Court File No.: CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicants

- and -

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

SUPPLEMENTAL RESPONDING APPLICATION RECORD
Volume 3

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Court File No. CV-25-00000750-0000

ONTARIO
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B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

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SUPPLEMENTAL RESPONDING APPLICATION RECORD

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Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

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AFFIDAVIT OF KAITLIN SCHWAN

(AFFIRMED AUGUST 15, 2025)

I, Kaitlin Schwan, of the City of Los Angeles, California, MAKE OATH AND SAY AS FOLLOWS:

1. The facts and opinions contained in this affidavit are based on my own research and experiences as well as other reliable research in this area, where noted.

2. I am the former National Director of the Women's National Housing and Homelessness Network and a Senior Researcher at the Canadian Observatory on Homelessness. I am an Associate Professor of Family Medicine at the University of Southern California's School of Family Medicine. I am appointed Assistant Professor, Status Only, at the University of Toronto's Faculty of Social Work. I am the former Senior Researcher for the UN Special

Rapporteur on the Right to Adequate Housing and former Director of Research for The Shift.

3. A copy of my Curriculum Vitae is attached to this Affidavit as **Exhibit "A".**

4. I have been asked by the Waterloo Region Community Legal Services to provide an expert opinion in this matter regarding themes related to unhoused women. These themes include their unique experience accessing the shelter system, gender-based violence experienced by this population, the context of the encampment experience faced by women compared to men, the adverse effects of encampment evictions, and the impact of the law against the erection of tents on unhoused women living on the street. As well as to provide an opinion on homelessness and receipt of social assistance as personal characteristics linked to negative stereotype and discrimination.

5. I have attached the publication "The Pan-Canadian Women's Housing and Homelessness Survey, "Schwan, K., Vaccaro, M., Reid, L., Ali, N., & Baig, K. (2021). *The Pan-Canadian Women's Housing & Homelessness Survey*. Toronto, ON: Canadian Observatory on Homelessness (attached herein as **Exhibit "B"**) that I authored and adopt it as part of my opinion in this case. The *Pan-Canadian Women's Housing & Homelessness Survey* is the largest national survey to date examining women and gender-diverse people's distinct housing experiences, challenges, and service needs.

6. I have reproduced the following significant findings from **Exhibit "B"** that relate to the issues raised in this case and they are as follows:

   a. Women and gender diverse people experiencing housing need and homelessness reported high exposure to trauma and violence, with 75% identifying as a survivor of trauma or abuse;

   b. Women and gender diverse people reported significant barriers to accessing emergency services, with almost a third being unable to access a bed when they needed one; and

   c. 79% of women and gender diverse people experiencing housing need or homelessness report having a disability. This group reports significant inequities and discrimination on the basis of their disabilities, with severe consequences for many.

HOUSING NEED AND HOMELESSNESS AMONGST WOMEN, GIRLS AND GENDER DIVERSE PEOPLE IN CANADA

7. Homelessness amongst women, girls, and gender-diverse people in Canada remains both understudied and underestimated, despite indications that these groups disproportionately experience both poverty and core housing need.[1] This is linked to the ways in which

[1] Sadie McInnes, "Fast Facts: 4 Things to Know About Women and Homelessness in Canada," *Canadian Centre for Policy Alternatives*. August 26, 2016, accessed August 29, 2022,

commonly used definitions, typologies, and ways of measuring homelessness have failed to account for the hidden ways that women, girls and gender diverse people often experience housing instability and homelessness.[2]

8. They are also more likely to negotiate a number of high-risk survival strategies to obtain shelter and avoid the dangers of the streets and co-ed shelter spaces, including by staying in unsafe and exploitative relationships, and exchanging sex for shelter.[3]

9. National data from the Canadian Mortgage and Housing Corporation finds that women are more likely to be in core housing need than men across most ages, and that racialized women face especially high rates.[4]

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https://www.policyalternatives.ca/publications/commentary/fast-facts-4-things-know-about-women-and-homelessness-canada

[2] See, for instance, Statistics Canada. (2023, June 16). *A review of Canadian homelessness data*. https://www150.statcan.gc.ca/n1/pub/75f0002m/75f0002m2023004-eng.htm. The report notes that Canadian homelessness data often lack gender-specific breakdowns, limiting understanding of the distinct experiences of women, girls, and gender-diverse individuals. It also identifies measurement gaps, particularly around hidden homelessness, and recommends standardized definitions and methodologies to better capture the experiences of all genders. Similarly, the 2024 HPS Point-in-Time Count methodology acknowledges that many individuals experiencing homelessness do not access shelters, and that hidden homelessness is only captured "where possible," highlighting inherent underestimation. See: Infrastructure Canada. (2024). *2024 HPS Point-in-Time Count – Standards & Approach*. Government of Canada. Retrieved August 14, 2025, from https://infrastructure.gc.ca/homelessness-sans-abri/index-eng.html. For evidence of this pattern in other Global North nations see, for example: Savage, M. (2016). Gendering Women's Homelessness. *Irish Journal of Applied Social Studies*, 16(2), 43-64. See also Pleace, N. (2016). "Exclusion by Definition: The Under-representation of Women in European Homelessness Statistics." In P. Mayock & J. Bretherton (Eds.), *Women's Homelessness in Europe* (pp. 105–126). London: Palgrave Macmillan.

[3] Bretherton, J. (2017). Reconsidering Gender in Homelessness. *European Journal of Homelessness*, at s21

[4] "Core housing need" is defined as spending 30% or more of its before-tax income to access housing that meets all three standards of adequacy, suitability, and affordability. See Canada Mortgage and Housing Corporation. (2025, March 11). *Core housing need and gender*. Housing Observer. https://www.cmhc-schl.gc.ca/observer/2025/core-housing-need-gender. See also Department of Finance Canada. (2024, April 17). *Statement and Impacts Report on Gender, Diversity, and Inclusion* [Budget 2024]. https://budget.canada.ca/2024/report-rapport/gdql-egdqv-1-en.html.

10. "It may be that the major trigger for homelessness is poverty and exclusion, but it is also clear that women do not experience homelessness in the same way as men. The triggers for women's homelessness are often different and their trajectories while homeless are often different, women's experience of homelessness is *different*. Gender plays a role."[5]

11. 'Hidden homelessness' is the most common form of homelessness experienced by women and girls. It is well recognized that women are more likely to rely on relational, precarious, and dangerous supports to survive housing instability[6], and are less likely to appear in mainstream shelters, drop in spaces, public spaces, or other homeless-specific services.[7] Hidden homelessness includes conditions such as "Remaining in an abusive relationship in order to maintain housing; living in inadequate or dangerous housing in order to keep the family together or maintain custody over one's children; engaging in survival sex in order to access housing; and couch-surfing with family, friends, or strangers in order to avoid shelters, or because shelter services and affordable housing are unavailable or unsafe."[8] Part of the reason that women's homelessness remains understudied, undercounted, and underfunded is because these survival strategies often render it invisible to official counts, policy makers, and service systems, allowing the scale and urgency of

[5] Bretherton, *supra* note 3 at 6.
[6] *Ibid*.
[7] Isabel Baptista, "Women and Homelessness," *Homelessness Research in Europe 4*, no. 1 (2010): 163-185; Maki, K. (2017). "Housing, Homelessness, and Violence Against Women: A Discussion Paper." *Canadian Network of Women's Shelters and Transition Houses*. http://endvaw.ca/wp-content/uploads/2017/09/Housing-Homelessness-and-VAW-Discussion-Paper-Aug-2017.pdf.
[8] Kaitlin Schwan, et al., "The State of Women's Housing Need & Homelessness in Canada," *Canadian Observatory on Homelessness Press*, 2020, 68, http://womenshomelessness.ca/wp-content/uploads/State-of-Womens-Homelessness-Literature-Review.pdf

women's homelessness to be obscured and deprioritized in research, funding allocations, and program design.[9]

INEQUITABLE ACCESS TO EMERGENCY SHELTERS, SUPPORTS & HOUSING FOR WOMEN, GIRLS AND GENDER DIVERSE PEOPLE

12. Data from Statistics Canada,[10] Employment and Social Development Canada,[11] parliamentary reports,[12] and municipal data and research[13] consistently indicate that emergency shelters across the country are operating at (or over) capacity and there remains a severe lack of gender-specific supportive, transitional, and permanent affordable housing that meets the needs of women, girls, and gender diverse people. Importantly, this is linked to systemic underfunding and inequitable funding in Canada for services, shelters, and housing that is gender-specific and meets the needs of women, girls, and gender diverse people.

13. Violence against women ("VAW") shelters across Canada are chronically underfunded, with 46% of VAW shelters in Canada reporting that the top challenge facing service

[9] Bretherton, *supra* note 3.
[10] Statistics Canada. (2019). Canadian residential facilities for victims of abuse, 2017/2018. Statistics Canada Catalogue. Ottawa. https://www150.statcan.gc.ca/n1/daily-quotidien/190417/dq190417d-eng.htm.
[11] Employment and Social Development Canada. (2019). Highlights of the National Shelter Study 2005 to 2016. Ottawa. https://www.canada.ca/en/employment-social-development/programs/homelessness/reports-shelter-2016.html
[12] Vecchio, K. (2019). Surviving abuse and building resilience – A study of Canada's systems of shelters and transition houses serving women and children affected by violence. Report of the Standing Committee on the Status of Women. https://www.ourcommons.ca/Content/Committee/421/FEWO/Reports/RP10429173/feworp15/feworp15-e.pd
[13] For example, City of Toronto. (2018). Street Needs Assessment. City of Toronto. https://www.toronto.ca/wpcontent/uploads/2018/11/99be-2018-SNA-Results-Report.pdf.

delivery was a lack of sustainable funding.[14] A 2019 Statistics Canada survey found that on a national snapshot day across Canada, "669 women, 236 accompanying children, and 6 men were turned away from residential facilities for victims of abuse. The most common reason reported for a woman being turned away was that the facility was full (82%)".[15] The same Statistics Canada survey, repeated in 2022/2023, found that one-third of short-term facilities for victims of abuse were full on the national snapshot date, with a similar proportion reporting they had to turn away women and children. Among those turned away, most women (82%) said it was because the shelter was at capacity.[16]

14. Women and gender diverse people reported significant barriers to accessing emergency shelters, with almost a third unable to access a bed when they needed one (**Exhibit "B", page 41)**.

15. Regarding their experiences in emergency shelters, the top 7 problems reported by survey participants of *The Pan-Canadian Women's Housing and Homelessness Survey* (**Exhibit "B"**) were as follows, from most reported to least:

    a. Feel like I don't belong – 29.8%

    b. Not enough beds – 29.4%

    c. Discrimination from other participants – 27.6%

    d. Not knowing about services – 26.4%

    e. Not feeling safe – 26.2%

[14] Statistics Canada, *supra* note 10.
[15] *Ibid* at 3.
[16] Statistics Canada. (2024). Canadian residential facilities for victims of abuse, 2022/2023. Statistics Canada Catalogue. Ottawa. https://www150.statcan.gc.ca/n1/pub/85-002-x/2024001/article/00005-eng.pdf.

f. No money for transportation – 25%

g. Discrimination/judgement from staff – 23.6%

16. Our survey findings contained in **Exhibit "B"** suggest that some women and gender diverse people are harmed by how the homelessness and VAW sectors structure and deliver services. In addition to the severe capacity issues that are well-documented, personal accounts indicate that shelters can exacerbate the very needs they are meant to address, including through discriminatory policies, duty to report policies, and rigid eligibility and acuity criteria. Shelter policies related to substance use, pets, and adult children – combined with a failure to employ trauma-informed, harm reduction approaches – result in women and gender-diverse people being turned away from services. This is particularly evident in the lives of women and gender-diverse people who have complex needs or are multiply-marginalized. The effects of such exclusion cannot be overstated. In some cases seemingly benign or very minor operational policies within shelters, drop-ins, transitional housing, and other emergency services produce traumatic results for those seeking or receiving support.

17. Violence Against Women shelters, which in many jurisdictions serve only women fleeing intimate-partner violence ("IPV"), create gaps in service for women who are experiencing violence due to being homeless or street-involved, or experiencing violence from other family members. This creates silos between women and gender diverse people who experience violence in different circumstances. Given this, it is not surprising that some women report feeling there is a "hierarchy of deservingness" that shapes who gets access

to services, and that women experiencing particular forms of violent victimization are prioritized over others.

18. Experiences of gender-based discrimination and race-based discrimination at shelters further disenfranchise women and gender diverse people from spaces that are meant to protect them and their families. Being turned away from shelters can mean women and gender-diverse people are forced to utilize alternative strategies such as survival sex, going back to their abuser, or navigating systems like healthcare or criminal justice to seek immediate shelter.

19. Experiences of trauma and violence were reported both prior to and during experiences of homelessness by participants. Remarkably, over 75% of women and gender diverse persons reported being a survivor of abuse or trauma (**Exhibit "B", page 45**).

20. Of the participants of the survey referenced in paragraph 4, attached as **Exhibit "B"**, 79% of women and gender diverse people experiencing housing need or homelessness report having a disability. This group reports significant inequities and discrimination on the basis of disability, with severe consequences for many. Analysis indicated having a disability was a significant predictor of negative housing outcomes. These included having difficulties accessing emergency shelter and supports, difficulties finding affordable and accessible housing, experiences of discrimination, and numerous additional inequities.

PROJECT WILLOW REPORT

21. I endorse the Project Willow Report attached as **Exhibit "C"**[17].

22. The Project Willow study on experiences of gender-based violence among women experiencing homelessness in Waterloo Region surveyed 48 and interviewed 13 women and gender-diverse individuals in Waterloo Region in 2020. This study is significant because it provides insight into the experiences of women and gender-diverse individuals in Waterloo Region using emergency shelter. Pertinent findings include:

- 88% of participants reported as having a mental health condition and 31% of participants identified as having a disability;

- 73% of respondents stated they felt unsafe in co-ed shelters and avoided them. One participant shared about the violence they faced while staying in the co-ed shelter "I went there once and the first night I was there I was unfortunate to be raped";[18]

- For some participants, the women's emergency shelter also felt unsafe, which led them to choose camping and other rough sleeping options instead. One participant stated as follows: "Sometimes I camp because even staying in an all-women shelter feels unsafe to me. I feel people recommend the shelter too much because it's the only one and I feel unsafe there sometimes"; and

[17] Jennifer Gordon, et al., "Don't Tell Them You're Homeless: Experiences of Gender-Based Violence Among Women Experiencing Homelessness in Waterloo Region" *The Feminist Shift*, November, 2021, Accessed August 29, 2022, https://thefeministshift.ca/wp-content/uploads/2022/07/YWKW-ProjectWillow-Impact-accesisble-Report-R04-20220609-1.pdf.
[18] *Ibid* at 17.

- 64% of participants said they avoided spaces they perceived to be male dominated (ex: soup kitchens, meal programs, safe consumption sides, co-ed shelters, etc.) because they had safety concerns.

23. These findings are consistent with my research on homelessness among women and gender-diverse people across Canada.

PROBLEMS ACCESSING SHELTERS

24. My data collection and analysis in the survey referenced at paragraph 4 concluded that people with disabilities reported being unable to access shelter beds when they needed them at roughly twice the rate of those without disabilities (65.1% for people with physical disabilities vs. 34.9% for those without; 43.1% for those with mental health disabilities vs. 18% for those without). This suggests profound accessibility issues persist in the homelessness and VAW sectors. Evidence of this surfaced in other parts of the data. For instance:

- Persons with physical disabilities reported shelters and drop-ins were not accessible to them by public transportation at almost twice the rate of those without physical disabilities (11.6% vs. 6%).

- Shelters and drop-ins are inaccessible to people with physical disabilities at more than three times the rate of those without physical disabilities (10.7% vs. 3%).

- Individuals with substance use problems also experienced significant barriers when trying to access shelters. There was a significant association between reporting a

substance use problem and having been barred from shelters. Those that used substances reported being barred from shelters at a rate three times that of those who did not (30.9% vs. 10.4%).

EXPERIENCES OF WOMEN AND GENDER DIVERSE PERSONS IN ENCAMPMENTS, BENEFITS OF AN ENCAMPMENT VERSUS SHELTER

25. Research indicates that women, transwomen, and gender-diverse persons commonly experience harassment or violence within large mainstream homeless shelters, particularly co-ed and congregate shelters.[19]

26. In a recent study, one transwoman testified: "They asked me why don't I go to men's [shelter] before and I was getting sexually harassed all the time. I remember one time waking up [at a men's shelter] and there was like five guys standing around my bed in the dark and they were all naked from the waist down. After I left the building. I never went back."[20]

27. Violence in homeless shelters appears to be increasing in some Ontario cities. A 2021 report indicated a 200% increase in violent incidents and a 125% rise in deaths over a five-year period.[21] More recent data further underscores this concerning trend. According to the

[19] Schwan, *supra* note 8.
[20] Lyons, T., Krüsi, A., Pierre, L., Smith, A., Small, W., & Shannon, K. (2016). Experiences of Trans Women and Two-Spirit Persons Accessing Women-Specific Health and Housing Services in a Downtown Neighborhood of Vancouver, Canada. LGBT Health,3(5), 373-378. doi:10.1089/lgbt.2016.0060, p.374.
[21] Liam Casey, "Toronto's shelters see triple the number of violent incidents rise, rise in overdoses during COVID-19 pandemic, data shows," *Globe and Mail* (6 June 2021), online:

Centre for Addiction and Mental Health's (CAMH) *2024 Shelter Safety Study*, incidents of interpersonal violence—including physical assaults, verbal abuse, threats, and harassment—have increased by 283% from 2011 to 2021.[22]

28. Safety in homeless shelters was significantly undermined during the COVID-19 pandemic. While municipalities often displace encampment residents or evict encampments on the basis that they have access to "safe" or "high quality" indoor shelters, research demonstrates that that people experiencing homelessness and accessing homeless shelters in Ontario were significantly more likely to contract COVID-19, to be hospitalized for the virus, to require ICU care, and to die.[23]

29. Further, some women and gender-diverse persons will be unable to access a shelter in their communities due to their disabilities, necessitating that they reside outdoors and/or within an encampment. For example, a DAWN Canada study reports that only 75% of homeless shelters have a wheelchair accessible entrance, 66% provide wheelchair accessible rooms and bathrooms, 17% provide sign language, and 5% offer braille reading materials.[24]

<https://www.theglobeandmail.com/canada/toronto/article-torontos-shelters-see-triple-the-number-of-violent-incidents-rise-in/>.

[22] Centre for Addiction and Mental Health. (2024). *The Shelter Safety Study: Final Report*. https://www.camh.ca/-/media/news-and-stories-files/shelter-safety-study-final-report-april-2024-sm-pdf.pdf

[23] Lucie Richard et al., "Testing, infection, and compliance rates of COVID-19 among people with a recent history of homelessness in Ontario, Canada: A retrospective cohort study" (2021) 9:1 *CMAJ OPEN* at E6.

[24] Alimi, S., Singh, S., & Brayton, B. (2018). Parliamentary Brief A Brief Prepared for the Standing Committee on the Status
of Women in Canada (FEWO) for their Study of the System of Shelters and Transition Houses in Canada.

30. Many necessitate that residents leave during the day, sometimes early in the morning. Limiting access to overnight shelter forces women to spend the daytime without safe, stable spaces, which can exacerbate risks of violence, theft, and harassment on the streets. The necessity to leave the shelter each morning interrupts rest, recovery, and access to basic necessities, and can make it difficult to maintain employment, attend appointments, or care for children. This "daytime displacement" reinforces the instability and precarity that shelters are meant to alleviate, and may create ongoing stress, exposure to harm, and barriers to achieving housing security.[25]

31. More broadly, as demand for shelter beds increases, women and gender diverse peoples face some of the greatest disadvantage. Across Canada, there are fewer women-specific emergency shelter beds – 68% of shelter beds are co-ed or dedicated to men, compared to 13% dedicated to women. Men's shelters also have more than double the number of beds that women's emergency shelters have (4,280 beds compared to 2,092 beds).[26] Further, while 38% of beds are reported to be within "general" emergency shelters across Canada[27] – meaning shelter beds that are co-ed or open to all genders – research consistently demonstrates that many women will avoid co-ed shelters for fear of violence or because they have experienced violence within those spaces.[28]

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[25] Kerman, N., Kidd, S. A., & Stergiopoulos, V. (2024). *The Shelter Safety Study: An examination of violence and service restrictions in Toronto's shelter system*. Centre for Addiction and Mental Health. Retrieved from https://www.camh.ca/-/media/news-and-stories-files/shelter-safety-study-final-report-april-2024-sm-pdf.pdf

[26] Employment and Social Development Canada. (2018). Shelter Capacity Report 2018. Ottawa. https://www.infrastructure.gc.ca/homelessness-sans-abri/reports-rapports/shelter-cap-hebergement-2018-eng.html

[27] *Ibid*.

[28] See Bretherton, *supra* note 3. See also National Inquiry into Missing and Murdered Indigenous Women and Girls (NIMMIWG). (2019a). Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Vol. 1a. www.mmiwg-ffada.ca/final-report/

32. The culmination of all of these factors means that some women and gender-diverse persons experiencing homelessness may elect to – or be forced to – reside outdoors or in encampments given: (1) threats to physical, emotional, and psychological safety within homeless shelters (particularly co-ed congregate shelters); (2) previous experiences of trauma and violence in homeless shelters; (3) increased risk of exposure to COVID-19 within shelters; (4) the inaccessibility of many homeless shelters for persons with disabilities; and (5) the overall lack of women-specific homeless shelters, and shelters for people outside the gender binary. For many marginalized women and gender-diverse persons, the confluence of these factors makes residing in an encampment a rational or necessary choice amongst a number of minimal (or non-existent) options.[29]

PHYSICAL SAFETY IN ENCAMPMENTS

33. In my research on homelessness among many women and gender-diverse people, I have had the opportunity to visit numerous encampments across Ontario over the last several years and meet with women residing in them. While the women I've met with have reported safety concerns related to residing outdoors and in encampments (e.g., vulnerability to physical violence), overwhelmingly women state that residing in an encampment is a *safer* option than the other options available to them (e.g., accessing a shelter, returning to an abusive relationship, etc.). I have not visited the Kitchener encampment, but it has been my observations that the conditions of encampments and the experiences within them are often quite similar community to community.

[29] For first-person accounts of these constrained choices, see https://www.thestar.com/news/gta/2020/12/07/were-the-vulnerable-ones-why-women-living-in-torontos-public-parks-during-covid-19-choose-outdoor-tents-over-indoor-shelters.html

34. Furthermore, my conversations with women residing in encampments indicated that the violence they face is often not from others within the encampment, but from housed persons (mostly men) outside of the encampment. This was reported by women themselves, and from City staff and outreach workers. This suggests that while encampments are often portrayed as dangerous places, particularly for women, this danger is embedded within broader societal patterns of violence against women amongst the housed public.

35. My engagements with women residing in encampments across Ontario suggest that encampments can buffer women from exposure to violence, harassment, or abuse that they might otherwise experience when residing outdoors alone, or within situations of hidden homelessness. For example, I have met numerous women encampment residents in Toronto who described how their relationships with other people living in encampments was a protective factor because they could 'look out for each other,' warn each other of dangerous or exploitive men, watch over each other's tents and possessions, and remain with partners or pets (e.g., dogs) who provided physical safety.

36. Nonetheless, feeling *safer* is not the same as feeling *safe* within an encampment, and some women expressed concern for their safety and security. In response, some women had developed innovative means to protect themselves. For example, as a security measure, one encampment resident I met in Toronto had extended a measuring tape around her tent. The measuring tape created a distinctive sound when it was walked over, alerting her that someone was nearby and she needed to be alert for intruders. Encampments enabled the

adoption of such security systems for some women, who often used all available means to keep themselves safe.

37. My engagements with women residing in encampments indicated that encampment evictions often eroded the security systems, safety measures, and mutual aid systems women had adopted for themselves within encampments. These were not easily re-established.

HOMELESSNESS AS A PERSONAL CHARACTERISTIC LINKED TO DISCRIMINATION, STEREOTYPE, STIGMATIZATION, CRIMINALIZATION AND SOCIAL EXCLUSION

38. Based on my experience working with people experiencing homelessness and from research done by myself and others in this field, it is my opinion that homeless persons are subject to distinctive historical disadvantage, pervasive stereotyping, stigma, criminalization, and systemic discrimination on the basis of the personal characteristic of homelessness. The experience of homelessness becomes deeply embedded in personal identity such that it is difficult to change. Many people experiencing homelessness have less political influence than other groups and face major obstacles to voting. Politicians rarely describe people experiencing homelessness as constituents whom they represent but rather refer to them as social problems to be addressed in the interests of other constituents.

39. As documented by the UN Special Rapporteur on Adequate Housing in her 2015 Report to the UN Human Rights Council, the experience of homelessness goes beyond the deprivation of physical shelter. The Special Rapporteur explains that “being deprived of a home gives rise to a social identity through which “the homeless” is constituted as a social

group subject to discrimination and stigmatization." The Report of the Special Rapporteur, with which I agree, is attached as **Exhibit** "**D**" to this affidavit.

40. The Special Rapporteur also explains that "with a unique understanding of the systems that deny them their rights, homeless people must be recognized as central agents of the social transformation necessary for the realization of the right to adequate housing."[30] I agree with the Special Rapporteur's understanding of homelessness not solely as a deprivation of housing but also as personal characteristic and identity that is socially constructed through dominant patterns of stigmatization, social exclusion, and marginalization and also as rights claimants whose struggle for dignity and home must be recognized as central to the human rights movement in Canada and internationally.

41. Homeless people are often treated as "outsiders" or unwelcome intruders in their own communities in a manner that is analogous to other forms of discrimination. Opposition from residents to the development of housing for individuals experiencing homelessness is common, and some municipalities deliberately withhold access to essential services—such as water and sanitation—as a means of displacing them.[31] Such tactics are often accompanied by dehumanizing comments about homeless people, such a comment from a

[30] Report of the UN Special Rapporteur on the Right to Adequate Housing, UN Human Rights Council Thirty-first session, A/HRC/31/54 (30 December 2015), attached as Exhibit D.
[31] See: Office of the Federal Housing Advocate. (2022). *Homeless encampments in Canada: A human rights crisis.* Canadian Human Rights Commission. https://www.chrc-ccdp.gc.ca/resources/newsroom/homeless-encampments-canada-human-rights-crisis. Office of the Federal Housing Advocate. (2023). *The Advocate's review of homeless encampments.* Canadian Human Rights Commission. https://www.chrc-ccdp.gc.ca/publications/advocates-review-homeless-encampments

former mayor of Ottawa comparing homeless persons to pigeons, who stated: "if you don't feed them, they'll go away."[32]

42. Homeless people are particularly vulnerable to violence not only because they live outdoors but because of widespread hostility and discriminatory attitudes toward them. People experiencing homelessness who are victims of violence rarely report these incidents to police, as they often believe police and the justice system will not care, will deny them fair and equal treatment, and/or will fail to treat them with basic dignity.[33]

43. In their study of how people experiencing homelessness were treated in eight Canadian cities, Marie-Eve Sylvestre and Celine Bellot found a marked increase in penalties imposed during the late 1990s and early 2000s for simply being present in public spaces or engaging in basic survival activities. For example, they found that in Montreal between 2006 and 2010, although homeless people represented only 1 or 2 per cent of the population, they received, on average, approximately 25 percent of all statements of offences issued by the Montreal police – mostly related to simply trying to survive in public spaces in the absence of a home.[34] A copy of Marie-Eve Sylvestre and Celine Bellot's chapter entitled "Challenging Discriminatory and Punitive Responses to Homelessness in Canada" is attached and marked as **Exhibit "E"** to this affidavit.

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[32] Reported in Maclean's "Why Kindness meters' are a horrible way to deal with panhandlers" (March 14, 2016) online at https://macleans.ca/news/canada/kindness-meters-are-no-way-to-deal-with-panhandlers-say-experts/

[33] See Kouyoumdjian, F., et al. (2019). *Interactions between police and persons who experience homelessness: A systematic review*. *Canadian Journal of Public Health, 110*(5), 625–634. https://doi.org/10.1177/0706743719861386. Zakrison, T. L., et al. (2004). Homeless people's trust and interactions with police and paramedics. *Canadian Journal of Urban Research*, 13(2), 1–17.

[34] Marie-Eve Sylvestre* and Céline Bellot Challenging Discriminatory and Punitive Responses to Homelessness in Canada.

44. As Sylvestre and Bellot document, widespread criminalization of those who are homeless – by making survival activities linked to homelessness illegal – is more accurately understood as rendering those who are homeless illegal because of a personal characteristic rather than as rational measures to address harms they may cause to others. For example, by-laws that prohibit homeless people from sleeping in public, even when no alternative shelter is available, are aimed more at removing them from neighbourhoods and public spaces than at addressing any specific harm. Such measures further deprive homeless people of dignity and security, and entrench their social exclusion and precarious situation within society.

45. A dominant feature of responses to homelessness that is similar to other grounds of discrimination is the phenomenon of scapegoating or blaming them for broader social ills for which they are not responsible but rather are the victims. At times when the number of people experiencing homelessness has increased due to economic factors or inflated housing prices that are beyond the control of those affected, one would expect greater compassion towards those who are the victims of these developments and who have no power over these market forces. However, the opposite is the case. In the mid-1990s, as the number of homeless people in Canada grew significantly, social and income supports were dramatically reduced and governments stopped funding subsidized housing. Provinces adopted laws that had the effect of criminalizing homeless people, such as Ontario's Safe Streets Act (1999) and B.C.'s Safe Streets Act (2004), and municipalities

enacted measures to drive homeless people out of public places or business areas by imposing curfews and preventing them from lying down on benches by installing arm rests.

46. Sylvestre and Bellot document a number of key characteristics shared by most homeless people that make them particularly susceptible to discrimination, social exclusion, and ongoing historical disadvantage, making homelessness a personal characteristic that is very difficult to change or overcome. They find that public responses to homelessness are often informed by three stigmatizing ideas: the characterization of people experiencing homelessness as morally depraved, as being homeless by choice, and as criminals or law-breakers.

47. As explained by Sylvestre and Bellot, homelessness is not a choice of lifestyle but rather a complex, structural, and socially constructed identity, rooted in social, economic, and political causes. They note that the disproportionate penalization of people experiencing homelessness creates further social exclusion, making it more difficult to secure employment or housing and thus creating further obstacles to escaping from homelessness. These findings align with my own observations from working with people experiencing homelessness.

48. The Quebec Human Rights Commission has investigated the treatment of homeless people by police in Montreal and the discriminatory effects of by-laws. The Commission produced an opinion on "the judiciarization of the homeless" in 2009. The Commission found that "the stigmatization of the homeless in SPVM [City of Montreal Police Service] standards

and policies as well as the ensuing police profiling, undermines the rights of the individuals concerned to the safeguard of their dignity without discrimination based on social condition." The Commission found that homeless persons "are more likely to be punished by police officers to quell fears based on prejudice than because of the actual degree of nuisance or danger created by their behaviour."[35] The Commission also considered the effects of bylaws designed to restrict access by the homeless to public spaces and found such bylaws to have a discriminatory effect of depriving homeless people of basic human needs such as a place to sleep. A copy of the Commission's Report is attached as **Exhibit "F"** to this affidavit.

49. The Commission also found that punitive approaches to homelessness and discriminatory bylaws impede exits from homelessness and are costly compared to providing housing and supports. It recommended that punitive approaches be reversed and that governments "give priority to a preventive and proactive approach to homelessness, in particular by providing sufficient and adequate housing for the homeless or individuals at risk of homelessness, if they so desire."[36]

50. In 2000, the Canadian Human Rights Act Review Panel, chaired by the retired Supreme Court Justice Honourable Gérard La Forest, held extensive consultations and commissioned research to make recommendations on changes needed to the *Canadian*

[35] Commission des droits de la personne et des droits de la jeunesse, *The Judiciarization of the Homeless in Montréal: A Case of Social Profiling: Executive Summary of the Opinion of the Commission* (November 6, 2009) online at https://www.cdpdj.qc.ca/storage/app/media/publications/Homeless_Summary.pdf.
[36] *Ibid*, Recommendation 11.

