proposed solutions need to be contoured to these realities. Increased supply of subsidized housing, for example, will not address the needs of women in these types of situations if the allocation system restricts access to subsidy to those who applied a number of years previously. Similarly, child tax credits or employment insurance supplementary benefits linked to a previous year's annual income are unlikely to meet these kinds of transitional crises.

Women's Homelessness and Women's Poverty

The homelessness crisis facing women is also a poverty crisis and cannot be understood merely in relation to scarcity of appropriate housing. Based on consideration of housing supply alone, one might imagine, for example, that women's homelessness would have been worse in the mid and late 1980's when cities like Toronto had vacancy rates as low as 0.1%, and that homelessness would have abated through the 1990's with higher vacancy rates. In fact, the opposite has occurred.¹⁸ In Toronto, shelter use has increased from approximately 1,000 in the mid 1980s to almost 5,000 by the end of 1990s and among shelter users the proportion of women has risen dramatically.¹⁹ This unprecedented rise in women's homelessness needs to be understood in the context of fundamental economic and policy changes effecting women rather than solely in terms of vacancy rates and housing availability. While affluent groups in Toronto experienced dramatic increases in income and wealth during those years, women's income has been seriously eroded. Between 1989 and 1998 while rents rose by 42% or \$3,276 per year,

¹⁷Diane Galarneau and Jim Sturrock, *Family Income After Separation* (Ottawa: Stats. Can., Labour and Household Surveys Analysis Division, 1997).

¹⁸ CMHC Rental Market Reports, Toronto branch, Vacancy rate in apartments 6 units or more, Toronto CMA, 1989, 1998 The vacancy rate in Toronto in 1998 was 0.9% while in 1989 it was 0.3%

¹⁹ City of Toronto, Hostel Services Division, Shelter Use Data (on file at CERA).

the average annual income of single mothers fell by more than \$1,000.²⁰ The reason women are at such an increased risk of homelessness by the end of the 1990s relates more to their ability to pay for the costs of housing than to the vacancy rate.

The prevalence of more restrictive definitions of homelessness has at times deflected attention from some of these fundamental determinants of women's homelessness. When the federal government announced in 1995 that it would revoke the *Canada Assistance Plan Act* and thereby remove the legally enforceable requirement that provincial social assistance rates be sufficient to cover housing and other basic requirements, the newly elected Conservative government in Ontario followed suit by announcing a 21.6% cut to social assistance. The cuts were challenged on the basis that 67,000 single mothers and their children would be forced from their homes, many into homelessness in Toronto and other cities.²¹ Yet when the predicted crisis of homelessness among women with children materialized, it has been portrayed primarily as a "housing" crisis and the issue of women's poverty and inadequate social assistance rates has received little attention. The effects of the welfare cuts has been largely displaced on the public agenda, with a primary focus on street homelessness, declining vacancy rates and the need for new housing supply.

In this context, lengthy waiting lists for subsidized housing units are frequently cited as evidence of the homelessness crisis and of the need for new housing supply but they are rarely cited as evidence of a need for financial assistance for impoverished households to be able to pay rent. In fact, those on the lengthy waiting lists might be more accurately described as waiting for "rent subsidies" rather than simply waiting for housing, as unsubsidized units in the same complexes usually have comparably short waiting lists or no waiting lists at all.

Housing issues and homelessness, of course, cannot be entirely reconfigured as income issues. But there needs to be a better integration of policy analysis in these two areas to adequately understand and address the issue of women's homelessness. If housing advocates sometimes ignore important income issues that primarily affect women, income policy analysts also tend to ignore important housing issues for women. For example, policy analysis of problems related to the transition from social assistance to paid employment have been addressed under the rubric of "child poverty" and addressed through a "child benefit" without any analysis of the way in which access to housing allowance or housing subsidy affects this transition. A woman with children living in unsubsidized housing who receives a variable shelter allowance as part of her social

²⁰ David Hulchanski, *A Tale of Two Canadas: Homeowners Getting Richer, Renters Getting Poorer. Income and Wealth Trends in Toronto, Montreal and Vancouver, 1984 and 1999* (Toronto: Centre for Urban and Community Studies, September 2001); Federation of Canadian Municipalities, *A National Affordable Housing Strategy* (Ottawa, 2000) at 9-10, online at: < www.fcm.ca/english/national/strategy2-e.pdf>.

²¹ *Masse v. Ontario Ministry of Community and Social Services* (1996), 134 D.L.R. (4th) 20, at paras. 42-49 (per Corbett J.). Affidavit of Michael Ornstein (Toronto, October, 1995).

assistance will lose this critical benefit when she goes off social assistance, while a woman in subsidized housing will simply receive a similar housing allowance from a different source. Rather than considering ways in which all women in these circumstances could have access to an income supplement necessary to be able to pay for housing, policy responses to child poverty have simply ignored the issue of housing costs and shelter subsidies, and in many cases fail to provide benefits to families who lack the necessary income to pay for housing for themselves and their children.²²

It is also important not to restrict consideration of women's homelessness to issues related solely to urban rental markets. CMHC data on average rents and vacancy rates invariably suggest that affordability and vacancy problems are most severe in large cities. But in a small universe of rental units, as is common in small towns, a vacancy rate of 5% may correspond to only two available apartments, neither of which may be appropriate or affordable for low income households and may thus correspond to a serious "housing crisis" for low income women. Also, CMHC average rents in rural areas usually do not include heat and utilities. In Toronto, on the other hand, heat and utilities costs are included in rent in over 95% of units surveyed by CMHC and therefore included in CMHC's data on average rents.²³ In northern communities, where apartments are frequently heated with electricity and improperly insulated, these heating costs can be prohibitive.

Census data on "gross rent" which includes heat and utilities cost, thus show a very different picture of the reality facing rural and northern women than CMHC data. In Ontario, for example, a significantly higher proportion of lone parent households in a number of rural areas are forced to pay more than 50% of income toward "gross rent" than in Toronto.²⁴ This affordability crisis for rural and northern women is exacerbated by transportation costs, which are an integral component of housing choices made by women in rural areas. Purchasing and maintaining a car and driving long distances to doctors' offices, shopping, schools and work are unavoidable costs for those living in rural housing, and may pose a real threat to maintaining it. For Aboriginal women living in remote northern communities, costs for food and other basic necessities include large amounts for transportation, as do costs associated with access to basic medical and other

²² See Chapter 5.

²³ CMHC Rental Market Survey, Data on Inclusion of Electricity and Utilities. 2001.

²⁴ Statistics Canada 1996 Census, Cat. No. 95F210, *Private Households in Tenant Occupied Non-Farm, Non-Reserve Dwellings by Household Type, Showing Gross Rent as a Percentage of 1995 Household Income* at 9, 11. 36% of sole support parents who are tenants in Toronto pay more than 50% of income on gross rent. 10 of 29 rural and northern census divisions in Ontario show more than 36% of sole support parents paying more than 50% of income toward rent. (Muskoka Community Services, *Statistical Profile of 29 Rural and Northern Communities*, District Municipality of Muskoka, 2001, presented at the Ontario Municipal Social Services Association Conference *Building Homeness II*, Hamilton, Oct. 22-23, 2001).

services. Housing costs cannot really be isolated from other costs in assessing affordability issues in these situations.

Prevailing approaches to housing and homelessness focus almost exclusively on urban rental markets and have tended to underestimate the importance of homeownership as an option for many women. While it is true that the majority of homeowners in Canada have significantly higher incomes and more wealth than tenants, there are nevertheless many low income women for whom homeownership is the most affordable or, in many rural areas, the only viable housing option. Almost a third of single mothers in Canada are homeowners, many of them low income²⁵ As will be seen in Chapter Two, many more women would find home ownership a more affordable and economical option if barriers denying them access to lower interest credit maintained by CMHC and implemented by banks and credit unions were eliminated.

Intersecting Disadvantages and Women's Homelessness

In addition to women's poverty, there are many other intersecting disadvantages which need to be considered in an analysis of the diverse experiences and determinants of women's homelessness.

Important racial dimensions to homelessness are frequently ignored. Visible minority women are nearly twice as likely as non-visible minority women in Canada to have low incomes. Not only do racialized women face a unique affordability problem because of their incomes, they are forced to pay higher rents in a market in which they face widespread discrimination.²⁶ The disproportionate number of racialized women in shelters is a clear indicator of widespread discrimination in housing which has been the subject of concern by the U.N. Committee on Economic, Social and Cultural Rights. That Committee recommended urgent action to improve legislative protections and enforcement of human rights in housing.²⁷ Its sister Committee, the U.N. Human Rights Committee, has similarly recommended that "human rights legislation be amended so as to guarantee access to a competent tribunal and to an effective remedy in all cases of discrimination."²⁸ At the domestic level, however, while it is well known that

²⁵ Statistics Canada, *Women in Canada 2000: A Gender-based Statistical Report* (Catalogue No. 89-503-XPE) at 163 (Table 7.1).

²⁶ CERA, "Human Rights, Access and Equity: CERA's Recommendations for the Homelessness Action Task Force" in *Taking Responsibility for Homelessness: An Action Plan for Toronto. Report of the Mayor's Homelessness Action Task Force. Background Papers*. Vol. 1. (Toronto, 1998).

²⁷ United Nations Committee on Economic, Social and Cultural Rights, *Concluding Observations on Canada*, E/C.12/1/Add.31 (10 December 1998), at par. 46. See also paras. 16, 28 and 30.

²⁸ U.N. Human Rights Committee, *Concluding Observations of the Human Rights Committee (Canada)*, (07 April 1999) CCPR/C/79/Add. 105 (1999) at para.11.

discrimination is widespread in housing, these issues are rarely included in reviews of the causes of homelessness or in proposals for solutions. Human rights commissions across Canada have virtually ignored the epidemic of homelessness as a human rights issue, despite the urgings from United Nations bodies that it be addressed as such.

Aboriginal women, especially single mothers, have the highest incidence of poverty in Canada – more than twice the rate of non-Aboriginal women. Aboriginal women are thus uniquely vulnerable to all of the barriers in accessing housing that are experienced by other low-income women and single mothers and additionally confront disadvantage that is particular to their position as Aboriginal women. An Aboriginal woman once dispossessed of her band membership for marrying a non-Aboriginal, for example, will not only face widespread discrimination in the private rental market, she may also be prevented from returning to her reserve community because of discriminatory allocations of on-reserve housing and may be reluctant to seek accommodation in a non-Aboriginal run shelter for fear of experiencing further hostility and discrimination.

Young women are at great risk of homelessness. Recent shelter data show dramatic increases in young people relying on shelters, with almost a quarter of Toronto's shelter admissions now between the ages of 15 and 24.²⁹ Over two thirds of women aged 15-24 have low incomes.³⁰ Young women are virtually all disqualified by the use of minimum income criteria in rental housing and are unable to provide prospective landlords with credit, rental or a lengthy employment history.³¹ Disqualified on this basis by most private market apartments, young women also encounter barriers accessing housing subsidies through non-profit housing. Applications for subsidized housing are not accepted until young people turn 16. If the waiting list is 8 years long for a unit, 15-24 year old heads of household are extremely unlikely to be tenants in subsidized housing.³²

Older women are one of the poorest groups in Canada. In 1997 approximately 50% of unattached women 65 and older were living in low income situations.³³ Older women, as compared to older men, are less adequately housed, and less likely to be homeowners or

²⁹ *Taking Responsibility for Homelessness: An Action Plan for Toronto. Report of the Mayor's Homelessness Action Task Force*, supra note 13 at 4.

³⁰ Statistics Canada, supra note 25 at 138.

³¹ *Sinclair v. Morris A. Hunter Investments Ltd.*, supra note 15.

³² In some municipalities, a certain number of units are allocated to those who were 16 or 17 when they applied, but as will be explained below, such allocations – usually one in ten for newcomers, young people and homeless people – do not provide anything close to an equitable allocation of units to groups disadvantaged by a chronological allocation with lengthy waiting lists.

³³ Statistics Canada, supra note 25 at 139.

to have the economic resources to afford existing housing.³⁴ It was recently reported in Ottawa that elderly women are increasingly resorting to shelters.³⁵

Immigrant women also face many systemic barriers and what have been described as “unique challenges” to accessing housing.³⁶ Like young women, they lack credit and reference information and are likely to be disqualified by income and employment requirements.³⁷ They are also unable to access housing subsidies because they could not have applied for housing until they secured landed immigrant status, and are thus unlikely to be allocated a unit under prevalent chronological ranking of applications.³⁸ Immigrant women often face additional barriers related race, ethnicity and family status.³⁹

Disabled women also experience a complicated intersection of disadvantage linked with homelessness. A 1995 study by DAWN Canada showed that 62% of women with disabilities live below the poverty line.⁴⁰ Research also indicates that 60% of women with disabilities in Canada are either partially or totally dependent on the welfare system for basic daily needs. Women with disabilities have to deal with landlords who are unwilling to accommodate their needs, in both the for-profit and not-for-profit sectors.⁴¹ At the

³⁴ Older Women’s Network, *The Housing Factor Project: Housing Needs of Mid-Life and Older Women* (Toronto, 2000) at 11.

³⁵ Hafeez Janmohamed, Editorial, Centretown News Online, 23 February 2001, available on www.carleton.ca/ctown/archiv/

³⁶ *Taking Responsibility for Homelessness: An Action Plan for Toronto*, supra note 13 at 72.

³⁷ *Sinclair v. Morris A. Hunter Investments Ltd.*, supra note 15.

³⁸ A few municipalities, such as Toronto, allocate a particular number of subsidized units to newcomers, youth (16 and 17) and the homeless on the basis that these groups are disadvantaged by a chronological ranking of applicants. However, total allocations to these groups is one in ten, with very few going to newcomers. See discussion of chronological ranking of applications in Chapter Two.

³⁹ The Metropolitan Immigrant Settlement Association (MISA) located in Halifax, provided housing assistance to 182 newly arrived Government Assisted Refugees in 2001. Staff report pervasive discrimination against immigrant women by both private sector landlords and non-profit housing providers. Larger families trying to access affordable, appropriate housing face particular barriers without adequate funds from the federal government.

⁴⁰ Shirley Masuda, *Don’t Tell Me To Take A Hot Bath: Resource Manual for Crisis Workers* (Vancouver, DAWN Canada, 1995) at 101-102 as in Shirley Masuda, *The Impact of Block Funding on Women With Disabilities* (Status of Women Canada, March 1998) at 1.

⁴¹ CERA finds that in some instances, non-profit providers are less likely to agree to accommodate the needs of disabled tenants than for profit providers, on the basis that they have a limited number of “accessible” units set aside for tenants with disabilities and believe that this satisfies all of their responsibilities in terms of accommodation of disabilities.

same time, government cuts to social programs such as home care have a direct impact on access to adequate housing, forcing disabled women out of their homes and into institutional care. For disabled women in rural areas, institutional care is often located long distances from their families and friends.⁴²

All of these groups of women share common characteristics of marginalization from policy making and from political power. Their housing crises are experienced in isolation from one another, in the context of a society in which women are made to feel ashamed if they cannot pay their rent or properly provide for their children. The challenge of understanding and properly conceptualizing women's homelessness is to counteract the marginalization of these women's experiences, not only within government policy making and program administration, but also within advocacy movements addressing poverty, homelessness or human rights.

⁴² Shirley Masuda, *The Impact of Block Funding*, supra note 40 at 18.

CHAPTER 2: FEDERAL HOUSING PROGRAMS

For the purposes of our study, direct federal involvement in housing programs other than on-reserve First Nations housing can be divided into three main categories.