Human Rights Act. The panel reported to the federal government that "research papers and the submissions we received provided us with ample evidence of widespread discrimination based on characteristics related to social conditions, such as poverty, low education, homelessness and illiteracy."[37] The panel recommended that "social condition" be added to the *Canadian Human Rights Act* as a prohibited ground of discrimination to provide remedies to such discrimination. A copy of chapter 17 of the Report of the Canadian Human Right Act Review Panel, dealing with the ground of "social condition" is attached to my affidavit and marked as **Exhibit "G"**.

51. Other human rights bodies have similarly recommended that social and economic conditions, such as Homelessness, should be considered a ground of decimation. For example, the Ontario Human Rights Commission has similarly recommended the inclusions of social condition as a prohibited ground of discrimination under Ontario's *Human Rights Code*, noting that this ground "would permit the Commission to deal more effectively with issues related to homelessness; and, it would be a means for the Commission and the province to better comply with some of Canada's international obligations."[38] A copy of the section on "Social and Economic Condition" from the Ontario Human Rights Commission's report "Human Rights and rental housing in Ontario: Background paper is attached and marked as **Exhibit "H"** to this affidavit.

[37] Canadian Human Rights Act Review Panel under the authority of the Minister of Justice and the Attorney General of Canada. Promoting Equality: A new Vision (2000) Online at https://publications.gc.ca/collections/Collection/J2-168-2000E.pdf.

[38] Ontario Human Rights Commission, Human Rights and rental housing in Ontario: Background paper Approved by the Commission: March 28, 2007, "Social and Economic Condition", online at https://www3.ohrc.on.ca/en/human-rights-and-rental-housing-ontario-background-paper/social-and-economic-condition.

52. International human rights bodies have also recognized homelessness as a prevalent ground of discrimination and urged Canada and other states to provide necessary protection from this kind of discrimination. As the UN Special Rapporteur on Adequate Housing explained in her Report on Homelessness (**Exhibit "D"**):

> Those who are homeless are constructed as a social group. Worldwide, their identity is created and then reinforced by people who have more money, more power or more influence. It is a vicious circle. Laws, policies, business practices and media stories depict and treat homeless people as morally inferior, undeserving of assistance and authors of their own misfortune, and blame them for the social problems they come to represent. Once stigmatized, their needs are further neglected and inequality and discrimination further entrenched.[39]

53. The Special Rapporteur states that: "Homeless people must be recognized as a protected group in all relevant domestic anti-discrimination and hate-crime laws, including where relevant in national Constitutions, national and subnational human rights legislation and in city charters."[40]

RECEIPT OF SOCIAL ASSISTANCE AS A GROUND OF DISCRIMINATION

54. Differential treatment on the ground of receipt of social assistance has been found to be more widespread than any other ground of discrimination that is prohibited under *Ontario's*

[39] Report of the Special Rapporteur on Adequate Housing, Exhibit D at para 19.
[40] Ibid at para 91(f)

Human Rights Code in rental housing. A 2008 study conducted by the Centre for Equality Rights in Accommodation compared the treatment of a married applicant receiving the highest level of social assistance in Ontario (i.e. Ontario Disability assistance rather than Ontario Works) with treatment of a married applicant with the same level of income from employment. Although receipt of social assistance is a prohibited ground of discrimination in housing, the study and found differential treatment in 40% of cases - higher than with any other prohibited ground of discrimination. A copy of the Report on CERA's findings, entitled "Sorry it's Rented: Measuring Discrimination in Toronto's Rental Market" is attached and marked as **Exhibit "I"** to this Affidavit.

55. A study commissioned by the Ontario Human Rights Commission on attitudes toward groups protected from discrimination under the *Human Rights Code* similarly found that of all of the identified groups, social assistance recipients were viewed the least positively. Only 39% of respondents viewed social assistance recipients positively or somewhat positively. A copy of the Ontario Human Rights Commission's Survey Overview: Taking the Pulse is attached and marked as **Exhibit "J"** to my affidavit.

56. Discrimination against persons receiving social assistance, however, is often inseparable from and compounded by differential treatment of persons living in poverty or relying on a low level of income. Landlords or property managers frequently apply income or affordability criteria that disqualify anyone on social assistance because of their low income. The result is that applicants on social assistance applying for the most affordable housing they can find will frequently be denied the most affordable apartments based on

affordability criteria they are unable to meet, even in the lowest rent apartments.

57. In the case of *Kearney v. Bramalea Ltd*., data was found to show no significant correlation between income level of applicants and the risk of default, and in fact suggested that low-income applicants were slightly less likely to default on rent than higher-income applicants. The reason for this somewhat counter-intuitive finding is that tenants relying on social assistance, despite severe affordability challenges, will often go to extremes lengths to avoid rent default.

58. Social assistance recipients, however, now rely on benefits that are grossly inadequate to compete within the current housing market. This means they are increasingly unlikely to find any housing they can afford, leaving them extremely vulnerable to homelessness. The maximum amount provided for a single person on Ontario Works to cover all housing costs, including utilities, is $390. According to the most recent rental survey of rental units in Waterloo, the average price of a studio apartment with average size of 377 square feet is C$1,430/month. Even if most landlords and property managers did not discriminate against social assistance recipients, it would be virtually impossible for a recipient of Ontario Works to find an adequate apartment for $390/month. As a result, social assistance recipients in Ontario face a significant risk of homelessness.

59. Negative attitudes toward social assistance recipients often reflect patterns of discrimination seen against other marginalized groups, and in some cases may be particularly pronounced. Research indicates that social assistance recipients—especially

women with children—frequently encounter stigmatization related to their parenting, with assumptions that they lack parenting skills or have children to access benefits. My experience of single mothers on social assistance has been that although they are stigmatized as inadequate parents, they are among the most committed parents, often navigating significant challenges related to poverty and housing instability while striving to provide supportive and stable environments for their children. For example, I have spoken with many single mothers who have chronically skipped meals so their children could eat, postponed medical treatment for themselves in order to ensure their children had what they needed, or who have sacrificed their wellbeing or safety in order to meet their children's needs.

60. A 2004 study of abused women's experience of Ontario's welfare system found that the stigma associated with relying on welfare combined with the grossly inadequate rates, leaving women in fear of not being able to properly provide for their children, made some women consider returning to situations of domestic violence.[41] Studies of the experience of single people on social assistance have also found a significant effect of discriminatory stigma attached to relying on social assistance that, combined with grossly inadequate rates, leads to social isolation, long term unemployment, and homelessness.[42] Attached as **Exhibit "K"** to my affidavit is a copy of the Institute for Research and Public Policy report entitled *Canada's Forgotten Poor? Putting Singles Living in Deep Poverty on the Policy*, which documents these patterns.

[41] Janet Mosher, "Walking on Eggshells: Abused Women's Experience of Ontario's Welfare System"
[42] Herd, Dean, Yuna Kim and Christine Carrasco. 2020. Canada's Forgotten Poor? Putting Singles Living in Deep Poverty on the Policy. IRPP Report (September). Montreal: Institute for Research on Public Policy. Online at https://irpp.org/research-studies/canadas-forgotten-poor-putting-singles-living-in-deep-poverty-on-the-policy-radar/

61. Social assistance recipients generally have been the subject of negative stereotypes and this can influence policy decisions. Such stigmatizing stereotypes bear little resemblance to the lived realities of surviving on Ontario Works and illuminate that recipients of social assistance—similar to people experiencing homelessness—are a distinct group facing systemic disadvantage, prejudice, and social exclusion. The persistence of these stereotypes can hinder recipients' ability to build self-confidence, secure employment, or obtain housing, and may shape political discourse in ways that contrast them with so-called 'taxpayers' rather than focusing on accurately assessing their needs and supporting their full participation in society.

62. I make this Affidavit in support of the response to the Application, and for no improper purpose.

AFFIRMED BEFORE ME by videoconference)
From the City of Los Angeles, in the State of California)
United States of America)
Location of the Deponent)
To the City of Waterloo, in the Regional Municipality)
of Waterloo (Location of Commissioner))
In accordance with O Reg 431/20.)
This 15 day of August 2025)

Kaitlin Schwan

A Commissioner, etc.

Kaitlin Schwan

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

THIS IS **EXHIBIT "A"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

Kaitlin J. Schwan, PhD

3783 Glenfeliz Blvd.
Los Angeles, CA 90039
626.379.1987
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EDUCATION

2016 University of Toronto
Factor-Inwentash Faculty of Social Work
Doctor of Philosophy
Dissertation: *Why Don't They DO Something? The Societal Problematization of "Homelessness" and the Relationship between Discursive Framing and Social Change*
Committee: David Hulchanski, PhD (Supervisor); Stephen Gaetz, PhD; Daniyal Zuberi, PhD; David Wagner, PhD

2009 Queen's University
Department of Art History & Visual Studies
Master of Arts
Concentration: Art, Activism, & Social Change

2007 University of Guelph
Bachelor of Arts Honours
Philosophy (major); Women's Studies (minor)

ACADEMIC APPOINTMENTS

2024 – present Keck School of Family Medicine, University of Southern California
Associate Professor of Family Medicine

2019 – present Factor-Inwentash Faculty of Social Work, University of Toronto
Assistant Professor, Status-Only

2018 – present Canadian Observatory on Homelessness, York University
Senior Researcher

2019 – 2022 Environmental Justice & Sustainability Clinic, Osgoode Hall Law School
York University
Visiting Scholar – Human Rights

2016 – 2018 Canadian Observatory on Homelessness
Department of Education, York University
Postdoctoral Fellow

PROFESSIONAL APPOINTMENTS

2024 – present	Director California Street Medicine Collaborative
2024 – present	Research Advisor Women's National Housing & Homelessness Network
2022 – 2024	Executive Director & Co-Founder Women's National Housing & Homelessness Network
2021 – 2024	Keepers of the Circle, Temiskaming Native Women's Support Group Director of Housing & Homelessness Department
2019 – 2022	The Shift Director of Research
2019 – 2020	United Nations Special Rapporteur on the Right to Adequate Housing Lead Researcher

RESEARCH INTERESTS AND METHODS

- Human Right to Housing; Homelessness Prevention
- Knowledge Mobilization; Community-Engaged Scholarship
- Women's Homelessness; Youth Homelessness
- Community-Based Participatory Research
- Housing & Homelessness Policy

AWARDS & DISTINCTIONS

2023	Selected as *14 Mobilizing Women Impacting Urbanism in Canada* Women in Urbanism Canada https://www.womeninurbanism.ca/words/14-mobilizing-women-impacting-urbanism-in-canada
2014 – 2015	Ontario Graduate Scholarship $15,000
2010 – 2013	SSHRC J. Armand Bombardier CGS Doctoral Scholarship $105,000
2013	SSHRC Michael Smith Foreign Study Award $6,000
2013	University of Toronto School of Graduate Studies Travel Grant $2,750
2013	University of Toronto School of Graduate Studies Conference Award $900

2013	Dorothea Lange-Taylor Documentary Prize, Duke University, Semi-finalist
2010 – 2011	Ontario Graduate Scholarship $15,000
2009 – 2012	University of Toronto Graduate Scholarship $4,000
2008 – 2009	SSHRC Joseph-Armand Bombardier CGS Graduate Award $17,500
2008 – 2009	Ontario Graduate Scholarship $15,000
2008 – 2009	Queen's J. S. Stauffer Scholarship in Canadian Art and Architecture $3,200
2007 – 2008	Queen's University A.R.C. Duncan Award for Excellence in Tutoring
2008	Queen's University Graduate Student Conference Award
2007 – 2008	Queen's University Graduate Award $10,000
2007	Millennium Scholarship Grant for Community Development $2,500
2005 – 2007	Millennium In-Course Excellence Scholarship of the Highest Order $20,000
2003 – 2005	President's Honour Role/Dean's List, University of Guelph
2003	University of Guelph Entrance Scholarship $2,500
2003	Owen Sound Women Centre's Award for Community Awareness

RESEARCH GRANTS

2025	**Schwan, K.** (Principal Investigator), Feldman, C., & Feldman, B. Developing a National Research and Policy Agenda for Street Medicine. *The Doris Duke Foundation*. $115,404.
2025 – 2026	**Schwan, K.** (Co-Principal Investigator), Feldman, C. (Co-Principal Investigator), & Feldman, B. Building an Impact Ecosystem for Street Medicine in California: Cultivating Knowledge, Data, Best Practices, and Policy Change. *California Health Care Foundation*. $291,348.

2024 – 2027 Morton, M., Barata, P., Mendoza, H., Vansteenkiste, J., Castaldi, S., **Schwan, K.** (Collaborator), Dej, E., Wildman, C., Neto, C., & Tanti, M. Safe and Stable Housing through Intentional Partnership. *Social Sciences and Humanities Research Council, Partnership Development Grant.* $200,000.

2023 – 2025 Chyzzy, B., Sepali, G., Oudshoorn, A., **Schwan, K.** (Co-Investigator), Vaccaro, M., & Thompson, C. Hidden Homelessness among Women and Gender-Diverse People in Ontario. *Social Sciences and Humanities Research Council, Insight Development Grant*. $74,995.

2023 – 2025 **Schwan, K.** (Principal Investigator), Dej, E., Baig, K., Taha, D., & Youseff, Y. Advancing Shelter and Supports for Homeless Muslim Women & Children in Canada. *Social Sciences and Humanities Research Council, Partnership Engage Grant*. $22,599.

2023 – 2025 Pin, L. (Principal Investigator), **Schwan, K.** (Co-Applicant), Haley, E., & Dej, E. Realizing the Right to Housing: Municipal Policy Responses to Encampments in Canada. *Social Sciences and Humanities Research Council, Insight Development Grant.* $74,985.

2023 – 2025 **Schwan, K.** (Co-Principal Investigator), Cormier, B. (Co-Principal Investigator), Pitawanakwat, M. M., & Degagne, M**.** Understanding Alternative Housing Builds Using Localized Materials through an Indigenous Lens. *Canadian Mortgage and Housing Corporation – National Housing Strategy Research & Planning Fund*. $250,000.

2023 – 2024 **Schwan, K.** (Principal Investigator), Lafferty, K., Pitawanakwat, M. M., & Baig, K**.** Even the Beaver has a Home **–** Carving a Path to Realize the Right to Housing for Women & Gender-Diverse People in Canada. *Canadian Human Rights Commission, Office of the Federal Housing Advocate*. $137,600.

2023 – 2024 Brown, K. (Principal Investigator), Lafferty, K., Porter, B., Pitawanakwat, M. M., & **Schwan, K.** (Co-Investigator). Test Case Development – Government of Canada's Failure to Act on the Housing-Related Calls for Justice Identified by National Inquiry into Missing and Murdered Indigenous Women and Girls. *The Department of Heritage, Court Challenges Program*. $20,000.

2022 – 2024 **Schwan, K.** (Principal Investigator), Brierly, A., Biss, M., & Raza, M. Advancing the right to housing for women & gender-diverse persons: Developing National Rights-Based Shelter Standards. *Canadian Mortgage and Housing Corporation – National Housing Strategy Research & Innovation Fund – Solutions Lab*. $320,000.

2022 – 2024 Farha, L. (Principal Investigator), **Schwan, K.** (Co-Investigator), & Perucca, J. Transforming Policy Responses to Homeless Encampments in Canada: Implementing a Rights-Based, GBA+ Approach. *Canadian Mortgage and*

Housing Corporation – National Housing Strategy Research & Innovation Fund – Solutions Lab. $314,500.

2022 – 2023 **Schwan, K.** (Co-Principal Investigator), Oudshoorn, A. (Co-Principal Investigator), Pauly, B., Malenfant, J., Jenkinson, J., & Yakubovich, A. Actualizing the right to housing for women & gender-diverse peoples in Canada -- Improving access to justice under the National Housing Strategy Act and beyond. *Social Sciences and Humanities Research Council - Partnership Engage Grant*. $22,697.

2022 – 2023 MacKinnon, S., Cooper, S., Forest, A., Belaskie, C., **Schwan, K.** (Co-Investigator), Whitford, J., & Richter, T. Social Housing and Human Rights: Organizing for Change. *Social Sciences & Humanities Research Council – Connections Grant*. $25,430.

2022 – 2023 Chyzzy, B., **Schwan, K.** (Co-Investigator), Guruge, S., & Dos Santos, E. Symposium and Webinar Series on Homelessness during Pregnancy. *Social Sciences & Humanities Research Council – Connections Grant*. $26,580.

2022 – 2023 Hache, A., **Schwan, K.** (Co-Investigator), & Baig, K. Developing a Framework for Decolonizing the Provision of Subsidized Housing and Emergency Shelters for Women. *Catherine Donnelly Foundation*. $48,000.

2022 – 2023 Farha, L. & **Schwan, K.** (Co-Investigator). Implementing Rights-Based Responses to Homeless Encampments in Three Canadian Cities. *Catherine Donnelly Foundation*. $48,000.

2021 – 2024 Melaney, K. (Principal Investigator), **Schwan, K.** (Co-Investigator), Noble, A., Begun, S., & Coplan, I. Making the Shift Youth Shelter Diversion Study. *Making the Shift Youth Homelessness Social Innovation Lab.* $696,420.

2021 – 2022 Perucca, J., **Schwan, K.** (Co-Investigator), Farha, L., & Freeman, S. Advancing the Right to Housing in Financialized Housing Markets. *Government of Germany, Federal Foreign Office to Promote Human Rights.* £73,058.19 / $110,000.

2021 – 2022 **Schwan, K.** (Principal Investigator), & Biss, M. Eviction Prevention for Women & Girls in Canada. *Law Foundation of BC – Legal Research Fund*. $19,199.

2021 – 2023 Hwang, S. (Principal Investigator), Jenkinson, J., Kiran, T., Orkin, A., Thulien, N., & **Schwan, K.** (Collaborator). A Qualitative Exploration of Vaccine Uptake and Hesitancy Among People Experiencing Homelessness in Toronto. *Canadian Institutes of Health Research (CIHR)*. $100,258.

2021 – 2023 Perucca, J., **Schwan, K.** (Co-Investigator), Farha, L., & Freeman, S. Shift Cities Demonstration Project - Advancing the Right to Housing in Canadian Municipalities. *Maytree Foundation.* $120,000.

2021 – 2023	Oudshoorn, A. (Principal Investigator), Kauppi, C., Marshall, C., Dej, E., Dunn, J., **Schwan, K.** (Co-Investigator**)**, Buccieri, K., & Gaetz, S. Designing Canada's Long-Term Affordable Housing Approach. *Social Sciences & Humanities Research Council – Partnership Development Grant.* $199,114.
2021– 2023	Yakubovuch, A. (Principal Investigator), Maki, K., Shastri, P., Sultana, A., **Schwan, K.** (Collaborator**)**, Docherty, L., Watts, C., & Ham, M. Bridging the evidence-practice gap in the housing response to violence against women. *Social Sciences & Humanities Research Council – Insight Development Grant.* $70,000.
2021	**Schwan, K.** (Principal Investigator). Mobilizing the Right to Housing for Women, Girls, and Gender Diverse People in Canada. *Canadian Human Rights Commission*. $16,200.
2020 – 2022	Farha, L., Perucca, J., & **Schwan, K** (Co-Investigator). The Shift: Supporting human rights-based housing strategies in Canada. *Canadian Mortgage and Housing Corporation*. $250,000.
2020 – 2022	**Schwan, K**. (Principal Investigator), Perucca, J., & Farha, L. Ensuring effective Canadian municipal responses to housing need and homelessness during COVID-19: Identifying best practices and supporting cross-sector collaboration. *Commonwealth Foundation*. £30,000 / $51,000.
2020 – 2021	Van Wagner, E. (Principal Investigator), **Schwan, K.** (Co-Investigator), Flynn, A., Gupta, P., & Curran, D. The Right to Shelter in Place: Mobilizing a human rights-based approach to homelessness and tent encampments in the COVID-19 city. *Social Sciences and Humanities Research Council - Partnership Engage Grant*. $24,820.
2020 – 2021	**Schwan, K.** (Co-Principal Investigator), Dej, E. (Co-Principal Investigator), Kidd, S., Thulien, N., & Malenfant, J. Understanding young women's experiences of loneliness and isolation during COVID-19 and beyond: Participatory research to envision a way forward. *Making the Shift: Youth Homelessness Social Innovation Lab*. $39,999.
2020 – 2021	**Schwan, K.** (Principal Investigator). Implementing the Right to Housing in Canada: Expanding the National Housing Strategy and Realizing the Right to Housing for Women, Girls, and Gender Diverse People. *Canadian Human Rights Commission*. $24,900.
2020 – 2021	**Schwan, K.** (Principal Investigator), Farha, L., & Perucca, J. Implementing a Human Rights Approach to Housing in Canada: Localizing the National Housing Strategy Act. *Canadian Mortgage and Housing Corporation*. $44,100.
2019 – 2021	**Schwan, K.** (Co-Principal Investigator), Dej, E. (Co-Principal Investigator), Kidd, S., & Thulien, N. Home Alone: Young women's experiences of social

exclusion following exits from homelessness. *Social Sciences and Humanities Research Council of Canada (SSHRC), Insight Development Grant*. $69,835.

2019 – 2021 Helland, J. (Principal Investigator), Reynolds, V., **Schwan, K**. (Co-Applicant), Dufour, C., Batalden, Z, & Dyson Tam, K. Journeys In and Out: Youth Homelessness Solutions Lab. *Government of Canada, Canada Mortgage and Housing Corporation. National Housing Strategy Research & Planning - Solutions Lab*. $373,726.

2019 – 2021 Nichols, N. (Principal Investigator), Kennelly, J., Kidd, S., Malenfant, J., & **Schwan, K**. (Collaborator). Building from Experience: Youth-led strategies for homelessness prevention and housing stabilization. *Social Sciences and Humanities Research Council of Canada (SSHRC), Insight Development Grant*. $62,279.

2019 – 2021 Begun, S. (Principal Investigator), Fallon, B., Gaetz, S., Kidd, S., **Schwan, K**. (Co-Applicant), King, B., Nichols, N., & Thulien, N. An Examination of Homeless Youths' Longitudinal Aftercare Experiences. *Social Sciences & Humanities Research Council - Insight Grant*. $99,977.

2019 – 2020 **Schwan, K.** (Co-Principal Investigator), Caplan, R. (Co-Principal Investigator), Baig, K., & Hache, A. Partner: The Keepers of the Circle. Indigenous Women, Girls, and Gender-Diverse Peoples Experiencing Homelessness: Developing a Research Methodology Grounded in Traditional Indigenous Knowledges. *Social Sciences & Humanities Research Council, Partnership Engage Grant*. $28,873.50.

2018 – 2021 **Schwan, K**. (Principal Investigator), Richter, T., Hache, A., … Redsky, S. Understanding Housing Need and Homelessness for Women and Girls in Canada. *Government of Canada National Housing Strategy - Research and Planning Fund Initiative*. $100,000.

2018 – 2020 Begun, S. (Principal Investigator), **Schwan, K**. (Co-Applicant), Kipang, S., Fallon, B., & Sakamoto, I. Exploring the Potential Benefits of Engaging Homeless Youth in Group-Based Improv Training. *SSHRC Partnership Engage Grant*. $25,000.

2016 – 2017 **Schwan, K**. (Principal Investigator), Erikson, C., Van Wert, M., & Fallon, B. Inter-Agency Communication and Coordination Among Agencies Serving Survivors of Human Trafficking in Ontario. *Ontario Trillium Foundation*. $30,000.

RESEARCH CONTRACTS

2022 Baig, K., Cook, A., Desroches, M.A., Nelson, A., **Schwan, K.** (Co-Investigator), Whitzman, C., & Hache, A. Women and Gender-Diverse Peoples' Housing in Canada – A Regional Portrait. *Pan-Canadian Voice for Women's Housing.* $74,900.

2021– 2022	MacDonald, S., Hermer, J., **Schwan, K.** (Co-Investigator), Flynn, A., & Van Wagner, E. Assessing the Human Rights Obligations of Canadian Governments Towards Residents of Encampments. *Canadian Human Rights Commission*. $55,400.
2021	Vasko, S., **Schwan, K.** (Co-Investigator), McRae, L., & Kaplan, E. Advancing Public Education on the Right to Housing in Canada. *Canadian Human Rights Commission*. $37,983.00.
2020 – 2021	Freeman, S., Perucca, J., & **Schwan, K** (Co-Investigator). International comparative analysis on the implementation on the right to housing to inform the launch of the Office of the Federal Housing Advocate. *Canadian Human Rights Commission*. $21,500.
2018 – 2019	Ecker, J. (Principal Investigator), **Schwan, K**. (Co-Investigator), & Holden, S. Understanding Family Homelessness in Toronto. *City of Toronto - Shelter, Support, and Housing Administration.* $42,375.
2018 – 2019	Ecker, J. (Principal Investigator), **Schwan, K**. (Co-Investigator), & Holden, S. A Study of Low-Barrier Services in Toronto. *City of Toronto - Shelter, Support, and Housing Administration.* $55,030.
2018	**Schwan, K**. (Principal Investigator), French, D., & Gaetz, S. International Evidence on Youth Homelessness Prevention Policy and Practice. *Wales Centre for Public Policy, Cardiff University*. $26,000.
2018	Ecker, J. (Principal Investigator), **Schwan, K**. (Co-Investigator), & Plante, I. Developmental evaluation of A Way Home Toronto's plan to prevent and end youth homelessness in Toronto. *City of Toronto - A Way Home Toronto*. $22,255.
2017 – 2018	Ecker, J. (Principal Investigator), **Schwan, K**. (Co-Investigator), & Holden, S. Evaluation of the *Eviction Prevention in the Community Pilot*, a piloted program to prevent evictions across the GTA. *City of Toronto - Shelter, Support, and Housing Administration.* $57,533.
2014 – 2016	**Schwan, K**. (Principal Investigator), & Fallon, B. Exploring the Efficacy of Arts-Based Programming with Youth Experiencing Homelessness. *Covenant House Toronto & Max Clarkson Family Foundation*. $5,000.

TEACHING EXPERIENCE

2024 – present	Course Instructor *USC Street Medicine Division, Department of Family Medicine* *Keck School of Medicine of USC* CME Course: *Street Medicine Foundations* (Lecturer as part of a multi-instructor team)

2018, 2019	Sessional Lecturer *Factor-Inwentash Faculty of Social Work, University of Toronto, Toronto, ON* MSW Course: *Social Policy and Social Welfare in the Canadian Context*
2015	Course Instructor *Factor-Inwentash Faculty of Social Work, University of Toronto, Toronto, ON* MSW Course: *Social Policy and Social Welfare in the Canadian Context*
2014	Teaching Assistant *Faculty of Arts & Science, Sexual Diversity Studies* *University of Toronto, Toronto, ON* 300 Level SDS Course: Sex and THE Epidemic: Social Work, HIV and Human Sexuality
2009	Teaching Assistant *Faculty of Arts & Science, Department of Gender Studies* *Queen's University, Kingston, ON* 200 Level Women's Studies Course: *Introduction to Sexual and Gender Diversity*
2008 – 2009	Teaching Assistant *Faculty of Arts & Science, Department of Philosophy* *Queen's University, Kingston, ON* 100 Level Philosophy Course: *Great Philosophical Works*
2007	Teaching Assistant *Faculty of Arts & Science, Department of Philosophy* *Queen's University, Kingston, ON* 200 Level Philosophy Course: *Ethics*

ACADEMIC SUPERVISION & MENTORSHIP

2023 – present	Human Rights Internship Supervision, Igor Cichello Benassi *Street Medicine Institute* Master of Law Degree, University of Pittsburgh School of Law
2023 – 2024	Master's of Social Work Practicum Supervision, Trevor Heida *Women's National Housing & Homelessness Network* Factor-Inwentash Faculty of Social Work, University of Toronto
2021 – present	Doctoral Thesis Committee Member, Amanda Buchnea *"Mobilizing Knowledge to End Homelessness in Canada"* Sociology, University of Guelph
2019 – present	Doctoral Thesis Committee Member, Alzahra Hudani "Pathways into Homelessness for Newcomer Youth in Canada." Interdisciplinary School of Health Sciences, University of Ottawa

2021 – 2022	JD Internship Supervision, Matthew Apostolides *The Shift* Juris Doctor, Osgoode Hall Law School, York University
2021 – 2022	Articling Co-Supervision, Paria Asadbikli *The Shift, Canada Without Poverty* Juris Doctor, University of Toronto
2020 – 2021	JD Internship Supervision, Jillian Epp *The Shift* Juris Doctor, University of Ottawa
2020 – 2021	JD Internship Supervision, Hanna Yemenu *The Shift* Juris Doctor, University of Ottawa
2020 – 2021	Master's of Social Work Practicum Supervision, Lenore Bonk *Women's National Housing & Homelessness Network* School of Social Work, Dalhousie University
2019 – 2020	Master's of Social Work Practicum Supervision, Alicia Versteegh *Canadian Observatory on Homelessness* Factor-Inwentash Faculty of Social Work, University of Toronto
2019	Master's of Social Work Practicum Supervision, Terry Smith *Canadian Observatory on Homelessness* Factor-Inwentash Faculty of Social Work, University of Toronto

PEER-REVIEWED PUBLICATIONS

BOOKS

1. **Schwan, K.** (Book Proposal Accepted). *Break the horizon: A critical history of homelessness in Canada*. University of Toronto Press.

REFEREED JOURNAL ARTICLES

1. Gaetz, S., Buchnea, A., Fournier, C., Dej, E., & **Schwan, K**. (2024). Towards the prevention of youth homelessness. *Youth*, *4*(4), 1694-1725.

2. Chyzzy, B., Sepali, G., **Schwan, K**., Lee, J., & Stewart, S. (2024). "Breaking siloed policies: Applying a gender-based analysis to homelessness during pregnancy?" *Social Sciences*, *13*(9), 486.

3. Hudani, A., **Schwan, K.**, Labonte, R., & Yaya, S. (2024). Bounding systems: Exploring documents and interviews to understand engagement between the emergency youth shelter system and health system in Toronto, Canada. *PLOS ONE*, *19*(6), e0303655.

4. Bonakdar, A., Gaetz, G., Banchani, S., **Schwan, K.**, Kidd, S., & O'Grady, W. (2023). Child Protection Services and Youth Experiencing Homelessness: Findings of the 2019 National Youth Homelessness Survey in Canada. *Children and Youth Services Review, 153*: 107088.

5. **Schwan, K.**, Nichols, N., & Malenfant, J. (2023). Is Research the New Activism?: Mobilizing Social Science Research through 'Solutions-Focused Advocacy.' *Journal of Poverty and Social Justice, 31*(1), 128-145.

6. Kerman, N., Wang, R., Aubry, T., Distasio, J., Gaetz, S., Hwang, S., Latimer, E., O'Grady, B., **Schwan, K**., Somers, J., Stergiopoulos, V., & Kidd, S. (2022). Shelter Bans among People Experiencing Homelessness: An Exploratory Study of Predictors in Two Large Canadian Datasets. *Journal of Urban Health*, *99*(5), 842-854.

7. Nichols, N., **Schwan, K.**, Gaetz, S., & Redman, M. (2021). Enabling Evidence-led Collaborative Systems-Change Efforts: An adaptation of the Collective Impact Approach. *Community Development Journal*, *57*(4), 750-768.

8. Kidd, S., Gaetz, S., O'Grady, B., **Schwan, K.**, Wang, W., Zhao, H., & Lopes, K. (2021). The Second National Canadian Homeless Youth Survey: Mental Health and Addictions Findings. *The Canadian Journal of Psychiatry*, *66*(10), 897-905.

9. **Schwan, K.**, Dej, E., & Versteegh, A. (2020). Girls, Housing Insecurity, and Exclusion during the COVID-19 Pandemic. *Girlhood*, *13*(3), 151-168.

10. Gaetz, S., Dej, E., & **Schwan, K.** (2020). Turning off the tap: a typology for homelessness prevention. *Journal of Primary Prevention*, *41*, 397-412.

11. Nichols, N., Malenfant, J., & **Schwan, K**. (2020). Networks and evidence-based advocacy: Influencing a policy sub-system. *Evidence & Policy: A Journal of Research, Debate and Practice*, *16*(4), 639-659.

12. Malenfant, J., Nichols, N., & **Schwan, K**. (2019). Chasing funding "to eat our own tail": The invisible emotional work of making social change. *Canadian Journal of Non-Profit and Social Economy Research*, *10*(2), 40-54.

13. Begun, S., Massey Combs, K., **Schwan, K**., Torrie, M., & Bender, K. (2018). "I know they would kill me": Abortion attitudes and experiences among youth experiencing homelessness. *Youth & Society*, *52*(8), 1457-1478.

14. **Schwan, K.,** Fallon, B., & Milne, B. (2018). "The one thing that actually helps": Art creation as a self-care and health-promoting practice amongst youth experiencing homelessness. *Children and Youth Services Review*, *93*, 355-364.

15. Mishna, F., **Schwan, K**., Birze, A., Van Wert, M., Lacombe-Duncan, A., McInroy, L., & Attar-Schwartz, S. (2018). Gendered and sexualized bullying and cyber bullying: Spotlighting girls and making boys invisible. *Youth & Society, 52*(3), 403-426.

16. Mishna, F., McInroy, L. B., Lacombe-Duncan, A., Bhole, P., Van Wert, M., **Schwan, K.**, ... & Pepler, D. J. (2016). Prevalence, motivations, and social, mental health and health consequences of cyberbullying among school-aged children and youth: Protocol of a longitudinal and multi-perspective mixed method study. *JMIR research protocols*, *5*(2), 83-94.

17. Mishna, F., Khoury-Kassabri, M., & **Schwan, K. J**. (2016). The contribution of social support to children and adolescents' self-perception: The mediating role of bullying victimization. *Children and Youth Services Review*, *63*, 120-127.

18. **Schwan, K. J**., & Lightman, E. (2015). Fostering resistance, cultivating decolonization: The intersection of Canadian colonial history and contemporary arts programming with Inuit youth. *Cultural Studies↔ Critical Methodologies*, *15*(1), 15-29.

19. Mishna, F., **Schwan**, **K. J**., Lefebvre, R., Bhole, P., & Johnston, D. (2014). Students in distress: Unanticipated findings in a cyber bullying study. *Children and Youth Services Review, 44*, 341-348.

ARTICLES & MANUSCRIPTS UNDER REVIEW

1. Bonakdar, A., Gaetz, G., Banchani, S., **Schwan, K.**, Kidd, S., & O'Grady, W. Black Homeless Youth and Criminal Justice Involvement – New National Insight. *Children and Youth Services Review.*

BOOK CHAPTERS

1. **Schwan, K**. (In press). "Preventing Homelessness among Women and Gender-Diverse in Canada: A Structural and Systems Lens." In C. A. Marshall, R. Gewurtz, & S. Barbic (Eds.), *Bridging the Transition to Housing: A Social Justice Framework to Guide the Practice of Occupational Therapists and Other Professionals who Support Individuals with Experiences of Homelessness*. New York, NY: Routledge.

2. Dej, E., Smith, C., Petersen, H., Bute, C., **Schwan, K.**, & Malenfant, J. (In press). "Social Inclusion and its Relevance to Homelessness Prevention" In C. A. Marshall, R. Gewurtz, & S. Barbic (Eds.), *Bridging the Transition to Housing: A Social Justice Framework to Guide the Practice of Occupational Therapists and Other Professionals who Support Individuals with Experiences of Homelessness*. New York, NY: Routledge.

3. **Schwan, K**. (2023). "The Financialization of Housing and Homelessness Prevention in Canada – Where do we go from here?" In J. Hughes (Ed.), *Moose Fence: Homelessness Prevention in Canada*. Ottawa, ON: Lorimer Canada Ltd.

4. Gaetz, S., Dej, E., & **Schwan, K**. (2023). "What if we treated the pandemic like we do homelessness?" In J. Hughes (Ed.), *Moose Fence: Homelessness Prevention in Canada*. Ottawa, ON: Lorimer Canada Ltd.

5. Farha, L., & **Schwan, K**. (2021). "The Human Right to Housing in the Age of Financialization." In M. F. Davis & M. Kjaerum (Eds.), *Research Handbook on Human Rights*

and Poverty (pp. 386-401). Cheltenham, UK: Edward Elgar Publishing. https://www.e-elgar.com/shop/usd/research-handbook-on-human-rights-and-poverty-9781788977500.html

6. Farha, L., & **Schwan, K**. (2020). "The Frontline Defense: Housing and Human Rights in the Time of COVID-19." In C. M. Flood, V. MacDonnell, J. Philpott, S. Theriault & S. Venkapuram (Eds.), *Vulnerable: The Policy, Law and Ethics of COVID-19* (pp. 355-366). Ottawa: University of Ottawa Press. https://ruor.uottawa.ca/handle/10393/40726

RESEARCH REPORTS & POLICY BRIEFS

1. **Schwan K.**, Feldman, B., Feldman, C., Colourides Kogan, A., Lu, X., Dow, E., Weinmeister, N., & Pocock, K. (In press). *Research Report: How Street Medicine Can Close the Behavioral Health Gap for People Experiencing Homelessness*. Los Angeles, California: California Street Medicine Collaborative & Homelessness Policy & Research Institute, University of Southern California.

2. **Schwan, K.**, Patton, K., Weaver, C., Zunner-Keating, B., Feldman, B., Achilles, D., Orsulak, M.K., Beare, M, Feldman, C. T., & Pocock, K. (2025). *Mitigating the Health Impacts of Encampment Sweeps in California: A Practice Guide for Street Medicine*. Los Angeles, CA: California Street Medicine Collaborative & USC Street Medicine. https://rb.gy/jhpu82

3. **Schwan, K.**, Patton, K., Weaver, C., Zunner-Keating, B., Feldman, B., Achilles, D., Orsulak, M.K., Beare, M, Feldman, C. T., & Pocock, K. (2025). *Pocket Guide: Mitigating the Health Impacts of Encampment Sweeps in California*. Los Angeles, CA: California Street Medicine Collaborative & USC Street Medicine. https://stmi.memberclicks.net/assets/webinars/Encampment%20Sweeps%20Pocket%20Guide.pdf

4. Feldman, B., & **Schwan, K**. (2024). *Policy Memo – Summary of Outstanding Policy Challenges facing Street Medicine in California.* Los Angeles, California: California Street Medicine Collaborative, USC Street Medicine.

5. **Schwan, K**. (2024). *Policy Memo – Street Medicine Feedback on DHCS's Transitional Rent Program*. Los Angeles, California: California Street Medicine Collaborative, USC Street Medicine.

6. Feldman, B., & **Schwan, K**. (2024). *Policy Memo – Street Medicine & Direct Access: Fulfilling the Intent of APL 22-023 (Revised 24-001)*. Los Angeles, California: California Street Medicine Collaborative, USC Street Medicine.

7. Baig, K., Biss, M., Granofsky, D., Khan, M., Laisney, S., Roy, A., Kawar, S., McGuire, L., Nelson, A., Raza, S., **Schwan, K**., Seccia, S., & Tan, J. (2024). *Human Rights-Based, Gender-Sensitive National Standards for Emergency Shelters Across Canada*. Toronto, ON: Women's National Housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/National-Standards-for-Emergency-Shelters-Across-Canada.pdf

8. Baig, K., **Schwan, K.**, … Bayes, S. (2023). *An Intersectional Feminist Housing Agenda for*

Canada – A Briefing Guide for Canada's Housing Minister. Toronto, ON: Women's National Housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/An-Intersectional-Feminist-Housing-Agenda.pdf

9. **Schwan, K.**, Baig, K., Smyth, E., Nelson, A.**,** & Biss, M. (2023). *Submission to the National Housing Council's Review Panel on the Role of Corporate Investment in Housing – Gendered Evictions in Financialized Housing Markets across Canada*. Ottawa, ON: National Right to Housing Network. https://housingrights.ca/gendered-evictions-in-financialized-housing-markets-across-canada-submission-to-the-review-panel-on-financialization/

10. **Schwan, K.**, Baig, K., Smyth, E., Nelson, A.**,** Biss, M., &Raza. (2023). *Submission to the Standing Committee on Human Resources, Skills, and Social Development and the Status of Persons with Disabilities (HUMA) Review of Financialization*. Ottawa, ON: National Right to Housing Network. https://housingrights.ca/wp-content/uploads/HUMA-Submission-WNHHN-NRHN-June-2023.docx.pdf

11. Dej, E., Smith, C., Petersen, H., Bute, C., **Schwan, K.**, & Malenfant, J. (2023). *The Loneliness Project: Responding to young women and gender-diverse youth transitioning to housing*. Brantford, ON: Wilfred Laurier University Press. https://www.homelesshub.ca/resource/loneliness-project-responding-young-women-gender-diverse-youth-transitioning-housing

12. Baig, K., **Schwan, K.**, Nelson, A., Seccia, S., & Faith, R.F. (2023). *Women and Gender-Diverse Peoples' Housing in Canada – A Regional Portrait of Systemic Issues & Opportunities for Equity*. Vancouver, BC: Pan-Canadian Voice on Women's Housing.

13. Nelson, A., Malenfant, J., **Schwan, K.**, & Watchorn, M. (2023). *Literature Review & Practice Scan – Housing Need & Homelessness amongst Gender-Diverse People in Canada*. Toronto, ON: Women's National Housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/Lit-Practice-Scan-on-Housing-Need-Homelessness-amongst-Gender-Diverse-Persons.pdf

14. Nelson, A., Malenfant, J., & **Schwan, K.** (2023). *Research Brief – Housing Need & Homelessness amongst Gender-Diverse People in Canada*. Toronto, ON: Women's National Housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/Research-Brief-on-Housing-Need-Homelessness-amongst-Gender-Diverse-Persons.pdf

15. Porter, B., **Schwan, K**., & Raza, S. (2022). *Violations of Children's Right to Housing in Canada – Regarding violations of articles 3, 16, and 27 of the Convention on the Rights of the Child*. Ottawa, ON: National Right to Housing Network. https://housingrights.ca/wp-content/uploads/2022/05/NRHN-WNHHN-Submission.pdf

16. Porter, B., **Schwan, K**., Raza, S., & Biss, M. (2022). *Towards a Stronger National Housing Strategy: Meeting Canada's Human Rights Obligations*. Ottawa, ON: Canadian Human Rights Commission, Office of the Federal Housing Advocate. https://www.homelesshub.ca/sites/default/files/OFHA-factsheets-EN.pdf

17. Flynn, A., Hermer, J., Leblanc, C., Macdonald, S.A., **Schwan, K**., & van Wager, E. (2022). *Overview of Encampments Across Canada: A Right to Housing Approach*. Ottawa, ON: Canadian Human Rights Commission, Office of the Federal Housing Advocate. https://www.homelesshub.ca/resource/overview-encampments-across-canada-right-housing-approach

18. **Schwan, K**., Lutoto, P., Freeman, S., van Wagner, E., Flynn, A., McCartan, D., & Graham, L. (2022). *A Human Rights Analysis of Encampments in Canada – Toronto Case Study*. Ottawa, ON: Canadian Human Rights Commission, Office of the Federal Housing Advocate. https://www.homelesshub.ca/resource/case-study-toronto

19. **Schwan, K**., Nelson, A., Marks, H., … Dej, E. (2022). *The Crisis Ends with Us: Request for a Review into the Systemic Denial of the Equal Right to Housing of Women and Gender-Diverse People in Canada*. Toronto, ON: Women's National Housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/WNHHN-Claim-15-June-2022.pdf

20. **Schwan, K**., & Perucca, J. (2022). *Realizing the Right to Housing in Canadian Municipalities – Where do we go from here?* Ottawa, ON: The Shift. https://make-the-shift.org/wp-content/uploads/2022/04/Canadian-Municipal-Policy-Scan.pdf

21. **Schwan, K.,** Farha, L., & Perruca, J. (2021). *Human Rights & Homeless Encampments in Toronto – Report on The Shift's Research Visit to the City of Toronto*. Ottawa, ON: The Shift.

22. McCartan, D., Graham, L., Van Wager, E., **Schwan, K.**, & Flynn, A. (2021). *Trespassing on the Right to Housing: A human rights analysis of the City of Toronto's response to encampments during COVID-19.* Toronto, ON: Environmental Justice & Sustainability Law Clinic, Osgoode Hall Law School. https://ejsclinic.info.yorku.ca/files/2021/12/trespassing-on-the-right-to-housing-city-of-toronto-report-20-december-2021.pdf?x86560

23. Rampersad, M., Mallon, A., Gold, M., Armstrong, A., Blair, J., Vaccaro, M., **Schwan, K**., Allan, K., & Paradis, E. (2021). *This is Not Home*. Toronto, ON: Canadian Observatory on Homelessness. https://www.homelesshub.ca/ThisIsNotHome

24. **Schwan, K**., Vaccaro, M., Reid, L., & Ali, N. (2021). *Implementation of the Right to Housing for Women, Girls, and Gender Diverse People*. Prepared for the Canadian Human Rights Commission of Canada. Toronto, ON: Women's National housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/EN_CHRC_13-1.pdf

25. **Schwan, K**., Vaccaro, M., Reid, L., & Ali, N. (2021). *Mise en Oeuvre Du Droit au Logement Pour les Femmes, les Filles et les Personnes de Diverses Identites de Genre au Canada.* Préparé pour le Bureau du défenseur 15xecuti du logement par. Toronto, ON: Women's National housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/FR_CHRC_13-1.pdf

26. **Schwan, K**., Vaccaro, M., Reid, L., Ali, N., & Baig, K. (2021). *The Pan-Canadian Women's Housing & Homelessness Survey*. Toronto, ON: Canadian Observatory on Homelessness. https://womenshomelessness.ca/wp-content/uploads/EN-Pan-Canadian-Womens-Housing-Homelessness-Survey-FINAL-28-Sept-2021.pdf

27. **Schwan, K**., Vaccaro, M., Reid, L., Ali, N., & Baig, K. (2021). L'enquête pancanadienne sur le besoin en logement et l'itinérance chez les femmes. Toronto, ON: Canadian Observatory on Homelessness. https://womenshomelessness.ca/wp-content/uploads/FR-Pan-Canadian-Womens-Housing-Homelessness-Survey-FINAL-21-Oct-2021.pdf

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

29. **Schwan, K**., & Ali, N. (2021). *Une analyse de la stratégie nationale du logement basée sur les droits et l'ACS+*. Toronto, ON: The Women's National Housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/FR-Rights-Based-GBA-Analysis-of-NHS-28-Sept-2021.pdf

30. Oudshoorn, A., May, K., Van Berkum, A., **Schwan, K**., Nelson, A., Eiboff, F., Begun, S., Nichols, N., & Parsons, C. (2021). *Exploring the Presence of Gender-Based Approaches to Women's Homelessness in Canadian Communities*. London, ON: All Our Sisters. https://www.abeoudshoorn.com/wp-content/uploads/2021/05/Gender-Based-Approach-to-Homelessness-Final.pdf

31. Malenfant, J., **Schwan, K.**, Gaetz, S., Redman, M., & French, D. (2020). *Discussion Paper – Preventing Youth Homelessness in the Canadian Education System: Young People Speak Out*. Toronto: Canadian Observatory on Homelessness. https://www.homelesshub.ca/sites/default/files/attachments/What%20Would%20It%20Take%20Report%20Education%20Prevention-22Sept20.pdf

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

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

34. **Schwan, K**., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F. et Pahlevan Chaleshtari, T. (2020). *L'État des besoins en matière de logement et de l'itinérance chez les femmes au Canada: Sommaire 16xecutive*. Hache, A., Nelson, A., Kratochvil, E. et Malenfant, J. (Eds). Toronto, Ontario: Presse de l'Observatoire Canadien sur L'itinérance. https://womenshomelessness.ca/wp-content/uploads/WG_ES1_FRENCH-1.pdf

35. Farha, L., & **Schwan, K**. (2020). *A National Protocol on Homeless Encampments in Canada: A Human Rights Approach*. Geneva, Switzerland: Office of the United Nations Special Rapporteur on the Right to Adequate Housing. https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf

36. **Schwan, K**., French, D., Gaetz, S., Ward, A., Ackerman, J., & Redman, M. (2018). *Youth Homelessness Prevention: An International Scan of Evidence*. Cardiff, Wales: Wales Centre for Public Policy. https://www.wcpp.org.uk/wp-content/uploads/2018/10/Preventing-Youth-Homelessness-full-report.pdf

37. **Schwan, K**., French, D., Gaetz, D., Redman, M., Thistle, J., & Dej, E. (2018). *What Would it Take? Youth Across Canada Speak Out on Youth Homelessness Prevention*. Toronto: Canadian Observatory on Homelessness. http://www.homelesshub.ca/whatwouldittake

38. Gaetz, S., **Schwan, K**., Redman, M., French, D., & Dej, E. (2018). *Roadmap for the Prevention of Youth Homelessness*. Toronto: Canadian Observatory on Homelessness Press. https://www.homelesshub.ca/youthpreventionroadmap

39. Gaetz, S., **Schwan, K**., Redman, M., French, D., & Dej, E. (2018). *Duty to Assist – A Human Rights Approach to Youth Homelessness*. Toronto: Canadian Observatory on Homelessness Press. https://www.homelesshub.ca/resource/duty-assist

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PEER-REVIEWED PRESENTATIONS

1. **Schwan, K**. "Confronting Dehumanization: Can street medicine go further?" *Irish Street Medicine Symposium*. Dublin, Ireland. 23 – 24 May 2024.

2. **Schwan, K**. "Advocacy 101: Tools for Tough Times." *National Health Care for the Homeless Conference & Policy Symposium*. Baltimore, Maryland. 12 – 15 May 2024.

3. **Schwan, K.**, & Withers, J. "The Human Rights Prescription: Advocacy Strategies to Advance the Rights of People Who are Unhoused." *International Street Medicine Symposium*. Kansas City, Missouri. 15 – 18 September 2024.

4. **Schwan, K.** "The Gendered Effects of the Financialization of Housing." *Deputation at Oral Hearing of the National Housing Council's Human Rights Review Panel on the Financialization of Purpose-Built Rental Housing*. Toronto, ON. 24 October 2023. https://nhc-cnl.ca/review-panels/review-2

5. **Schwan, K.**, Baig, K., Biss, M., Nelson, A., Khan, M., & Raza, S. "Developing Rights-Based, GBA+ Standards for Emergency Shelter Standards – What do we need & how do we get there?" *Canadian Alliance to End Homelessness – 2023 National Conference on Ending Homelessness.* Halifax, NB. 7 – 10 November 2023.

6. Whitzman, C., **Schwan, K.**, Hunter, P., & DiBellonia, S. "Core Housing Need: What it is and why it matters?" *Canadian Alliance to End Homelessness – 2023 National Conference on Ending Homelessness.* Halifax, NB. 7 – 10 November 2023.

7. **Schwan, K.**, & Baig, K. "Human Rights Claims – Best Practices & Lessons Learned." *Pan-Canadian Voice on Women's Housing*. Ottawa, ON: Alt Hotel. 19 – 20 October 2023.

8. **Schwan, K.**, & Baig, K. "A Regional Portrait of Women's Homelessness – Systemic Issues & Opportunities for Equity." *Pan-Canadian Voice on Women's Housing*. Ottawa, ON: Alt Hotel. 19 – 20 October 2023.

9. **Schwan, K.**, Feldman, C., & Kohl, D. "Advancing Gender Justice and Equity in the Street Medicine Movement." *19th Annual International Street Medicine Symposium*. London, UK: Mary Ward Hall Conference Centre. 27 – 30 September 2023.

10. Malenfant, J., **Schwan, K.**, & Nelson, A. "Understanding Homelessness Amongst Gender-Diverse People in Canada: A Human Rights Approach." *Canadian Sociological Association – Congress 2023*. Toronto, ON: York University. 29 May – 2 June 2023.

11. **Schwan, K.**, McGregor Pitawanakwat, M., & Baig, K. "It Ends with Us: Advancing the Right to Housing for Women & Gender-Diverse People in Canada." *Canadian Alliance to End Homelessness – 2022 National Conference on Ending Homelessness.* Toronto, ON. 2 – 4 November 2022.

12. **Schwan, K.**, Baig, K., Vacarro, M., McGregor Pitawanakwat, M., Chapple, H., Marks, H., & Nelson, A. "The Pan-Canadian Women's Housing & Homelessness Survey – Implications for policy and practice." *Canadian Alliance to End Homelessness – 2021 National Conference on Ending Homelessness.* Virtual. 3 – 4 November 2021.

13. **Schwan, K.**, & Begun, S. "Preventing Youth Homelessness: Horizons for Action in Public Systems." *24th Annual Conference of the Society for Social Work and Research (SSWR)*. Washington, DC. 15 – 19 January 2020.

14. Nichols, N., Malenfant, J., **Schwan, K.**, MacDonald, C., & Sauve, C. "Meaningful Engagement with People with Lived Experience in Research." *Canadian Alliance to End Homelessness – 2018 National Conference on Ending Homelessness.* Edmonton, AB. 4 – 6 November 2019.

15. Gaetz, S., **Schwan, K.**, Kidd, S., & O'Grady. "Without a Home: The National Youth Homelessness Survey – 2018." *Canadian Alliance to End Homelessness – 2019 National Conference on Ending Homelessness.* Edmonton, AB. 4 – 6 November 2019.

16. Dej, E., & **Schwan, K**. "Beyond Housing: Loneliness, Isolation, and Young Women's Exits from Homelessness." *Canadian Alliance to End Homelessness – 2018 National Conference on Ending Homelessness.* Edmonton, AB. 4 – 6 November 2019.

17. **Schwan, K.**, Caplan, R., Marks, H., Hache, A., Redsky, S., Eiboff, F., Nelson, A., Chapple, H., & Crawford, M. "A Systems-Level, Intersectional Approach to Understanding Homelessness and Housing Need for Women, Girls, and Gender-Diverse Peoples in Canada." *Canadian Alliance to End Homelessness – 2018 National Conference on Ending Homelessness.* Edmonton, AB. 4 – 6 November 2019.

18. Dej, E., Gaetz, S., & **Schwan, K**. "Using critical scholarship to drive homelessness prevention initiatives: An effort in depth of field focusing." *National Conference on*

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20. **Schwan, K.**, & Holden, S. "Examining the Impact of Eviction Prevention from a Program, Policy, and Research Lens." *Canadian Alliance to End Homelessness – 2018 National Conference on Ending Homelessness*. Hamilton, ON. 5 – 7 November 2018.

21. **Schwan, K.** "Policy Entrepreneurs and Social Change: Is Research the New Advocacy?" *Society for the Study of Social Problems Annual Meeting: Abolitionist Approaches to Social Problems.* Philadelphia, U.S.A. 10 – 12 August 2018.

22. Malenfant, J., & **Schwan, K.** "Thinking on the Emotional Work Behind Social 'Innovation' and Impact." *Society for the Study of Social Problems Annual Meeting: Abolitionist Approaches to Social Problems.* 10 – 12 August 2018, Philadelphia, U.S.A.

23. Nichols, N., & **Schwan, K.** *"*Using Institutional Ethnography to Explicate and 'Condition the Environment' for Social Change." *Society for the Study of Social Problems Annual Meeting: Abolitionist Approaches to Social Problems.* 10 – 12 August 2018, Philadelphia, U.S.A.

24. **Schwan, K.** "Reckoning with colonialism in pursuit of youth homeless prevention: complexities and horizons." *Society for the Study of Social Problems Annual Meeting: Abolitionist Approaches to Social Problems.* 10 – 12 August 2018, Philadelphia, U.S.A.

25. **Schwan, K.** "Arts-Based Programming with Youth Experience Homelessness – Can Art Prevent and End Youth Homelessness?" *Coming Up Together: Towards Ending and Preventing Youth Homelessness in Ottawa, Canada, and Beyond*. 20 – 23 February 2018, Ottawa, Canada.

26. **Schwan, K.**, & Noble, A. "The Primary Prevention of Youth Homelessness in Canada*." Coming Up Together: Towards Ending and Preventing Youth Homelessness in Ottawa, Canada, and Beyond*. 20 – 23 February 2018, Ottawa Canada

27. **Schwan, K.** "What is Youth Homelessness Prevention? Defining and Operationalizing Homelessness Prevention for Youth." *Canadian Alliance to End Homelessness – 2017 National Conference on Ending Homelessness*. Winnipeg, MB. 24 – 27 October 2017.

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29. **Schwan, K.** "Research to Action: Mobilizing Knowledge to Push Policy." *Canadian Alliance to End Homelessness – 2017 National Conference on Ending Homelessness*. Winnipeg, MB. 24 – 27 October 2017.

30. **Schwan, K.**, Mishna, F., Van Wert, M., & Birze, A. "Girls Sexualized and Gendered Experiences of Bullying and Cyberbullying." *Council for Social Work Education 63rd Annual Program Meeting – Educating for the Social Work Grant Challenges*. Dallas, TX. 19 – 22 October 2017.

31. Mishna, F., **Schwan, K.**, Van Wert, M., Birze, A. "Girls Sexualized and Gendered Experiences of Bullying and Cyberbullying." *Society for Social Work and Research 21st Annual Conference – Ensure Healthy Development for all Youth*. New Orleans, LA. 11– 15 January 2017.

32. **Schwan, K.** "Sentimentalizing the Suffering of (Some) Homeless People in Canadian Newsprint Media, 1980-2014: How Class Privilege Operates in Media Representations of Homeless People." *Society for the Study of Social Problems Annual Meeting: Removing the Mask, Lifting the Veil: Race, Class, and Gender in the 21st Century*. Chicago, IL. 21 – 23 August 2015.

33. **Schwan, K.** "Cross-Cultural Conflict in Social Service Provision with Indigenous Youth: A Case Study of Power Dynamics in a Circus Program for Inuit Youth." *SSWR 17th Annual Conference: Social Work for a Just Society: Making Visible the Stakes and Stakeholders*. San Antonio, TX. 14 – 19 January 2014.

34. **Schwan, K.** "Fostering Resistance, Cultivating Decolonization: The Intersection of Canadian Colonial History and Contemporary Arts Programming with Inuit Youth." *Society for the Study of Social Problems Annual Meeting: Re-imagining Social Problems: Moving Beyond Social Constructionism*. New York, NY. 9 – 11 August 2013.

35. **Schwan, K.** "Colonial Conflicts and Contemporary Arts Programming with Inuit Youth." *6th Annual Social Work Research Symposium: Critical Transformations – Social Work for Social Justice*. York University, Toronto, ON. 26 April 2013.

36. **Schwan, K.** "Visualizing Homelessness: The Ethics of Non-Profit Marketing." *Congress 2012 of the Humanities and Social Sciences: Crossroads – Scholarship for an Uncertain World*. University of Windsor, Windsor, ON. 26 May – 2 June 2012.

37. **Schwan, K.** "Graffiti, Gender, and the Gallery: Who Gets to be Authentic?" *Feminist Research Group Graduate Conference: Inter-Actions: Feminisms ⇔ Empower, Embody, Explore*. University of Windsor, Windsor, ON. 23 – 25 May 2008.

38. **Schwan, K.** "Graffiti and the I: Who Counts as Authentic?" *Queen's 7th Annual Art History and Conservation Graduate Conference: Context and Meaning*. Queen's University, Kingston, ON. 18 – 19 January 2008.

39. **Schwan, K.** "Transforming the Role of the Academic in Constructing Liberating Theory." *Feminist Research Group Graduate Conference: Inter-Actions: Feminisms ⇔ Empower, Embody, Explore.* University of Windsor, Windsor, ON. 24 – 26 May 2007.

40. **Schwan, K.** "Maria Izquierdo: Deconstructing the Other/The Time of Self." *University of Guelph Art History and SOFAM Student Symposium: ArthAttack!* University of Guelph, Guelph, ON. 23 March 2007.

INVITED PRESENTATIONS

1. **Schwan, K.** "Insights from the Streets: Health & Survival on the Edge of America." *Health Journalism 2025 – Association of Health Care Journalism*. Los Angeles, CA. 29 May – 1 June 2025.

2. **Schwan, K**. "International Perspectives on Street Medicine" [Panelist]. *Irish Street Medicine Symposium*. Dublin, Ireland. 23 – 24 May 2024.

3. **Schwan, K.** "Insights from the Streets: Health & Survival on the Edge of America." *United States Street Medicine Summit*. Washington, DC. 15 May 2025.

4. **Schwan, K.** "Basic Needs & the Right to Survival on the Street: What is street medicine's role and responsibility?" *United States Street Medicine Summit*. Washington, DC. 15 May 2025.

5. **Schwan, K.**, Patton, K., Orsulak, M. K., Culich, J., & Lo, E. "Encampment Sweeps & Street Medicine: Reducing Harm, Protecting Health." *Street Medicine Institute*. Los Angeles, California. 4 March 2025.

6. **Schwan, K**. "How do we challenge dehumanization? 3 Hypotheses." *Centre for Homelessness Research and Policy, University of Southampton*. Southampton, UK. 9 December 2024.

7. **Schwan, K**. "Advocacy 101 for Street Medicine and Beyond." *Trojan Trainer – Physician Assistant Program, Keck School of Medicine of USC*. Los Angeles, California. 16 November 2024.

8. **Schwan, K**. "Advocacy for Encampments and Beyond." *Street Medicine ECHO, University of New Mexico*. Albuquerque, New Mexico. 11 November 2024.

9. **Schwan, K.** "Street Medicine Policy & Advocacy Roundtable." *6th Annual California Street Medicine Symposium*. Los Angeles, CA. 9 August 2024. https://keckusc.cloud-cme.com/assets/keckusc/data/Street%20Medicine%202024_Final%20brochure_v4.pdf

10. **Schwan, K.** "Encampment Sweeps and Street Medicine: What do we do?" *6th Annual California Street Medicine Symposium*. Los Angeles, CA. 8 August 2024. https://keckusc.cloud-cme.com/assets/keckusc/data/Street%20Medicine%202024_Final%20brochure_v4.pdf

11. Feldman, C., & **Schwan, K.** "The Future of the Street Medicine Community Health Worker: A Facilitated Discussion." *6th Annual California Street Medicine Symposium*. Los Angeles, CA. 8 August 2024. https://keckusc.cloud-cme.com/assets/keckusc/data/Street%20Medicine%202024_Final%20brochure_v4.pdf

12. **Schwan, K**., & DiPietro, B. "Street Medicine Policy & Advocacy Roundtable." *National Health Care for the Homeless Conference & Policy Symposium*. Phoenix, AZ. 13 May 2024. https://nhchc.org/trainings/2024-hch-conference-policy-symposium/

13. Flynn, A., **Schwan, K.**, Kelly, L., & Redhead Champagne. "Housing is a Human Right: New actions to solve Canada's ongoing crisis." *Canadian Museum for Human Rights – The Annual Simces and Rabkin Family Dialogue on Human Rights.* Toronto, ON. 29 November 2023. https://humanrights.ca/housing-human-right

14. **Schwan, K.** Keynote Presentation, "Street Medicine as Human Rights Practice." *5th Annual California Street Medicine Symposium*. Los Angeles, California. 18 August 2023.

15. **Schwan, K.**, McGregor Pitawanakwat, M., Nelson, A., Chan, J., & Sabelli, D. "Gendered Evictions and Financialization." *Women's National Housing & Homelessness Network*. Toronto, ON. 20 June 2023. https://homelessnesslearninghub.ca/library/resources/gendered-evictions-and-fincancialization-webinar/

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25. **Schwan, K.**, & Raza, S. "It Ends With Us – Developing & Launching a Human Rights Claim on Women's Homelessness." *Pan-Canadian Voice on Women's Housing Symposium*. Vancouver, BC. 14 October 2022.

26. **Schwan, K**. "A Rights-Based Approach to Homelessness – What does it mean?" *Fostering Inclusive Community Responses to Homelessness*. Guelph, ON. 29 September 2022.