The first is federal programs designed to provide or encourage the creation of affordable rental housing. This encompasses both federally operated social housing programs and programs funded through cost-sharing agreements with provinces, the provision of rent supplements to tenants in private rental units and direct funding for the development of new rental housing units.

The second major category of federal activity is in the area of homeownership. Canada Mortgage and Housing Corporation (CMHC) plays an important role in providing mortgage insurance and regulating access to mortgages for homeownership and also in providing financial assistance to lower income homeowners for repairs and upkeep of existing homes.

A third category of activity is in the area of “homeless initiatives”, providing funding for emergency shelters and facilitating research and community action to address homelessness.

What follows is a review of these categories of federal housing programs from the standpoint of women’s homelessness.

A. Rental Housing

The most direct role of the federal government with respect to housing and homelessness, and the one which has been the focus of most advocacy and commentary, is in the area of provision of assisted rental housing. Since the majority of low income women are tenants, it is clear that the issue of access to affordable rental housing is central to understanding and addressing women’s homelessness.

From the 1950's, when it initiated the Regent Park development in Toronto, the federal government has played a leading role in funding and developing assisted rental housing. The significant expansion under the 1954 *National Housing Act* of the mandate of Canada Mortgage and Housing Corporation, formed originally as the Central Mortgage and Housing Corporation in 1946 to address the needs of returning war veterans, established the basis for an active and important federal role in the direct funding and administration of affordable rental housing.⁴³

⁴³ Canada Mortgage and Housing Corporation, *About CMHC*, online at <www.cmhc-schl.gc.ca>

By the 1970's the federal government was a key player in the Canadian housing system through major public housing initiatives and by 1993 was subsidizing 645,000 rental units across Canada in a wide variety of public housing, non-profit, co-operative and rent supplement units.⁴⁴

There are two primary aspects of federal involvement in assisted rental housing which need to be considered in assessing the impact of federal policies in this area on women's homelessness.

The first is the recent trend toward the withdrawal of funding and the reduction of allocations toward assisted rental housing. The most dramatic turning point was the announcement in 1993 that federal funding of social housing would be frozen and that except for on-reserve Aboriginal housing, there would be no new social housing units funded. But the reductions in federal allocations toward assisted housing actually began earlier, in the mid 1980's, with cuts in allocations to assisted rental housing. The period between 1990 to 1993 saw the most dramatic reductions in federal allocations to assisted housing, commencing with a 15% reduction in the 1990 budget.⁴⁵

The second, more neglected issue of importance to women is the design and structure of continued federal spending on assisted rental housing. While there has naturally been considerable focus on the withdrawal of funding, the federal government continues to spend about \$2 billion a year to provide subsidy to over half a million households and has recently implemented dramatic changes in the administration and funding of assisted rental housing. A review of the impact of federal policies and programs on women's homelessness needs to consider not only whether the allocation of funds is adequate, and assess the impacts of reductions, but also whether current allocations are properly targeted and whether women most at risk of homelessness have equitable access to them.

⁴⁴Jeanne Wolfe, "Canadian Housing Policy in the 90's" (1998) 13:1 in *Housing Studies* at 121-133.

⁴⁵Tom Carter, "Current Practices for Procuring Affordable Rental Housing: The Canadian Context," in *Housing Policy Debate* 8(3) (1997) p. 64.

i) The Withdrawal from Direct Federal Involvement in Developing and Administering Social Housing

The withdrawal of federal funding for new social housing, culminating in the 1993 freeze in federal contributions to social housing and the cancellation funding for any new social housing (except for on-reserve Aboriginal housing), is arguably the most significant development in federal housing policy in a generation. Prof. David Hulchanski has estimated that the effects of this federal withdrawal of funding, reducing expenditure on assisted rental housing from over 4% of GDP in the mid 1980's to under 3% in the late 1990's, amounts to the cumulative loss of about 325,000 assisted units. The loss of these units has implications not only for the availability of rental housing, but also for funding commitments to subsidies for lower income renters. Had expenditure on new social housing supply not been reduced and then terminated, the federal government would be providing an additional 1 billion dollars in subsidy to an additional 325,000 households.

It is important to recognize, in addition, that the federal cut-backs were followed by provincial cut-backs which were even more dramatic. In 1985, provinces spent over \$1 billion in social housing programs, usually in matching funds in federal/provincial programs. By 1997, after the freeze on new federal programs, provincial spending had been cut back by over 90% to just over \$100 million annually.⁴⁶ Thus, in general terms, cut-backs in allocations to social housing in the last decade have meant a reduction of almost \$2 billion a year in government spending on assisted rental housing.

Like changes in federal income support programs, which will be considered in Chapter Four, the federal withdrawal from funding of social housing in the mid-1990's involved not only reductions in allocations, but also involved major structural changes to the federal government's role in housing programs. As in the income support area, the structural changes put into effect along with the reduced spending have seriously undermined the ability of the federal government to protect fundamental rights of disadvantaged Canadians, particularly women, in the area of housing.

ii) The Disproportionate Effect on Women of Reduced Allocations of Funding for Assisted Rental Housing

Historically, it has been the federal government that has taken the lead in developing and financing social housing, with provinces developing parallel or jointly funded programs during the 1970's and early 80's. In recent years, the federal government has "led" in the opposite direction, initiating a general government retreat from affordable rental housing programs.

⁴⁶Canada Mortgage and Housing Corporation, *Canadian Housing Statistics: 1997* (Ottawa: CMHC, 1997), Table 65.

The effects of government withdrawals from funding affordable rental housing are likely to be felt most dramatically by women. A loss of \$2 billion annually in subsidies directed to lower income renting households is bound to have a disproportionate effect on women. Women-led households are more likely to be renters than men and women are more likely to be paying high percentages of their income toward rent. They are more likely than men to meet income qualifications for assisted housing and therefore more adversely affected by cuts to assisted housing. In 1997, 71% of single mothers in Canada were renters compared to 48% of single fathers and 22% of two spouse families with children. 60% of sole support mothers who rented paid more than 30% of income toward rent compared to 40% of sole support fathers and 29% two spouse families.⁴⁷ 39% of households in core need⁴⁸ in Canada are lone parents.⁴⁹ While disparities between men and women are less dramatic among unattached individuals, it is certainly the case that unattached women are predominantly renters, have serious affordability problems and would therefore qualify for subsidized housing if it were available. 66% of unattached women under 65 were renters and 52% paid more than 30% of income toward rent. 51% of women over 65 years of age are renters and 62% of these renters spend more than 60% of income toward rent.⁵⁰

These statistics make it very clear that because women, both with and without children, are most likely to qualify for subsidized housing, they will be disproportionately affected by failures of governments to ensure the provision of affordable housing for those in need and disproportionately affected by reductions in the provision of housing subsidy to low income households.

A loss of 325,000 social housing units has not only meant the loss of an additional \$1 billion that would have been committed in subsidy for the households occupying those units, it has also forced low income women to rely more extensively on existing and new private market rental units. The impact of reductions in social housing units must therefore be assessed in the context of changes in private market rental allocation. New private market rental supply has been largely limited to rented units in condominium developments in recent years. These developments have usually targeted two spouse,

⁴⁷Statistics Canada, *Women in Canada 2000: A Gender-based Statistical Report* (Catalogue No. 89-503-XPE) at 161, 163.

⁴⁸CMHC defines core housing need as follows: "A household is said to be in core housing need if its housing falls below at least one of the adequacy (does not require major repairs), suitability (has enough bedrooms), or affordability (shelter costs are less than 30% of before-tax household income) standards AND it would have to pay more than 30% of its income to pay the average rent of alternative local market housing that meets all three standards (CMHC, *Special Studies on 1996 Census Data: Housing Conditions of Native Households*).

⁴⁹Canadian Council on Social Development, *Housing Canada's Children* at 18-19.

⁵⁰Statistics Canada, "Women in Canada" *supra* note 47 at 161, 163. With respect to unattached individuals, disparities between men and women are not dramatic, but are statistically significant.

middle age households and often explicitly discriminate against women with children in “adult lifestyle” communities.⁵¹

In addition, new marketing and management strategies in multi-residential private apartments in Canada have changed dramatically. During the times of low vacancy rates in the 1980’s, and with the growth in the number of low income tenants and tenants relying on social assistance in the early 1990’s, many private market landlords have tried to engage the more “upscale” rental market to avoid renting to low income families, particularly single mothers. Women with children have thus faced increasingly widespread discrimination in the private market, particularly on the basis of income level and family/marital status.

A study of single mothers who moved into private market apartments in Toronto in 1995 found that when low income single parents in Toronto rented apartments in 1995 (ie. moved within the year prior to the census) more than half had to pay rent that corresponds to the most expensive third of the market.⁵² Discriminatory barriers in the private market are particularly felt by young women, racialized women and single mothers. As was found by a human rights board of inquiry in Ontario:

The kind of segregation that results from income based discrimination leads to differentiation in the rental markets into locations of prime rental housing that is occupied primarily by moderate income white residents and poor housing that is occupied by low-income and mostly black residents. Very often these two ‘locations’ are different not so much in terms of the actual rent levels but rather in the quality of housing. ... In effect, low income black residents end up paying comparably higher rents for poor quality housing and then pay a serious social price for the negative images created by the locations in which they are forced to live.⁵³

Thus, it is clear that the reduction in federal allocations to subsidized rental housing of about a billion dollars annually has not only deprived many low income women of access to critical rental assistance, but has additionally made women more vulnerable to discriminatory marketing and allocation of private market rental housing.⁵⁴

⁵¹Canada Mortgage and Housing Corporation, *supra* note 46 at 9.

⁵²“Human Rights, Access and Equity: CERA’s Recommendations for the Homelessness Action Task Force” in *Taking Responsibility for Homelessness: An Action Plan for Toronto. Report of the Mayor’s Homelessness Action Task Force. Background Papers. Vol. 1.* (Toronto, 1998).

⁵³ *Sinclair v. Morris A. Hunter Investments Ltd.*, [2001] O.H.R.B.I.D. No. 24.

⁵⁴*Ibid.*

ii) The Allocation of Subsidized Housing and the Effect of Restructured Program Delivery

In addition to cutting allocations to assisted housing, the federal government has also initiated a radical restructuring of social housing program delivery which has important implications for the allocation and administration of housing subsidies.

The new model for federal involvement in housing programs can best be understood by distinguishing three elements in the provision of affordable rental housing:

- 1) The “bricks and mortar” development of rental housing units;
- 2) The administration and management of non-profit housing; and
- 3) The provision of housing subsidy or shelter allowance to low income households.

Recent federal housing policy changes have been oriented toward separating out these three aspects of government involvement and redefining federal involvement in each.

New Supply Initiatives

With respect to funding of new housing supply, budget allocations introduced on December 10, 2001, for financial assistance toward affordable rental housing supply, represented the first such expenditure since the 1993 elimination of funding for new social housing. Prior to the budget announcement, agreements were reached with the provinces for a framework for the new supply initiative, under which the federal government will provide an average of \$25,000 per new unit of rental housing, subject to an equal contribution from the province.

It is clear from the new framework agreement with the provinces that the federal government is no longer interested in tying money for housing development to long term commitments to fund and oversee social housing programs or the provision of housing subsidy. The federal government has agreed to spend \$680 million over five years to build 80,000 new units of rental housing. There is no allocation of federal funds for housing subsidy. Indeed, noticeably absent from the agreements being negotiated with the provinces are the types of preconditions that existed in earlier programs, ensuring that a minimum proportion of units will be allocated to core need households and that a certain amount of subsidy would be provided to needy households. In other words, funding for supply has been divested from commitment to provide rent subsidies. Affordability, has come to mean only that funded units should be “modest in size and amenities.”⁵⁵

Women with children are concerned that the unit size of new rental supply will in fact be too small in terms of the number of bedrooms. Within both the private and social housing sectors, there is an acute shortage of two and three bedroom units for women with

⁵⁵ Ontario Non-Profit Housing Association, *News from the New Affordable Housing Front*, online at: <www.onpha.on.ca>

children. Since the proposed federal grant is based on a flat amount per unit, independent of unit size, developers will likely be inclined to build small units rather than the two, three and four bedroom units that women with children so desperately need.

It is also of concern to women that the new supply initiatives in the private market are not linked to any initiatives addressing widespread discrimination that prevents women from accessing the more affordable units. Important regulatory legislation such as rent control and rental housing stock protection is being rolled back in many provinces, so there is little assurance that new rental supply will remain affordable or will even remain as rental accommodation.

Restructured and Devolved Administration

Since 1993, the federal government has also been actively devolving the administration of social housing to provinces which, in turn, have been downloading to municipalities. The sole exception to this devolution is unilaterally federal funded co-operatives, for which the federal government has agreed to maintain responsibility, and which are responsible for their own administration pursuant to operating agreements with CMHC.

Under “Social Housing Agreements” with the provinces, the federal government hands over the administration and financial responsibility of federally funded social housing to the provinces. The federal government has agreed to continue to provide the existing level of funding for administration, as long as provinces agree to assume all of CMHC’s financial obligations, to abide by existing operating agreements and to redirect any savings into “low income” housing.

While in theory the Social Housing Agreements and the continued application of existing operating agreements could have been used to ensure that housing is administered appropriately and allocated fairly to those in need, in fact, the Social Housing Agreements do little to ensure appropriate allocation and at any rate, in practice, there is little that CMHC can do to monitor and enforce compliance with the terms of the Social Housing Agreement or with existing operating agreements.

Under the Social Housing Agreements with the provinces, CMHC requires that the proportion of units which were allocated as subsidized units under existing operating agreements will continue to be targeted to households below Housing Income Limits established by CMHC. A significant concern from the standpoint of women’s homelessness, however, is that this so-called “targeting” does not actually identify those most in need or at highest risk of homelessness. Housing Income Limits for targeted units are determined under the agreements on the basis of CMHC’s survey of “median market rent”. Any household which would be required to pay more than 30% of income to cover the median rent is considered a “targeted household.”

The “Housing Income Limits” do not effectively target those who are most in need. In Toronto, where median rents of two bedroom apartments are now in excess of \$1,000/month, a two person household with an income of \$41,000 would qualify as a

“targeted” household. The average single mother in Toronto has an income of about half of this amount, and a single mother on social assistance receives an income of less than one quarter of this amount. With lengthy waiting lists for subsidy effectively excluding young women with children, newcomers and other women at high risk of homelessness, the impact of high income limits for subsidy is simply to lengthen waiting lists and to deny access to subsidy for women at greatest risk of homelessness.

There is some justification, in our view, for the federal government divesting responsibility for the administration of housing programs to other actors and to focus on continuing its most critical role of providing subsidies to households in need. Yet there seems to have been little attempt in the restructuring of federal assisted housing programs to ensure that these housing subsidies would benefit those most in need. While \$2 billion a year allocated to 640,000 households for housing subsidy is arguably insufficient, it is still a significant expenditure. There is virtually no monitoring of who gets the benefit of these subsidies nor any consideration of how different allocation systems may affect women and other groups at risk of homelessness. As in the structural changes to federal transfer payments for social assistance, the move is in the direction of transferring funding with “fewer strings attached.” Unfortunately, some of the strings that have been removed were designed to ensure that those most in need, who are disproportionately women, get the benefit of federal expenditure.

Inequities and Exclusions in the Allocation of Federal Housing Subsidies

With new federal expenditure on supply now separated from federal commitments of rent subsidies, the federal government’s \$2 billion expenditure on housing subsidies is really more akin to a shelter allowance. The difference between this program and shelter allowance programs in most other developed countries, is that in Canada the subsidy is limited to a designated number of social housing or private market (rent supplement) units. Rather than targeting the subsidy to the most needy households, CMHC leaves it up to either individual housing providers or municipal, or provincial authorities to decide how determine which households, out of a vast number of tenant households falling below the relatively high income limits, will receive this critical assistance.