27. **Schwan, K**. Keynote Presentation, "From Encampment to Home: A Human Rights-Based Approach to Health and Housing." *18th Annual International Street Medicine Symposium*. Toronto, ON. 24 September 2022. https://www.streetmedicine.org/index.php?option=com_dailyplanetblog&tag=isms-18

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37. Ien, M., Hrick, P., Sarangi, L., **Schwan, K**., Sarosi, D., Neapole, J., Brayton, B., Chabot, F., & Smallman, V. "Feminist Roundtable with Women and Gender Equality Canada." *Office of Minister Marci Ien*. Ottawa, ON. 24 March 2022.

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40. Honourable Minister of Housing Ahmed Hussen, Honourable Rochelle Squires, Schwan, K., & Plante, V. "Keynote Roundtable on Housing Supply Challenges." *2022 National Housing Supply Summit*. Ottawa, ON. 24 February 2022. https://www.cmhc-schl.gc.ca/media-newsroom/news-releases/2022/2022-national-housing-supply-summit

41. **Schwan, K**., Jama, S., Poziamoka, W., & Cox, S. "Encampment Evictions from an Intersectional, Human-Rights Lens – Where do we go from here?." *Women's Legal Education & Action Fund – Hamilton*. Hamilton, ON. 23 February 2022.

42. **Schwan, K.**, & Porter, B. "The Right to Housing in Canada & Opportunities for Improving Data to Drive Rights-Based Outcomes." *University of British Columbia Housing Research Collaborative*. Vancouver, BC. 22 February 2022.

43. **Schwan, K**., & Raza, S. "The Right to Housing in Action." *Canadian Association of Social Workers*. Ottawa, ON. 9 February 2022. https://www.casw-acts.ca/en/webinar/right-housing-action

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46. Porter, B., **Schwan, K**., Biss, M., & Raza, S. "Transforming the National Housing Strategy to improve the Right to Housing for All." *Presentation to Canada Mortgage and Housing Corporation, Government of Canada*. Ottawa, ON. 24 November 2021.

47. Porter, B., **Schwan, K**., Biss, M., & Raza, S. "Transforming the National Housing Strategy to Deliver Human Rights Outcomes for Indigenous Peoples in Canada." *Presentation to Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada, Government of Canada*. Ottawa, ON. 23 November 2021.

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49. **Schwan, K**. "Implementing the Right to Housing for Women, Girls, and Gender Diverse People in Canada – Opportunities and Challenges." *Canadian Human Rights Commission – Office of the Federal Housing Advocate.* Toronto, ON. 9 November 2021.

50. **Schwan, K**., & Farha, L. "Human Rights Law, Homelessness, & Encampments in the Canadian Context." *Environmental Justice and Sustainability Clinic, Osgoode Hall Law School*. Toronto, ON. 11 November 2021.

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53. **Schwan, K.**, Baig, K., & Vacarro, M. "A New Horizon – The Pan-Canadian Women's Housing & Homelessness Survey." *Homeless Hub*. Toronto, ON. 14 October 2021. https://www.youtube.com/watch?v=zGtJ6pLCLNo

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58. **Schwan, K**., & Farha, L. "Homeless Encampments and Human Rights Law in Canada." *Environmental Justice and Sustainability Clinic, Osgoode Hall Law School*. Toronto, ON. 16 November 2020.

59. **Schwan, K.**, Morey, T. Pettigrew, P., & Fayez-Bahgat, M. "Making Cents with City Councillor Kristyn Wong-Tam – Toronto Budget Panel Series: Housing & Homelessness." *Office of Toronto City Councilor Kristyn Wong-Tam*. Toronto, ON. 26 October 2020.

60. **Schwan, K.**, D'Souza, C., McIntyre, S. & Currie, A. "Equality in Housing." *CIH Homelessness Summit 2020*. Edinburgh, Scotland. 8 October 2020.

61. **Schwan, K.**, & Hache, A. "Women's Homelessness in Canada and the Violence Against Women Sector: Opportunities for Collaboration." *Status of Women Canada/Women and Gender Equality Canada*. Ottawa, ON. 1 October 2020.

62. **Schwan, K**. "Women's Homelessness in Canada: 8 Key Challenges and Opportunities." *Office of Honourable Ernie Hudson, Minister of Social Development and Housing, PEI*. Charlottetown, PEI. 20 August 2020.

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65. **Schwan, K**. "Women's Homelessness in Canada: 8 Key Challenges and Opportunities." *Faculty of Education Talk Series, York University*. Toronto, ON. 11 August 2020.

66. **Schwan, K.**, Brais, H., Baig, K., Chapple, H., & Bridges, A. "Webinar – Hidden in Plain Sight: Women, Girls, and Gender Diverse Peoples Experiences' of Homelessness." *Homeless Hub*. Toronto, ON. 2 July 2020.

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69. **Schwan, K.** & Bilek, M. "Women's Homelessness in Canada: Opportunities for Investment." *Office of Honourable Ahmed Hussen, Minister of Families, Children, and Social Development*. Toronto, ON. 6 March 2020.

70. **Schwan, K.** "What Will it Take? Ending Youth Homelessness in Canada." *Centre for Equality Rights and Accommodation – Public Lecture Series*. Toronto, ON. 4 June 2019.

71. **Schwan, K.** "Building Community Support for Youth Homelessness Prevention." *National Learning Community on Youth Homelessness – Annual Conference*. Toronto, ON. 12 May 2019.

72. **Schwan, K.** "Youth Homelessness Prevention – What do we know?" *Eva's Initiatives for Homeless Youth*. Toronto, ON. 7 May 2019.

73. Dej, E. & **Schwan, K**. "On her own: Young women's experiences of loneliness upon exiting homelessness. *Research Rundown*. Wilfred Laurier University, Brantford. 5 March 2019.

74. **Schwan, K**., & French, D. "Youth Homelessness Prevention: An International Review of Evidence." *What Works Summit – Youth Homelessness*. Cardiff, Wales. 22 November 2018.

75. Gaetz, S., **Schwan, K**., Redman, M., & French, D. "Webinar – The Way Forward: The Roadmap for the Prevention of Youth Homelessness." *Homeless Hub*. Toronto, ON. 20 November 2018. https://vimeo.com/301938022

76. **Schwan, K.** "Youth's Perspectives on Preventing Youth Homelessness in Canada." *Canada Housing & Renewal Association's National Congress on Housing and Homelessness*. Ottawa, ON. 25 April 2018.

77. **Schwan, K.**, & French, D. "Webinar: What Would it Take? Youth Across Canada Speak Out on Youth Homelessness Prevention." *Homeless Hub*. Toronto, ON. 9 February 2018. https://attendee.gotowebinar.com/register/8612859797545313026

78. Gaetz, S., **Schwan, K**., & Redman, M. Keynote – "Launch of Youth Homelessness Prevention Road Map." *From Youth to Seniors: A Practitioners' Symposium on Homelessness*. Toronto, ON. 24 January 2018.

79. **Schwan, K**. "Preventing Youth Homelessness Across Systems." *From Youth to Seniors: A Practitioners' Symposium on Homelessness*. Toronto, ON. 24 January 2018.

80. **Schwan, K.** "Without a Home: The National Youth Homelessness Survey." *Re-Route: A forum on child welfare and youth homelessness*. Toronto, ON. 22 March 2017.

81. **Schwan, K.** "Producing Social Change through Documentary Film." *LadyFest Toronto 2009*. Beaver Hall Gallery, Toronto, ON. 14 September 2009.

SELECT POLICY PRACTICE & ADVOCACY

2025 — Lead Organizer & Principal Sponsor
Bill AB 543 – Street Medicine: Medi-Cal Access (González)
Principal Sponsor of Street Medicine Bill AB 543, leading the California Street Medicine Collaborative to co-draft and advance the bill's passage in concert with

Assemblymember Mark González's Office. Bill AB 543 focuses on significantly expanding access to Medi-Cal—the state's Medicaid program—for people experiencing homelessness across California. Organized and led stakeholders across the country in drafting and refining bill language alongside Brett Feldman (Director, USC Street Medicine). Designed and executed a statewide strategy to mobilize support, including coalition-building with government agencies, health plans, hospitals, and professional associations (e.g., psychiatry, family medicine, nursing). Developed legal and research evidence, testimony, and knowledge mobilization materials (fact sheets, FAQs). Organized numerous convenings, webinars, and media engagement efforts to advance the bill's passage.

2025 — Principal Investigator & Lead Organizer
The United States Street Medicine Summit: Building a National Policy & Research Agenda (Washington, D.C., 15 May 2025)
Lead organizer on first national summit on street medicine in the United States, convened by USC Street Medicine and the California Street Medicine Collaborative, in partnership with the USC Homelessness Policy and Research Institute (HPRI) and the USC Institute on Global Health Inequalities (IIGH). This invite-only event brings together key leaders from across the U.S. to co-develop a National Research and Policy Agenda for street medicine, facilitating collaboration between practitioners, policymakers, researchers, and lived experience experts. Principal Investigator for a pre-Summit study designed to inform the Summit, conducting listening sessions in six U.S. cities with unsheltered individuals to identify necessary healthcare policy changes.

2024 – present — Lead Organizer
Encampments Working Group, Street Medicine Institute
International Working Group of street medicine leaders collaborating to develop national guidelines on the US government's human rights obligations towards people residing in encampments, particularly with respect to the right to health and the right to housing. The guidelines will be published and mobilized through the Street Medicine Institute.

2023 — Co-Organizer & Facilitator
Street Medicine Movement Global Retreat (Feb. 27 – March 2, New Delhi, India)
The Street Medicine Movement Global Retreat brought together key leaders in street medicine from across the world to reflect on the social, political, and ethical significance and horizons of the movement, and to map a rights-based approach to street medicine globally.

2022 – 2024 — Co-Organizer
National Working Group on Encampments, hosted by The Shift
Solutions-oriented, multi-stakeholder national table bringing together experts on homelessness and encampments to develop a series of rights-based recommendations to help move forward solutions to homeless encampments in Canada.

2022 – 2024 — Lead Organizer

Human Rights Claim on the Right to Housing for Women & Gender-Diverse People – Submission to the Federal Housing Advocate
National Campaign to utilize the new procedures under the *National Housing Strategy Act* to claim the right to housing and the right to substantive equality for women and gender-diverse people across Canada. Two Human Rights Claims were submitted to the Federal Housing Advocate through this initiative, both of which the Advocate has selected for a National Human Rights Inquiry by the National Housing Council in 2023 – 2024.

2022 — Lead Organizer
National Symposium on the Right to Adequate Housing for Women & Gender Diverse People (Oct. 31 – Nov. 1, Toronto, ON)
Co-host of the first National Symposium on the Right to Housing for Women and Gender-Diverse People. The Symposium created a platform for 70+ lived experts and their allies from across Canada to speak directly to the Federal Housing Advocate about gender-based violations of the right to housing, and to organize a feminist rights-based housing movement for the country.

2022 — Lead Organizer
Canadian Delegation on Children's Right to Housing at the 90th Session of the United Nations (UN) Committee on the Rights of the Child (16 – 18 May, Geneva, Switzerland)
Canadian delegation advocating for children's right to adequate housing and raising Canada's violations in this regard during the 90th Session of the United Nations (UN) Committee on the Rights of the Child. The Delegation presented a Report on Violations of Children's Right to Housing in Canada and policy recommendations to UN CRC members, a number of which were reflected in the CRC's Concluding Observations.

2020 – 2021 — Lead Organizer
Homeless Encampments in Canada – Advancing a Human Rights Approach
Pan-Canadian Campaign focused on developing and distributing legal information to: (1) homeless encampment residents on their human rights and the obligations of governments towards them, and (2) municipal governments and relevant departments (e.g., parks & recreation).

2020 — Lead Organizer
Right to Home: A Week to (Re)Imagine Housing
A week of virtual film screenings and live panel discussions from across Canada about what's working, what's not, and what's next, as we (re)imagine the right to home during COVID-19.

2020 — Lead Organizer
Global Homelessness Action (The Shift)
Global Campaign focused on providing a platform for people experiencing homelessness to claim their human right to housing in the context of COVID-19. Worked with peers in 17 countries across the world to develop video testimonies from people living in homelessness, demanding accountability from their governments.

SELECT ADVOCACY PUBLICATIONS AND TESTIMONY

1. **Schwan, K.** (6 January 2025). *Delegate, White House Virtual Round Table on Street Medicine*. White House Office of Science and Technology, Washington, DC.

2. **Schwan, K.** (29 August 2024). *Expert witness testimony to the Legislative Assembly of Ontario – The epidemic of intimate partner violence in Ontario*. The Standing Committee on Justice Policy, Legislative Assembly of Ontario, Toronto, ON.

3. **Schwan, K.** (27 August 2024). *Expert witness testimony* re: women's experiences in homelessness encampments. *Heegsma, Marchand, Smyth, Muscato, Arnold, et al. v. City of Hamilton*. Court File No. CV-21-00077817-0000. Hamilton, ON.

4. **Schwan, K.** (25 June 2024). *Deputation to Los Angeles City Council regarding the allocation of opioid settlement dollars to harm reduction in MacArthur Park, Los Angeles*. Los Angeles City Council, Los Angeles, California.

5. **Schwan, K.**, & Farha, L. (24 November 2023). "Letter of Concern issued to City of Guelph Regarding Proposed Criminalization of Encampments." *Women's National Housing & Homelessness Network & The Shift.* https://make-the-shift.org/wp-content/uploads/2023/11/City-of-Guelph-Letter-of-Concern-Shift-WNHHN.pdf

6. **Schwan, K.** (18 September 2023). "Affidavit of Expert Witness Dr. Kaitlin Schwan re: Women's Experiences in Homeless Encampments." *Coalition for Justice & Human Rights Ltd. V. The City of Edmonton*. Court File No.: 2303 15571.

7. **Schwan, K.** (13 September 2023). "Affidavit of Expert Witness Dr. Kaitlin Schwan re: Women's Experiences in Homeless Encampments." *English, Lavigne, Sero, Milligan, Daniel, et al. v. The Corporation of the City of Kingston*. Court File No.: CV-23-00000188-0000.

8. **Schwan, K**., Lafferty, K., Pitawanakwat, M., Pfoh, M. (22 December 2022). "Statement: Demand for Urgent Action to Protect the Lives of Indigenous Women, Girls, Two-Spirit, and Gender-Diverse People Experiencing Homelessness." *The Women's National Housing & Homelessness Network*. https://womenshomelessness.ca/statementonindigenoushomelessness/

9. **Schwan, K.** (31 August 2022). "Affidavit of Expert Witness Dr. Kaitlin Schwan re: Women's Experiences in Homeless Encampments." *Persons unknown or to be ascertained v. The Regional Municipality of Waterloo*. Court File No.: CV-22-00000717-0000

10. **Schwan, K.** (10 June 2022). "Affidavit of Expert Witness Dr. Kaitlin Schwan re: Women's Experiences in Homeless Encampments." *Heegsma, Marchand, Smyth, Muscato, Arnold, et al. v. City of Hamilton*. Court File No. CV-21-00077817-0000

11. Farha, L., **Schwan, K.**, & Freeman, S. (8 September 2021). "Letter of Concern issued to City of Halifax Regarding Clearing of Encampments." *The Shift*. https://www.make-the-shift.org/letter-of-concern-to-city-of-halifax-regarding-clearing-of-encampments/

12. **Schwan, K.**, & Farha, L. (6 August 2021). "Statement: Homeless Encampments in Hamilton (ON) & Risk of Evictions." *The Shift*. https://www.make-the-shift.org/wp-content/uploads/2021/08/Shift-Letterhead-Hamilton.pdf

13. Cooper, A., Schwan., Flynn, A., Van Wagner, E., & York, F. *Strathcona Park Decampment Report Card – Human Rights Violations*. Pivot Legal Society. https://www.pivotlegal.org/strathcona_camp_human_rights_report_card

14. **Schwan, K**. & Farha, L. (2021). *Homeless Encampments & Your Human Rights – A Guide*. Ottawa, ON: The Shift. https://www.make-the-shift.org/wp-content/uploads/2020/12/THESHIFT-Tent-Encampment-Protocol-Handout.pdf

15. **Schwan, K**. & Farha, L. (2021). *Encampment Lawn Sign – You are Entering a Human Rights Zone*. Ottawa, ON: The Shift. https://www.make-the-shift.org/wp-content/uploads/2020/12/humans-right-lawn-sign.pdf

16. Farha, L., Freeman, S., & **Schwan, K.** (26 August 2020). "Letter of Concern issued to Premier of Victoria, Melbourne: Victorian State Government's Violation of the Human Rights of North Melbourne and Flemington Residents." *The Shift*. https://www.make-the-shift.org/wp-content/uploads/2020/08/The-Shift-LOC-Melbourne-25.08.20.pdf

17. Khulud, B., Brais, H., **Schwan, K.**, Hache, A., & Women's National Housing & Homelessness Network. (20 August 2020). "WNHHN Submission to House of Commons Pre-Budget Consultations 2020." *House of Commons Standing Committee on Finance, 43rd Parliament, 1st Session*. https://www.ourcommons.ca/Committees/en/FINA/StudyActivity?studyActivityId=10741968

18. **Schwan, K.**, Brais, H., & Women's National Housing & Homelessness Network. (8 August 2020). "Submission to HUMA: Women's National Housing and Homelessness Network Recommendations on Government's Response to the COVID-19 Pandemic." *House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, 43rd Parliament, 1st Session*. https://www.ourcommons.ca/Content/Committee/431/HUMA/Brief/BR10815164/br-external/WomensNationalHousingAndHomelessnessNetwork-e.pdf

19. Day, S., Palmater, P., **Schwan, K.**, & Hache, A. (23 June 2020). "Open Letter: Inuit Women – Policing and Emergency Shelters." *Feminist Alliance for International Action*. http://fafia-afai.org/en/open-letter-inuit-women-policing-and-emergency-shelters/

20. **Schwan, K.**, & Women's National Housing and Homelessness Network. (6 April 2020). "Call to Action: The Gendered Crisis of COVID-19 for Women and Gender Diverse People Experiencing Housing Need and Homelessness." *Women's National Housing and Homelessness Network*. Online at http://womenshomelessness.ca/covid-19-response/

MEDIA

1. *California Assemblymember Mark Gonzalez Introduces Legislation to Expand Street Medicine* – Quoted in official press release, California State Assembly, February 12, 2025.

https://a54.asmdc.org/press-releases/20250212-assemblymember-mark-gonzalez-introduces-legislation-expand-street-medicine

2. Clayton, V. (8 November 2024). Protecting Unhoused Patients from the Harms of Encampment Sweeps. *The California Health Care Foundation Blog*. Oakland, CA: California Health Care Foundation. https://www.chcf.org/blog/protecting-unhoused-patients-harms-encampment-sweeps/

3. **Schwan, K.** (13 February 2024). Tent encampments are a human rights crisis, housing advocate warns. *CBC News: The National*, Toronto. TV. https://www.youtube.com/watch?v=co-j9Ro5S1k

4. **Schwan, K**. (29 July 2023). Housing Rights & Reproductive Freedom – What's the Connection? *Aborsh Podcast*. https://www.rachelcairns.ca/#aborsh

5. MacKenzie, C. (1 February 2023). Encampment evictions cause 'tremendous harm,' defy human rights, say experts. *CBC News PEI*. Charlottetown. Online. https://www.cbc.ca/lite/story/1.6732915

6. Omstead, J. (31 January 2023). Toronto 'extremely vulnerable' to legal challenge after homeless encampment ruling, experts say. *CBC News. Toronto*. Online & Print. https://www.cbc.ca/news/canada/toronto/ont-encampment-decision-experts-1.6732315

7. **Schwan, K**. (31 January 2023). Interview with Ismaila Alfa, *CBC Metro Morning*, Toronto. Radio.

8. **Schwan, K**. (31 January 2023). Interview with Rebecca Zandbergen, *CBC London Morning*, London. Radio.

9. **Schwan, K**. (31 January 2023). Interview with Julia Caron, *CBC Quebec AM*, Quebec City. Radio.

10. **Schwan, K**. (31 January 2023). Interview with Rebecca Zandbergen, *CBC London Morning*, London. Radio.

11. **Schwan, K**. (31 January 2023). Interview with Markus Schwabe, *CBC Morning North*, Sudbury. Radio.

12. **Schwan, K**. (31 January 2023). Interview with Nav Nanwa, *CBC Windsor Morning*, Windsor. Radio.

13. **Schwan, K**. (31 January 2023). Interview with Julia Wright, *CBC Information Morning,* Saint John. Radio.

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2025 – present	Advisory Committee on Improving the Experience of Hospitalization for People Experiencing Homelessness, Member *USC Street Medicine*
2024 – present	Advisory Committee on Housing-Related Community Supports Standardization, Member *The Corporation for Supportive Housing* https://www.csh.org/about-csh/
2024 – present	Street Medicine Working Group, Member *Los Angeles County Community Health Assessment and Action Partnership, Hospital Association of Southern California* https://hasc.org/2023/01/19/in-the-spotlight-la-partnership-and-communities-lifting-communities/
2024 – present	Finance Committee, Member *Street Medicine Institute Board of Directors* https://www.streetmedicine.org/
2023 – present	Seed Grant Committee, Member *Street Medicine Institute Board of Directors* https://www.streetmedicine.org/
2023 – present	Fundraising and Membership Committee, Member *Street Medicine Institute Board of Directors* https://www.streetmedicine.org/
2023 – present	Board of Directors, Member

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2023 – present — FIFSW MSW Admissions Committee, Member
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2022 – 2023 — Homelessness Data Advisory Committee, Member
Infrastructure Canada, Reaching Home
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2022 – 2023 — Government Relations Working Group, Member
National Right to Housing Network
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Housing Assessment Resource Tools Collective, University of BC
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2016 – 2021 Invited Reviewer
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Canadian Research Institute for the Advancement of Women (CRIAW)
Council on Social Work Education (CSWE)
Society for Social Work and Research (SSWR)
Society for the Study of Social Problems (SSSP)

THIS IS **EXHIBIT "B"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

B-1-9652

The Pan-Canadian Women's Housing & Homelessness Survey

Kaitlin Schwan • Mary-Elizabeth Vaccaro

Luke Reid • Nadia Ali • Khulud Baig

WNHHN CAEH canadian observatory on homelessness Keepers of the Circle CRIAW ICREF

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INTRODUCTION

In Canada and around the world, many women, girls, and gender diverse people continue to live in insecure or unsafe housing due to inequity and discrimination.[1] In the Canadian context, these groups experience disproportionate levels of core housing need and poverty.[2] There is a severe lack of affordable and appropriate housing that meets the needs of diverse women and women-led families, exacerbated by systemic issues that keep this group trapped in poverty and struggling to obtain housing assistance.

In the midst of few housing options and overwhelmed emergency shelters, many women and gender diverse people rely on informal networks for housing or engage in dangerous survival strategies to access shelter and meet their basic needs. The need to remain in situations of hidden homelessness not only places this group at risk of exploitation and abuse, but also renders their needs invisible to mainstream supports, systems, and policy development.[3] In the wake of the housing and homelessness crisis facing women and gender diverse people across Canada, the ***Women's National Housing and Homelessness Network*** (WNHHN) conducted an exhaustive scoping literature review on the causes and conditions of homelessness for women, ***The State of Women's Housing Need & Homelessness in Canada*** (2020).

Building on this scholarship, the WNHHN conducted a pan-Canadian mixed-methods survey to explore the housing challenges facing women, girls, and gender diverse people. Completed by 500 diverse women and gender diverse people living in communities across the country, this research constitutes the largest national gender-specific survey on housing need and homelessness to date. This national portrait offers critical insight into the unique causes, conditions, and consequences of housing precarity and homelessness for women, girls, and gender diverse people. Developed in partnership with lived experts, service providers, human rights experts, and researchers, the survey explored the following key questions:

- What are the key housing challenges facing women and gender diverse peoples, and how do they navigate these difficulties?
- How do public systems (e.g., child welfare, criminal justice) contribute to, and correlate with, housing instability and homelessness in the lives of women, girls, and gender diverse people?
- What housing rights violations are being experiences by women, girls, and gender diverse people? What barriers do these groups face when seeking justice?

[1] A/HRC/43/42, No. 9, para 4.

[2] Canada Mortgage and Housing Corporation. (2019). Core Housing Need Data — By the Numbers. CMHC – SCHL. https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-research/core-housing-need/core-housing-need-data-by-the-numbers

[3] Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, F. (2020). The State of Women's Housing Need & Homelessness in Canada: A Literature Review. Hache, A., Nelson, A., Krotodival, E., & Malenfant, J. (Eds). Toronto, ON: Canadian Observatory on Homelessness Press. https://womenshomelessness.ca/literature-review/

- How does poverty, housing precarity, and violence intersect over the lifecourse for women, girls, and gender diverse people?
- What policy and practice change is needed to effectively address homelessness and housing need for women, girls, and gender diverse people in Canada?

In analyzing the data, we identified 10 key findings that demonstrate the unique realities of housing need and homelessness amongst women, girls, and gender diverse people in Canada. On the basis of these findings, we offer a number of recommendations to federal, provincial/territorial, and municipal governments. Implementing these recommendations is critical for advancing housing equity, actualizing the right to housing in Canada, and preventing and eliminating housing insecurity and homelessness amongst women, girls, and gender diverse people.

10 Key Findings

1. Women and gender diverse people experience widespread, chronic housing affordability issues linked to low incomes. Despite this, many participants were not accessing the government benefits they would likely qualify for.
2. Women and gender diverse people experience a wide range of housing adequacy and suitability issues, with safety issues being a common concern that undermines housing stability and leads to housing loss.
3. The chronicity and depth of poverty amongst women and gender diverse people was linked to the insufficiency of social assistance and poorly-paid jobs. In order to survive, most participants had to engage in additional strategies to generate income each month. In many cases this contributed to increased vulnerability or debt, with over a third using credit cards, borrowing money, skipping bills, or using money marts.
4. While eviction was a common experience amongst women and gender diverse participants, many were unable to access legal advice and supports that could have helped. The consequences of eviction were severe for many, including housing loss, homelessness, and continued exposure to abuse.
5. Experiencing a breakup was the primary reason that women and gender diverse people lost their most recent housing. This suggests that housing for this group is deeply dependent upon maintaining a personal relationship with a man, partner, or other person.
6. Homelessness begins early in life for a majority of women and gender diverse people, and is often followed by a chronic, chaotic churn of precarious housing and homelessness situations.
7. Women and gender diverse people reported significant barriers to accessing emergency services, with almost a third being unable to access a bed when they needed one.

8. Women and gender diverse people experiencing housing need and homelessness reported high exposure to trauma and violence, with 75% identifying as a survivor of trauma or abuse.

9. Women and gender diverse people, particularly those from equity-seeking groups, reported significant levels of discrimination from landlords and property managers, in many cases leading to housing loss or barriers to accessing housing.

10. 79% of women and gender diverse people experiencing housing need or homelessness report having a disability. This group reports significant inequities and discrimination on the basis of ability, with severe consequences for many.

BACKGROUND

Housing need & homelessness amongst women, girls, and gender diverse people in Canada – A Statistical Portrait

Homelessness amongst women, girls, and gender diverse peoples in Canada remains both understudied and underestimated, despite indications that these groups disproportionately experience both poverty and core housing need.[4] This is linked to the ways in which commonly used definitions, typologies, and ways of measuring homelessness have failed to account for the hidden ways that women, girls and gender diverse people often experience housing instability and homelessness.[5] It is well recognized that women are more likely to rely on relational, precarious, and dangerous supports to survive housing instability,[6] and are less likely to appear in mainstream shelters, drop in spaces, public spaces, or other homeless-specific services.[7] They are also more likely to negotiate a number of high-risk survival strategies to obtain shelter and avoid the dangers of the streets and co-ed shelter spaces, including by staying in unsafe and exploitative relationships, and exchanging sex for shelter.[8]

Because of the often hidden nature of their homelessness, women and gender diverse people remain systematically undercounted in common enumeration methods used in Canada (e.g., Point-in-Time Counts) which often focus on measuring absolute/street homelessness and homeless shelter usage, both of which tend to be male-dominated.[9] This gap in enumeration contributes to the invisibility of women, girls, and gender diverse peoples' homelessness.

As a result, governments are left to make funding choices and design policy solutions in the absence of key data and knowledge. Despite this, the available data we do have suggests the scale of women's housing need and homelessness is much larger than what is currently estimated.[10] In the absence of

4 Canada Mortgage and Housing Corporation. 2019. See also Mounes, S. (2016). Fast Facts: 4 things to know about women and homelessness in Canada. Canadian Centre for Policy Alternatives. https://www.policyalternatives.ca/publications/commentary/fast-facts-4-things-know-about-women-and-homelessness-canada

5 Savage, M. (2016). Gendering Women's Homelessness. Irish Journal of Applied Social Studies, 16(2), 43-64. See also Pleace, N. (2016). "Exclusion by Definition: The Under-representation of Women in European Homelessness Statistics." In P. Mayock & J. Bretherton (Eds.), Women's Homelessness in Europe (pp. 105–126). London: Palgrave Macmillan.

6 Bretherton, J. (2017). Reconsidering Gender in Homelessness. European Journal of Homelessness, 11(1), 1-21.

7 Baptista, I. (2010). "Women and Homelessness." In E. O'Sullivan, V. Busch-Geertsema, D. Quilgars & N. Pleace (Eds.), Homelessness Research in Europe (pp. 163-186). Brussels: FEANTSA. See also Mahi, K. (2017). Housing, homelessness, and violence against women: A discussion paper. Women's Shelters Canada. http://endvaw.ca/wp-content/uploads/2017/09/Housing-Homelessness-and-VAW-Discussion-Paper-Aug-2017.pdf

8 Bretherton, 2017, p. 1-21.

9 It should be noted that systemic undercounting of women's homelessness is not unique to the Canadian context. Global trends indicate that women, girls, and gender diverse people are consistently underrepresented in research and statistical portraits of homelessness and housing need. This is in part because many countries fail to include hidden forms of homelessness within their definition(s) of homelessness and face methodological challenges when seeking to enumerate hidden homelessness (e.g., difficulty capturing its temporary and transitory nature, barriers to enumerating virtual spaces of overcrowding) (Bretherton, 2017).

10 Schwan et al., 2020.

more comprehensive data, improving estimations requires that we piece together various types of data in attempts to capture the real scale of women's housing need and homelessness within Canada.