Under this “unit” based shelter subsidy system, many women who most need a housing subsidy will not receive it simply because they do not have access to a subsidized unit. In some cases, tenant selection may be based on discriminatory considerations. CERA and other organizations assisting women access housing across Canada receive frequent reports of discrimination in the allocation of social housing units. There are usually no internal monitoring or complaints procedures for human rights violations within social housing and no such mechanisms are required under the Social Housing Agreement.

Women with disabilities face particular hurdles, as social housing providers often take the position that since they have allocated particular units as accessible, they are absolved of the responsibilities applied to private landlords to take action to accommodate disabilities on a more individualized basis. There has been no leadership from the federal government to encourage those who are allocating federal housing subsidies to address

important issues of access and discrimination in tenant selection practices within the social housing sector.

Of even greater concern than individualized discriminatory practices, however, are systemic issues related to the allocation of subsidized units. In recent years, housing authorities in a number of provinces and municipalities have changed from a needs-based allocation to a chronological waiting list system.⁵⁶ In Ontario, new legislation actually requires that subsidized housing be allocated on the basis of chronological priority.⁵⁷ The effect of the change to a chronological allocation system, without any attempt to more accurately target lower income applicants, has been catastrophic for many of the most disadvantaged women.

Waiting lists for one, two and three bedroom units required by women with children are extremely long, ranging from several months to 20 years depending on unit size and location. This means that young women with children and newly arrived immigrant women - those at greatest risk of homelessness - have virtually no access to federally funded rent subsidies. By the time they qualify under a chronological system, they will have already survived the years in which they are at greatest risk of homelessness. In the rental market as a whole, approximately one in ten affordable two bedroom apartments are occupied by households in which the oldest parent is under 24 – predominantly young single mothers.⁵⁸ Yet social housing providers with a waiting list in excess of eight years for two bedroom units will rent no subsidized apartments to members of this group. Similarly, in Toronto, newcomers (immigrating within the previous year) rent one in five of apartments which turn over in the rental market as a whole, but rarely, if ever, get access to subsidized housing through the waiting list system.⁵⁹

Large families are particularly disadvantaged in trying to access subsidized units. Restrictions on family size in relation to the number of bedrooms are applied in subsidized units to disqualify larger families, even though such restrictions have been held to be discriminatory when applied by private landlords.⁶⁰ Women with larger families are required to apply only for larger units that are difficult to obtain and may be disqualified

⁵⁶ Ontario and Nova Scotia have changed to a chronological allocation of subsidized units even in public housing, while Quebec and British Columbia continue to rely on a needs based allocation of public housing. Most municipal non-profits and non-profit co-operatives use a chronological allocation system.

⁵⁷ Ont. Regulation 2001.0109.e. 17-JG/MS to the Social Housing Reform Act (2,000), ss. 35-45

⁵⁸ Michael Ornstein, *Income and Rent: Equality Seeking Groups and Access to Rental Accommodation Restricted by Income Criteria*, Toronto: 1994, Table 26. Similar results were found from a special run of 1995 census data, public use microdata file for individuals.

⁵⁹ Centre for Equality Rights in Accommodation, *Rent Insurance in Toronto: A Feasibility Study on Rent Insurance in Toronto's Rental Housing Market* (December, 2001) at p. 31.

⁶⁰ *Fakhoury v. Las Brisas*, (1987) 8 C.H.R.R. D/4028 at D/4035-36.

altogether from eligibility for subsidy by their family size if there are no subsidized units large enough. Clearly many women most vulnerable to homelessness are being deprived even of a “fair share” of subsidized units.

In the context of its historical evolution, as a way to ensure that federally assisted housing provided rental housing at affordable rents, the linking of federal housing subsidy to social housing programs makes sense. Extending subsidies to rent supplement units in the private market in order to increase the number of subsidized households also makes a certain amount of sense. Yet in light of the systemic impact of relying on unit allocation to provide rent subsidy, we believe it is time to consider a more broadly based portable shelter allowance tied to household need rather than to designated units.

It does not make sense, in our view, to place the administration of what amounts to a critical form of supplementary income for low income households, a benefit which for many women may mean the difference between homelessness and housing, in the hands of a variety of housing providers, to be allocated on the basis of a range of tenant selection practices. It is particularly discriminatory to restrict this benefit to those who make it to the top of lengthy waiting lists.

Allocating subsidy on the basis of waiting lists rather than providing it based on need means that many women who are in need of short term financial help to avoid homelessness receive no benefit from the assisted housing program when they are at greatest risk of homelessness.

Shelter allowances have been a fundamental component of the recommendations of virtually all recent reports on homelessness in Canada.⁶¹ Yet for some reason, they have not received the same attention as supply oriented solutions within the advocacy community, and even remain controversial in some quarters. However, national shelter allowance programs are an essential component of the housing strategies of most other developed countries. In our view, it is time to give this option renewed consideration and serious support.

Recommendations

1) We recommend that a portable shelter subsidy be allocated as a direct cash transfer or tax credit based on established eligibility criteria to all qualified households. This would remove the administration and allocation of subsidy from the housing provider and eliminate the discriminatory consequences of lengthy waiting lists and other restrictions in social housing. Eligibility for subsidy would be determined by need rather than by whether women get access to social housing units.

⁶¹ See, for example, *Taking Responsibility for Homelessness*, supra note 52; Federation of Canadian Municipalities, *A National Affordable Housing Strategy* (Ottawa, 2000), online at: < www.fcm.ca/english/national/strategy2-e.pdf>.

2) We recommend that the federal government and the provinces develop methods of collecting complete information about the demographic and income characteristics of households securing access to assisted housing and that allocation of assisted housing be revised in order to ensure equitable representation of young women, larger families, newcomers and other groups at risk of homelessness.

3) Funding for new rental housing supply should be made conditional on non-discriminatory rental practices and on ensuring that the stock will remain affordable rental in the future.

B. HOME OWNERSHIP

1. Mortgage Financing

In defending its record on addressing housing and homelessness at the United Nations Committee on Economic, Social and Cultural Rights, Canada pointed out that the *National Housing Act (NHA)* mortgage loan insurance enables persons to purchase homes with low down payments and at favourable mortgage interest rates. The government pointed out that an increasing number of Canadians (64%) have access to home ownership.⁶²

What was not pointed out was that women have largely been denied the benefit of any of these initiatives. In 1976 41% of single parents owned their own homes. By 1997 this had decreased to only 30%. Home ownership has become less accessible for sole support parents during years in which more and more households were becoming owners. While 4 out of 5 two parent families with children own homes, less than one in three single mothers does.⁶³ The disparity cannot simply be explained by the fact that single mothers “cannot afford” home ownership. They are prevented from purchasing homes, even where ownership would be more affordable than renting an apartment.

Over 60% of single mothers renting apartments pay more than 30% of income toward their rent. On the other hand, only 30% of single mother homeowners pay more than 30% of income toward shelter costs.⁶⁴ The affordability problems of single mother renters are significantly more severe than those of single mother homeowners. If women were free to make their own choices, we would expect to see the opposite. Women with children would often choose to spend a higher portion of their income in order to gain the advantages of homeownership, knowing that their sacrifice was at the same time an investment.

⁶²Government of Canada, *Responses to the Supplementary Questions to Canada's Third Report on the International Covenant on Economic, Social and Cultural Rights*, HR/CESCR/NONE/98/8 (October, 1998) question 43.

⁶³ Statistics Canada, *supra* note 5 at 159.

⁶⁴*Ibid.*

With decreasing interest rates and increasing rents, homeownership could be a more affordable and desirable housing option for an increasing number of low income households, particularly single mothers. A single mother in Halifax, for example, could purchase a semi-detached two or three bedroom semi-detached house in Dartmouth for approximately \$60,000 or a detached house for about \$80,000.⁶⁵ If she purchased an \$80,000 house, with 5% down payment she would require a mortgage of \$76,000. At an interest rate of 7.25%, this would cost about \$590 per month (amortized over 25 years and locked in for 5 years). It is difficult, if not impossible, to find a two bedroom apartment for less than \$600 in Halifax.

However, CMHC will not provide mortgage insurance unless the purchaser has an income, in this example, of \$21,240.⁶⁶ Such a requirement disqualifies the majority of single mothers renting apartments, even though they may have been paying more than \$600/month in rent without defaulting.

In more rural environments, of course, there is often no choice but to own one's own home. Denying women access to mortgages in these circumstances forces them to choose between homelessness and leaving their communities for a city or town in which there is rental stock.

Until recently, CMHC was the only source of mortgage insurance. There is now a single competitor, GE Capital, which is permitted to compete with CMHC on very restrictive terms. Ironically, it is GE Capital, not CMHC, which is interested in offering mortgage insurance to more marginal borrowers, but finds itself restricted by federal regulators to offering the same services as CMHC. GE Capital would not, currently, be permitted to offer mortgage insurance to single mothers on the basis of rent payment history because this is not a product which CMHC offers.⁶⁷

The 32% gross debt service costs to income cut-off is based largely on stereotype and prejudice. The statistical correlation between lower income and mortgage default is surprisingly weak - in some studies not even statistically significant – and certainly it has not been tested for single mothers, who are a distinct group with a high motivation to make mortgage payments even when paying high proportions of their income.⁶⁸ CMHC

⁶⁵ Interview with Halifax Royal LePage agent, February 11, 2002.

⁶⁶ CMHC requires a 32% gross debt service costs to income ratio, covering mortgage interest and principal payments, heat and property taxes, and a 40% total debt service to income ratio. Canada Mortgage and Housing Corporation, *The Time is Now: Homeowner Mortgage Loan Insurance*. Product No. NHA 2282 06/99.

⁶⁷ Interview with President of GE Capital, August 17, 2001.

⁶⁸R. Querica and M. Stefman, "Residential Mortgage Default: A Review of the Literature", in *Journal of Housing Research*, Vol. 3, Issue 2, 1993, 345-79 at 350.

has sole access to data on mortgage defaults and in the past has refused to release information that may be used by “competitors”. Ironically, CMHC, a government agency, is lagging behind private lenders in the United States in this regard, where disclosure rules and access requirements have allowed for major advances in access to home ownership.⁶⁹

While ownership may not be a viable option for many low income women, single mothers in particular would gain significantly from increased access to mortgages and home ownership. Benefits include building up equity and credit, not having to be concerned about children’s noise disturbing other tenants, having an outside play area where one can supervise children, having access to better serviced communities, etc.

Recent data from the Statistics Canada’s survey of financial security shows an increasing gap in income and wealth between owners and renters in Canada. Homeowners’ wealth increased from 29 times that of renters in 1984 to 70 times that of renters in 1999. While home owners income increased by \$2,100 (5%), renters’ incomes decreased by \$600 (–3%).⁷⁰ Despite their greater need, however, renters tend to derive fewer benefits from federal government expenditure than do home owners. Tax expenditures such as the income tax exemption for Registered Retirement Savings applied to first time home purchase, the capital gains exemption for primary residences (approximately \$1.5 billion) and the GST rebate on new housing (\$595 million) add up to more than the federal government spends on subsidies for renters.⁷¹ Indeed, a recent Cambridge University study of Canadian housing policy concluded that “the actual expenditure costs of private renting is more expensive than owner-occupation so that there is quite a significant advantage to owner-occupation.”⁷²

Homeowners also have increased access to the informal economy (heating with wood, repairing things yourself, etc.). Support programs for women homeowners could assist

⁶⁹ Richard Williams, and Eileen McConnell, "The Effect of GSEs, CRA, and Institutional Characteristics on Home Mortgage Lending to Underserved Markets," Kirk McClure. "The Twin Mandates Given to the GSEs: Which Works Best, Helping Low-Income Homebuyers or Helping Underserved Areas in the Kansas City Metropolitan Area?" and James Pearce. "Fannie Mae and Freddie Mac Mortgage Purchases in Low-Income and High-Minority Neighborhoods: 1994-96," in *Cityscape: Fannie Mae and Freddie Mac in the Housing Finance System: I*, Volume 5, <http://www.huduser.org/periodicals/cityscape/vol5num3/current.html>.

⁷⁰David Hulchanski, *A Tale of Two Canadas: Homeowners Getting Richer, Renters Getting Poorer. Income and Wealth Trends in Toronto, Montreal and Vancouver, 1984 and 1999* (Toronto: Centre for Urban and Community Studies, September 2001).

⁷¹ *Supplementary Report of Canada in Response to Questions Posed by the United Nations Human Rights Committee*, CCPR/C/1/Add.62 (March, 1983) Question 44.

⁷² A.J.M. Freeman, A.E. Holmans et C.M.E. Whitehead, *Is the UK Different? International Comparisons of Tenure Patterns*, Council of Mortgage Lenders, London, 1996, at 78-79.

women to take advantage of these, as well as of CMHC's various renovation and repair programs.

CMHC targets its homeowner assistance programs such as the Residential Rehabilitation Assistance Program (RRAP), the Emergency Repair Program (ERP), and the Home Adaptation for Seniors' Independence (HASI) to low income households. Reviews of the recipients of benefits of these programs show that single mother homeowners are somewhat more likely to need repairs than couples and therefore, presumably, to benefit from the program. In rural areas, this type of assistance may actually be more important to low income households than assisted rental programs. The western side of Newfoundland is one such area. The Stephenville Regional Office reports that at the present time there are 846 households who are on the waiting list for funds from the Home Repair Program (HRP) and an Urgent Response Program (URP). It is anticipated that 280 households will receive assistance through this Program during the current fiscal year. There are only 68 households who are on the waiting list for one of the 370 social housing units.⁷³

However, because women are dramatically under-represented among homeowners in general, the vast majority of single mothers will not benefit from these programs because they are unable to access credit for home ownership in the first place.⁷⁴

Recommendations

- 1) CMHC's restrictions on mortgage insurance should be removed and regulation of banks should ensure that women and low income households are provided with alternative ways of demonstrating credit worthiness.
- 2) Banks should be required to provide detailed information about the income and household characteristics of those provided with mortgages, and be required to develop special programs to provide mortgages to low income households
- 3) Programs should be initiated to provide protection to low income home buyers from interest rate fluctuations.
- 4) While programs designed to assist homeowners with repairs would be valuable programs for low income women homeowners, these programs need to be linked with major initiatives to provide access to home ownership for single mothers and low income women.

⁷³ Telephone interview with Stephenville Regional Office, Newfoundland and Labrador Housing Corporation, January 21, 2002.

⁷⁴ Statistics Canada, Income Division, 1997.

- 5) Tax expenditures such as the capital gains tax exemption for primary residence available to home owners should be matched by a shelter allowance for low income renters so that federal program and tax expenditures are fairer to women.

C. HOMELESSNESS SECRETARIAT

In December 1999 the federal government launched its Homelessness Initiative committing \$753 million to address homelessness across Canada over three years. Approximately 7% of this money (or \$59 million) has been earmarked for homelessness related projects under the Urban Aboriginal Strategy. Close to 36% of the money has been earmarked for the CMHC Residential Rehabilitation Assistance Program (RRAP) and about 5% of the budget has been earmarked for the Shelter Enhancement Program – to enhance and create shelter and second stage housing for victims of family violence. The bulk of the budget, just over 40% or \$305 million, is targeted for the Supporting Communities Partnership Initiative (SCPI).

80% of SCPI funds have been earmarked for 10 Canadian cities “with a documented significant absolute homeless problem”.⁷⁵ The remaining 20% is directed toward approximately 50 smaller communities that can also demonstrate a homelessness problem. The federal government provides 50% of the funds for each city or local project and the other 50% can be cash or in-kind contributions from a provincial or municipal government, private or voluntary sector or other source available to the community.