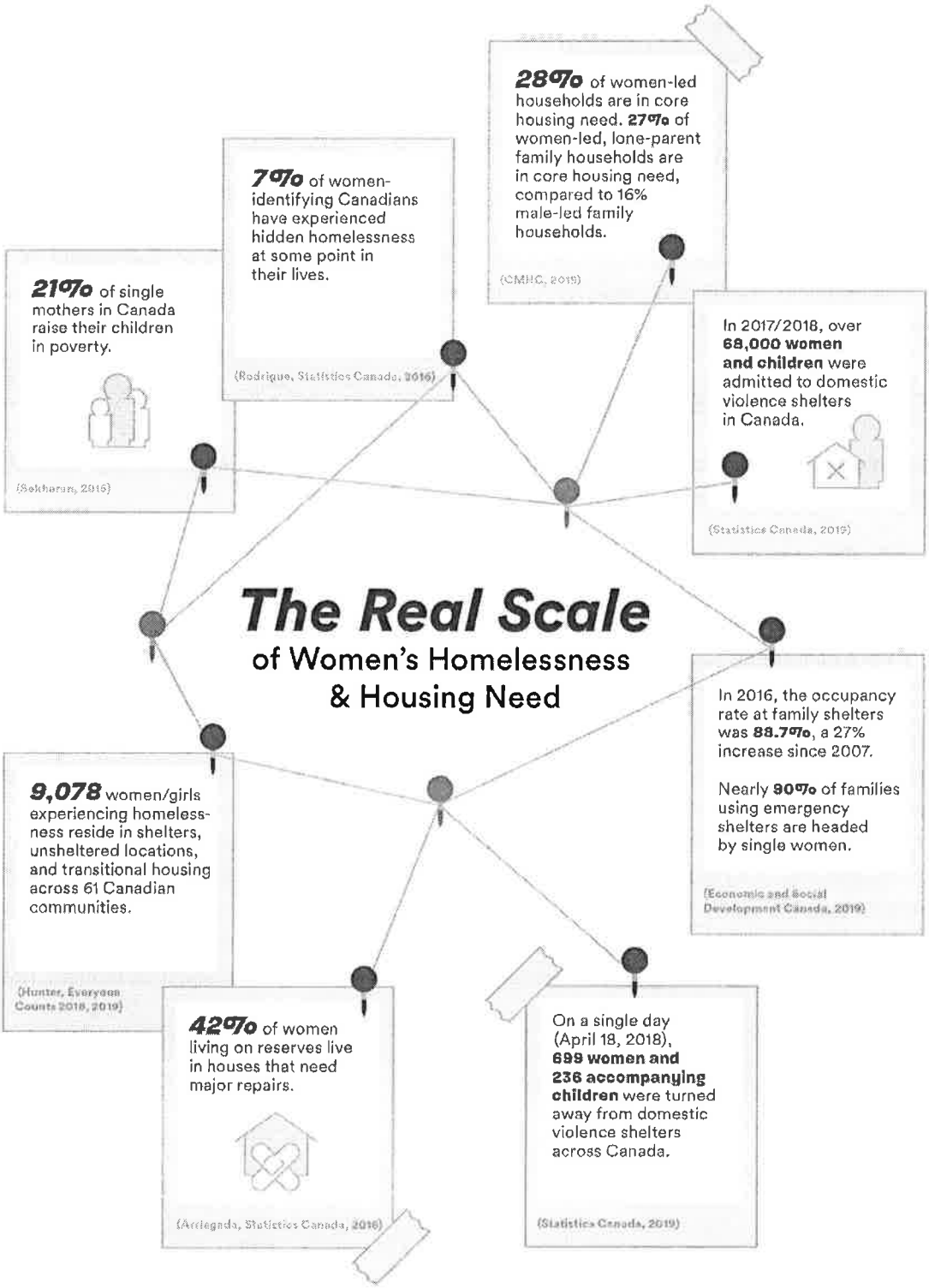


Figure 1. The Real Scale of Women's Housing Need & Homelessness.

As shown in Figure 1,[11] efforts to enumerate housing need and homelessness amongst women, girls, and gender diverse people requires triangulating a range of available data, including:

- Family shelter occupancy rates
- Women-led families living in poverty
- Indigenous women's housing need on reserves
- Rates of abuse and intimate partner violence (IPV)
- VAW shelter and service usage
- Women and children turned away from homelessness or VAW shelters due to capacity issues
- Women and gender diverse peoples experiencing human trafficking

Despite significant data gaps in these data, two data sources are foundational to illuminating the scale of housing instability and homelessness for women, girls, and gender diverse people in Canada: (1) core housing need data, and (2) data on poverty.

CORE HOUSING NEED

Women and gender diverse peoples across Canada experience disproportionate levels of core housing need[12] and housing instability. For example, research indicates:

- 28% of women-led, lone-parent family households are in core housing need, almost double the rate of male-led, lone-parent households (16%)[13]
- 57% of renter households in core housing need are female-led families or singles[14]
- More women-led households live in subsidized housing compared to households led by men (44.1% vs. 40.5%)[15]

Given the challenges to accessing housing in increasingly tight housing markets, some women and gender diverse people seek out social housing options. Unfortunately, Statistics Canada's recent **Canadian Housing Survey**[16] revealed almost two-thirds of households attempting to access social housing or RGI housing options were on waits list for two years or longer. Some cities report wait lists of 5 years or longer,[17] and in Toronto more that 81,000 households are currently on social housing wait lists.[18] Remaining stuck in core housing need, in poor quality or overcrowded housing, or on long waitlists for subsidized housing options has unique implications for women and their families. Housing

11 Schwan et al., 2020, p. 6
12 According to Statsucs Canada (2017), "a household is said to be in 'core housing need' if its housing falls below at least one of the adequacy, affordability, or suitability standards and it would have to spend 30% or more of its total before-tax income to pay the median rent of alternative local housing that is acceptable (meets all three housing standards)" (n.p.).
13 Canada Mortgage and Housing Corporation, 2019
14 Pomeroy, S. (2020, July). Recovery for All: Proposals to Strengthen the National Housing Strategy and End Homelessness. Canadian Alliance to End Homelessness. https://caeh.ca/wp-content/uploads/Recovery-for-All-Report_July-16-2020.pdf
15 Canada Mortgage and Housing Corporation, 2019
16 Statistics Canada. (2019). Results from the new Canadian Housing Survey, 2018. Statistics Canada. https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2019079-eng.htm
17 See https://ottawa.ca/en/family-and-social-services/housing/subsidized-housing
18 See https://www.thestar.com/news/gta/2021/01/19/more-than-81000-households-are-waiting-for-subsidized-housing-in-toronto-the-city-hopes-a-new-waitlist-system-will-help-fill-its-units-faster.html

need exacerbates cycles of poverty and violence and increases the likelihood of child welfare involvement, as oftentimes neglect is conflated with poverty and housing need.[19]

POVERTY

Women experience disproportionate rates of deep poverty in comparison to men,[20] and often survive on lower incomes. For example, women in Ontario live on 28% lower median income than men overall.[21] Women remain overrepresented in minimum-wage and part-time jobs,[22] and assume unequal responsibilities for housework and childcare.[23] The feminization of poverty in Canada makes it difficult for many women and women-led families to afford rent and other basic necessities.[24] Poverty often traps women and women-led families in cycles of violence, housing precarity, food insecurity, and various types of dangerous or unhealthy living situations.

Unique causes and conditions of homelessness and housing need for women, girls, and gender diverse people

> "It may be that the major trigger for homelessness is poverty and exclusion, but it is also clear that women do not experience homelessness in the same way as men. The triggers for women's homelessness are often different and their trajectories while homeless are often different, women's experience of homelessness is *different*. Gender plays a role."[25]

19 OACAS (Ontario Association of Children's Aid Societies). (2016). One Vision One Voice: Changing the Ontario child welfare system to better serve African Canadians. http://www.oacas.org/what-we-do/ovov-new-voice/ See also Trocme, N., Knoke, D., & Blackstock, C. (2004). Pathways to the overrepresentation of Aboriginal children in Canada's child welfare system. Social Service Review, 78, 577-600.

20 Fotheringham, S., Walsh, C. A., & Burrowes, A. (2014). 'A place to rest': the role of transitional housing in ending homelessness for women in Calgary, Canada. Gender, Place & Culture, 21(7), 834-853. See also McInnes, S. (2016). Fast Facts: 4 things to know about women and homelessness in Canada. Canadian Centre for Policy Alternatives. https://www.policyalternatives.ca/publications/commentary/fast-facts-4-things-know-about-women-and-homelessness-canada

21 See https://www.ontario.ca/document/community-housing-renewal-ontarios-action-plan-under-national-housing-strategy/housing-needs-ontario

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

23 Burt, M. R. (2001). Homeless families, singles, and others: Findings from the 1996 national survey of homeless assistance providers and clients. Housing Policy Debate, 12(4), 737-780. See Fotheringham et al., 2014, p. 834-853. See also MacDonald, D., & McInturff, K. (2015). Family policies for the way we live now. https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2015/09/05120_Summer2015_Family_policies.pdf

24 Van Berkum, A., & Oudshoorn, A. (2015). Best practice guidelines for ending women's and girls' homelessness. Ottawa: Homelessness Partnering Strategy. http://londonhomeless.ca/wp-content/uploads/2012/12/Best-Practice-Guideline-for-Ending-Womens-and-Girls-Homelessness.pdf.

25 Bretherton, 2017, p. 6.

Gender shapes the causes, conditions, and trajectories of homelessness and housing need.[26] Research shows that women and girls,[27] as well as gender diverse people,[28] have unique pathways into homelessness, distinct experiences on the streets, struggle in unique ways as they navigate public systems and seek emergency shelter, and face unique consequences and hardships because of homeless experiences.[29] Gender intersects with other social locations (e.g., Indigeneity, race, (dis)ability, immigration status, gender identity) and experiences (e.g., trauma, exposure to violence and conflict) to shape these experiences.[30] Despite the uniqueness of each person's experience, both global and domestic studies have identified the following commonalities:

- Violence from intimate partners or within families is a key pathway into homelessness for women and girls.[31] Oftentimes this violence begins in childhood.[32] For example, research shows that young women experiencing homelessness report higher levels of physical, sexual, and emotional abuse as children compared to young men.[33] Research on young women experiencing homelessness commonly indicates physical abuse (45%) and sexual abuse (35%) as causes of their homelessness.[34] Once on the streets, exposure to violence and harassment is a part of everyday life for women, girls, and gender diverse people.[35] Such experiences contribute to hidden forms of homelessness and may push women and girls to remain in unhealthy or violent relationships for housing.
- 'Hidden homelessness' is the most common form of homelessness experienced by women and girls.[36] It is well recognized that women are more likely to rely on relational, precarious, and dangerous supports to survive housing instability,[37] and are less likely to appear in mainstream shelters, drop in spaces, public spaces, or other homeless-specific services (see Figure 2).[38] The invisibility of women and gender diverse people's homelessness should thus be understood as *structurally* created and maintained.

26 Daiglish-Connett, L. (2016). Becoming homeless: Young women's understanding homelessness among women. Issues in Mental Health Nursing, 37(7), 461–469.
27 Bretherton, J. (2017). Reconsidering Gender in Homelessness. European Journal of Homelessness, 11(1), 1–21.
28 Sakamoto, I., Chin, M., Chaara, A., & Ricciardi, J. (2009). A 'normative' homeless woman?: Marginalization, emotional injury and social support for transwomen experiencing homelessness. Gay and Lesbian Issues & Psychology Review, 5(1), 2-19.
29 Van Berkum, A., & Oudshoorn, A. (2015). Best practice guidelines for ending women's and girls' homelessness. Ottawa: Homelessness Partnering Strategy. http://londonhomeless.ca/wp-content/uploads/2012/12/Best-Practice-Guideline-for-Ending-Womens-and-Girls-Homelessness.pdf
30 Crenshaw, K. (1990). Mapping the margins: Intersectionality, identity politics, and violence against women of color. Stan. L. Rev., 43, 1241-1254.
31 Van Berkum & Oudshoorn, 2015.
32 Beavan, H., Mulcahy, G. A., Forchuk, C., Edmunds, K. A., Baldersby, A., & Lopes, R. (2009). Uprooted and displaced: a critical narrative study of homeless Aboriginal and new career girls in Canada. Issues in mental health nursing, 30(7), 418–430. https://doi.org/10.1080/01612840902824475. See also Kelly, S., Belcher, R., & Forchuk, C. (2005). Living on the streets in Canada: a feminist narrative study of girls and young women. Issues in comprehensive pediatric nursing, 28(4), 227–256. See also Wesely, J. K. (2009). "Mom said we had a money maker": Sexualization and Survival Contexts among Homeless Women. Symbolic Interaction, 32, 91-105.
33 Gaetz, S., Dej, E., Richter, T. & Redman, M. (2016). The State of Homelessness in Canada 2016. Toronto: The Canadian Observatory on Homelessness Press. https://www.homelesshub.ca/SOHC2016
34 O'Grady, B. & Gaetz, S. (2004). Homelessness, gender and subculture in the case of Toronto street youth. Journal of Youth Studies, 7(4), 397-416.
35 Gaetz et al., 2016.
36 Baptista, I. (2010) "Women and Homelessness." In E. O'Sullivan, V. Busch-Geertsema, D. Quilgars & N. Pleace (Eds.), Homelessness Research in Europe (pp. 163-186). Brussels: FEANTSA. See also Maki, K. (2017). Housing, homelessness, and violence against women: A discussion paper. Women's Shelters Canada. http://endvaw.ca/wp-content/uploads/2017/09/Housing-Homelessness-and-VAW-Discussion-Paper-Aug-2017.pdf.
37 Bretherton, J. (2017). Reconsidering Gender in Homelessness. European Journal of Homelessness, 11(1), 1-21.
38 Baptista, 2010; Maki, 2017.

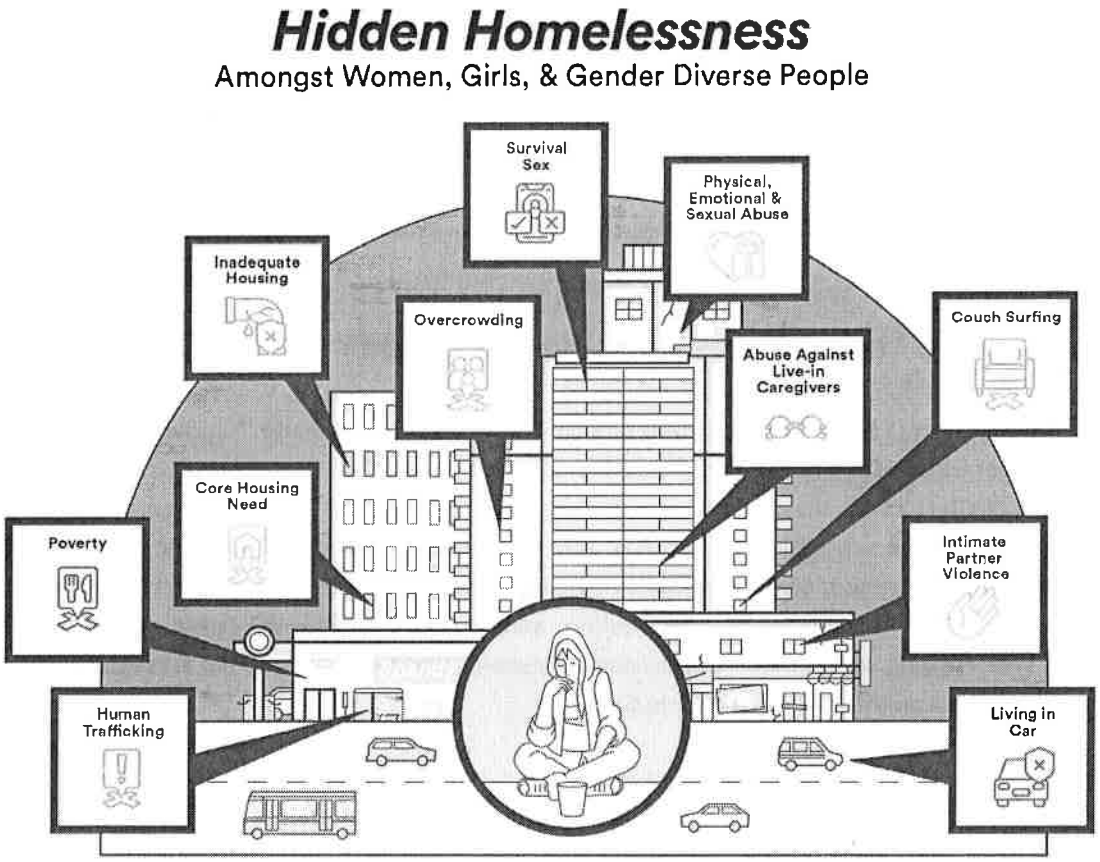


Figure 2. Hidden homelessness amongst women, girls, & gender diverse peoples.

↳ Across Canada, women, girls, and gender diverse people face unique inequities and forms of discrimination on the basis of gender. This contributes to housing need and shapes experiences of homelessness. For example, women are more likely to be in non-permanent employment, receive lower wages and pay higher rates for rental housing on average than their male counterparts.[39] Indigenous and racialized women face deeper systemic inequities, with research noting that racialized women in Canada earn only 55.6% of the income earned by non-racialized men.[40] Pregnancy and child rearing also has a significant impact on employment and income for women, and research also documents that single mothers face discrimination when attempting to access rental housing.[41]

39 Callaghan, M., Farha, L., & Porter, B. (2002). Women and Housing in Canada. Barriers to Equality. Toronto: Centre for Equality Rights in Accommodation. See also: Canadian Women's Foundation, 2018; Moyser & Burlock, 2018.
40 Block, S., & Galabuzi, G. (2011). Canada's Colour Coded Labour Market: The gap for racialized workers. Canadian Centre for Policy Alternatives. https://www.policyalternatives.ca/publications/reports/canadas-colour-coded-labour-market
41 Vecchio, K. (2019). Surviving abuse and building resilience – A study of Canada's systems of shelters and transition houses serving women and children affected by violence. Report of the Standing Committee on the Status of Women. https://www.ourcommons.ca/Content/Committee/421/FEWO/Reports/RP10429175/feworp15/feworp15-e.pdf

- Whether or not women have dependent children has a profound impact on their use of services and supports, and dramatically shapes whether they experience housing precarity and how they navigate homelessness.[42] For example, "most social assistance systems cut entitlements for a mother as soon as her child is apprehended by child welfare, putting her in a position of losing her housing (which is not easily re-established)."[43]

Inequitable Access to Emergency Shelters, Supports, & Housing for Women, Girls, & Gender Diverse People

Data from **Statistics Canada**,[44] **Employment and Social Development Canada**,[45] **parliamentary reports**,[46] **municipal data and research**,[47] and independent studies[48] consistently indicate that emergency shelters across the country are operating at (or over) capacity and there remains a severe lack of gender-specific supportive, transitional, and permanent affordable housing that meets the needs of women, girls, and gender diverse people. Importantly, this is linked to systemic underfunding and inequitable funding in Canada for services, shelters, and housing that is gender-specific and meets the needs of women, girls, and gender diverse people. Research has demonstrated the following key housing inequities on the basis of gender in Canada:

- Across Canada there are very few women-specific emergency shelter beds, with 68% of all shelter beds being designated as co-ed, or for male-identified people, compared to 13% dedicated specifically to women.[49] While 38% of all shelter beds are co-ed or open to all genders,[50] research consistently demonstrates that many women will choose to avoid co-ed shelters due to experiences of violence within those spaces.[51] There are more than double the amount of emergency shelter beds available to men compared to women (4,820 beds for men, compared to 2,092 beds for women across all of Canada).

- Research reveals disparities in access to emergency shelter beds for women, girls, and gender diverse people, with studies indicating that rural, remote, and Northern communities consistently face a lack of shelter beds for women (within both the VAW and homelessness sectors).[52] Data similarly indicates that 70% of northern reserves have no emergency shelters for women escaping

42 Fotheringham, S., Walsh, C. A., & Burrowes, A. (2014). 'A place to rest': The role of transitional housing in ending homelessness for women in Calgary, Canada. Gender, Place & Culture, 21(7), 834-851. See also Van Berkum & Oudshoorn, 2015.
43 Schwan et al., 2020, p. 34.
44 Statistics Canada. (2019). Canadian residential facilities for victims of abuse, 2017/2018. Statistics Canada Catalogue. Ottawa. https://www150.statcan.gc.ca/n1/daily-quotidien/190417/dq190417a-eng.htm
45 Employment and Social Development Canada. (2019). Highlights of the National Shelter Study 2005 to 2016. Ottawa. https://www.canada.ca/en/employment-social-development/programs/women-success/reports/shelter-2016.html
46 Vecchio, 2019.
47 For example, City of Toronto. (2018). Street Needs Assessment. City of Toronto. https://www.toronto.ca/wp-content/uploads/2018/11/96be-2018-SNA-Results-Report.pdf.
48 Gaetz, S., & Scott, F. (2013). Patterns and intensity of Use of Homeless Shelters in Toronto. Canadian Public Policy, 39(4), 541–555.
49 Employment and Social Development Canada, 2019.
50 Employment and Social Development Canada, 2019.
51 Brotherton, 2017. See also National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG). (2019). Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Vol. 1a. 18. www.mmiwg-ffada.ca/final-report/
52 Vecchio, 2019, p. 14.

violence, despite evidence of high rates of gender-based violence in many of these communities.[53] Some provinces and territories also report having no women-specific emergency homeless shelters, including Prince Edward Island and the Yukon.[54]

- Violence against women shelters across Canada are chronically underfunded, with 46% of VAW shelters in Canada reporting that the top challenge facing service delivery was a lack of sustainable funding.[55] A **2019 Statistics Canada report** found that on a national snapshot day across Canada, "669 women, 236 accompanying children, and 6 men were turned away from residential facilities for victims of abuse. The most common reason reported for a woman being turned away was that the facility was full (82%)."[56]

- There is a significant lack of gender-specific housing options across Canada, including supportive housing,[57] with waiting lists for social and supportive housing often stretching years in many communities. Existing transitional housing often does not offer residents security of tenure and protection under landlord/tenant legislation. There are also very few gender-specific, low-barrier and harm reduction-focused supportive housing programs accessible to women and gender diverse people.[58]

This research suggests that in the absence of access to affordable and safe housing options for women, girls and gender-diverse people across Canada, emergency shelters, transitional housing and violence against women shelters will be increasingly unable to meet the demand for services. In light of this and deepening socio-economic and gender-based inequities that have emerged during the pandemic,[59] there is an urgent need to advance housing justice and equity for women, girls, and gender diverse people in Canada.

Martin, C. M. & Walia, H. (2019). Red women rising: Indigenous women survivors in Vancouver's downtown eastside. Vancouver, BC: Downtown Eastside Women's Centre. https://dewc.ca/resources/redwomenrising/
Employment and Social Development Canada). 2019
Statistics Canada. 2019
Statistics Canada. 2019. p. 6.
Gaetz, Stephen, S. & Schor, L. (2018). Housing Matters: Ontario's Role in Ending Youth Homelessness. https://www.homelesshub.ca/sites/default/files/attachments/Housing%20Matters%20Ontario%27s%20Role%20in%20Ending%20Youth%20Homelessness.pdf
Gaetz et al., 2020
Ontario Coalition for Equality Rights in Accommodation & National Right to Housing Network. (2021). Addressing the Evictions and Rental Debts – Proposal for a Federal Government Residential Support Benefit.
https://static1.squarespace.com/static/5e3aec1ca611ab0411502147/t/6026e7bec0cede1d85ecde23/1613690837665/NHSA+Submission+-+Addressing+the++Arrears+and+Evictions+Crisis+-+OCRA-NRHN+Feb+18+2021.pdf

METHODOLOGY

In late 2020 and early 2021, the **WNHHN** conducted a pan-Canadian survey with women and gender diverse people experiencing homelessness or housing need. The survey collected both quantitative and qualitative data, and sought to provide greater insight into the unique causes, consequences, and experiences of housing precarity and homelessness for women, girls, and gender diverse people across the country.

SURVEY DEVELOPMENT

The pan-Canadian survey was developed in a partnership between the WNHHN and the This Is Not Home (TINH) research teams.[60] The WNHHN research team was led by Dr. Kaitlin Schwan (Co-Chair of WNHHN) and Dr. Emily Paradis (Principal Investigator of TIHN). The shared political and epistemological commitments across both research teams allowed for us to prioritize developing a data collection tool that was reflective of the lived expertise of women and gender-diverse people impacted by homelessness, as well as responsive to the research priorities of a range of community partners and sector leaders.

The survey tool was developed through the use of a community-based and participatory research framework that allowed for the engagement of multiple stakeholders at all stages of the research process. Members of the WNHHN and TINH teams worked together in a collaborative and iterative process over several months to develop and revise the survey tool and refine data collection approaches. Survey development included participation from:

- The TINH Peer Research Associates and lived experts, who played an invaluable role in developing the survey questions and were consulted throughout the life course of this project on data collection and analysis.
- The Steering Committee and several working groups of the WNHHN, who identified key areas to investigate through the survey. Preliminary survey questions involved working closely with the Research Working Group, the Indigenous Relations Working Group, and lived experts of the WNHHN.

The preliminary draft of the survey was then pilot tested by lived experts at several of the TINH study sites (6 low-barrier drop-ins serving multiply marginalized women and trans, Two-Spirit, and non-binary persons), and by members and lived experts within the WNHHN. Written feedback was gathered and triangulated, and revisions to the survey were made based on the invaluable feedback we received from these various stakeholders.

60 The This is Not Home study is based in 6 low-barrier drop-ins serving multiply marginalized women and trans, Two-Spirit, and non-binary persons across Canada, in order to improve service models and develop appropriate, accessible shelter, support, and housing solutions for multiply marginalized members. This project documents the ways in which low-barrier drop-ins support members' access to safe, stable housing. The project then applies these learnings to the development of models to support members' access to appropriate and adequate shelter, services, and housing. Funded through CIHRC. The TINH Project is led by Sistering (Toronto, ON) and Dr. Emily Paradis.

Consensus was developed to explore the following key topics through the survey:

- Experiences relevant to the 7 components of the right to adequate housing
- Gender-based discrimination with respect to housing
- The unique experiences of multi-marginalized groups, including Indigenous, newcomer, and 2SLGBTQ+
- Women and gender diverse peoples' experiences in public systems and pathways into homelessness
- Recommendations to governments from women, girls, and, gender diverse people with lived expertise

Once we had revised our preliminary draft based on feedback from lived experts and WNHHN members, another round of review was conducted with housing issue experts, women's rights experts, researchers, and policymakers. Based on their feedback, a final draft was created and circulated to members of the WNHHN and TINH for minor final revisions.

RECRUITMENT

Our recruitment strategy sought to gather a representative sample of women and gender diverse people experiencing homelessness and housing precarity across Canada. We were particularly interested in finding ways to recruit participants who have been systematically excluded by the traditional methodologies used to measure homelessness across Canada. This includes those living in a range of precarious housing and homeless situations across the country, including women and gender diverse people whose homelessness and housing precarity was invisible, those not well connected to public systems, and those who had recently transitioned out of homelessness. Furthermore, our recruitment strategy aimed to amplify the voices of those living in Northern, Eastern, and French-speaking parts of Canada given that they are often under-sampled in national survey data.

Eligibility criteria for the survey included: living in Canada, over the age of 16, identifying as a woman or gender diverse person, and having experienced housing instability or homelessness at some point over the last three years. We developed three distinct recruitment strategies that included recruiting through community-partner organizations, lived experts and peer research associates, and the WNHHN email list-serv.

A. Community Partner Recruitment

We worked in partnership with 27 community partner organizations across the country to recruit participants for the survey. Our community partner organizations included shelters in the homelessness sector and violence against women sector, transitional housing programs, supportive housing programs, services for criminalized women, peer-led harm-reduction services, and organizations in the youth-serving sector.

Community partner organizations played a vital role in recruiting participants by sharing information about the survey with service-users and helping to remove barriers to participation by providing access to technology to complete the survey, assisting with reading the survey to participants, and/or

disseminating honorariums for participants without access to email. Approximately half of the participant sample was drawn from the *This is Not Home* project, which worked in partnership with six low-barrier drop-in programs serving women and gender diverse people experiencing homelessness and housing precarity across Canada. At these sites service-users were supported by Lived Experts/Peer Researchers to complete the survey.

B. Lived Expert Recruitment

We worked with 11 lived experts (women and gender diverse people who have experienced homelessness and housing precarity) to recruit participants for the survey. We worked with Lived Experts through **Keepers of the Circle** to recruit Indigenous women and Two-Spirit people, particularly in Northern regions of Canada. We also worked with youth lived experts to recruit young women and gender diverse people who were living in precarious housing across the country.

Lived experts played a vital role in sharing information about the survey with participants and enabling the participation of women and gender-diverse people living in a range of precarious housing situations, including those who were not well-connected to public systems and supports. Furthermore, this approach allowed for us to recruit participants who had recently transitioned out of homelessness.

C. WNHHN List-Serv Recruitment

The WNHHN has developed an email list-serv of over 500 individuals who wish to stay updated or involved in the Network. The membership is largely comprised of organizational leaders, front-line workers, and women and gender diverse people with lived experience of homelessness and housing precarity.

We sent out recruitment emails to all members of the list-serv inviting anyone who was interested in learning more about the survey to contact the research team. This enabled us to connect women and gender diverse people experiencing homelessness and housing precarity directly with the survey, as well as reach front-line workers who then shared information about the survey with their clients.

DATA COLLECTION

We began data collection on December 19th 2020 and finalized data collection on February 7th 2021. The survey was made available through an online platform survey platform, *Qualtrics*, which was accessible via computers, tablets, and cellphones. Many participants used technology available through community partner organizations to complete the survey, although some participants completed the survey on their own devices.

In some cases, staff or lived experts assisted participants with survey completion by reading questions to enable access to participants for whom literacy and/or technology was a barrier. All community partner organizations were offered support by the WNHHN to administer the survey virtually (via Zoom or telephone) to alleviate barriers to literacy and technology. Participants received a $20.00 honorarium for participating in the survey.

DATA ANALYSIS

Following data cleaning, data analysis was conducted by the authors of this report using SPSS software. Data analysis techniques included frequencies, cross tabulations, chi square tests, and T tests. Analysis was iterative, with emerging themes in the data identified and further explored through additional analyses. The size and depth of the data collected will enable significant elaboration on the preliminary findings presented in this report.

SURVEY LIMITATIONS

Conducting a large-scale survey on women's homelessness and housing precarity during the COVID-19 pandemic presented unique challenges and limitations. Many community partner organizations were operating at limited capacity due to COVID-19 restrictions, and were faced with unique and increasing demands for service. This presented challenges for on-site recruitment within community partner organizations and limited the amount of time front-line staff could spend supporting participants with accessing the survey.

All of our data was collected virtually because of the restrictions put in place limiting in-person research during COVID-19 by York University's Research Ethics Board. We used an online survey platform to administer the survey and due to the branching logic embedded in our survey tool, we were unable to make hard copies of the survey available. The sole use of an online survey platform presented barriers to recruiting participants who did not have access to a computer, tablet, or smart phone. Although community partner organizations worked to make technology accessible for participants, women and gender diverse people who were not well-connected to public systems and support services likely faced limitations to engaging with our data collection process. This includes women and gender-diverse people living in jail, hospitals, and other institutional settings.

Women and gender-diverse people with limited literacy skills may have faced barriers to participating in our survey. In an effort to alleviate this barrier, we offered each community partner organization support by virtually administering the survey via telephone or Zoom. While our survey was made available in English and French, it was not translated into other languages. Limited translation likely presented barriers to fully engaging newcomer women.

Due to the scale and depth of the data collected, an exhaustive report of findings is not presented here. In particular, it was decided that the findings related to Indigenous women and Two-Spirit Peoples deserve a distinct analytic approach led by Indigenous scholars and community members themselves. In addition, further intersectional analysis is needed to identify the unique challenges that particular groups of women and gender diverse people face when seeking adequate housing.

SURVEY RESULTS

STUDY SAMPLE

A total of 500 women and gender diverse people participated in the survey, spanning almost every province and territory in Canada (see Figure 3).

Figure 3. Participants by province and territory.

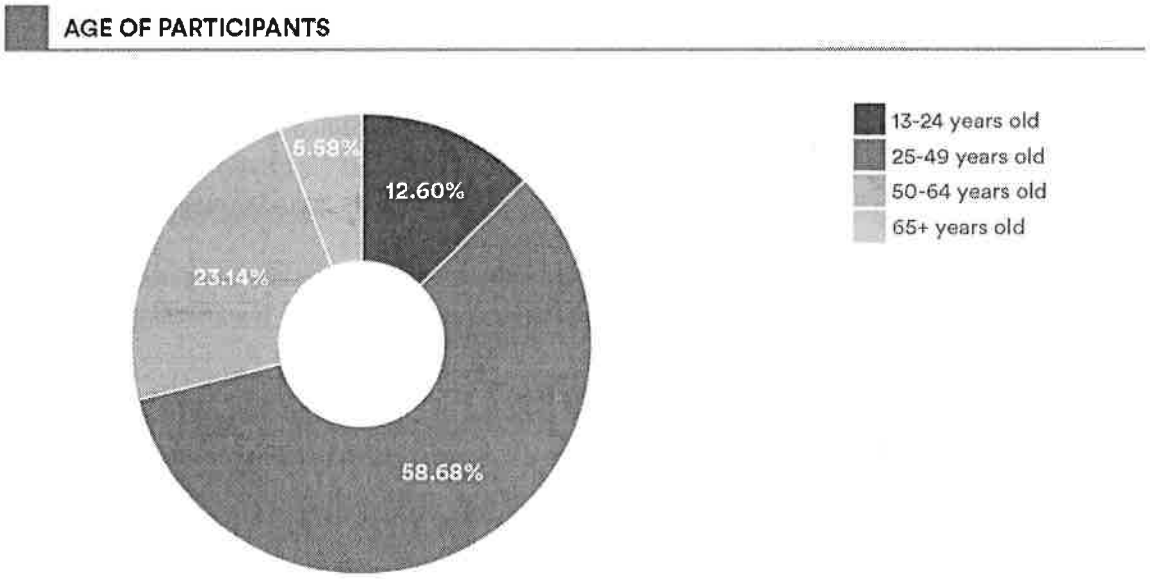


Figure 4. Age of participants.