The Homelessness Initiative as a whole has been predominantly focused on “absolute” or street homelessness and on short-term solutions aimed at enhanced services and increased emergency housing supply.⁷⁶ While this focus is important in addressing the emergency housing needs of women, we believe there must be an equal emphasis on addressing the systemic causes of homelessness.

Some of the SCPI projects do include initiatives that attempt to address systemic issues related to homelessness, but it is unclear the extent to which women’s issues will be addressed. The Secretariat has included in its research agenda an examination of the structural/systemic issues in Canada that contribute to homelessness but has not identified women as a group requiring particular attention within this (or other) research areas. The Secretariat’s budget has been almost fully allocated and no monies have been earmarked for a consideration of or action on women’s homelessness. As these projects are just underway in many cases, it is too early to determine their efficacy in assisting low income women in meeting their housing needs.

⁷⁵ Homelessness Secretariat, online at: < www.hrdc-drhc.gc.ca/nsh-snsa/homepage_e.html>. The cities are: Vancouver, Calgary, Edmonton, Winnipeg, Hamilton, Toronto, Ottawa, Montreal, Quebec City and Halifax.

⁷⁶ See for example, the images on the Homelessness website; the federal governments’ stated objectives for SCPI; and the budget allocations.

Recommendations

- 1) The Homelessness Secretariat should consider setting as a priority the funding of community based initiatives that address the systemic causes and diversity of women's experiences of homelessness.

- 2) The Homelessness Secretariat could facilitate the establishment of a vehicle, such as a national network, to facilitate communication and collaboration between women's groups across Canada on issues related to women's housing and homelessness. A national network would assist in linking local community activism to systemic issues that are often national or international in scope. It might also assist in ensuring issues related to women's housing and homelessness are securely placed on political, economic and social policy agendas.

CHAPTER 3: ABORIGINAL WOMEN AND HOUSING

Aboriginal Peoples

There are three constitutionally recognized Aboriginal peoples in Canada: First Nations, Métis and Inuit. Since the middle of the 1800's, Canadian law has defined who is entitled to be registered as an Indian under the *Indian Act* and who is thus entitled to the benefits of the *Indian Act* such as on-reserve schooling, financial assistance with higher education, health services and housing. The federal Department of Indian Affairs and Northern Development (hereinafter DIAND) maintains the Indian Register, the official list of "status Indians". Despite constitutional recognition of Métis, Inuit and First Nations Aboriginal peoples, only First Nation Aboriginals are recognized by the federal government as "status Indians". The designation of "status" under the *Indian Act* is double-edged. The *Indian Act* is experienced and perceived by many Aboriginals as racist and disenfranchising. At the same time, those considered "status Indians" by the federal government are entitled to the benefits of the *Indian Act* which has included on-reserve housing programs and other economic and social benefits, albeit inadequate.

Though not subject to the racist and disenfranchising impacts of the *Indian Act*, Inuit and Métis women, men and children do not benefit from some of the entitlements that may be legally entrenched in the *Act* or other federal fiduciary obligations. For example, unlike other Aboriginal groups who have specific agreements stipulated by *The Indian Act*, Inuit [and Métis] do not live on reserves and have to compete with other non-aboriginal Canadians for scarce social housing.⁷⁷

Overview of Aboriginal Housing and Living Conditions

- Access to affordable and adequate housing is one of the most pressing issues facing Aboriginal women across Canada; there is insufficient supply to meet the need and existing housing stock is inadequate, overcrowded, unsanitary and unhealthy.⁷⁸
- In 1996 close to three percent of all Canadian households (280,000) were Aboriginal⁷⁹ and yet Aboriginal households comprised 9% of all Canadian households in core housing need.
- Aboriginal people predominantly live in rental housing.

⁷⁷ Pauktuutit – Inuit Women's Association of Canada, *Inuit Women: The Housing Crisis and Violence* (1986), at 9.

⁷⁸ Government of Canada, *Report to the United Nations Conference on Human Settlements* (Habitat II), June 1996.

⁷⁹ Canada Mortgage and Housing Corporation, *Special Studies on 1996 Census Data: Housing Conditions of Native Households*, Socio-economic Series Issue 55-6 (January 2001).

- 21% of Aboriginal households live on reserve. In 1996, 28% of First Nation Aboriginal women lived on reserves. The vast majority of Aboriginal women - 72% - lived in non-reserve communities, most in urban areas: 68% of Métis women, 46% of First Nation women and 30% of Inuit women were living in cities and towns.⁸⁰
- 18% of Aboriginal women are single mothers⁸¹, representing 27% of Aboriginal families.⁸² Of these families, 72% reside in cities and are in core housing need.⁸³
- Aboriginal women's poverty is acute. In 1996, 43% of Aboriginal women aged 15 and over had incomes below Low Income Cutoffs⁸⁴, compared with 35% of Aboriginal men and 20% of non-Aboriginal women. The low-income situation of Aboriginal lone mothers is particularly grave. Among this group 73% lived below the Low Income Cutoffs in 1996. This is substantially worse than the 45% figure for families headed by non-Aboriginal female lone parents.⁸⁵

⁸⁰ Statistics Canada, *Women in Canada 2000*, CS89-503-XPE, at 248-249

⁸¹ *Ibid.*, at 253.

⁸² Ontario Federation of Indian Friendship Centres, *Aboriginal Child Poverty* (Toronto, 2000) at 20.

⁸³ *Core Housing Need Among Off-Reserve Aboriginal Lone Parents in Canada* at iii

⁸⁴ According to Statistics Canada families or individuals are classified as "low income" if they spend, on average, at least 20 percentage points more of their pre-tax income than the Canadian average on food, shelter, and clothing. Using 1992 as the base year, families and individuals with incomes below the Low Income Cut Offs usually spend more than 54.7% of their income on these items and are considered to be in straitened circumstances.

⁸⁵ Statistics Canada, *supra* note 80, at 259.

Inuit Women and Housing

There are approximately 50,000 Inuit living in 53 communities across the Arctic regions of Newfoundland and Labrador, Quebec, Northwest Territories and Nunavut. These communities are small, isolated and have chronic high unemployment rates.⁸⁶ According to the 1996 census, approximately 5% of Aboriginal women are Inuit.⁸⁷

Inuit are currently facing the worst housing crisis in Canada. While the crisis can be traced back over 40 years, when the federal government began moving Inuit into permanent communities to increase access to government services including housing, the situation has become critical, as the Inuit population is rapidly increasing and housing stocks are eroding. Inuit are living in severely overcrowded, inadequate and unsafe housing conditions. Overcrowded housing is widely considered among Inuit to be the most serious problem they face.⁸⁸

Because Inuit do not have “status” under the *Indian Act*, they are compelled to compete with other non-aboriginal Canadians for social housing. This has had devastating effects on their housing conditions. In 1993, the federal government eliminated its portion of cost-shared funds to the Government of the Northwest Territories (GNWT), the Government of Quebec and the Government of Newfoundland and Labrador for the construction of the new social housing units. Despite vigorous protests by Inuit representatives and promises to rectify the situation from the federal government, funding for social housing has not been reinstated.⁸⁹ The high cost of private rental market housing in Arctic regions (eg: \$2,500/month in Rankin Inlet, \$7,560/year for fuel costs in Inuit communities in Labrador)⁹⁰ coupled with the high percentage of Inuit living in poverty, makes the need for social housing acute. As it stands, for Inuit across Canada, demand for social housing far exceeds supply and Inuit are kept on long waiting lists for subsidized housing.

The housing conditions in Nunavut are particularly severe. In Nunavut, 44 per cent or over 3,500 households are in core need of housing compared to 14 per cent of households in core need in southern Canada. There is no private rental housing market and at present over 1,000 families are on the housing waiting list. An estimated 260 new names per year over the next five years will be added to the list. Nunavut Housing Corporation officials estimate that the territory will need over 2,500 new homes to meet its housing needs. The

⁸⁶ Pauktuutit, supra note 77 at 2.

⁸⁷ Statistics Canada, supra note 80, at 247.

⁸⁸ Pauktuutit, supra note 77 at 1.

⁸⁹ Ibid., at 1.

⁹⁰ Ibid., at 3, 5.

cold arctic climate means that “street” homelessness is frequently impossible to survive, making severe overcrowding a common reality. The federal government has made a tentative proposal to the Territories to provide some funding for the construction of new units, but the proposal is regarded as grossly inadequate, especially in light of the high cost of building in Nunavut.⁹¹

The average number of persons per room in Inuit households across Canada is more than twice the national average. Though similar statistical information is not available from Labrador, it is widely accepted among Inuit that housing conditions in Labrador the worst in Canada.⁹² Beyond overcrowding, many Inuit houses lack basic facilities including running water and indoor plumbing which contributes to increased incidence of communicable diseases, increased infant mortality and shorter life spans for many Inuit.

The housing supplied to the permanent Inuit communities by the federal government has been both inadequate and culturally inappropriate. Traditionally, Inuit lived in small, nomadic family-based groups. The government housing has failed to accommodate larger families and extended family members, nor is it suitable for cultural practices such as dressing large carcasses or the need for easily accessible outdoor storage areas.

Prior to 1993 limited economic development opportunities and the high costs of housing construction and maintenance, combined with a very small private housing market, led the government to increase its role in social housing in the North. However, the supply of housing has never met the demand.

Inuit women are particularly vulnerable to the impact of the housing crisis which exacerbates other social problems with which women must contend.⁹³ Inuit women wishing to leave abusive and violent relationships face innumerable obstacles. Social pressure can cause many women to conceal the violence in the home for long periods. Some Inuit women may be dependent on their spouses or partners for financial support and/or housing. The virtual absence of vacant units and the overcrowding of existing housing in almost all communities means that there are very few places for women to turn for temporary shelter. The homes of family and friends are likely to be as crowded as the one the woman wants to leave. Many women find themselves forced to remain in a dangerous home situation.⁹⁴

Most communities are without shelters and a woman who decides to leave an abusive situation may also have to leave her community. Leaving a community is replete with obstacles as well. The high cost of air travel is one of the largest barriers. If a woman is

⁹¹ Housing Again Bulletin #42, 2 October 2001, online at: www.web.net/~housing/housingagain-l/

⁹² Pauktuutit, supra note 77 at 5.

⁹³ See: Pauktuutit, supra note 77, for a more detailed analysis of Inuit women’s experiences of the housing crisis.

⁹⁴ *Ibid*, at 9.

unable to pay these costs she will have to persuade a social worker or community worker that she is in danger and must leave for her own safety. In small communities that service provider may also be a member of the family and therefore may be reluctant to arrange transportation.⁹⁵

First Nations Women and Housing

On-Reserve Housing

If the necessity of inter-governmental agreement and joint action may sometimes create obstacles to federal action in other areas of housing and homelessness, this cannot be said of Aboriginal housing, for which the federal government has undisputed constitutional responsibility as well as fiduciary duties emanating from treaty agreements. Yet while the federal government acknowledges the desperate housing and living conditions of Aboriginal people in Canada as a clear violation of fundamental human rights, there has been little sign of the urgent action in partnership with Aboriginal people consistently urged upon Canada by United Nations human rights committees as well as by the Canadian Human Rights Commission.⁹⁶

In 1999-2000, 43% of on-reserve dwellings were inadequate.⁹⁷ While aboriginal communities across Canada have different standards of housing depending on the relative wealth of the community, on-reserve housing can be characterized as largely in need of repair,⁹⁸ and lacking fully operational bathrooms,⁹⁹ central heating,¹⁰⁰ and potable water.¹⁰¹ Generally it is significantly overcrowded¹⁰² and has resulted in the spread of infectious diseases such as tuberculosis.¹⁰³ Of the 74,000 households on reserves¹⁰⁴,

⁹⁵ *Ibid.*

⁹⁶ United Nations Human Rights Committee, Concluding Observations on Canada, CCPR/C/79/Add. 105 (1999) (7 April 1999) at para. 8; United Nations Committee on Economic, Social and Cultural Rights, *Concluding Observations on Canada*, E/C.12/1/Add.31 (10 December 1998), at paras 17, 18, 43; Canadian Human Rights Commission, *Annual Report 1998* (Ottawa: Canadian Human Rights Commission, 1998)

⁹⁷ Grand Council of the Crees, *Pushed to the Edge of Extinction: Racism Against Indigenous Peoples of Canada* (2001) at 7.

⁹⁸ *Report of the Royal Commission on Aboriginal Peoples*, Vol.3, Chap. 4. [Hereinafter RCAP].

⁹⁹ *Ibid.*

¹⁰⁰ Grand Council of the Cree, *Submission to the Committee on Economic, Social and Cultural Rights* (November 1998) at 147.

¹⁰¹ Health Canada and DIAND, *Community Drinking Water and Sewage Treatment in First Nations Communities* (Ottawa: Public Works and Government Services, 1995)

¹⁰² RCAP, Vol.3, Chapter 4.

approximately 43% (32,000 units) receive social assistance. Close to 60% of Aboriginal households “rent” band-owned housing, though in many cases they do not pay rent.¹⁰⁵ It is estimated that at least 30,000 more dwellings are needed on reserves to meet demand.¹⁰⁶

While these conditions are experienced by all those living on-reserve, they have a disparate impact on Aboriginal women because of the central role they play in all aspects of their households and communities.¹⁰⁷ Grossly inadequate housing such as that found on reserves makes it difficult for women to survive, let alone secure and maintain employment, maintain their own health, well being and development as well as that of other family members, ensure children have a place to do their homework, engage in cultural practices and so on.

Federal Housing Programs

Canada Mortgage and Housing Corporation (CMHC) is the major federal housing developer, provider and administrator of on-reserve housing. CMHC subsidizes social housing including non-profit housing and cooperative housing by covering the gap between actual operating costs and revenues received from tenants or cooperative members. In 1994, CMHC social housing represented 20% of the total on-reserve housing stock.¹⁰⁸ The government reduced the number of new, fully financed homes on-reserve by more than half, from 1,800 in 1991 to a mere 700 in 1995.¹⁰⁹ Similarly, in 1991, 1,200 units were repaired through CMHC assistance, in 1995 the number was 600.¹¹⁰ Of the 32,000 households on reserves in receipt of social assistance, only 10,000 are in CMHC-subsidized social housing and receive shelter allowances. CMHC statistics do not indicate what proportion of female lone parents are currently in those units,

¹⁰³ Grand Council of the Cree, *supra* note 100 at 192. Rates of tuberculosis are 7 times higher among registered Indians than among non-Aboriginal Canadians born in Canada (Health Canada, 1999).

¹⁰⁴ RCAP, Vol.3, Chapter 4.

¹⁰⁵ *Ibid.*

¹⁰⁶ Assembly of First Nations, Housing Secretariat, available on: <www.afn.ca> .

¹⁰⁷ RCAP, Vol. 4, Chapter 8, states, “The testimony of Aboriginal women reveals that they are often both the mainstay of the family unit and the catalyst for change”. See also: Madeleine Dion Stout & Gregory K. Kipling, *Aboriginal Women in Canada: Strategic Research Directions for Policy Development*, (Status of Women Canada, March 1998).

¹⁰⁸ RCAP, Vol.3, Chapter 4 at footnote 9.

¹⁰⁹ *Ibid.*

¹¹⁰ Grand Council of the Cree, *supra* note 100, at par.149.

however, given that just under 1/3 of social assistance recipients are in subsidized housing, we can assume that while some sole support women may have the benefits of these units, many do not.