The sample included a fairly diverse range of ages (see Figure 4). The average age of participants was 41. With respect to gender, a majority of participants identified as cis-gender women (84.8%), with 9.6% using other terms to describe their gender identity. Only 57.6% of participants identified as heterosexual, with the remaining participants endorsing a range of sexual preferences.

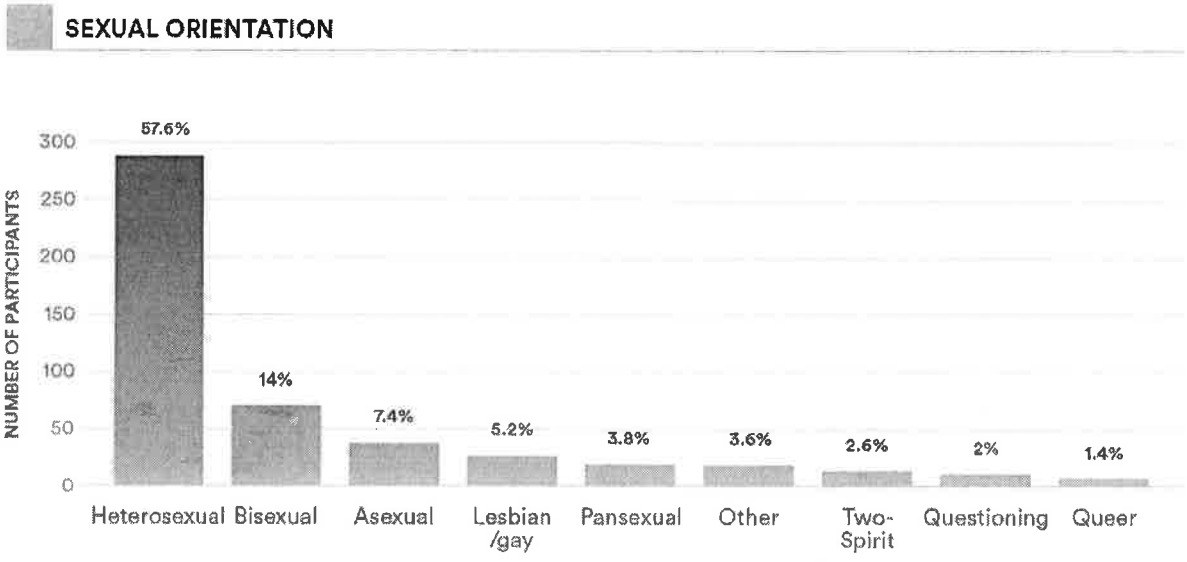


Figure 5. Sexual orientation of study participants.

Across the sample, 84.8% of participants were Canadian citizens, 6.8% were permanent residents, and 8.4% reported precarious immigration status of some form. A quarter of participants also reported speaking more than one language.

With respect to racial identity, 32.7% identified as Indigenous, 21% identified as racialized, and 46.3% identified as white. Amongst Indigenous participants, 67.5% identified as First Nations, 11% identified as Metis, 5.2% identified as Inuit, and 3.2% identifying as having mixed Indigenous heritage.[61]

It should be noted that approximately half of the study sample were persons accessing low-barrier drop-ins for women and gender diverse people, which may have skewed the results towards deeper and more complex forms of marginalization.

61 In addition, 5.3% reported having 'other' Indigenous heritage, and 7.1% preferred not to answer.

10 KEY FINDINGS

1.

Women and gender diverse people experience widespread, chronic housing affordability issues linked to low incomes. Despite this, many participants were not accessing the government benefits they would likely qualify for.

Findings reveal severe and chronic housing affordability issues for women and gender diverse people, as well as women-led families. A total of 60.2% participants reported not being able to afford a place, and 46.5% reported not being able to afford a damage deposit, moving expenses, and/or utility hookups. Importantly, 75% of participants reported at least one affordability concern, such as:

- Affordable and available places are not adequate for my children (15.2%)
- Affordable places are in bad condition (40.8%)
- Affordable and available places are not safe for me (32.8%)

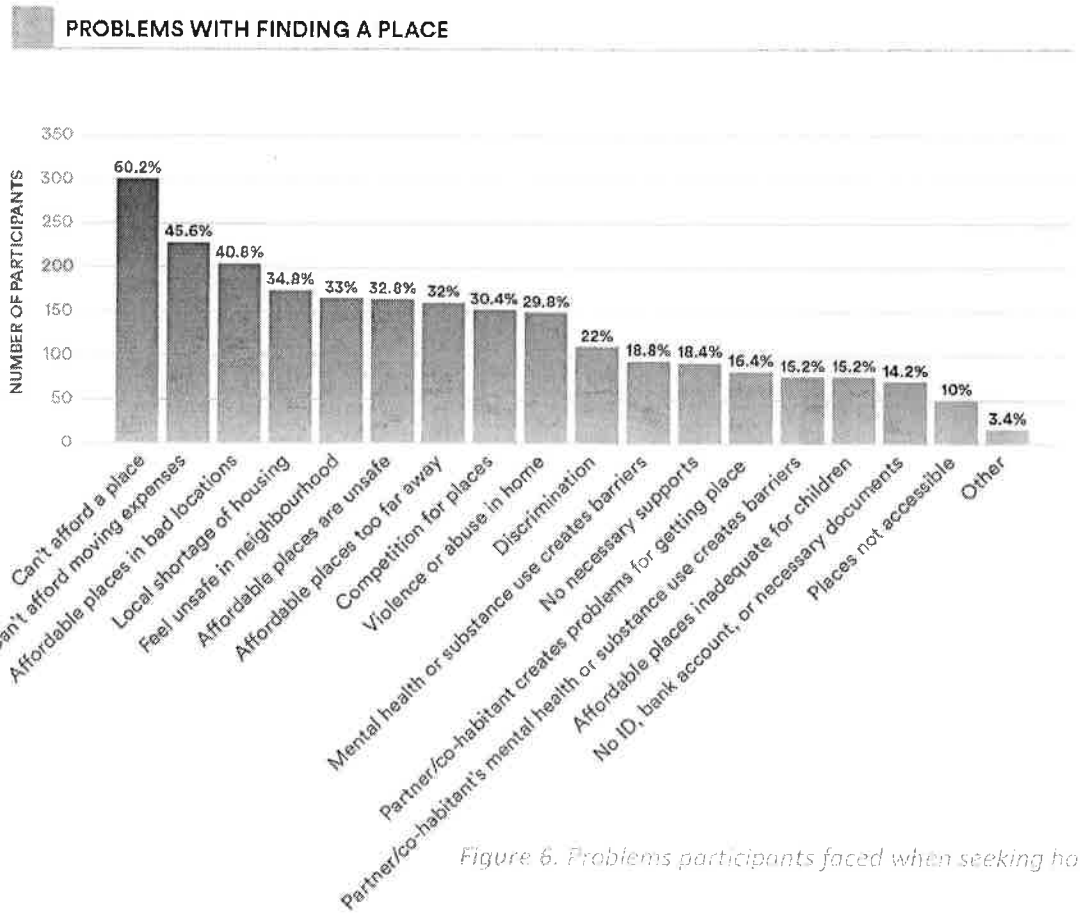


Figure 6. Problems participants faced when seeking housing.

More than a third of participants were also forced to leave their most recent housing because they couldn't afford it anymore (34.8%). Analysis further indicated the following factors were correlated with significantly greater affordability issues:

- Identifying as Indigenous
- Child welfare involvement as a child and an adult
- Multiple experiences of trauma
- Having a disability, with data indicating that with persons with multiple disabilities had a greater affordability issues

Housing affordability is intrinsically linked to income. Across the sample, only 11% reported being employed full time. A majority of the sample was receiving either social assistance or disability benefits (60.8%). Importantly, however, it appeared that many participants who qualified for such assistance were not receiving it. Among participants over 65, 40% were not receiving seniors benefits. Similarly, many persons with disabilities were not receiving disability benefits (e.g., ODSP). For participants who reported one disability, only 63.4% were receiving a disability benefit. This rate increased to 85.1% for women and gender diverse people who endorsed three or more disabilities.

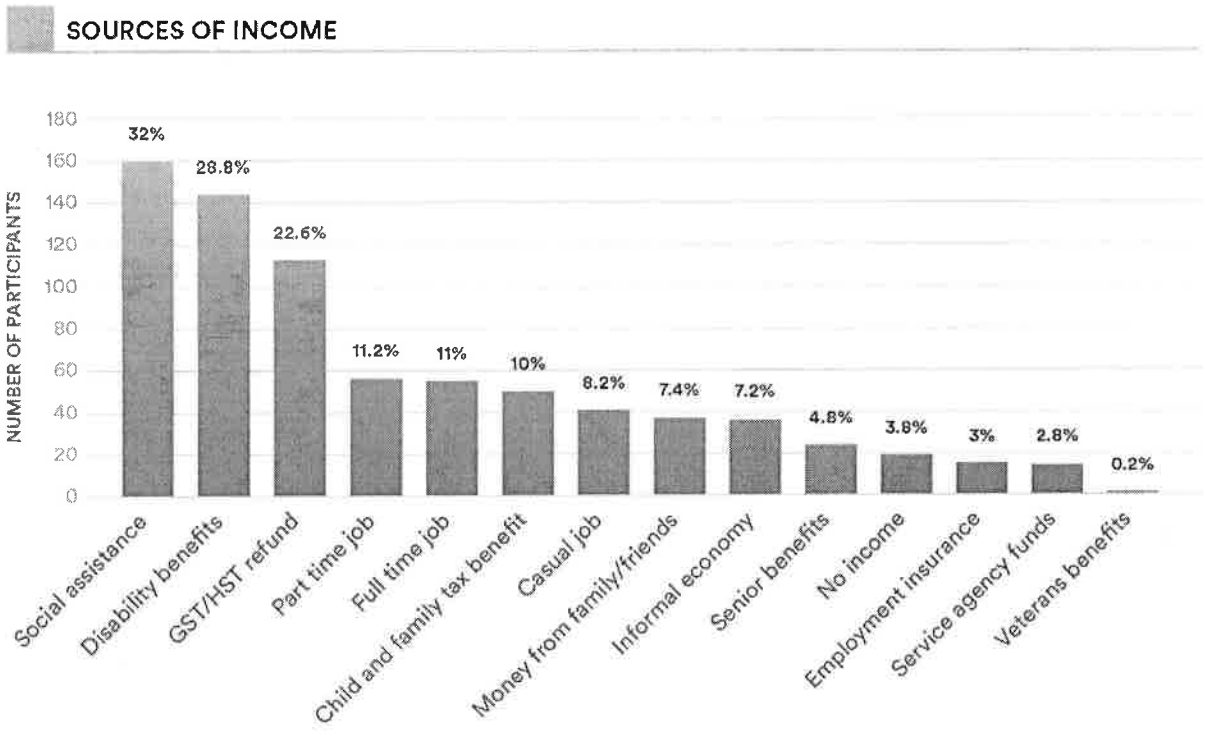


Figure 7. Participants' sources of income.

KEY TAKEAWAYS

The housing crisis in Canada, particularly for women and gender diverse individuals, is a two-fold challenge underpinned by the increased financialization of housing and deepening poverty for those on low-incomes or social assistance. Underpinning affordability issues is the erosion of naturally occurring affordable housing (NOAH) stock, financialized housing markets, long waitlists for social housing, inadequate social assistance rates, and the failure of income to keep up with the soaring cost of housing.[62] As housing becomes more unaffordable, incomes are failing to lift many women and gender-diverse people out of deep poverty. Women and gender diverse people, who are more likely to work minimum wage and part-time jobs,[63] simply cannot keep up. A ***2019 study***, for example found that in nearly 800 neighbourhoods of Canada's major cities, renters would need to earn $22.40/hr for a two-bedroom apartment, and just over $20/hr for a one-bedroom unit.[64] These rental costs are at least $5 an hour more than the highest provincial minimum wage in Canada ($15 in Alberta).[65]

Policymakers seeking to build better housing outcomes for women and gender diverse people cannot overlook the role income plays in housing affordability. Women have been disproportionately impacted by loss of income during the COVID-19 pandemic, and have faced the sharpest job losses (and slowest employment recovery).[66] Women often carry additional financial costs related to disproportionate childcare burdens, and suffer significant financial loss in the wake of intimate partner violence or family dissolution.[67] Inadequate social assistance rates, and a multiplicity of barriers to accessing social assistance, are further policy failures that continue to keep many women and gender diverse people living in deep poverty.[68] While the housing crisis continues to hurt many low-income persons across Canada, our survey's findings imply that women and gender diverse people may be hit hardest *and* have fewer savings and resources to weather the storm.

62 August, M. (2020). The financialization of Canadian multi-family rental housing: From trailer to tower. Journal of Urban Affairs, 42(7), 975-992. See also Pomeroy, S. (2020, July). Recovery for All: Proposals to Strengthen the National Housing Strategy and End Homelessness. Canadian Alliance to End Homelessness. https://caeh.ca/wp-content/uploads/Recovery-for-All-Report-July-16-2020.pdf. See also Schwan et al., 2020.
63 Moyser, M. & Burlock, A. (2018). Time use: total work burden, unpaid work, and leisure. Statistics Canada. https://www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/54931-eng.htm
64 MacDonald, D. (2019). Unaccommodated: Rental Housing Wage in Canada. Ottawa, ON: Canadian Centre for Policy Alternatives. https://www.policyalternatives.ca/unaccommodating
65 Ibid.
66 Grekou, D., & Lu, Y. (2021). Gender differences in employment one year into the COVID-19 pandemic: an analysis by industrial sector and firm size. Statistics Canada. https://www150.statcan.gc.ca/n1/pub/36-28-0001/2021005/article/00005-eng.htm
67 Schwan et al., 2020.
68 Schwan et al., 2020.

2. Women and gender diverse people experience a wide range of housing adequacy and suitability issues, with safety issues being a common concern that undermines housing stability and leads to housing loss.

Over 70% of women and gender diverse people reported at least one problem with the condition of their current or most recent housing, and almost a third reported three or more problems. Issues included pests (25%), the unit being too small (20.6%), and the unit being too hot or cold (19.8%). These adequacy issues were in addition to the health and safety issues identified by participants, with 52.2% reporting at least one issue and almost a third reporting more than three health and safety issues (27%). As shown below, 27.8% percent of participants were forced to leave their most recent housing due to issues with the housing condition.

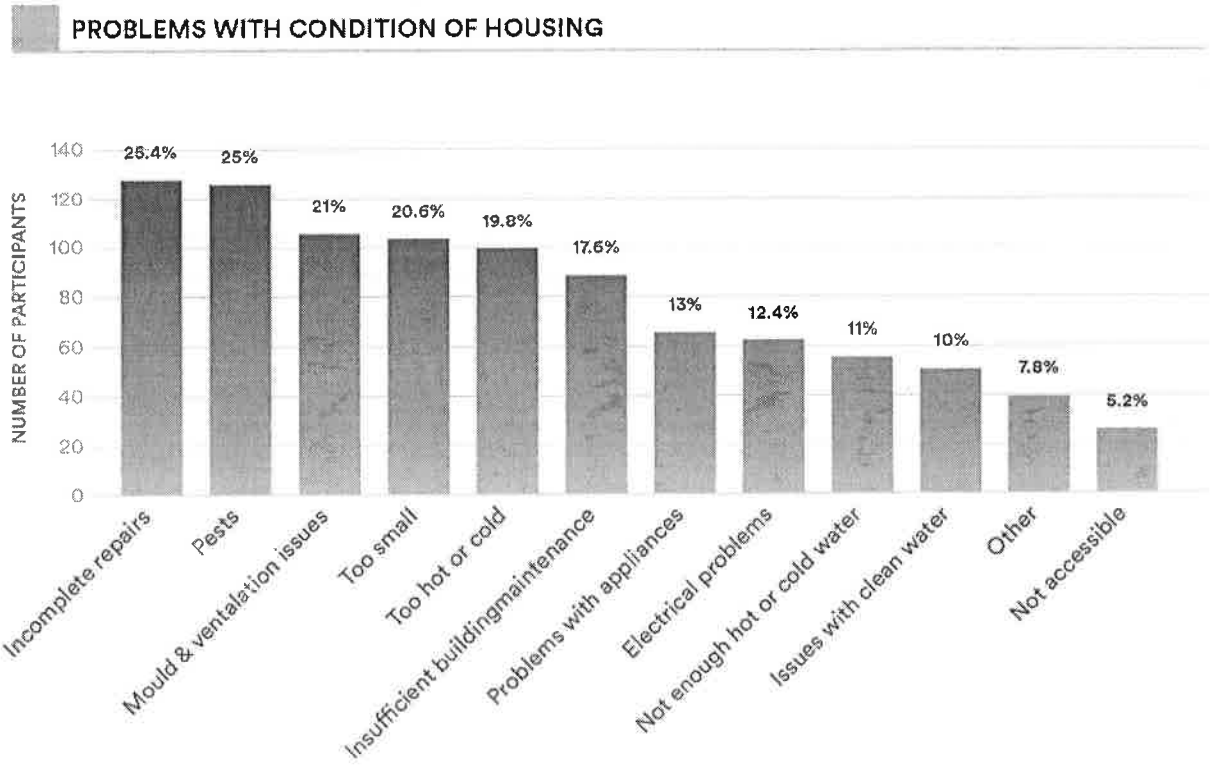


Figure 8. Problems with the condition of housing.

Safety issues were particularly significant for participants, with almost half (45.8%) of women and gender diverse people reporting at least one type of safety concern within their housing. Amongst the safety issues reported, a number of participants discussed violence, abuse, or harassment from landlords. One participant reports:

> "I had to leave the premises with 2 months in advance fully paid rent. My landlady ... had thrown my belongings around my room, removed my bed (which she had supplied) and made it necessary for me to sleep on a bare cement floor in a cold basement for the night. She also had removed the lightbulbs from *my* area."

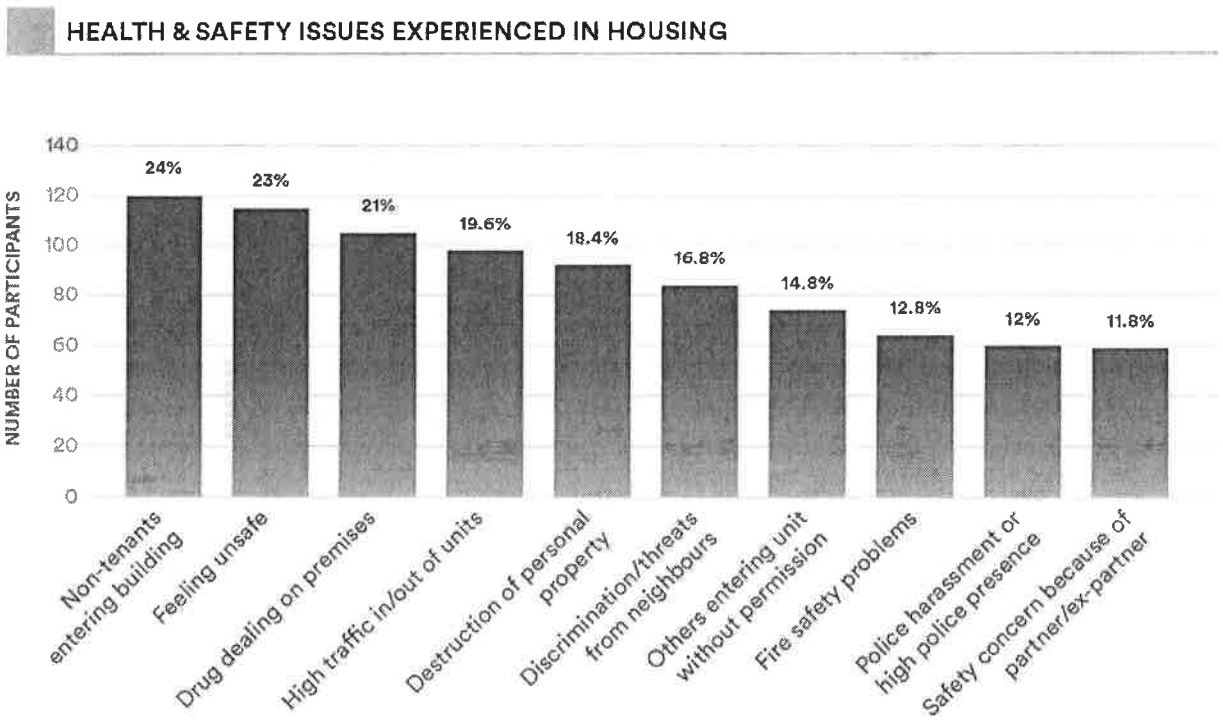


Figure 9. Health and safety issues experienced in housing.

Importantly, a third of participants (33.3%) reported that the COVID-19 pandemic had made their housing situation worse, with data indicating:

- 11% were stuck in an unsafe situation
- 11% were forced to live somewhere that was not good/healthy for them
- 8% became homeless
- 7% were forced to leave where they were living

KEY TAKEAWAYS

Adequate housing is foundational to health and safety for women and gender diverse people. While much discourse in housing policy is focused on supply, with advocates demanding that more affordable housing be built, our survey results suggest that the maintenance and repair of existing low-income rental units is critical to preventing homelessness and keeping people well. Our survey found that many

women and gender diverse people endure severe health and safety hazards just to stay housed, but almost a third were forced to leave when those housing conditions became unbearable. Once de-housed, these families and individuals must navigate over-heated rental housing markets with little income or savings. Maintaining and repairing these low-income units, and preventing the loss of housing for these families, should be a priority across Canada.

This survey's findings also vividly illustrate housing as a social determinant of health,[69] illustrating why the housing crisis must be understood as a public health and safety crisis for women, girls, and gender diverse people. Housing conditions such as mould, ventilation problems, pests, and drinking water issues – combined with safety concerns such as emotional and physical violence – undermine health, mental health, and wellbeing, and create barriers to attending school, raising children, or remaining employed. Research shows that a lack of safe, affordable, and secure housing leads to additional burdens on public health[70] and safety[71] systems as well, as these systems try to mitigate issues created and maintained by housing insecurity and gender-based violence.

Many survey responses also allude to safety concerns linked to their building, their neighbourhood, or their housing location. These findings highlight the importance of ensuring that underserved communities are better resourced with services, supports, and transportation infrastructure to improve safety and inclusion for women and gender diverse people. Progressive inclusionary zoning policies[72] that have the capacity to rapidly expand affordable and supportive housing within mixed-income and well-resourced communities should be explored, with a specific mandate to increase access to such housing for low-income women and gender diverse people.

69 Rolfe, S., Garnham, L., Godwin, J., Anderson, I., Seaman, P., & Donaldson, C. (2020). Housing as a social determinant of health and wellbeing: developing an empirically-informed realist theoretical framework. BMC Public Health, 20(1), 1-19.
70 Hwang, S. W. (2001). Homelessness and health. Cmaj, 164(2), 229-233.
71 Novac, S., Hermer, J., Paradis, E., & Kellen, A. (2011). Justice and injustice: Homelessness, crime, victimization, and the criminal justice system. Toronto, ON: Centre for Urban and Community Studies. https://www.homelesshub.ca/resource/justice-and-injustice-homelessness-crime-victimization-and-criminal-justice-system
72 ACORN Institute Canada. (2019). A Guide to [illegible] Housing Programs. Ottawa, ON: ACORN. https://www.acorninstitute.ca/wp-content/uploads/2019/08/[illegible]_Toolkit.pdf

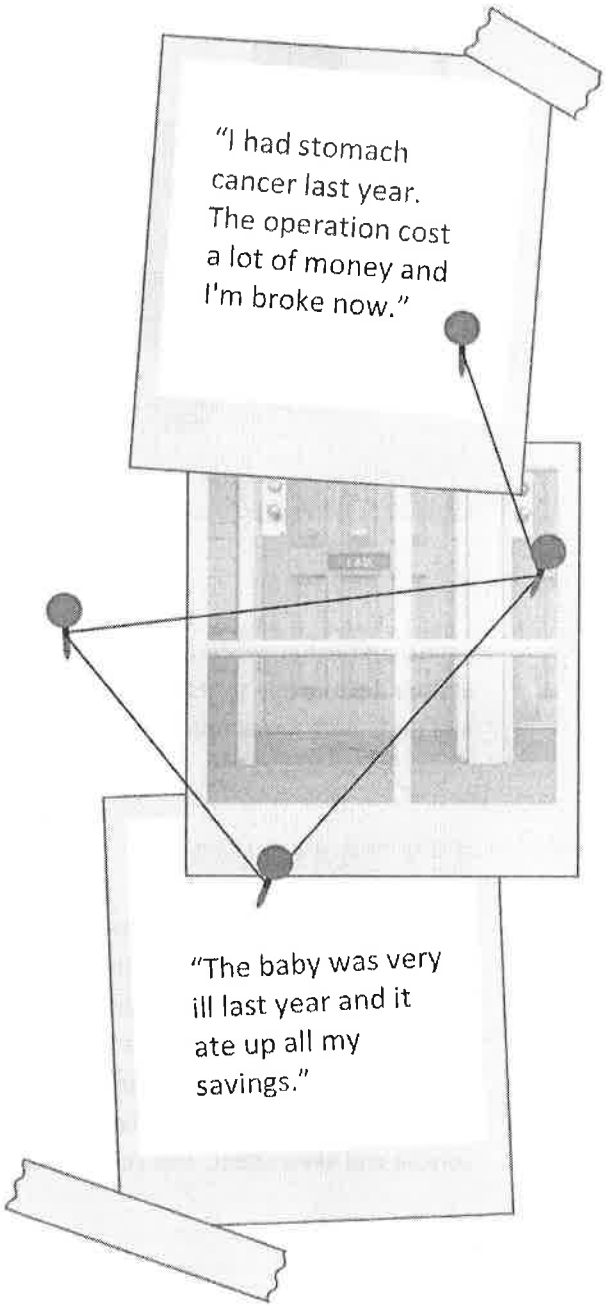
3.

The chronicity and depth of poverty amongst women and gender diverse people was linked to the insufficiency of social assistance and poorly-paid jobs. In order to survive, most participants had to engage in additional strategies to generate income each month. In many cases this contributed to increased vulnerability or debt, with over a third using credit cards, borrowing money, skipping bills, or using money marts.

Across Canada many women and gender diverse people find themselves in deep poverty, with survey data illustrating the lengths individuals go to make ends meet. Data indicated that in their current or most recent place, women and gender diverse people had an average of $596.66 left over after paying for their housing. This amount would need to cover a range of necessitates, including: food, transportation, medical necessities, necessities for children (e.g., diapers, schoolbooks), clothing, cell phone and internet access, and hygiene products, among other costs. Unsurprisingly, 61% of participants said they did not have enough money for necessities after paying for their housing, with another 22.7% reporting it depended month-to-month as to whether this amount was enough. Many reported have $0 after paying for housing, and only 14.2% reported having enough money to cover their basic necessities after paying for housing.

Access to social assistance or social benefits (e.g., disability support programs) had a significant impact on housing stability for participants. More than 1 in 10 (12.6%) participants were forced to leave their most recent housing due to losing some form of government subsidy.

Given the depth of poverty many participants face, a majority reported engaging in a range of income-generating strategies in addition to employment or social assistance. On average, participants engaged in 2 additional subsistence strategies each month, and over a third of participants (33.6%) engaged in 3 or more additional subsistence strategies. Almost a third of participants relied on food banks (30.2%) and almost 1 in 10 engaged in sex work (8.4%).



Importantly, analysis indicated that many participants engaged in income-generating activities that increased their debt load. A total of 36.4% of participants used credit cards, borrowed money, skipped bills, or went to a money mart each month to afford basic necessities. Qualitative findings of the survey suggested such debts were further increased due to unexpected expenses, such as medical issues.

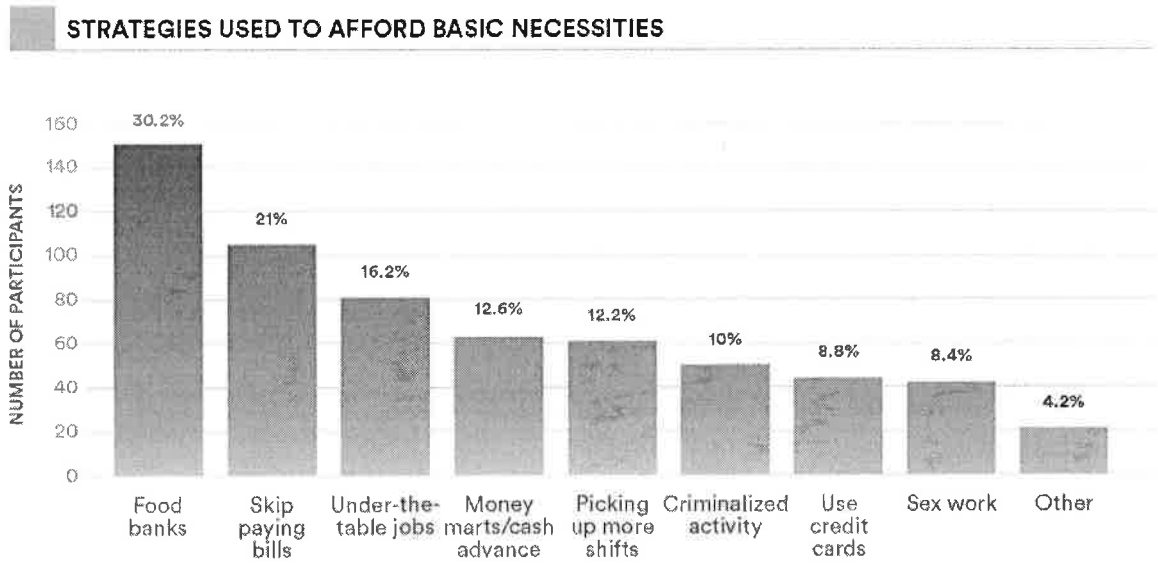


Figure 10. Strategies participants used to afford basic necessities.

COVID-19 further exacerbated poverty for some participants, with 33.6% reporting they saw a decrease in their income due to the pandemic. Analysis indicated that 14% of participants lost their jobs and 12% had their work hours reduced.

KEY TAKEAWAYS

Government-provided social assistance rates, despite being consistently linked to deep and chronic poverty, continue to be egregiously low and insufficient.[73] Links between social assistance, housing unaffordability, and chronic poverty demonstrate that housing solutions for women and gender diverse people are incomplete without transformative social assistance policies across Canada. The lack of political will to meaningfully address disparities in social assistance[74] has meant that many women and gender diverse people are forced into situations that compromise their health and safety as they try to survive and keep afloat. This survey's findings illustrate the gruesome reality in Canada: access to

73 Canada Without Poverty. (October 2, 2019). Cuts to social assistance are detrimental to our social fabric. Ottawa, ON: Canada Without Poverty. https://cwp-csp.ca/2019/10/cuts-to-social-assistance-are-detrimental-to-our-social-fabric/
74 Canada Without Poverty, 2019.

income plays a powerful role in creating or mitigating vulnerability to physical, mental, and financial abuse for women and gender diverse people.

Our findings also illustrate the important link between income, housing affordability, and food insecurity. Food bank usage was the most common subsistence strategy among participants, with housing costs directly impacting the kinds of food families were able to afford or rely on.[75] The prevalence of dependence on exploitative money lending services, criminalized activities, and under-the-table jobs also demonstrate that many women and gender diverse people risk exploitation just to afford basic necessities and remain housed. These findings reinforce the critical importance of a rights-based approach to housing, which is grounded in ensuring dignity for all. Importantly, these findings reveal that gaps created by housing insecurity are often filled by other systems and structures that largely fail to address root causes, deteriorate day-to-day circumstances, and increase vulnerability for women and gender diverse people.