CMHC administers a number of other housing programs on reserves including the **Shelter Enhancement Program (SEP)**.¹¹¹ SEP assists in repairing, rehabilitating and improving existing shelters for women and children and youth who are victims of family violence and to assist in the acquisition and construction of new shelters and second stage housing where needed.¹¹² Funding is mainly directed to existing facilities, though some funding is available for the creation of new spaces, or acquisition of existing spaces for emergency or second-stage housing.¹¹³ This could be a particularly valuable program in light of Aboriginal women's experiences of violence.¹¹⁴

The **Department of Indian Affairs and Northern Development (DIAND)** provides funding for housing on reserves in the form of subsidies for capital costs, certain operating costs for people in receipt of social assistance, and program administration costs borne by First Nations communities. Capital expenditures by DIAND on Aboriginal housing programs were capped in 1982-83 at \$93 million and have not increased since.¹¹⁵ According to RCAP, the subsidies provided by DIAND "can buy just over half of what they could" in 1983. DIAND also provides some subsidies for construction of new homes and for the rehabilitation and repair of older homes, however, the subsidies are set far below reasonable costs.¹¹⁶ Even if these program funds were set at adequate levels they would be of little assistance to Aboriginal women, the vast majority of whom have no access to homeownership.

DIAND also provides subsidies for debt servicing ('shelter allowances') to households in receipt of social assistance.¹¹⁷

¹¹¹ Other programs include: On-Reserve Loan Insurance Program, and the Residential Rehabilitation Assistance Program on Reserve.

¹¹² CMHC, Programs and Financial Assistance, available on: <www.cmhc-schl.gc.ca/en/prfias/>.

¹¹³ Assembly of First Nations, CMHC Programs, available on: <www.afn.ca/Programs/Housing/HS/cmhc_programs.htm>

¹¹⁴ See, for example: Karen Green, *Family Violence in Aboriginal Communities: An Aboriginal Perspective* in BC Institute Against Family Violence, Newsletter (2001).

¹¹⁵ In 1994 there was a one-time \$43 million increase in spending as a result of the dramatic increase in population due to Bill C-31.

¹¹⁶ Grand Council of the Cree, *supra* note 100 at 148.

¹¹⁷ RCAP Vol 3, Chapter 4.

Particular Issues of Importance to First Nations Women

(i) *Returning to Reserves*

Prior to 1985 the *Indian Act* dictated that Aboriginal women lost their status if they married non-status men. In 1985 with the passage of Bill C-31, Canada amended the *Indian Act* such that marriage now has no implications on the Indian status of either spouse. In addition, the amendments reinstated status to the Aboriginal women who had lost status through the old law's provisions. As of June 1995, the amended *Act* allowed for the restoration of Indian status to 95,429 persons close to 60% (60,000) of whom were women. In many instances, however, when re-instated Aboriginal women have attempted to return to their reserves they have been prevented from doing so, because their Bands would not grant them membership and provide them with on-reserve housing.

The Native Women's Association of Canada and the Aboriginal Women's Action Network of B.C., have documented evidence of Band discrimination against Bill C-31 reinstated women and their families. The discrimination experienced by these women has included exclusion from Band membership, denial of residency and housing on reserve, and discrimination with respect to educational and health funding.¹¹⁸ Some Bands and Aboriginal organizations have suggested that Bill C-31 reinstated women were denied housing, at least in part, because of lack of sufficient supply. They assert that the federal government did not increase resource allocations to bands for on-reserve housing, health and education at a level that corresponds with the increased population caused by Bill C-31.¹¹⁹

(ii) *Matrimonial Property*

Aboriginal women on reserves face particular disadvantage upon marriage dissolution. Amongst most married couples, as a result of cultural and legal precedents, it is more likely that the male partner possesses on-reserve properties under law. According to the Supreme Court of Canada, a woman cannot apply for or receive one-half the interest in on-reserve property for which her husband holds a certificate of possession under the *Indian Act*; she may only receive an award of compensation to replace her half-interest in such properties.¹²⁰ This puts Aboriginal women at a serious disadvantage because

¹¹⁸ Mary Eberts for the Native Women's Association of Canada, *Aboriginal Women's Rights are Human Rights*, a paper prepared for the Canadian Human Rights Act Review, online at: <www.chrreview.org/pubs/>

¹¹⁹ Shelagh Day for Feminist Alliance for International Action, *Toward Women's Equality: Canada's Failed Commitment*, online at: <www.fafia.org>.

¹²⁰ *Derrickson v. Derrickson* [1986] 1 S.C.R. 285 cited in RCAP, Family Law, Part 4.2, Division of Property on Marriage Breakdown. The order of compensation, however, may be of little practical value. Not only does enforcing an order require further expense, if the spouse has not liquid assets and the only substantial asset is real property, an order for compensation is of little practical significance.

possession of on-reserve land is an important factor in individuals' ability to live on-reserve and receive attendant benefits.¹²¹

As a result of the *Indian Act*, interim exclusive possession of the matrimonial home has also been deemed inapplicable to women whose matrimonial home is on reserve. In turn, Aboriginal women facing domestic violence who do not hold the certificate of possession to the matrimonial home often must choose between remaining in an abusive situation or seeking housing off-reserve away from their community, kin and networks of support.¹²²

Off-Reserve Housing

Because of abject poverty on reserves, many Aboriginal people move to and live in urban centers in search of economic and educational opportunities and to be closer to medical services. Because many Aboriginal women cannot access on-reserve housing, and because of their experiences on-reserve of discrimination, violence and disempowerment, Aboriginal women outnumber Aboriginal men in urban centres.

Across Canada there are about 10,000 off-reserve Aboriginal subsidized housing units providing homes to about 35,000 people.¹²³ Conditions off-reserve are not much better than conditions on reserve, with 32.5% of the Aboriginal population living in deep poverty and core housing need (63,000 households or 1 in 3 families)¹²⁴. According to RCAP, the "core problem in urban centres is the lack of supply of inexpensive, adequate housing from the private sector coupled with discrimination by private landlords."¹²⁵

Discrimination in accessing accommodation is a problem particularly noted by women who participated in the Royal Commission. One woman reported:

I have been denied housing because of my skin colour. I have been denied housing because I am a single mom. Being a Native and being a single mom really is discouraging because you can't get anywhere; you have that double whammy put on you.¹²⁶

¹²¹ Shelagh Day, *supra* note 119.

¹²² *Ibid.*

¹²³ Housing Again Bulletin #4, 13 December 1999, online at: www.web.net/~housing/housingagain-l/

¹²⁴ RCAP, Vol. 3, Chap. 4.

¹²⁵ *Ibid.*

¹²⁶ Lisa Maracle, RCAP, Vol 3, Chap. 4, Part 4.4.

Federal Housing Programs

Under the **Urban Native Non-Profit Housing Program (UNH)** CMHC subsidizes the difference between the housing organization's revenues from rents and its operating costs.¹²⁷ These units are unique because they are predominantly owned and operated by Aboriginals and they have been developed and designed in a culturally sensitive manner. Today there are over 100 urban Aboriginal housing institutions responsible for over 10,000 federally subsidized units. Federal government funding for new units under this program ceased in 1993¹²⁸ and waiting lists are now extremely long. Moreover, most of the housing stock is quite old and as a result, repair and maintenance costs are a real concern. In November 1999 CMHC, on behalf of the federal government, signed an agreement to transfer most of its social housing programs, including the UNH to the provinces.¹²⁹ Though CMHC has assured Aboriginal housing institutions that provincial governments will respect original agreements, this is not certain.

Aboriginals are also eligible for general social housing programs. However, there are not nearly enough units to meet households in need. Even if units were available, many Aboriginal people are reluctant to seek subsidized housing in non-Aboriginal run housing projects because housing is strongly linked to their culture. Further, Aboriginal applicants for housing experience wide spread discrimination in both private and non-profit housing.

Métis Women and Housing

Métis are distinct Aboriginal peoples, born from the marriages of Cree, Ojibwa and Salteaux women to French and Scottish fur traders, beginning in the mid 1600s. Métis communities emerged and are still found in provinces and territories across Canada.¹³⁰

According to the most recent statistics available, 25% of all Aboriginal women are Métis. Close to 70% of Métis live in urban areas in Canada, with the largest concentration of Métis women in Alberta and Manitoba.¹³¹ Like the Inuit, Métis are not covered by the *Indian Act*. This means that the federal government assumes no jurisdiction with respect to Métis and the Métis, therefore, derive no benefits that might attach to such designation.

¹²⁷ RCAP at 14.

¹²⁸ Congress of Aboriginal Peoples, *Urban Native Housing Program*, available on: www.abo-peoples.org/programs/housing.htm

¹²⁹ Housing Again Bulletin #11, 28 April 2000, online at: www.web.net/~housing/housingagain-l/

¹³⁰ Royal Commission on Aboriginal Peoples, *Metis Perspectives*, Chapter 5, Vol.4.

¹³¹ Statistics Canada, *supra* note 80, at 248.

To our knowledge, no research has been carried out to document and assess the housing and income support needs of Métis women. However, because Métis women are most likely to be living in urban areas, we can assume that their experiences are similar to those of off-reserve First Nations women, characterized by poverty, inadequate and unaffordable housing and discrimination.

Recommendations

1) The right to adequate housing should be recognized by the federal government as an Aboriginal treaty right, arising from the Federal government's fiduciary responsibility with respect to Aboriginal peoples. To this end, the federal government has an obligation to clarify with treaty nations a modern understanding of existing treaty terms as they apply to housing. Governments also have an obligation to ensure that Aboriginal women, men and children have adequate shelter, and short and long term means to provide for their own housing needs.

2) If the *Indian Act* is to remain, it must be amended to remove all discrimination against Aboriginal women and their children. This must be done in consultation with Aboriginal women and representative organizations.

3) There is a real need for more research which specifically investigates and documents Aboriginal women's housing and living conditions and which develops Aboriginal women-specific recommendations. Federal and provincial/territorial governments as well as band councils responsible for Aboriginal housing and funders must provide the necessary resources to Aboriginal women's organizations to undertake such research.

4) Across the country mainstream organizations and networks are undertaking a variety of activities to demand federal, provincial, territorial and municipal governments to address the housing crisis across Canada. These mainstream organizations and networks must work harder to ensure that Aboriginal women's groups are informed of and included in these activities and sought as partners for collaborative activities.

5) Aboriginal women have used the Charter in a limited way to enforce their equality rights. This avenue of recourse could be pursued further as a means of improving their housing and living conditions and the discrimination they suffer both on and off reserve. To the extent that they are not already doing so, Aboriginal women should pursue international human rights enforcement mechanisms such as the complaints procedures available under the International Covenant on Civil and Political Rights to address their experiences of discrimination with respect to property rights upon marriage dissolution and other experiences of discrimination.

6) Federal and provincial/territorial governments as well as band councils responsible for housing must respond to the specific housing and income issues experienced by Aboriginal women living on and off reserves. This would include: earmarking funds for the construction of new units specifically for Aboriginal women on and off-reserve that are culturally appropriate and that accommodate families of different sizes; ensuring that all

Aboriginal women have sufficient funds (perhaps through a portable shelter allowance financed by the Federal government) to access existing and new housing stock on and off reserve; and allocating existing housing stock in a non-discriminatory fashion, prioritizing those in need.

7) The recommendations for future action articulated in Pauktuutit's report, *Inuit Women: The Housing Crisis and Violence* must be implemented immediately. These recommendations include:

- The reinstatement of secure, adequate and long-term federal funding for housing;
- An Inuit-specific housing policy ensuring an adequate standard of housing;
- The inclusion of Inuit women's organizations as active partners at all levels of the policy making process, including local housing associations;
- Victims of family violence must consistently be given priority access to public housing.

Chapter 4: INCOME SUPPORT PROGRAMS

We have reviewed a number of federal housing policies and programs and have discovered several systemic inequalities which increase the risk of homelessness among low income women, particularly women with children. The abandonment of funding for new social housing in 1993 and the increasing reliance on the private market supply has been particularly detrimental at a time when there is widespread discrimination in the private market against low income women with children, lower vacancy rates and rising rents. New private market units have been largely restricted to condominiums, many in “adult lifestyle” communities which are rarely rented to single mothers. New funding recently proposed by the federal government to generate rental supply seems ill designed for women’s needs. It will likely do little to alleviate the scarcity of larger units needed by women with children and there do not appear to be any requirements that housing supply will remain affordable or will be rented without discriminatory restrictions affecting low income women.

Important concerns for women have emerged about trends in existing subsidized housing programs. \$2 billion a year is spent by the federal government to provide subsidy to lower income households in subsidized units, but women-led households face many barriers accessing this all-important source of assistance. Because the subsidy is linked to particular units, and because most subsidized housing providers now allocate units on the basis of lengthy waiting lists rather than on the basis of need, those women most at risk of homelessness are largely denied any benefit of federally funded housing subsidies.

Additional concerns relate to discriminatory practices which exist in both non-profit and private housing. There are rarely internal policies and procedures requiring social housing providers to address discrimination in tenant selection, even when these decisions affect both access to housing and access to much needed subsidy.

In the area of homeownership, we have seen that federal programs promoting access to affordable home ownership and renovation and repair of owned homes are not of equal benefit to women because of discriminatory policies maintained by CMHC, disqualifying the majority of single mothers and low income women from homeownership on the basis of the 32% “gross debt service to income ratio”. Under this policy, the vast majority of women are denied access to homeownership on the basis of their income, even if they are paying more in rent than would be required by mortgage and property tax payments.

Of equal importance and related to federal housing programs, however, are income support programs and policies. Women’s homelessness is almost always related to vulnerability and disadvantage with respect to income. Recent federal program changes have had an immense effect on women’s income security, and on whether they have enough money to pay the rent or mortgage payments. Of particular importance are federal programs and initiatives in three areas: social assistance, tax credits designed to address “child poverty” and employment insurance.

Part III of this report provides an overview of federal involvement in income support through funding for social assistance programs, the National Child Benefit Supplement and employment insurance and assesses the impact of these changes and program designs on women's homelessness.

A. Income Assistance - CAP and Beyond

The cornerstone of income and housing security for women is the provision of financial assistance, for persons in need, sufficient to cover housing costs.

In 1997 women accounted for 56% of all Canadians living below the Low Income Cut-Offs (LICO's) and almost 20% of the total female population in Canada (2.8 million women) were living below the LICO's¹³². In 1996, there were close to one million (945,000) female-headed lone-parent families in Canada¹³³ who have by far the lowest incomes of all family types. 56% of these families, or over half a million single mothers, had incomes which fell below the LICO's.

These statistics are worse when viewed in light of intersecting disadvantage. For example:

- In 1996 a startling 73% of Aboriginal single mothers lived below the LICO's.¹³⁴
- In 1997 approximately 50% of unattached women 65 and older lived below the LICO's.
- In 1996 nearly 50% of newcomer women (who immigrated to Canada between 1991-1996) were living in low income situations.¹³⁵
- According to a 1998 study, 60% of women with disabilities were either partially or wholly dependent on the welfare system for basic daily needs.¹³⁶

¹³² According to Statistics Canada families or individuals are classified as "low income" if they spend, on average, at least 20 percentage points more of their pre-tax income than the Canadian average on food, shelter, and clothing. Using 1992 as the base year, families and individuals with incomes below the Low Income Cut Offs usually spend more than 54.7% of their income on these items and are considered to be in straitened circumstances.

¹³³ This figure is almost double the 1971 figure for numbers of female-headed lone parent families. In 1971 10% of families with children were headed by female lone parents.

¹³⁴ Statistics Canada, *Women in Canada: A Gender-based Statistical Report* (Ottawa: Ministry of Industry, 2000) at 259.

¹³⁵ Statistics Canada, *Women in Canada: A Gender-based Statistical Report*, at 206.