[75] Loopstra, R., & Tarasuk, V. (2012). The relationship between food banks and household food insecurity among low-income Toronto families. Canadian Public Policy, 38(4), 497-514.

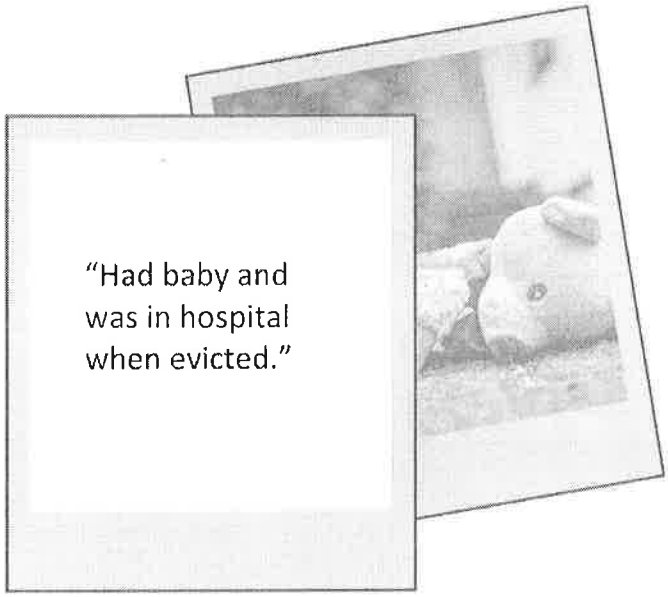
4.

While eviction was a common experience amongst women and gender diverse participants, many were unable to access legal advice and supports that could have helped. The consequences of eviction were severe for many, including housing loss, homelessness, and continued exposure to abuse.

Experiences of eviction were common amongst participants, with 37.2% reporting have experienced an eviction. Analysis indicated significant correlations between evictions and a person's identity or previous experiences. Importantly, for example, there was a significant statistical relationship between histories of child welfare involvement and being evicted. Those who reported child welfare involvement as an adult, as well as those who had child welfare involvement during both childhood and adulthood, reported significantly more evictions than those with no histories of child welfare involvement. This suggests that involvement with the child welfare system makes it more likely that a person will experience an eviction.

Additional analysis indicated that the following factors were also correlated with experiencing an eviction:

- Identifying as Indigenous
- Identifying as LGBTQ2S+
- Receiving any form of government benefit
- Having a disability, with data indicating that with persons with multiple disabilities had a greater likelihood of experiencing eviction
- Having multiple experiences of trauma



It is well documented that access to legal information, advice, and representation can prevent eviction and mediate negative housing outcomes. Importantly, almost a third of women and gender diverse people (27.9%) reported needing legal help to address their housing situation but were unable to get it.[76] When asked what happened when they were unable to access legal supports, many participants reported losing their housing or being stuck in unsafe or violent situations.

What happened when you couldn't access legal supports?

- "I lost my place because I didn't have a lawyer to help me with my eviction situation so I didn't know what to do"
- "I went to see a lawyer for help when my son was 18 months old. And she told me that I was a terrible mother for doing that, and that I was trying to poison my son against his father. I had no one to babysit and no help and could not control the appointment time. I left feeling humiliated and dejected and shamed and was not able to escape for another ten years after that."
- "I just stayed thru abuse"
- "I attempted to dispute my housing Eviction, but was denied by RTO a meeting because of a technical mistake on the deadline made by the system. Was refused a dispute.no such system helped me. I was evicted Dec 30 2019 with no notice. was given 10 minutes to leave with nowhere to go. 3 children. I reached out to an advocate which places me where I am now."
- "I had a place to stay then had surgery, I was in the hospital for a while and because of that odsp cut me off for any funds saying I wasn't staying at my place of residence meanwhile I was in the hospital for 2 months, on life support for 1 week of in the ICU then the rest was recovery time in hospital."

Importantly, young women and gender diverse people (age 13 to 24) reported significant challenges to accessing legal supports – more than any other age group. Across the sample, 52.2% of this group reported not being able to access legal advice or help when they needed it.

In participants' descriptions of evictions, it was also evident that policies and practices within public systems (e.g., child welfare, social assistance, housing, healthcare) created pathways into housing loss

76 16% reported never needing legal advice or help.

and homelessness for some women and gender diverse people. Several participants shared the following stories:

- "Parents refused to let me live in their place without a mental health assessment, hospital refused to completed mental health assessment because I had no address."
- "You have to have your children "living with you" in order to obtain social housing. But FCS says you have to have adequate housing in order to get your kids back."
- "Had children apprehended so I couldn't afford the house I was currently in"
- "Got kicked out of hospital without a social worker looking for a shelter for me.

KEY TAKEAWAYS

Evictions remain a key cause of homelessness for gender and diverse people, despite substantive evidence on the efficacy and cost-benefits of eviction prevention programs and policies.[77] Our survey findings point to three intersecting issues with respect to eviction:

1. A critical lack of supports and services to prevent housing loss due to eviction, in addition to gender-based barriers to accessing existing legal services.
2. Public system policies creating "eviction pipelines" for women and gender diverse people, as well as their children.
3. Higher rates of eviction amongst groups experiencing marginalization (e.g., LGBTQ2S+ persons) and those with public system involvement (e.g., social assistance recipients, child welfare involvement).

Evictions result in severe consequences for many women and gender diverse people, including for those who are separated from their children due to housing loss and/or loss of social assistance. Our findings align with research demonstrating that:

> "Most social assistance systems cut entitlements for a mother as soon as her child is apprehended by child welfare, putting her in a position of losing her housing (which is not easily re-established). This dramatically affects her ability to have her children returned to her care. Similarly, housing providers often consider a woman immediately over-housed if she loses custody of her children or will not consider the mother's family size for housing entitlement if her children are not currently in her care."[78]

77 Canadian Mortgage and Housing Corporation, (2005). Cost-effectiveness of eviction prevention programs. Socio-economic Series, 05-035. https://www03.cmhc-schl.gc.ca/catalog/productDetail

78 Schwan et al., 2020, p. 34.

Such experiences constitute egregious public system failures. These failures must be understood as foundational to gendered experiences of homelessness and intergenerational homelessness, given evidence that children who experience child welfare involvement are at significantly greater risk of experiencing homelessness,[79] and that losing custody of one's child is a trauma that precipitates homelessness for some women.[80] Importantly, our findings suggest that women and gender diverse people often lack the tools, resources, and opportunities to contest the twinned experience of eviction and child apprehension.

Eviction prevention programs and policies must employ a strong gender and equity lens in order to address the unique ways that women and gender diverse people experience evictions. However, this remains an understudied pillar of homelessness prevention in Canada.[81] There has been limited gender-segregated analysis of evictions regionally and nationally, despite a recent increase in equity-focused analyses.[82] These gaps in knowledge have serious implications, including in the wake of COVID-19. For example, emerging US data indicates that women will represent the majority of Americans evicted during the COVID-19 pandemic,[83] with single Black mothers facing higher rates than other groups.[84] Further research in this area is needed in Canada, in addition to improved access to justice mechanisms for women and gender diverse people whose experiences of eviction constitute human rights violations under the ***National Housing Strategy Act*** and international human rights law.

79 Gaetz et al., 2016.
80 Van Berkum & Oudshoorn, 2015, p.10.
81 Gaetz et al., 2020.
82 See, for example, Leon, S., & Iveniuk, J. (2020). Forced Out: Evictions, Race and Poverty in Toronto. Toronto, ON: Wellesley Institute. https://www.wellesleyinstitute.com/publications/forced-out-evictions-race-and-poverty-in-toronto/
83 See, for example, Benfer, E. A., Vlahov, D., Long, M. Y., Walker-Wells, E., Pottenger, J. L., Gonsalves, G., & Keene, D. E. (2021). Eviction, health inequity, and the spread of COVID-19: Housing policy as a primary pandemic mitigation strategy. Journal of Urban Health, 98(1), 1-12.
84 See, for example, Dickerman, E. (24 July 2020). "The Eviction Crisis is already Here and it's Crushing Black Moms." Vice News. https://www.vice.com/en_us/article/7k9e4a/the-eviction-crisis-is-already-here-and-its-crushing-black-moms.

5.

Experiencing a breakup was the primary reason that women and gender diverse people lost their most recent housing. This suggests that housing for this group is deeply dependent upon maintaining a personal relationship with a man, partner, or other person.

The top reason women and gender diverse people lost their most recent housing was because of a breakup, with 47% reporting this experience. This reason outpaced all affordability issues, concerns about safety, experiences of violence, loss of income or subsidies, or poor housing conditions. This finding suggests that women and gender diverse people's security of tenure is often under the control of a romantic or sexual partner (most frequently a man), and that in order to remain housed many women and gender diverse people have to remain in a romantic and/or sexual relationship of some kind. Under human rights standards, women and gender diverse people's security of tenure should not depend upon their relationship status, as explained by the UN Special Rapporteur on the Right to Adequate Housing: "The independent right of women to security of tenure, irrespective of their family or relationship status, should be recognized in national housing laws, policies and programmes."[85]

REASON PARTICIPANTS WERE FORCED TO MOVE OUT

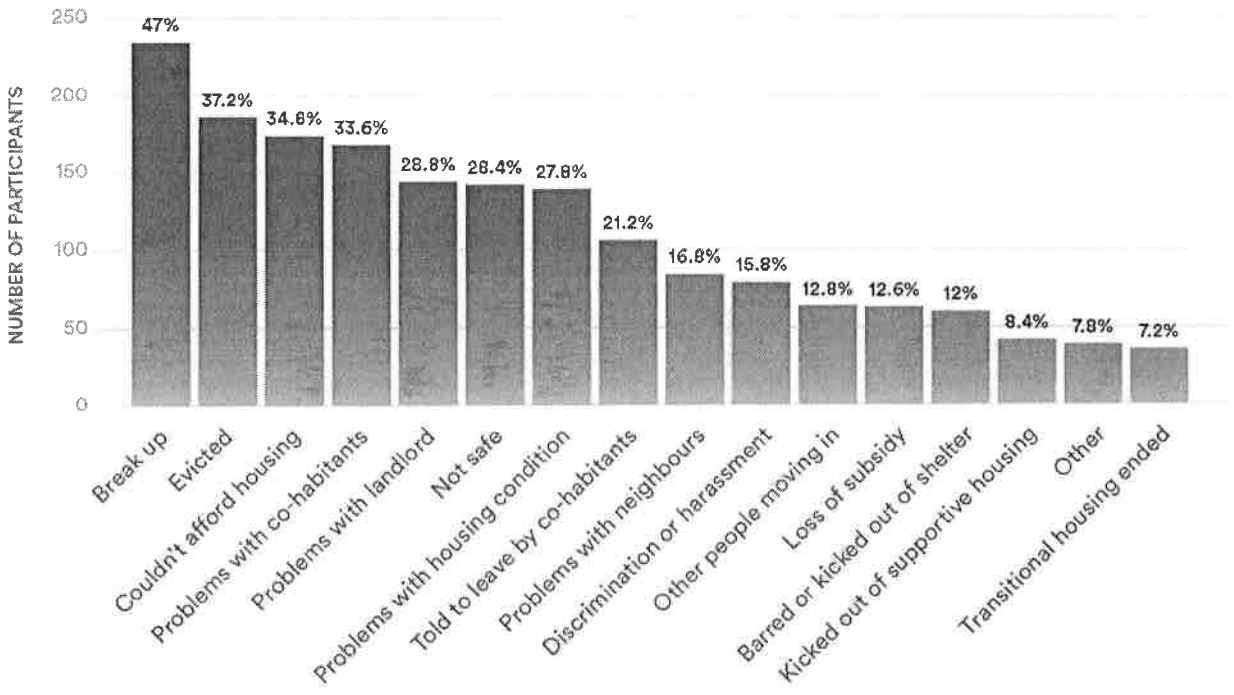


Figure 11. Reasons participants were forced to move out of their most recent housing.

Interestingly, security of tenure issues often intersected with public system failures (e.g., in child welfare, healthcare), sometimes creating pathways into homelessness for women. For example, when asked "How did the criminal justice system contribute to your homelessness?", three participants responded:

- "No contact order and the man owned the house, i had to leave only being on a disability income."
- "My aggressor was removed from the home but I lost my housing as a result and became homelessness."
- "My husband went to prison and our house was auctioned off as a fine."

KEY TAKEAWAYS

As identified by the **UN Special Rapporteur on the Right to Adequate Housing**, "the right to own, manage, enjoy and dispose of property is central to a woman's right to enjoy financial independence, and in many countries will be critical to her ability to earn a livelihood and to provide adequate housing and nutrition for herself and for her family."[86] It is evident that in Canada, a woman's access to housing still depends in large part on her relationship with a man. An array of policies can be held responsible for this dependence, many of them rooted in colonial and patriarchal systems which dislocate particular women and gender diverse people as owners of property and land, fail to equitably compensate them for their labour, deny them access to mortgages, and create barriers to escaping violence or abuse. For example, we have structured our housing system such that women fleeing violence often lose their homes, their property, their savings, their pets, and in some cases custody of their children.[87]

In order to advance the autonomy and self-determination of marginalized women and gender diverse people, it is essential that home ownership is made attainable for those groups who live on low-incomes, have disabilities, or face other barriers to achieving home ownership (e.g., race-based discrimination). Further, it is essential that women and gender diverse people are equitably listed on, and have agency over, rental leases, and that such leases provide them protection in the event of dissolution of relationships. Policy interventions aiming to address this challenge must pay special attention to enabling women's right to security of tenure. Housing departments across jurisdictions must identify barriers to secure tenure and build more accessible pathways to long-term secure tenure for women and gender diverse people.

6. Homelessness begins early in life for a majority of women and gender diverse people, and is often followed by a chronic, chaotic churn of precarious housing and homelessness situations.

Despite only 13% of participants being young people themselves, a majority of participants reported experiencing homelessness for the first time as a young person (55.7%). Approximately 1 in 5 participants became homeless before the age of 16, meaning they likely could not access supports or services within the homelessness or VAW sectors (unless with a parent or caregiver). Amongst those who became homeless before 16, on average their first experience of homelessness began at age 11.

Equity-seeking groups disproportionately experienced homelessness at a younger age. For example, LGBTQ2S+ persons were more likely to experience homelessness before the age of 16, as were racialized participants. A majority of Indigenous participants (57.3%) reported experiencing homelessness for the first time as a young person (age 24 or younger), with 1 in 4 experiencing homelessness before the age of 16. Similar disparities were reported with respect to gender, with 48.6% of gender diverse people reporting they became homeless before the age of 16 (vs. 19.3% of cisgender women).

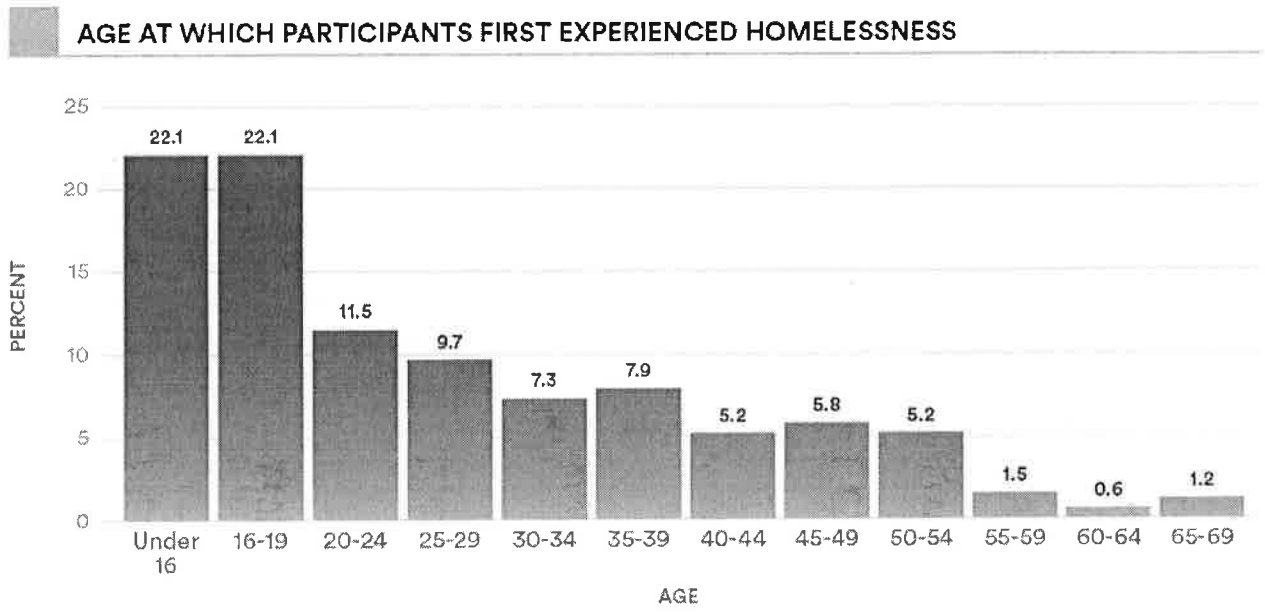


Figure 12. Age at which participants first experienced homelessness.

Once homeless, many women and diverse people reported cycling through a range of precarious housing and homelessness situations (e.g., couchsurfing, survival sex, rough sleeping, hotels/motels, residing in a shelter), with a majority experiencing three or more precarious housing situations in the last year. A majority (42.3%) spent 6 months or more in these situations over the last year.

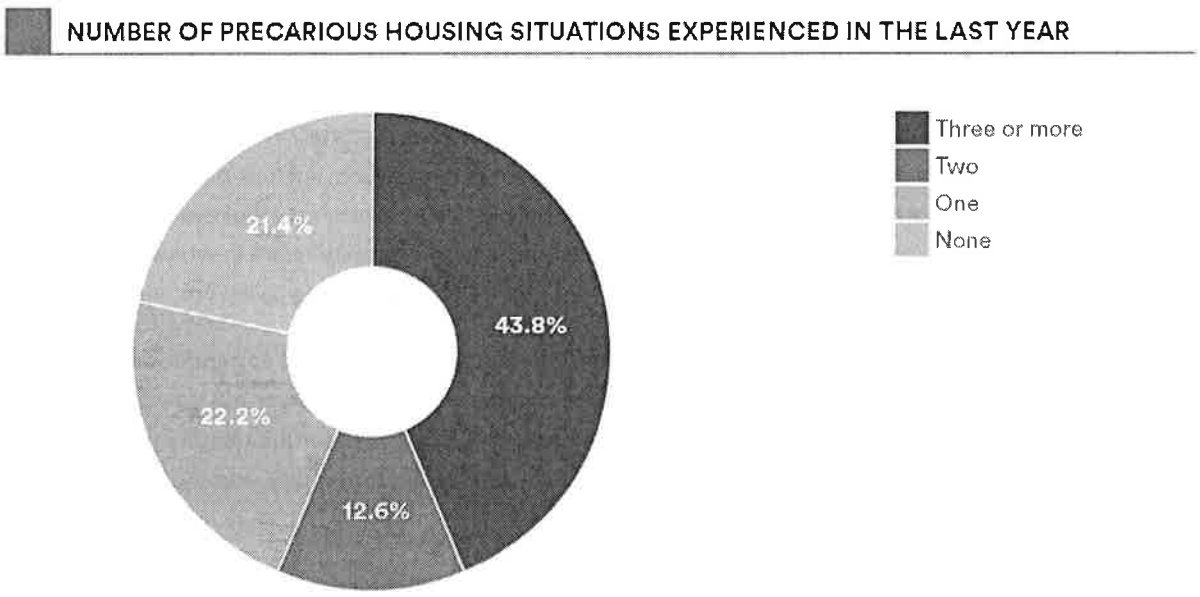


Figure 13. Number of precarious housing situations experienced in the last year.

KEY TAKEAWAYS

Research shows that being exposed to homelessness at a young age puts youth at immense risks of experiencing trauma and violence, impacting their ability to cope and transition out of homelessness.[88] Our survey findings mirror other national data that has traced chronic adult homelessness to homelessness during youth or childhood,[89] demonstrating the importance of early intervention. Importantly, however, these early experiences are "often intertwined with the experiences of the child's primary caregiver – in many cases, a child's mother. Housing instability in a child's life usually occur in the context of their mother's experiences of eviction, intimate partner violence, sexual assault, poverty, or homelessness."[90] This suggests that if we want to interrupt the pathway from child homelessness to

88 Gaetz, S., O'Grady, B., Kidd, S., & Schwan, K. (2016). Without a Home: The National Youth Homelessness Survey. Toronto: Canadian Observatory on Homelessness Press. http://homelesshub.ca/YouthWithoutHome

89 See Employment and Social Development Canada. (2019b). Everyone Counts 2018: Highlights – Preliminary Results from the Second Nationally Coordinated Point-in-Time Count of Homelessness in Canada's Communities. Ottawa, ON: ESDC. https://www.canada.ca/en/employment-social-development/programs/homelessness/reports/highlights-2018-point-in-time-count.html

90 Gaetz et al., 2016, p. 31.

adult homelessness for women and gender diverse people, we must address the unique needs of mothers in severe poverty and core housing need.[91]

In addition, the prevalence of early experiences of homelessness amongst women and gender diverse people underscores the importance of youth homelessness prevention. Interventions must be trauma-informed, gender-sensitive, culturally appropriate, and well-resourced, with a particular focus on youth under 16, who are especially underserved by the homelessness and VAW sectors.[92] Given that some girls and gender diverse children experience homelessness with their families, programs and services should prioritize avenues for keeping families together (when safe and appropriate). This should include reviewing and rescinding policies that exacerbate child-parent separation, such as mandatory reporting to child welfare within some VAW or homelessness services. Such policies may make women with children hesitant to access services for fear of child apprehension[93] or may result in women leaving their children with others in order to access supports,[94] in some cases contributing to severe, long-term harm.

Policies aiming to prevent homelessness for Indigenous young women, as well as gender diverse and Two-Spirit persons, must be cognizant of the colonial contexts that make Indigenous youth vulnerable to housing precarity. Indigenous scholars and communities have long called for meaningful investments in programs that focus on relationships to kin and connection to land, community, and Indigenous ways of knowing and being (including Indigenous systems of gender).[95]

For gender diverse youth, research indicates that interventions must focus on gender-affirming supports, access to adequate gender-sensitive healthcare, and housing interventions built around inclusion and safety.[96] In all cases, early interventions appropriate to the unique situation of youth can build long-term stability and play a role in eradicating chaotic, cyclical, and chronic homelessness for women and gender-diverse people.

[91] Schwan et al., 2020.

[92] Gaetz et al., 2013.

[93] Ataki, K. (2017). Housing, homelessness, and violence against women: A discussion paper. Women's Shelters Canada. http://endingviolence.ca/wp-content/uploads/2017/10/Housing-Homelessness-and-VAW-Discussion-Paper-Aug-2017.pdf. See also: Martin & Walia, 2019.

[94] See Caplan, R. (2019). "Invisible" parent experiences of homelessness and separation from their children in Canada. (Doctoral thesis). Retrieved from Carleton University. https://doi.org/10.22215/etd/2019-13677

Gaetz, S. A., Donaldson, J., Richter, T., & Gulliver, T. (2013). The state of homelessness in Canada, 2013. Toronto: Canadian Homelessness Research Network Press.

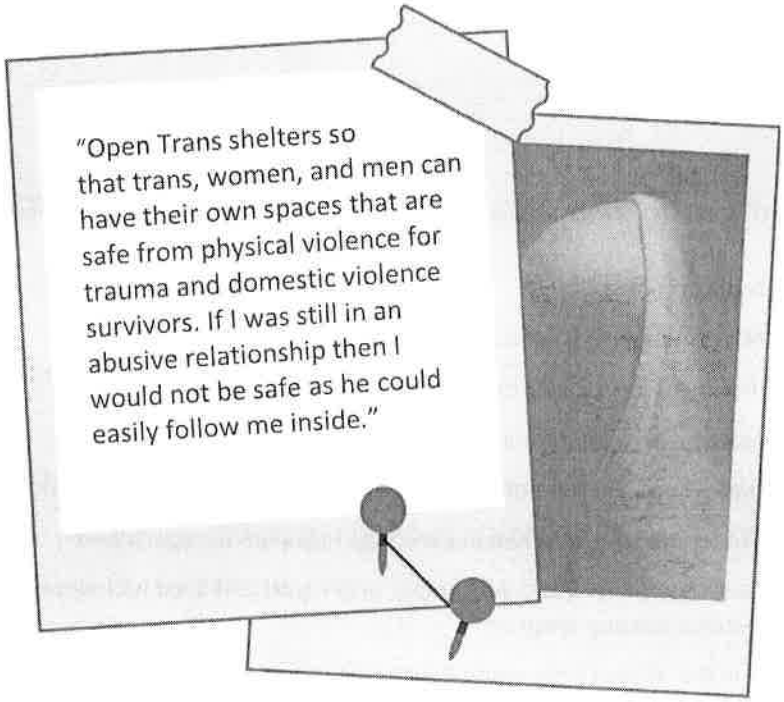
Abramovich, I. A. (2016). No safe place to go: LGBTQ youth homelessness in Canada: An environmental scan of the literature. Canadian Journal of Family and Youth/Le Journal Canadien de la Famille, 8(1), 29-65.

7. Women and gender diverse people reported significant barriers to accessing emergency services, with almost a third being unable to access a bed when they needed one.

Almost a third (32.6%) of participants were unable to access a shelter bed when they needed one. When participants were asked why they were unable to access a bed, an overwhelming majority listed 'shelter full' as the primary reason. Participants also reported barriers due to discrimination, eligibility criteria, COVID-related restrictions, and difficulty finding emergency shelters or services suitable for their families and pets. The following explanations reflect some of these challenges:

DISCRIMINATION

- "Because I was male presenting and fleeing abuse with a baby and a dog and you can't bring all of them with you/only one family shelter for women allows pets and I felt that because I present more masculine and don't identify exactly as a woman it would cause issues or i would t be welcome or safe there either"
- "The people inside bullied me because I was a black girl and wouldn't let me in."



ELIGIBILITY

- "I was pregnant and I couldn't access certain services because of COVID. I also couldn't get into a shelter because I had been drugged by my ex and they thought I was intoxicated."
- "The definition of DOMESTIC ABUSE didnt qualify in Manitoba. In newfoundland..stjohns..all domestic abuse is accepted... In manitoba if ur partner isnt physical u dont get shelter. If it isnt ur partner but member of ur household it doesnt qualify even if theyr beating u. So yes ive been denied shelter at womens abuse shelters."
- "I was deemed a liability because I was suicidal and was "timed out" for 24 hrs"

SUITABILITY

- "No room for my size of family"
- "No beds for Families and we have 2 pets a dog and a cat"
- "Mostly because of staff being insensitive the personal needs. There not being enough beds and shelters available to avoid people that may cause issues."

When asked what they did when they couldn't access a shelter bed, many participants described experiences of rough sleeping, survival sex, returning to situations of abuse, and begging friends or acquaintances to take them in for the night.

What did you do when you were turned away from a shelter?

- "Sleep on the streets or in cars"
- "Stayed awake all night, looking for a friend to take me in usually"
- "I left and spent the night sleeping in the lobby of a nearby hospital"
- "Slept outside or slept with a man for a place"
- "I slept outside, and when I did the police arrested me and stole all my personal belongings."
- "begged a friend to let me stay with him in exchange I cleaned his apartment"
- "i moved back in with the man I had a no contact order with and lived with anxiety until i was approved for Manitoba housing program"
- "I cried especially in the Winter time when it was cold outside. I have slept outside some nights and it was so cold that I got frost bite in my feet and this resulted in permanent nerve damage."
- "Stayed in abusive situation with my dog and my kid"

Importantly, almost 1 in 5 (18.2%) participants reported being service restricted/barred from shelters. This experience was more common for particular groups, including:

- Participants that had child welfare involvement both as a child and as an adult (26.7% vs. 12.5%)
- Those who identified as having a mental health challenge (81.7% vs. 58%)

Below are the top 7 problems participants reported at drop-ins and shelters across the homelessness and VAW sectors, suggesting some significant concerns regarding discrimination, exclusion, safety, and gaps in service. Analysis indicated approximately 1 in 5 participants had engaged with both the homelessness and VAW sector in the last year.

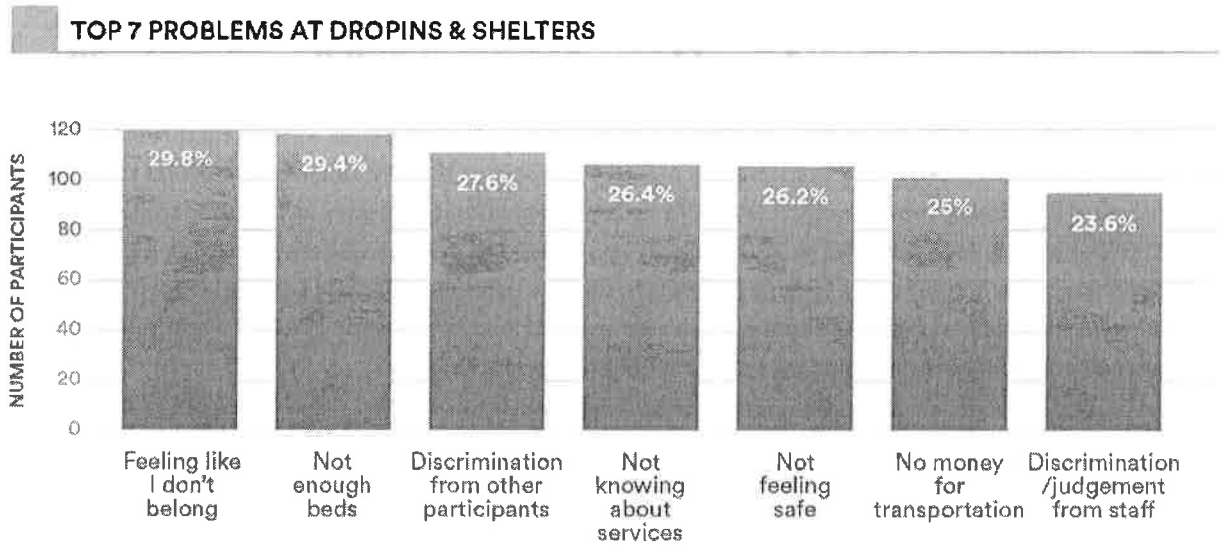


Figure 14. Top 7 problems participants faced in drop-ins and shelters.

KEY TAKEAWAYS

Our survey findings suggest that some women and gender diverse people are harmed by how the homelessness and VAW sectors structure and deliver services. In addition to the severe capacity issues that are well-documented,[97] personal accounts indicate that shelters can exacerbate the very needs they are meant to address, including through discriminatory policies, duty to report policies, and rigid eligibility and acuity criteria. Shelter policies related to substance use, pets, and adult children – combined with a failure to employ trauma-informed, harm reduction approaches – result in women and gender diverse people being turned away from services. This is particularly evident in the lives of women and gender diverse people who have complex needs or are multiply marginalized. The effects of such exclusion cannot be overstated. In some cases seemingly benign or very minor operational policies

97 Statistics Canada, 2019; Employment and Social Development Canada, 2019

within shelters, drop-ins, transitional housing, and other emergency services produce horrific results for those seeking or receiving support.

In seeking to redress these issues, particular attention must be paid to how definitions of violence shape access to services and shelters. How violence against women or domestic violence is defined varies jurisdictionally, leading to inconsistent shelter policies regarding who qualifies for services.[98] VAW shelters, which in many jurisdictions serve only women fleeing intimate-partner violence (IPV), create gaps in service for women who are experiencing violence due to being homeless or street-involved, or experiencing violence from other family members. This creates silos between women and gender diverse people who experience violence in different circumstances. Given this, it is not surprising that some women report feeling there is a "hierarchy of deservingness" that shapes who gets access to services, and that women experiencing particular forms of violent victimization are prioritized over others.