➤ In 1995, 43% of visible minority women under the age of 15 and 41% of those between 15 and 24 were living in low income situations, this compares to 20% of non-visible minority women under the age of 15 and 24% of those aged 15-24 who were living in low income situations.¹³⁷

Women are vulnerable to poverty because they remain primarily responsible for unpaid caregiving for children and older, sick or disabled family members, because of gender inequalities in the distribution of income, as well as biases based on race, sex, age, place of origin, and ability in labour markets and economic and political institutions. As a result, women, particularly Aboriginal women, young women, women with disabilities and recent immigrants, disproportionately rely on social assistance and are particularly affected by the adequacy of social assistance programs.¹³⁸

The most critical protection of women's right to adequate housing for a generation of women was the Canada Assistance Plan Act. In 1966, CAP established 50-50 cost sharing agreements between the federal and provincial governments for social assistance and related services programs. Under CAP provinces which received federal funding for social assistance programs were required to meet national standards. The standards under CAP were as follows: 1) no work requirement to receive assistance; 2) assistance to be "needs" based; 3) to provide an amount that takes into account the cost of basic requirements, including food, shelter, clothing, fuel, utilities, household supplies and personal requirements; 4) no residency requirements, and 5) the right to appeal.¹³⁹ The CAP agreement provided that if a province did not comply with all of these requirements, the federal government could withhold funding. Alternatively, an affected individual or group could go to court for a determination as to whether the province was providing assistance "in an amount that is compatible, or consistent, with an individual's basic requirements"¹⁴⁰ If found to be non-compliant, the court could order that the federal cost-sharing be withheld until compliance was achieved.

The repeal of CAP was legislated by the Budget Implementation Act, 1995. On April 1, 1996, the Established Programs Financing (EPF) and CAP were replaced by the Canada

¹³⁶ Shirley Masuda, *The Impact of Block Funding on Women with Disabilities* (Ottawa: Status of Women Canada, 1998) at 2.

¹³⁷ Statistics Canada, *Women in Canada: A Gender-based Statistical Report*, at 233.

¹³⁸ M. Townson, *Report Card on Women and Poverty*, at 1, 5-8; S. Day and G. Brodsky, *Women and the Equality Deficit: The Impact of Restructuring Canada's Social Programmes* (Ottawa: Status of Women Canada, 1998) at 5-8; Statistics Canada, *Women in Canada: A Gender-based Statistical Report* (Ottawa: Ministry of Industry, 2000) at 103, 105, 107, 110, 135-138.

¹³⁹ CAP, s. 6(2)(a).

¹⁴⁰ *Finlay v. Canada (Minister of Finance)*, [1993] 1 S.C.R. 1080

Health and Social Transfer (CHST). Transfer payments under the CHST to the provinces and territories are now provided as a lump-sum and not designated specifically for health, post secondary education and social assistance and accompanying services. The introduction of the CHST has resulted in the elimination of four of the five standards under CAP. The only remaining feature is the requirement that there be no residency restriction. There is no requirement that rates be adequate to cover the cost of housing.

The CHST was introduced along with a dramatic reduction in cash transfers. The transfer payments under the CHST (cash and tax points) in 1995-96 were \$29.7 billion. A year later this was reduced by \$2.6 billion to \$25.1 billion.¹⁴¹

The revocation of CAP and the introduction of the CHST has exacerbated women's poverty as it has allowed for the tightening of eligibility criteria¹⁴² for social assistance and the erosion of social assistance rates across Canada. While there were problems with inadequate rates prior to CAP being revoked, it is clear that provincial governments have felt free, perhaps even encouraged, to forego the requirement that social assistance rates take into account the cost of housing and other requirements. Scarce dollars have been redirected to health funding, where national standards remain in place, while social assistance rates have become more inadequate to cover the cost of housing.

To understand the significance of these changes to CAP on the housing and living conditions of low income women, the following chart compares changes to social assistance rates and shelter benefits between 1994 and 2000 with changes in average rents during the same period of time. While some may argue that women on social assistance should be able to pay less than average rents, studies of single mothers who move have actually shown that the majority must pay significantly more than average rents. Widespread discrimination forces them into the most over-priced units on the market and as we have seen their access to subsidized units is extremely limited.¹⁴³

¹⁴¹ Katherine Scott et al., *Women and the CHST: A Profile of Women Receiving Social Assistance in 1994*, (Status of Women Canada, March 1998) at xvi.

¹⁴² See: Shirley Masuda, *The Impact of Block Funding on Women with Disabilities* (Status of Women Canada, March 1998) at 4. Masuda reports that in the post-CAP era women with disabilities are finding it increasingly difficult to qualify for disability benefits, particularly in Quebec and Ontario.

¹⁴³ CERA Submissions to Toronto Homelessness Task Force.

Welfare Rates¹⁴⁴ and Average Rents¹⁴⁵: 1994/2000 Comparison

Single Parent With 1 Child

City ¹⁴⁶	Basic		Shelter Allowance		Fed/Prov Tax Credits ¹⁴⁷		1994		2000	
	'94	'00	'94	'00	'94	'00	Total	Avg. Rent	Total	Avg. Rent
Vancouver	462	377	520	520	144	264	1126	815	1160	890
Calgary	419	338	380	428	135	210	934	594	976	740
Toronto	620	486	652	511	173	186	1445	782	1183	979
Montreal	921 ¹⁴⁸	791 ¹⁴⁹			152	267	1073	497	1058	509
Halifax	344	265	563	524	143	153	1050	616	942	648
St. John	787 ¹⁵⁰	826 ¹⁵¹			140	236	927	450	1062	460
St. John's	541	542	433	433	144	215	1118	566	1190	552
Whitehorse	318	318	525	525	144	216	843	689 ¹⁵²	843	675 ¹⁵³

¹⁴⁴ The welfare rates represented are best estimates of maximum benefits for a single parent with one child. These figures were obtained through a variety of sources and communications with the National Council of Welfare, as well as municipal social services offices across the country.

¹⁴⁵ Canadian Mortgage and Housing Corporation average rents. CMHC average rents do not always factor in costs for utilities.

¹⁴⁶ We were unable to represent the north. There is no CMHC rent data for Whitehorse or Yellowknife for 1994. Welfare rate data for Yellowknife was also unavailable.

¹⁴⁷ Unfortunately, complete information on Yellowknife was unavailable and thus could not be included in this chart.

¹⁴⁸ This amount includes Shelter and Basic Allowance.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Statistics for average rents in Whitehorse in 1994 from CMHC were not available. These statistics are from the Yukon Bureau of Statistics which reported median rents for 3 quarters in 1994. Median rents refer to the rental value at which one half of the rents are higher and one half of the rents are lower.

¹⁵³ This is also a mean rent not an average rent calculation.

In these six years the cost of rental housing has gone up by varying amounts in Canada's urban centers. The average rent for a two bedroom apartment has increased by 4% in Montreal, 5% in Halifax, 16% in Vancouver and 32% in Toronto. What is more significant in terms of affordability, however, is that social assistance recipients' income have failed to keep pace with increased costs and in some provinces have been significantly reduced. Total income for single mothers relying on social assistance has decreased by 11% in Halifax, and by 1% in Montreal, increased by 3% in Vancouver¹⁵⁴ and decreased by 18% in Toronto. The critical determinant of homelessness - the amount left over after paying rent - has decreased by 13% in Vancouver, by 69% in Toronto, by 5% in Montreal and by 22% in Halifax. To have simply kept pace with inflation, this amount should have increased by 15% over this period of time.

The impact of the repeal of CAP and the erosion of social assistance entitlements on women's homelessness is further reflected in the increased numbers of low-income women using food banks and shelters, the increases in evictions because of arrears and the experiences of disabled women with respect to homecare:

➤ The majority of food bank users are recipients of social assistance.¹⁵⁵ In March 2000 the Canadian Association of Food Banks reported that over 726,902 individuals used a foodbank. This figure has increased by 92% since 1989 and has increased by close to 10% since 1997.

➤ Though national statistics are not currently available, we know that economic evictions are on the rise. For example, in Ontario there has been a significant increase in economic evictions.¹⁵⁶ The City of Toronto found in 2000 that eviction was a reason why families repeatedly returned to shelters (11%).¹⁵⁷ "An average of about 1,200 eviction hearing dates are set by the [Ontario Rental Housing Tribunal] each month."¹⁵⁸

➤ Though national statistics are not available there has been a rise in the number of women using shelters. In Toronto, for example, the number of women using hostels has

¹⁵⁴ As a result of the election of a Liberal government in British Columbia, and a rash of cut backs to social services announced on 17 January 2002, this figure is likely to change dramatically. The government has proposed to cut welfare rates by almost 20% for single mothers. For more information See: <www.povnet.org>.

¹⁵⁵ Canadian Association of Food Banks, Beth Wilson and Carly Steinman, *Hunger Count 2000: A Surplus of Hunger*, October 2000, at 8.

¹⁵⁶ Toronto Disaster Relief Committee, *Death on the Streets of Canada*, March 1999 at 4.

¹⁵⁷ City of Toronto, *The Toronto Report Card on Homelessness 2000*, at 7.

¹⁵⁸ *Ibid.*, at 15.

increased from 24.3% in 1988 to 37.2% between 1995-1996.¹⁵⁹ In Calgary there is also a growing number of families using shelters, particularly those families headed by women.¹⁶⁰ Single-parent families enter the hostel system at twice the rate of two-parent families.¹⁶¹ Use of shelters in Ottawa showed an 18 per cent increase in the number of distinct individuals using the shelters since 1996.¹⁶²

➤ Since the repeal of CAP and introduction of CHST every province and territory has cut back on home care services for persons with disabilities.¹⁶³ As a result, increasing numbers of women with disabilities are being forced out of their homes and into institutional care, other women live in fear that if they ask for increased services they too will have to leave their homes. The cut backs to home care services has also increased the stress on mothers with disabilities and has resulted in children having to take on additional responsibilities within the home, including caring for their mothers.¹⁶⁴

Recommendations

Securing income equality for women across Canada is an ambitious goal that will require a number of different types of strategies to be pursued simultaneously. CERA offers the following two legal strategies to complement efforts to reach this goal.

1) The loss of legally enforceable standards in social assistance allowed unprecedented erosion of income adequacy for women in Canada – particularly for single mothers, women with disabilities, Aboriginal women and racialized women. These changes have been condemned by two United Nations Committees as violations of international human rights law because of their discriminatory consequences for women's access to adequate housing.¹⁶⁵

¹⁵⁹ City of Toronto, Hostel Services Division, Shelter Use Data (on file at CERA).

¹⁶⁰ Ibid., at 55.

¹⁶¹ Report of the Mayor's Homelessness Action Task Force, *Taking Responsibility for Homelessness: An Action Plan for Toronto*, January 1999 at 54.

¹⁶² Ministry of Social Development and Economic Security, British Columbia, *Homelessness: Causes & Effects. A Profile, Policy Review and Analysis of Homelessness in British Columbia*, Vol. 2, April 2001, at 36.

¹⁶³ Shirley Masuda, *The Impact of Block Funding on Women with Disabilities*, supra note 136 at 13-16.

¹⁶⁴ Ibid.

¹⁶⁵ Concluding Observations on Canada of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.31 (10 December 1998) and Concluding Observations on Canada of the Human Rights Committee, CCPR/C/79/Add.105 (7 April 1999).

Despite the dramatic rise in homelessness among women and the strongly worded concerns of United Nations Committees, nothing has been done to reinstate enforceable standards with respect to social assistance. During the review of the Social Union Framework Agreement women should press the federal and provincial governments to include an enforceable right to adequate financial assistance in a renewed agreement.

2) Women have turned to the *Charter of Rights and Freedoms* and to human rights legislation as alternative sources for enforcement of the right to an adequate standard of living. A critical case was heard on this issue by the Supreme Court of Canada on October, 29, 2001.¹⁶⁶ This type of litigation must continue to be initiated.

Support for including the right to an adequate standard of living, including adequate food, clothing and housing, in a revised *Canadian Human Rights Act*, was virtually unanimous among women's and other equality seeking groups across Canada when the Canadian Human Rights Review Task Force held consultations on the *Canadian Human Rights Act* in 2000. Though this recommendation was not included in the Task Force report, women's groups could lobby the federal government directly on this issue.

B. The National Child Benefit Supplement

The primary initiative undertaken by the federal government in recent years to address poverty was the introduction in 1997 of the National Child Benefit Supplement (NCBS) as an additional tax credit for some low income families. This benefit was added onto existing child benefits, which were incorporated into the new National Child Benefit (NCB).

The NCB has two components – the base or basic benefit and the Supplement. The Canada Child Tax Credit, or basic benefit, combined the previous baby bonus and child tax credit and did not provide any additional benefit to families over what they previously received. The Supplement constitutes additional funds which, according to the federal government, are allocated to address the “welfare wall” phenomenon. The term “welfare wall” refers to the concept that employment related expenses, increased income tax, and Canada/Quebec Pension Plan contributions, for example, hinder low income people from moving off welfare and into the labour market.¹⁶⁷

¹⁶⁶ *Louise Gosselin v. Le Procureur Général Du Québec* (S.C.C.) (Court File No. 27418)

¹⁶⁷ See: *National Child Benefit Progress Report: 2000*, available on: <<http://socialunion.gc.ca>> and Ken Battle and Michael Mendelson, *The National Child Benefit: Another Hiccup or Fundamental Structural Reform?* Presentation at the Conference on the State of Living Standards and the Quality of Life in Canada, (Ottawa, 30-31 October 1998) available on: <www.caledoninst.org>.

The maximum basic benefit is available to families whose net income is below \$32,000.¹⁶⁸ Until June 2002, the maximum basic benefit is \$1,117 per year (\$93.08 per month) for first and second children who are under 18 years of age. This amount increases incrementally based on the numbers and ages of children in the family.¹⁶⁹ There is also an additional supplement of \$221/year or \$18.41/month provided for each child who is less than 7 years of age for whom no child care expenses were claimed.¹⁷⁰

On top of this, some low income families are eligible for the National Child Benefit Supplement of \$1,255 per year (\$104.58 per month) for the first child; \$1,055 per year (\$87.91 per month) for the second child; and \$980 per year (\$81.66 per month) for each additional child.¹⁷¹

The above amounts incorporate changes which took effect in July 2001. At that time, the Supplement was increased from the previous year by a substantial 28.4% whereas the basic benefit was increased by a mere 1.2%, not even keeping up with the cost of living.¹⁷² As a result, for the first time since the inception of the NCB, the amount of the Supplement exceeds the amount of the base benefit.

Though the NCB is administered through the tax system (individuals must file a tax return to apply), according to the federal government it is more fundamentally an anti-poverty program, not a tax provision, and while it is a federal tax provision, it was designed as a joint initiative with provincial and territorial governments.

¹⁶⁸ From July 2002 – June 2002 families with net incomes between \$32,000 and \$76,000 in 2000 qualify for a portion of the basic benefit. From July 2002 – June 2003 families with net incomes of up to \$32,960 will qualify for the maximum basic benefit and families with net incomes between \$32,960 - \$79,000 in 2001 will qualify for a portion of the basic benefit. See: <www.nationalchildbenefit.ca/ncb/govtofcan2.shtml>.

¹⁶⁹ Between July 2001 and June 2002, the basic benefit is \$1,195/year or \$99.58/mos for the 3rd child and each additional child thereafter.

¹⁷⁰ The federal government has announced increases to these rates for the July 2002 – June 2003 year. The maximum basic benefit will increase to \$1,151/year or \$95.91/mos for first and second children. For third and additional children the rate increases to \$1,231/year or 102.58/mos. The additional supplement for children under 7 for whom no child care expenses were claimed will increase to \$228/year or \$19/mos. See: <www.nationalchildbenefit.ca/ncb/govtofcan2.shtml>.

¹⁷¹ For the year July 2001 – June 2002, the Supplement is reduced by a percentage of family net income that is more than \$21,744. In July 2002 – June 2003 the Supplement will be reduced by a percentage of family net income that is more than \$22,397. Supplement rates will increase as follows: \$1,293/year or \$107.75/mos for the first child; \$1097/year or \$91.41/mos for the second child and \$1,009/year or \$84.08/mos for the 3rd and each additional child. See: <www.nationalchildbenefit.ca/ncb/govtofcan2.shtml>.

¹⁷² These figures are based on the benefits allocated for families with one child.

The NCB has three stated objectives:

1. Prevent and reduce the depth of child poverty;
2. Promote attachment to the labour market by ensuring that families will always be better off as a result of working; and
3. Reduce overlap and duplication by harmonizing program objectives and benefits and simplifying administration.¹⁷³

All three of these objectives are directly related to women's housing and homelessness. Child poverty is almost always linked to women's poverty and a major determinant of women's / child's poverty is the relation between housing costs and income. Surely, an essential component of ensuring that families are better off working than when on social assistance is to address the fact that in many provinces, a variable shelter allowance adjusted to housing costs and family size is only available when a family is on social assistance. And harmonizing benefits, one would think, should involve integrating housing subsidies with social assistance shelter allowances and assistance to working families. Despite these connections, with its emphasis on changing the labour market behaviour of parents, the Supplement completely ignores the issue of housing costs, the need for shelter allowances for low income working families and the need to harmonize housing subsidies with other forms of income support. There is no consideration of housing costs in a determination of eligibility for the Supplement or amount of the benefit and there has been no attempt to target the benefit to those in deepest poverty or at highest risk of homelessness.

The distinctive feature of the Supplement in comparison to the basic benefit is that by agreement with the provinces and territories, the Supplement may be "clawed back" from social assistance recipients. In all provinces and territories, except New Brunswick, Newfoundland and Manitoba, the Supplement is clawed back from social assistance recipients.¹⁷⁴ What is most offensive to low income women about the NCBS in the remaining provinces is that a benefit designed to ameliorate child poverty is clawed back from the poorest women and children simply because they are recipients of social assistance. The result is that the majority of single mothers, who are most in need of the benefit, are denied it. This exclusion, of course, has a significant impact on women's homelessness.

In a 1998 report by the National Council of Welfare entitled, *Child Benefits: Kids Are Still Hungry*, it was estimated that of the one million plus lone parent families in Canada, only 17% would keep the Supplement, as compared to 59% of two-parent families who would keep it.¹⁷⁵ The rest of the lone parent families – 83% – would not benefit from the

¹⁷³ *The National Child Benefit Progress Report: 2000*, supra note 167 at 3.

¹⁷⁴ Quebec is not taking part of the NCB initiative, however, it agrees with the principles of the initiative and has adopted a similar program.

¹⁷⁵ At that time Manitoba was clawing back the Supplement from social assistance recipients.

Supplement at all.¹⁷⁶ In 1997 single mothers comprised 67% of families in receipt of social assistance (388,426) whereas single fathers comprised only 6.4% (37,374) and couples with children comprised 26.6% (157,675).¹⁷⁷ The clawback was thus largely a clawback from single mothers. Despite the fact that women on social assistance may be most in need of this benefit and most unable to pay for housing and related expenses they are excluded from the federal government's only initiative to address child (family) poverty.

While the Supplement clawback may appear to be a strictly provincial and territorial policy, it was in fact by agreement with the federal government that provinces and territories claw back the tax credit provided to families on social assistance. The *Building a Better Future for Canadian Children* paper provides the only public record of this agreement. Under the section on 'How the National Child Benefit will Work', the paper notes that:

Federal, provincial and territorial governments have agreed on a joint approach to the National Child Benefit that involves three simultaneous steps:

- 1) *The federal government will increase its benefits for low-income families with children*, enabling it to assume more financial responsibility for providing basic income support for children.
- 2) *Corresponding with the increased federal benefit, provinces and territories will decrease social assistance payments for families with children*, while ensuring these families receive at least the same level of overall income support from governments.
- 3) *Provinces and territories will reinvest these newly-available funds in complementary programs targeted at improving work incentives, benefits and services for low-income families with children.*¹⁷⁸

The clawbacks have resulted in significant savings for provinces and territories. For the 1999-2000 fiscal year, reinvestments across provinces and territories totaled an estimated \$484 million.¹⁷⁹ While the agreement was that these savings are to be

¹⁷⁶ National Council of Welfare, *Child Benefits: Kids Are Still Hungry*, at 9 (1998).

¹⁷⁷ National Council of Welfare, *Profiles of Welfare: Myths and Realities* (1998), Chapter II, available on: <www.ncwcnbes.net/htmldocument/reportprowelfare/repprowelfare.htm>

¹⁷⁸ Federal/Provincial/Territorial Ministers Responsible for Social Services, NCB Governance and Accountability Framework. [hereafter Accountability Framework] available on: <http://socialunion.gc.ca/ncb/geston3_e.html22> .

¹⁷⁹ National Child Benefit Progress Report: 2000 (March, 2001) at 17, available on: <<http://socialunion.gc.ca>>

reinvested in community programs and services, as time goes by the distinction between “reinvestment” and simply using these funds to pay for other programs becomes increasingly blurred. There is no evidence that families in the provinces that claw back the benefit from social assistance receive improved programs because of the clawback.

In the end, the Supplement is more about a discriminatory denial of a necessary benefit to single mothers than it is about addressing the difficulties of the transition to work. The following examples demonstrate the kinds of disparities that result from the discriminatory nature of the agreement and the way in which these disparities have a direct impact on single mothers’ risk of homelessness.

Maria, a young single mother with two children, a boy aged 4 and a girl aged 6, lives in a run down two bedroom apartment in Toronto. She pays \$850/month in rent. Maria is in receipt of social assistance and does not have paid employment. Like all families in receipt of social assistance, every month she receives a cheque from the federal government for the NCB base amount and the Supplement. She also receives a monthly welfare cheque which is reduced by the amount of the NCB Supplement. Her total income less her rent, leaves Maria with \$459 at the end of the month for all expenses for her and her two children, including heating costs, food, phone and all other necessities.

Maria

Source of Income	Amount	Rent	After Rent
Social Asstnce	893.50 (\$1086 -\$192.50)		
NCB Base	186.16		
NCB Supplement	192.50		
NCB Add Supp ¹⁸⁰	36.82		
Work income	0		
Total Income	\$1308.98	\$850.00	\$458.98

Maria’s friend **Anthea** rents a 2 bedroom apartment in the same building at the same rent and has 2 children the same age. She has subsidized childcare. She has worked full time at a doughnut chain for over two years earning just more than minimum wage. Her income is \$10,920 a year or \$910 per month. Anthea is eligible for a monthly top-up to her wages of close to \$500 from social assistance but the NCB Supplement is clawed back from this amount, so she only receives a monthly top-up of just over \$300. Anthea is not entitled to the NCB additional supplement for children under 7 because she claimed her child care expenses when she filed her taxes. As a result, her total monthly income is almost \$1,600. After paying rent, Anthea has just under \$750 to cover all of her expenses associated with working including transportation to daycare and to work as well as basic, everyday necessities for her and her two children.

Anthea

Source of Income	Amount	Rent	After Rent
Social Asstnce	304.50 (497.00-\$192.50)		
NCB Base	186.16		

¹⁸⁰ 18.41 for each child under the age of 7, when child care expenses have not been claimed for income tax purposes.

NCB Supplement	192.50		
NCB Addtnl Supp	0		
Work income	910.00		
Total Income	\$1593.16	\$850.00	\$743.16

Across the street, **Geoff and Lori-Anne** also have two children, a boy aged 4 and a girl aged 6. They live in a three bedroom townhouse in a co-op. The market rent of \$1250/month is reduced by a substantial subsidy (\$545 a month) to \$705/month. Geoff is a part-time municipal worker and has a net yearly income of \$24,000 or \$2000 a month. Lori-Anne does not work outside the home. Because Geoff is in paid employment they are entitled to the NCB Supplement. Because they have not claimed child care expenses for tax purposes, they are entitled to receive the NCB additional supplement for children under 7. In turn, Geoff and Lori-Anne have \$1,630.70 left over after paying their housing charge every month.

Geoff and Lori-Anne

Source of Income	Amount	Rent	After Rent
Social Asstnce	Nil		
NCB Base	\$223.00		
NCB Supplement	\$150.20		
NCB Add Supp	\$36.82		
Work income	\$2000.00		
Total Income	\$2410.02	\$705.00	\$1705.02

The disparities between these scenarios widens further when considered in light of available assets. To qualify for social assistance Maria and Anthea would both have to exhaust virtually all of their assets. That is, to be eligible for social assistance Maria would have to deplete any assets, such as savings in a bank account, bonds, or RESP/RRSPs¹⁸¹, to a maximum value of \$1,957.¹⁸² Similarly, once in receipt of social assistance Maria's and Anthea's assets could not increase beyond the maximum limit. Geoff and Lori-Anne, on the other hand, are able to retain their assets. So, not only might Geoff and Lori-Anne have an adequate monthly income after paying rent, they may also have a substantial financial cushion upon which they could rely in the event of a crisis or need.

The discriminatory aspects of the Supplement clawback go beyond the financial components as well. The agreement reinforces a prevailing trend in federal social policy of obscuring or ignoring the realities of women's poverty and homelessness and focusing on protecting their children from the potential "damage" inflicted by poverty. It has become an imperative to refer to "child poverty" rather than "women's poverty". The disassociation of child poverty from the poverty experienced by their mothers reinforces negative stereotypes of single mothers and obscures systemic inequalities in society which deprive single mothers of the resources necessary to feed, clothe and house themselves and their children.

This is not to say, however, that there are not important concerns to address in the situations of women on social assistance making the transition to paid work. Women with children frequently find that the loss of a shelter allowance geared to family size, of drug and dental coverage, winter clothing allowance, community start-up allowance and other benefits which are adjusted to family size (and which are available through social assistance), combined with the additional costs of transportation and childcare, make this transition financially difficult and may jeopardize their ability to pay for housing. However, rather than acknowledging the complexities of these issues and designing a benefit that is

¹⁸¹ Unless it is "locked-in".

¹⁸² See Ontario Works Act, s. 38(1)(d). The Act stipulates that a single parent with one dependent child is only eligible for social assistance if their asset level does not exceed 1,497 for the parent and the first child, plus \$500 for each additional child. See: September 2001 Ontario Works Policy Directives, Assets Directive 15.0, available on: <
www.gov.on.ca/CSS/page/brochure/policy/policy.html>

sensitive to the financial realities which increasingly place women and their children at risk of homelessness, the NCBS agreement adopts a crude division between those on social assistance and those who are not. The result is that many women in dire poverty, and at serious risk of homelessness, are denied a benefit which could make the difference between paying the rent or facing eviction and homelessness.

Recommendations

An obvious solution to the discriminatory aspect of the NCBS is to eliminate the clawback in all provinces and territories where it is currently clawed back. In fact, campaigns to this effect have been launched at various times across the country, for example, the Ontario New Democratic Party currently has such a campaign.¹⁸³ In October 2001, the NDP Community and Social Services Critic, Tony Martin, brought a petition with over 7,000 signatures to the legislature demanding the Ontario government stop clawing back the Supplement.

There are, of course, potential difficulties with such a solution as it may jeopardize the availability of funds to address the problems facing some women transitioning from social assistance to paid employment. However, rather than reinforcing the division between “being in receipt of social assistance” and “working” and excluding social assistance recipients from the benefit of a much needed child poverty initiative, new benefit programs must be designed to address the complex inter-connections of various programs and benefits to ensure the availability for working women of a shelter allowance or housing subsidy adjusted to family size and housing costs.

To complement these types of strategies, CERA recommends the initiation of Charter litigation challenging the claw back as violating the right to life, liberty and security of the person and to equality rights for single mothers in receipt of social assistance.

C. Employment Insurance

Overview

Surveys of renters facing eviction have found that the majority of evictions result from unexpected job loss or reduction of income.¹⁸⁴ For women paying a high proportion of income toward rent, protection from unforeseen loss of employment income is thus an essential component of homelessness prevention. To the extent that the necessity for such protection has been recognized in Canada, it comes in the form of the federal *Employment Insurance Act* (“EI”). This Act establishes what is essentially a

¹⁸³ For more information on this campaign See:
<www.ontariondp.on.ca/issues/poverty/clawback.html>

¹⁸⁴ See for example, the survey conducted by Metro Tenants’ Legal Services in Lenny Abramovicz, *The Landlord and Tenant Relationship in Ontario* (Toronto: 1994), on file at CERA. CERA is currently designing further research into causes of tenants falling into arrears.

worker-funded program derived from premiums paid by employees and their employers to provide temporary income replacement and other income security for insured employees who become involuntarily unemployed.

The federal government's EI scheme thus links income security with attachment to the paid labour force. EI is available to meet a number of circumstances giving rise to women's loss of income security – not only job loss, but also long term disability, maternity, infant care – but it is only available to women who work. To the extent that the EI scheme contributes to protecting women from homelessness then, this protection is enjoyed only by working women. The EI scheme offers nothing to women who have not paid into the system. For these women, the only alternative is social assistance, which they cannot receive unless they have exhausted virtually all of their assets. On the one hand then, EI contributes to the realization of the broader goal of ensuring income and housing security for women. On the other hand, however, it is at best only a partial contribution. Situating EI within the broader context and objective of providing women with income and housing security illuminates the ways in which EI needs to improve to ensure that on its own terms it is really addressing the type of income loss most likely to place women at risk of homelessness.

This review of and recommendations with respect to EI is not intended to suggest that women's poverty and housing disadvantage should be exclusively addressed through EI. Rather, it is to suggest that EI must respond equally to the needs of women who are at risk of homelessness. This chapter considers the ways in which the structure and design of the current EI program disqualifies women who are most at risk of homelessness. This chapter also provides an opportunity to reflect on the broader notion of income and housing security, to consider what is most appropriately addressed through an insurance scheme linked with employment and what is more appropriately addressed through universal income programs.

Recent Changes to Unemployment Insurance

Rather than refining the program to ensure that those households most vulnerable to homelessness as a result of job loss or income fluctuation are adequately protected, and receive income replacement when needed in order to meet housing costs, the federal government has reformed this insurance scheme in a very different direction. The new EI program disqualifies many of the women who are most vulnerable to homelessness by moving from a weeks worked to an hours worked entitlement system; tightening eligibility criteria for new entrants and re-entrants into the workforce and, rather than providing a supplement to those with dependents based on current income, supplement funds have been tied to eligibility for the NCB and to household income of the previous taxation year.

i) Weeks Worked to Hours Worked

In January 1997, the Liberal government changed EI eligibility criteria from a “weeks worked” to an “hours worked” system. The formula now used to determine who qualifies

for insurance is based on a 35 hour work week. This standard also governs the allocation of maternity benefits.

This change has a detrimental impact on part-time workers who now face a greater risk of ineligibility for benefits:

The more part-time an individual's work is, the longer it will take that worker to meet eligibility requirements. Whereas, previously individuals working between 15 and 34 hours per week qualified for benefits after twenty weeks, these same individuals must now work between 20.5 and 46.6 weeks in order to accumulate the required 700 hours.¹⁸⁵

The majority of part-time workers are women:

- Among adult wage earners (age 25 to 54) women comprise 80.1% of part-time workers.¹⁸⁶
- 40% of women in Canada work in non-standard jobs – in temporary, casual, seasonal or part-time jobs¹⁸⁷
- Among single mothers of children under six years of age, 28% are employed part-time.¹⁸⁸
- Women comprise approximately 70% of the part-time work force¹⁸⁹.

Women work fewer hours in the paid labour force than men because they cannot obtain full-time work, and because they carry more responsibility for unpaid care-giving duties. As a result of this change to eligibility criteria, those most likely to pay a high percentage of income on rent may be in grave risk of not being able to pay their rent without EI, and are the most likely to be paying into the program without receiving any benefits.

ii) Changes to Eligibility Criteria for New and Re-Entrant Workers

¹⁸⁵ Shelagh Day, Feminist Alliance for International Action, *Toward Women's Equality: Canada's Failed Commitment* (September 2000), available on: <www.fafia.org>

¹⁸⁶ Manitoba Public Interest Advocacy, *Factum for Lesiuk*.

¹⁸⁷ Shelagh Day, *supra* note 185.

¹⁸⁸ Statistics Canada, *Women in Canada 2000: A Gender-based Statistical Report* (Catalogue No. 89-503-XPE) at 125

¹⁸⁹ Shelagh Day, *supra* note 185.

Under the new EI system new entrants and re-entrants to the labour force face even tougher eligibility criteria to qualify for benefits. The number of hours required to qualify has been increased from 700 to 910 (from 20 weeks to 26 weeks). The result of this change in policy is to disqualify many young people and single mothers.

New and re-entrant workers represent 26% of all workers who experience job separation. Over 50% of workers who fall into this category earned less than \$10.00/hour and over 75% earned less than \$15.00/hour. Young people, aged 15-24, comprise over half of this category of workers and slightly more women than men fall into this category. In particular, single mothers with a youngest child between 6-10 years old, are much more likely to be re-entrants than are married mothers and fathers. The overrepresentation of young people and the propensity for single mothers to fall into this category is not surprising given that many young people will be entering the workforce for the first time, and women are more likely than men to periodically leave and re-enter the labour force to balance family and work responsibilities.¹⁹⁰

iii) Replacement of 'Dependency Rates' with 'Family Supplement'

Under both the former Unemployment Insurance (UI) and current Employment Insurance systems, provisions exist for extra benefits for claimants with dependent children. Under UI it was called the "dependency rate" and under EI it is called the "family supplement".

The family supplement is designed to provide additional assistance and security to low-income families with children. Under EI the regular benefit rate is 55% of insured earnings up to a maximum of \$413/week. Under the family supplement, claimants in low-income families can receive a higher percentage of their insured earnings (up to 80%) as long as their weekly benefit does not exceed the \$413 maximum entitlement. To qualify for the family supplement, claimants must have at least one dependent child, have a net family income of not more than \$25,921 and be in receipt of the Canada Child Tax Benefit (discussed in the previous chapter).¹⁹¹

There are two significant changes in the switch from dependency rate to the family supplement. First, eligibility for the family supplement is based on *family income* whereas under UI it was based on *individual earnings*. This means that a woman living with a male partner who is in the labour force is considerably less likely to be entitled to the family supplement.¹⁹² Under UI in 1995-1996, 33.6% of women received the benefit whereas in 1997 under the new EI scheme only 13.8% of women collected the family supplement

¹⁹⁰ Human Resources Development Canada, *The Impact of Employment Insurance on New-entrants and Re-entrants Workers*, available on: <www.11.hrdc-drhc.gc.ca/edd/>

¹⁹¹ Human Resources Development Canada, *What is the Family Supplement*, available on: www.hrdc-drhc.gc.ca/ae-ei/pubs/. See also: Shelley Phipps, Martha MacDonald and Fiona MacPhail, *The Impact of the Family Supplement*, available on: <www11.hrdc-drhc.gc.ca/edd/>

¹⁹² Email correspondence with K.Scott, October 2001.

and under EI only 62.6% of supplement recipients are women, whereas under UI over 80% of recipients were women.¹⁹³

Under the new eligibility criteria, a higher proportion of single mothers receiving benefits are able to access the family supplement than under the previous system. This gain, however, must be viewed in light of the fact that it is very difficult for women, particularly single mothers, to qualify for EI benefits under the new system.

The second significant change is that rather than basing the supplement on earned income during qualifying weeks, the family supplement is based on eligibility for the NCB, thus on household income, from the *previous taxation year*. For women who have separated in the last year and who would otherwise be disqualified for the NCB because of a higher household income in the previous taxation year, there is a provision to qualify for the NCB Supplement on the basis of current income. Nevertheless, apart from this limited provision, many women who have experienced a dramatic drop in their household income and therefore are at risk of not being able to pay the rent or meet mortgage costs would likely not qualify for the family supplement because their income in the previous taxation year was too high.

A program designed to provide extra financial assistance to low income families upon job loss should be concerned to ensure that women do not lose their housing. In turn, basing entitlement to family supplement on income levels in the previous taxation year makes little sense. For the program to be of real assistance to low income families, it needs to be targeted at families who are currently low income not only those who had a low income in the previous taxation year. Moreover, many of the most vulnerable women with children are likely excluded from receiving the family supplement because they failed to file income tax in the previous year and because they did not know about the provision which allows them to claim the National Child Benefit upon separation.

As a result of these three major policy changes, women are failing to qualify for EI benefits in larger numbers than men despite the fact that their payments into the system are proportionate. In 1997 – 1998 the number of women claiming EI regular benefits¹⁹⁴ decreased by just under 20% from the year prior.¹⁹⁵ The changes to EI exacerbate inequities already present in women's segment of the labour force. For example, Aboriginal women, women of colour, newcomer women and women with disabilities are over-represented in the "marginal" labour force. Under the new EI system, they face increasing difficulties meeting the requirements to qualify and when they do qualify, they have to contend with lengthy waiting periods before they receive any benefits at all.

¹⁹³ Shelley Phipps, Martha MacDonald and Fiona MacPhail, *The Impact of the Family Supplement*, supra note 191, available on: <www11.hrdc-drhc.gc.ca/edd/>

¹⁹⁴ As opposed to maternity benefits or sickness benefits, for example.

¹⁹⁵ Canada Employment Insurance Commission, *Employment Insurance 2000 Monitoring and Assessment Report*, Table 2.4, (December 2000).

Women who are unable to qualify for EI benefits – because they don't have enough hours of work because they were part-time, they were new to the workforce or they have re-entered after having spent five or six years at home raising their children – have no alternative but to turn to social assistance. This requires exhaustion of assets necessary to provide protection against unforeseen events or for providing deposits for alternative accommodation. Social assistance rates will rarely be adequate to pay for current accommodation, whereas, proper insurance coverage would allow women to hang onto a good apartment through a transition period. The present system forces women confronted with temporary unemployment to relinquish their accommodation, take children out of school or daycare, and enter an increasingly hostile and unregulated rental market. They may have their credit damaged in the process, making it impossible to qualify for most apartments or for a mortgage in the future. Women are further disadvantaged because social assistance programs are more stigmatizing of recipients.¹⁹⁶

Recommendations

1) Employment Insurance requires a thorough overhaul to ensure that women who are vulnerable to unexpected job loss or income reduction are adequately protected so they can continue to pay their rent or make their mortgage payments. This means:

- Rather than disqualifying young women and women who are re-entering the workforce after having stayed at home caring for children, eligibility criteria should be developed that consider and accommodate women's participation in the paid and unpaid labour force, with particular attention focused on women's work patterns, young women and women re-entering the labour force after an absence;
- Ensuring eligibility for the family supplement is based on current income and housing security needs rather than on income in the last taxation year and receipt of the National Child Benefit;
- Adjusting regular benefit levels and the family supplement so as to provide the necessary protection to those who, as primary caregivers, have little flexibility to absorb a reduction of income. Benefit and supplement rates would have to take into consideration actual housing costs of EI recipients.

2) Surveys of women dealing with eviction should be undertaken to document the extent to which improved employment insurance could prevent homelessness.

3) A more efficient delivery system is required so that low income women receive their first EI cheques immediately upon application rather than having to wait between four and

¹⁹⁶ Ibid.

six weeks, or alternatively a fast track system could be developed for those in need of immediate income to meet housing costs.

Chapter 5: Recommendations

This chapter consolidates the recommendations made in previous chapters.

Federal Government Programs

Affordable Rental Housing

- 1) We recommend that a portable shelter subsidy be allocated as a direct cash transfer or tax credit based on established eligibility criteria to all qualified households. This would remove the administration and allocation of subsidy from the housing provider and eliminate the discriminatory consequences of lengthy waiting lists and other restrictions in social housing. Eligibility for subsidy would be determined by need rather than by whether women get access to social housing units.
- 2) We recommend that the federal government and the provinces develop methods of collecting complete information about the demographic and income characteristics of households securing access to assisted housing and that allocation of assisted housing be revised in order to ensure equitable representation of young women, larger families, newcomers and other groups at risk of homelessness.
- 3) Funding for new rental housing supply should be made conditional on non-discriminatory rental practices and on ensuring that the stock will remain affordable rental in the future.

Home Ownership

- 1) CMHC's restrictions on mortgage insurance should be removed and regulation of banks should ensure that women and low income households are provided with alternative ways of demonstrating credit worthiness.
- 2) Banks should be required to provide detailed information about the income and household characteristics of those provided with mortgages, and be required to develop special programs to provide mortgages to low income households
- 3) Programs should be initiated to provide protection to low income home buyers from interest rate fluctuations.
- 4) While programs designed to assist homeowners with repairs would be valuable programs for low income women homeowners, these programs need to be linked with major initiatives to provide access to home ownership for single mothers and low income women.

5) Tax expenditures such as the capital gains tax exemption for primary residence available to home owners should be matched by a shelter allowance for low income renters so that federal program and tax expenditures are fairer to women.

Homelessness Secretariat

1) The Homelessness Secretariat should consider setting as a priority the funding of community based initiatives that address the systemic causes and diversity of women's experiences of homelessness.

2) The Homelessness Secretariat could facilitate the establishment of a vehicle, such as a national network, to facilitate communication and collaboration between women's groups across Canada on issues related to women's housing and homelessness. A national network would assist in linking local community activism to systemic issues that are often national or international in scope. It might also assist in ensuring issues related to women's housing and homelessness are securely placed on political, economic and social policy agendas.

Aboriginal Women and Housing

1) The right to adequate housing should be recognized by the federal government as an Aboriginal treaty right, arising from the Federal government's fiduciary responsibility with respect to Aboriginal peoples. To this end, the federal government has an obligation to clarify with treaty nations a modern understanding of existing treaty terms as they apply to housing. Governments also have an obligation to ensure that Aboriginal women, men and children have adequate shelter, and short and long term means to provide for their own housing needs.

2) If the *Indian Act* is to remain, it must be amended to remove all discrimination against Aboriginal women and their children. This must be done in consultation with Aboriginal women and representative organizations.

3) There is a real need for more research which specifically investigates and documents Aboriginal women's housing and living conditions and which develops Aboriginal women-specific recommendations. Federal and provincial/territorial governments as well as band councils responsible for Aboriginal housing and funders must provide the necessary resources to Aboriginal women's organizations to undertake such research.

4) Across the country mainstream organizations and networks are undertaking a variety of activities to demand federal, provincial, territorial and municipal governments to address the housing crisis across Canada. These mainstream organizations and networks must work harder to ensure that Aboriginal women's groups are informed of and included in these activities and sought as partners for collaborative activities.

5) Aboriginal women have used the Charter in a limited way to enforce their equality rights. This avenue of recourse could be pursued further as a means of improving their

housing and living conditions and the discrimination they suffer both on and off reserve. To the extent that they are not already doing so, Aboriginal women should pursue international human rights enforcement mechanisms such as the complaints procedures available under the International Covenant on Civil and Political Rights to address their experiences of discrimination with respect to property rights upon marriage dissolution and other experiences of discrimination.

6) Federal and provincial/territorial governments as well as band councils responsible for housing must respond to the specific housing and income issues experienced by Aboriginal women living on and off reserves. This would include: earmarking funds for the construction of new units specifically for Aboriginal women on and off-reserve that are culturally appropriate and that accommodate families of different sizes; ensuring that all Aboriginal women have sufficient funds (perhaps through a portable shelter allowance financed by the Federal government) to access existing and new housing stock on and off reserve; and allocating existing housing stock in a non-discriminatory fashion, prioritizing those in need.

7) The recommendations for future action articulated in Pauktuutit's report, *Inuit Women: The Housing Crisis and Violence* must be implemented immediately. These recommendations include:

- The reinstatement of secure, adequate and long-term federal funding for housing;
- An Inuit-specific housing policy ensuring an adequate standard of housing;
- The inclusion of Inuit women's organizations as active partners at all levels of the policy making process, including local housing associations;
- Victims of family violence must consistently be given priority access to public housing.

Income Support Programs

Income Assistance - CAP

1) The loss of legally enforceable standards in social assistance allowed unprecedented erosion of income adequacy for women in Canada – particularly for single mothers, women with disabilities, Aboriginal women and racialized women. These changes have been condemned by two United Nations Committees as violations of international human rights law because of their discriminatory consequences for women's access to adequate housing.¹⁹⁷

Despite the dramatic rise in homelessness among women and the strongly worded concerns of United Nations Committees, nothing has been done to reinstate enforceable standards with respect to social assistance. During the review of the Social Union Framework Agreement women should press the federal and provincial governments to include an enforceable right to adequate financial assistance in a renewed agreement.

2) Women have turned to the *Charter of Rights and Freedoms* and to human rights legislation as alternative sources for enforcement of the right to an adequate standard of living. A critical case was heard on this issue by the Supreme Court of Canada on October, 29, 2001. This type of litigation must continue to be initiated.

Support for including the right to an adequate standard of living, including adequate food, clothing and housing, in a revised *Canadian Human Rights Act*, was virtually unanimous among women's and other equality seeking groups across Canada when the Canadian Human Rights Review Task Force held consultations on the *Canadian Human Rights Act* in 2000. Though this recommendation was not included in the Task Force report, women's groups could lobby the federal government directly on this issue.

National Child Benefit Supplement

An obvious solution to the discriminatory aspect of the NCBS is to eliminate the clawback in all provinces and territories where it is currently clawed back. In fact, campaigns to this effect have been launched at various times across the country, for example, the Ontario New Democratic Party currently has such a campaign.¹⁹⁸ In October 2001, the NDP Community and Social Services Critic, Tony Martin, brought a petition with over 7,000 signatures to the legislature demanding the Ontario government stop clawing back the Supplement.

¹⁹⁷ Concluding Observations on Canada of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.31 (10 December 1998) and Concluding Observations on Canada of the Human Rights Committee, CCPR/C/79/Add.105 (7 April 1999).

¹⁹⁸ For more information on this campaign See:
<www.ontariondp.on.ca/issues/poverty/clawback.html>

There are, of course, potential difficulties with such a solution as it may jeopardize the availability of funds to address the problems facing some women transitioning from social assistance to paid employment. However, rather than reinforcing the division between “being in receipt of social assistance” and “working” and excluding social assistance recipients from the benefit of a much needed child poverty initiative, new benefit programs must be designed to address the complex inter-connections of various programs and benefits to ensure the availability for working women of a shelter allowance or housing subsidy adjusted to family size and housing costs.

To complement these types of strategies, CERA recommends the initiation of Charter litigation challenging the claw back as violating the right to life, liberty and security of the person and to equality rights for single mothers in receipt of social assistance.

Employment Insurance

1) Employment Insurance requires a thorough overhaul to ensure that women who are vulnerable to unexpected job loss or income reduction are adequately protected so they can continue to pay their rent or make their mortgage payments. This means:

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2) Further surveys of women dealing with eviction should be undertaken to document the extent to which improved employment insurance could prevent homelessness.

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