Experiences of gender-based discrimination and race-based discrimination at shelters further disenfranchise women and gender diverse people from spaces that are meant to be protect them and their families. Being turned away from shelters can mean women and gender-diverse people are forced to utilize alternative strategies such as survival sex, going back to their abuser, or navigating systems like healthcare or criminal justice to seek immediate shelter. Policy interventions and solution-building must take a critical look at the role shelters play in maintaining and perpetuating violent experiences for women and gender diverse people as they seek safety and stability.

98 Canadian Network of Women's Shelters and Transition Houses. (2013). The Case for a National Action Plan on Violence Against Women. https://endvaw.ca/wp-content/uploads/2015/10/The-Case-for-a-National-Action-Plan-on-VAW.pdf

8. Women and gender diverse people experiencing housing need and homelessness reported high exposure to trauma and violence, with 75% identifying as a survivor of trauma or abuse.

Experiences of trauma and violence were reported both prior to and during experiences of homelessness by participants. Remarkably, over 75% of women and gender diverse persons reported being a survivor of abuse or trauma. Over 1 in 10 reported being involved in human trafficking, and over a quarter of the group (27.8%) had child welfare involvement as a child or youth.

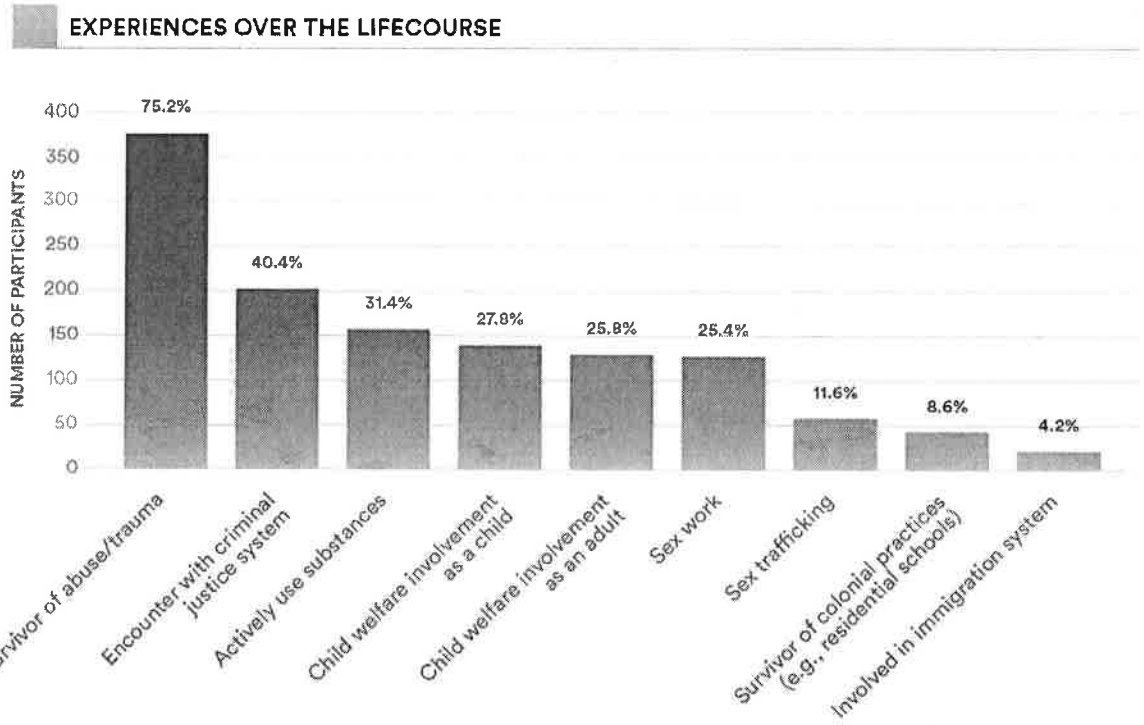


Figure 15. Experiences over the lifecourse (e.g., trauma, trafficking, CAS involvement).

Participants also reported significant levels of violence, control, harassment, or discrimination perpetrated by the people they live with, with almost half of the sample reporting some form of violence in their current or most recent home (45.6%). Importantly, 28.4% of participants were forced to move out from their most recent housing because it was not safe for themselves or their children. Particular forms of violence at home were higher for some groups; for example, gender diverse people reported higher rates of arguments and fights (37.5% vs. 31.3%) and physical conflict, threats, or assault (29.2% vs. 21.3%).

Histories of gender-based violence were reported by participants accessing services in the homelessness sector and the VAW sector, suggesting these experiences are pervasive for those who engage with either system.

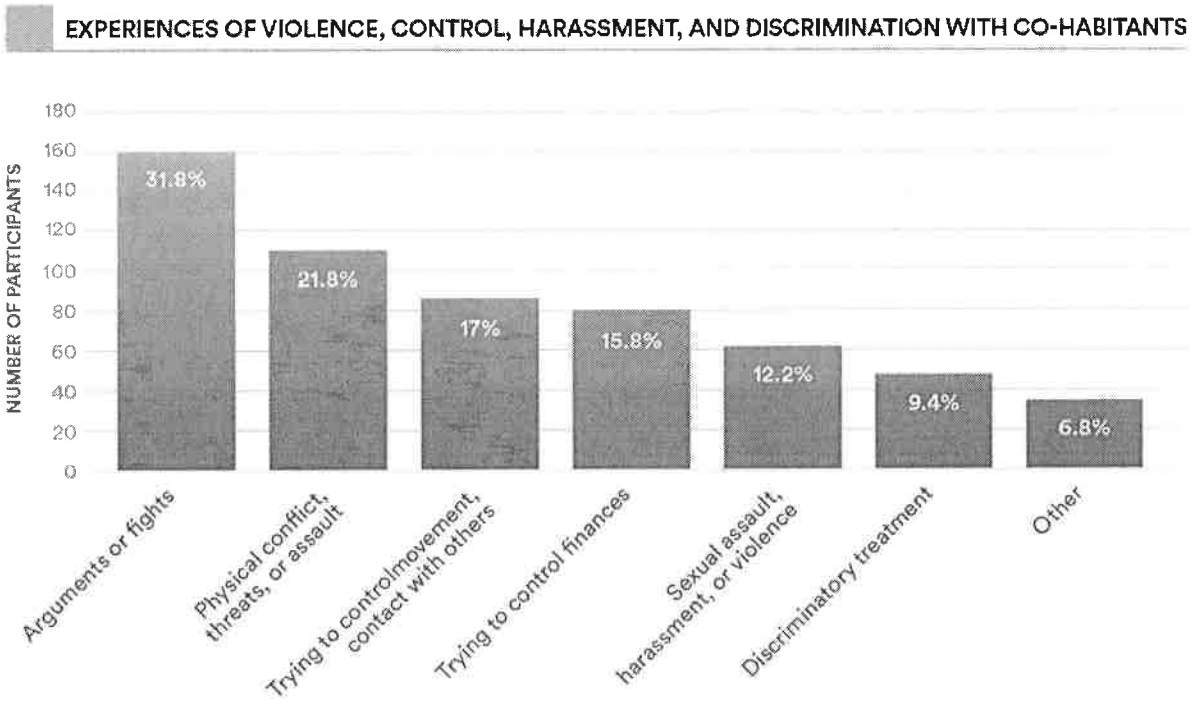


Figure 16. Participants' experiences of violence, control, harassment, and discrimination with co-habitants.

KEY TAKEAWAYS

Issues of housing and safety are indivisible in the lives of women and gender diverse peoples. The lack of safe, affordable, and adequate housing across Canada contributes to this risk of violence, and experiences of violence can cause or perpetuate housing instability.[99] In many cases the violence that women and gender diverse people experience on the street is preceded by violence in their homes. Available national data indicates this violence has been increasing for years, with a **Statistics Canada report** on police-reported violence between 2007 and 2017 indicating that "regardless of the type of offence, girls and young women were most commonly victimized on private property and, of those who were, nearly two-thirds were victimized in their own home".[100] Such data demonstrates that housing the lack of available, affordable housing for women (and their children) can trap women in housing in which they are being abused or assaulted and make it profoundly difficult for women who are homeless to transition off the streets.

[99] Schwan et al., 2020; Van Berkum & Quilitzsch, 2015.

[100] Conroy, S. (2018). Police-reported violence against girls and young women in Canada, 2017. The Canadian Centre for Justice Statistics. https://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54980-eng.pdf

Our findings underline the importance of harm reduction and trauma-informed approaches, including within public systems seeking to prevent homelessness. Cross-system supports that assist individuals transitioning from child welfare or criminal justice systems, for example, are critical to bridging gaps that make women and gender-diverse people more vulnerable to violence and trauma.[101] Moreover, there is a need to ensure that public systems, homelessness services, or VAW shelters are not transitioning individuals back into situations of abuse. Unfortunately, available data suggests that we may be doing just that. For example, recent ***Statistics Canada data*** (2019) indicates that few women transition from VAW shelters into safe or affordable housing, with 21% reporting they are returning to a residence where their abuser continues to live.[102]

9. Women and gender diverse people, particularly those from equity-seeking groups, reported significant levels of discrimination from landlords and property managers, in many cases leading to housing loss or barriers to accessing housing.

Women and gender diverse people described complex, intersectional forms of discrimination in housing across Canada. A key finding was the level of discrimination participants experienced from landlords and property managers. A total of 80% of participants reported experiencing at least one form of discrimination from a landlord or property manager. Most participants reported experiencing multiple forms of discrimination, with almost half of participants reporting experiences of three or more (44.4%). Importantly, 15.8% reported they were forced to move out of their most recent place because of discrimination or harassment.

The rate of discrimination was higher for particular groups, with LGBTQ2S+ women and gender diverse people reporting distinct experiences in this regard. For example, data indicates that LGBTQ2S+ persons:

- Experience discrimination on the basis of age at 2.3 times the rate of heterosexual populations
- Experience discrimination on the basis of having a criminal record at 2.6 times the rate of heterosexual populations
- Experience more than twice the level of discrimination on the basis of appearance compared to heterosexual groups (26.2% vs. 12.2%)
- Experience discrimination on the basis of sexual orientation at 3.6 times the rate of people who identify as heterosexual

Gender diverse people also describe higher levels of discrimination from landlords in key domains, including on the basis of income (60.4% vs. 42.7%).

Race shaped experiences of discrimination across the sample, with 34.7% of racialized persons and 24.2% of Indigenous persons reporting discrimination on the basis of race, colour, or ethnicity. One participant reported, for example, "As a migrant from Africa, I was discriminated against when renting an apartment and had to leave." Indigenous persons also reported greater discrimination from landlords on other bases as well, with 52.9% reporting discrimination on the basis of income.

KEY TAKEAWAYS

Discrimination from landlords in the form of harassment or refusal to rent reduces women's and gender diverse people's chances of acquiring or keeping long-term adequate housing. This discrimination is often based on gender and other intersecting characteristics, such as family status, race, income, or

age.[103] The prevalence of gendered forms of discrimination from landlords and property managers should be understood as a major human rights concern, one that has significant implications for Canadian governments given the commitment to non-discrimination in the ***Canadian Charter of Rights and Freedoms***, and the ***adoption of housing as a human right in federal legislation***.

Effective remedies for discrimination from private landlords and property managers relies on provincial, territorial, and federal human rights legislation.[104] However, these mechanisms in Canada are weak. As identified in a ***recent Canadian submission*** to the UN Special Rapporteur on the Right to Adequate Housing,

> "Rights claimants in the area of housing have little access to representation and assistance, and courts and tribunals have usually resisted the application of substantive equality to systemic housing and homelessness issues ... Surveys have revealed widespread discrimination on prohibited grounds in housing, yet housing cases make up a small fraction of the cases before human rights tribunals across Canada."[105]

All Canadian governments, in concert with the ***Office of the Federal Housing Advocate***, can play an important role in preventing discrimination in rental housing through improving avenues for women and gender diverse people to claim their rights. For examples, municipalities should consider establishing low-barrier access to justice mechanisms at the local level (as was outlined in the City of Toronto's ***HousingTO 2020-2030 Action Plan***).

Other important interventions should include programs that focus on assisting vulnerable renters in navigating rental housing markets, obtaining necessary documentation, completing paperwork, and dealing with landlords. Supports like rent banks[106] and flexible funds[107] for people who are unable to afford deposits or show proof of incomes can also help with deterring discrimination based on income.

[103] Vaccaro, 2019.
[104] Centre for Equality Rights in Accommodation (CERA), National Right to Housing Network (NRHN), & Social rights Advocacy Centre (SRAC). (May 2021). Submission to UN Special Rapporteur on the Right to Adequate Housing – Housing Discrimination & Spatial Segregation in Canada. https://www.ohchr.org/Documents/Issues/Housing/SubmissionCFI-Equality/CERA-NRHN-SRAC.pdf
[105] CERA, NRHN, & SRAC, 2021, p. 7.
[106] City of Toronto (n.d.). Toronto Rent Bank. Toronto, Ont.: City of Toronto. https://www.toronto.ca/311/knowledgebase/kb/docs/articles/shelter-support-and-housing-administration/housing-stability-services/toronto-rent-bank.html
[107] Sullivan, C. M. (June 2017). Creating Safe Housing Options for Survivors: Learning from and Expanding Research. Safe Hot Line. Retrieved from https://www.violencefreeontario.org/wp-content/uploads/2018/07/CreatingSafeHousingResearch-HousingNRCDV-v-2017.pdf

10.

79% of women and gender diverse people experiencing housing need or homelessness report having a disability. This group reports significant inequities and discrimination on the basis of ability, with severe consequences for many.

Remarkably, 79% of participants reported some form of disability, with almost half of the sample (46.4%) reporting a psychiatric or mental health disability of some kind. A total of 60% reported a physical disability, 38.2% reported a substance use problem, and 22.4% reported some form of cognitive, intellectual, or memory-related disability. On average participants reporting having 3 disabilities, with some participants reporting as many as 11.[108]

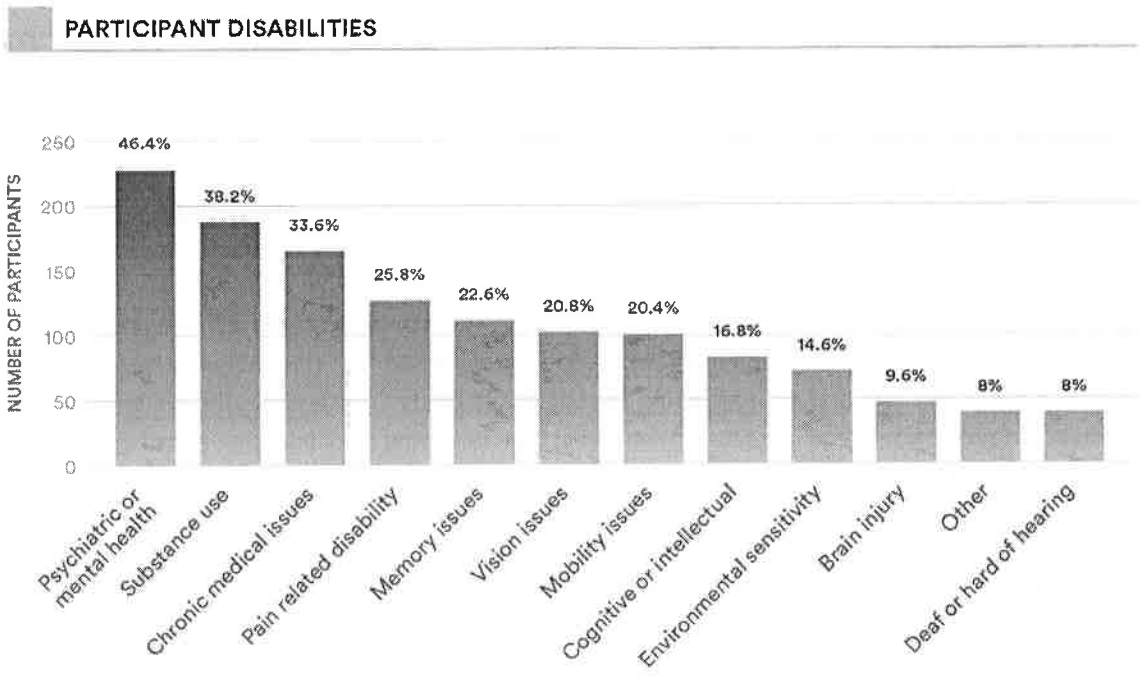


Figure 15. Disabilities reported by participants

Analysis indicated having a disability was a significant predictor of negative housing outcomes. These included having difficulties accessing emergency shelter and supports, difficulties finding affordable and accessible housing, experiences of discrimination, and numerous additional inequities.

Problems Accessing Shelters

Shockingly, people with disabilities reported being unable to access shelter beds when they needed them at roughly twice the rate of those without disabilities (65.1% for people with physical disabilities vs. 34.9% for those without; 43.1% for those with mental health disabilities vs. 18% for those without). This suggests profound accessibility issues persist in the homelessness and VAW sectors. Evidence of this surfaced in other parts of the data. For instance:

- Persons with physical disabilities reported shelters and drop-ins were not accessible to them by public transportation at almost twice the rate of those without physical disabilities (11.6% vs. 6%)
- Shelters and drop-ins are inaccessible to people with physical disabilities at more than three times the rate of those without physical disabilities (10.7% vs. 3%)
- Individuals with substance use problems also experienced significant barriers when trying to access shelters. There was a significant association between reporting a substance use problem and having been barred from shelters. Those that used substances reported being barred from shelters at a rate 3 times that of those who did not (30.9% vs. 10.4%)

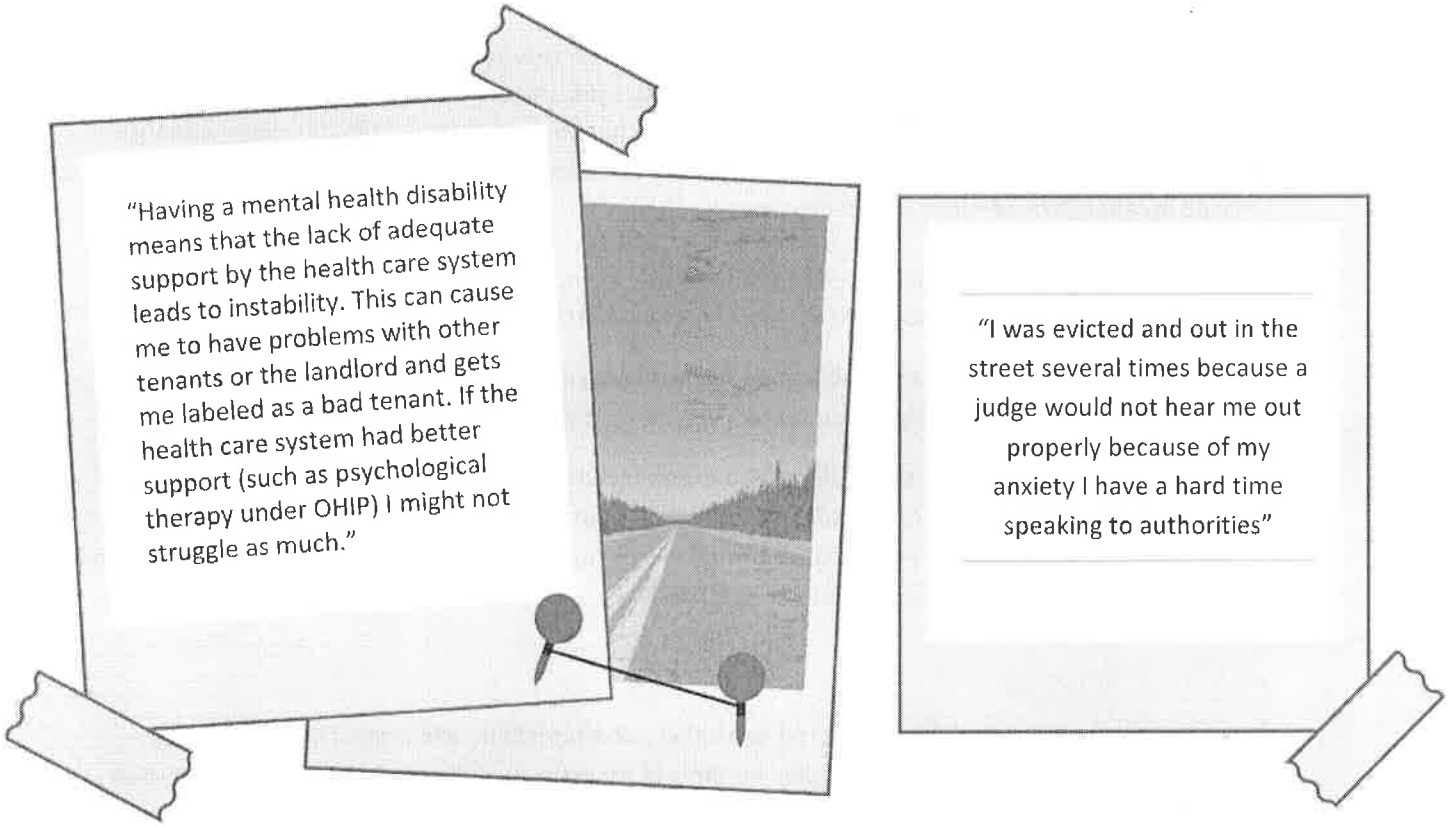
Barriers to Housing

Unsurprisingly, having a disability was linked to a variety of affordability and accessibility challenges when it came to finding appropriate housing. In terms of accessibility, 16% of participants with physical disabilities reported that they had problems finding a place because of accessibility issues; a rate that was 16 times greater than those without physical disabilities (16.0% vs. 1.0%). They also more frequently reported that they did not have the supports or services necessary to get or keep a place (22.3% vs. 12.5%) and that the places they could afford were in bad condition (49.0% vs. 12.5%). Broadly speaking, these findings are in line with long-standing complaints in various provincial jurisdictions. For instance, the Ontario Human Rights Commission has highlighted inaccessible buildings as a persistent barrier for persons with disabilities when it comes to accessing appropriate housing – a barrier which they attribute, in part, to rigid adherence to inadequate *Building Code* accessibility standards.[109]

In addition to accessibility concerns, persons with disabilities also reported significantly greater difficulties finding a place because of affordability issues. This trend was present among participants with mental health disabilities (73.0% vs. 40.3%), substance use problems (77.0% vs. 49.8%), cognitive/intellectual disabilities (77.7% vs. 55.2%), and physical disabilities (65.0% vs. 53.0%). These findings align with past research by Statistics Canada which stated that persons with disabilities are more likely to encounter affordability problems when they look for housing.[110]

[109] See OHRC (2008), Human Rights and Rental Housing in Ontario: Background Paper. Ottawa, ON: OHRC. http://www.ohrc.on.ca/sites/default/files/attachments/Human_rights_and_rental_housing_in_Ontario%3A_Background_Paper.pdf; see also OHRC (2020), OHRC statement for National Housing Day (November 22): Accessible housing makes social, economic sense. Ottawa, ON: OHRC. http://www.ohrc.on.ca/en/news_centre/ohrc-statement-national-housing-day-november-22-accessible-housing-makes-social-economic-sense

[110] See, e.g., Hulchanski, J. D., Campsie, P., Chau, S. B. Y., Hwang, S. W., & Paradis, E. (Eds.). (2009). Finding Home: Policy Options for Addressing Homelessness in Canada. Toronto, ON: Cities Centre, University of Toronto. http://homelesshub.ca/FindingHome; Wilkins, C. (2007). The Affordable Housing Problem in Canada: Changing Perspectives and Evolving Policy Responses Since 1945. Housing, Theory and Society, 24(3), 192–210. https://doi.org/10.1080/14036090701410137; Hulchanski, J. D. (2007). The Concept of Housing Affordability: Six Contemporary Uses of the Housing Expenditure-to-Income Ratio. Toronto, ON: Centre for Urban and Community Studies, University of Toronto. http://www.urbancentre.utoronto.ca/pdfs/publications/Hulchanski-Housing-Affordability-Concept-2007.pdf; Hulchanski, J. D., Bunting, T., England, J., & Fileno, K. (2006). The Dynamics of Housing Affordability: Perspectives on Canada's Rental Housing Problem in the Early 21st Century. Toronto, ON: Centre for Urban and Community Studies, University of Toronto. http://www.urbancentre.utoronto.ca/pdfs/publications/Hulchanski-Bunting-England-Fileno-Housing-Affordability-2006.pdf



Increased Risk of Evictions

The odds of being evicted were more than three times greater if participants had a mental health disability (OR = 3.16) (47.0% vs. 21.9%) or reported a substance use problem (OR = 3.070) (53.4% vs. 27.2%). All told, these results suggest that for many persons with disabilities, even if they are able to obtain housing, there is still a substantially increased risk that it will be taken away from them.

KEY TAKEAWAYS

Women and gender-diverse people living with disabilities are made exceedingly vulnerable by structures and systems that consistently fail to meet their needs. Not only are histories of disabilities linked to negative housing outcomes, but exposure to gender-based violence (exacerbated by housing precarity) puts women and gender diverse people at risk of becoming disabled or further disabled.[111] Housing precarity and exposure to violence for these groups is invariably tied to income. Studies across Canada have shown that the current rates of financial assistance (disability support programs) for those living

111 Aiton, S. (2015). Women with Disabilities and Access to Shelters and Transition Houses: A Brief Prepared for the Standing Committee on the Status of Women in Canada (FEWO) for their Study of the System of Shelters and Transition Houses in Canada. DisAbled Women's Network (DAWN). https://www.dawncanada.net/media/uploads/page_data/page-63/dawn_canada_brief_to_fewo_on_access_to_shelters_november_16_2015.pdf

with disabilities in Canada are rarely enough to afford recipients with access to adequate housing and a decent quality of life.[112] This problem is compounded by the fact that living with a disability often requires individuals to incur significant additional expenses, frequently not covered by social support programs.[113]

Across Canada there is also a lack of services to address the needs of women and gender diverse people who are homeless and have disabilities,[114] limiting pathways that could help these individuals transition out of housing insecurity. Many emergency shelters and drop-ins across Canada are physically inaccessible, and many lack the critical services and resources to support persons with mental health disabilities or those living with invisible disabilities.[115] For example, **a DAWN Canada study** reports that only 75% of homeless shelters have a wheelchair accessible entrance, 66% provide wheelchair accessible rooms and bathrooms, 17% provide sign language, and 5% offer braille reading materials.[116]

Overall, our survey findings point to a persistent accessibility gap in housing stocks and shelters across Canada, significant affordability problems for many persons with disabilities, and a heightened risk of eviction. Interventions should include improved accessibility standards in the *National Building Code of Canada* and provincial/territorial building codes, and implementing more generous financial supports to help persons with disabilities navigate the costs of housing or their disability-related expenses. Policy interventions meant to address housing insecurity experienced by women and gender-diverse people with disabilities must include the full spectrum of visible and invisible disabilities that impact an individual's ability to access long-term and adequate housing. Extensive engagement involving individuals with lived experience of disabilities must inform all interventions. An audit of housing policies across jurisdictions should be undertaken, with a focused, intersectional, and rights-based approach used to identify and assess the real scale of housing issues experienced by women and gender diverse people with disabilities.

112 For a review of these studies, see Schwan et al., 2020.
113 Dionais, L., Ducharme, M. N., & Pronet, A. (2014). Identification des coûts supplémentaires généraux liés aux déficiences, incapacités et situations de handicap assumés par les personnes handicapées et leur famille. École de travail social, Université du Québec à Montréal.
114 Allini, 2018.
115 Allini, 2018.
116 Allini, 2018.

RECOMMENDATIONS

Government of Canada

1. Develop a national definition of homelessness and housing affordability that genuinely reflects (1) the unique causes, conditions, and experiences of homelessness and housing need for diverse women, girls, and gender diverse people, and (2) the depth of poverty and core housing need experienced by these groups.

    - Conduct or commission a rights-based, GBA+ audit of current definitions of homelessness used in policy, programming, legislation, and funding allocation.
    - Advance the development of a rights-based, gender-inclusive national definition of homelessness, drawing on the lived expertise of diverse women, girls, and gender diverse people. The consultation of diverse Indigenous women, girls, and Two-Spirit people in the development of this national definition must be paramount.
    - Streamline definitions of violence against women to include intimate partner violence, family violence, and other experiences of sexual and physical violence due to homelessness, exploitation, and poverty.

2. Ensure gender-based equity in funding for NHS housing investments, prioritizing targeted investment in deeply affordable housing for women, girls, and gender diverse people who are experiencing the greatest level of need.

    - Conduct or commission a GBA+ audit of federal investments in the homelessness sector made through Reaching Home, seeking to identify whether and how these investments have concretely reduced homelessness for women and gender diverse people.[117]
    - Ensure all federal programs prioritize those in greatest need, including women and gender diverse people with disabilities, and Black and Indigenous women.
    - Redesign and further invest in the Canada Housing Benefit (CHB) to maximize benefit for women, girls, and gender diverse peoples experiencing the greatest level of housing need. The federal government should consider providing the CHB as a direct entitlement to individuals and families, rather than through cost-sharing agreements with provinces and territories.

117 For example, while the NHS contains a minimum of 25% of investments to housing for women, there are few indicators as to whether and how these targets are being met, including within specific programs (e.g., the Rapid Housing Initiative). 117 A process should be established whereby sufficient mechanisms are in place to assess whether substantive gender-based equity is being achieved in funding allocations.

- Increase investment in the CHB in line with the level of housing need experienced across the country, taking into consideration the unique housing needs of women, girls, and gender diverse people.
- Redesign capital programs to substantially increase access to NHS programs for women-led and women-focused organizations, non-profits, and housing providers.
- Ensure the affordability metrics employed in all federal housing programs actually reflect the depth of poverty and core housing need that many women, girls, and gender diverse people experience in Canada.
- Ensure all federally-funded housing programs established through the National Housing Strategy are conditional upon recipient governments and organizations (including CABs and CEs[118]) progressively adopting a rights-based, GBA+ approach.
- Ensure coordinated access systems funded through the NHS are adapted to the unique needs of women and gender diverse people.

3. Urgently prioritize all available means to realize the right to housing for Indigenous women, girls, and Two-Spirit people.

- Immediately adopt an Urban Indigenous Housing Strategy, developed by and for Indigenous persons, that meets the unique needs of urban Indigenous women, girls, and Two-Spirit people.[119]
- Allocate maximum available resources to immediately end homelessness and progressively realize the right to housing for Indigenous women, girls, and Two-Spirit people.
- Ensure the ***UN Declaration of the Rights of Indigenous People*** and the Calls to Justice outlined in ***Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*** guide all decision-making in the area of housing for Indigenous women, girls, and Two-Spirit people.
- Ensure meaningful participation of Indigenous women, girls, and Two-Spirit people in all decision-making processes that affect them with respect to housing, including through the principles of free, prior, and informed consent.

4. Expand and substantially increase investments in eviction prevention for women, girls, and gender diverse people, including through the establishment of a ***Federal Residential Tenant***

Support Benefit that meaningfully prevents eviction, rental arrears, and pathways into homelessness for women and gender diverse people.

- Invest in evidence- and rights-based eviction prevention policies and programs that respond to the unique circumstances of women, girls, and gender diverse people. International examples of 'zero eviction into homelessness' policies and programs should be particularly explored, including those that help prevent child apprehension.
- Develop and expand low-income rent subsidy programs for women, girls, and gender diverse people experiencing housing instability and other difficulties (e.g., violence), ensuring that these programs reach those most in need.

5. Adopt policy measures to assist home ownership and primary lease holding among low-income and marginalized women and gender diverse people.

- Identify and invest in innovative home-ownership models that have shown promise for advancing home ownership among women and gender diverse people living on low-incomes.
- Conduct or commission an inquiry into systemic and discriminatory barriers to home ownership for low-income women and gender diverse people, particularly for those who are Black, Indigenous, people of colour, persons with disabilities, and persons experiencing violence.

6. Actively prevent the financialization of housing, including through the regulation of financial actors and Real Estate Investment Trusts, with a particular attention to curbing the effects of financialization on women and gender diverse people.

Provincial & Territorial Governments

1. Adopt the right to housing in provincial/territorial legislation and policy. Such legislation and policy should seek to ensure that the right to housing is (1) mainstreamed within public systems that contribute to housing insecurity and homelessness for women, girls, and gender diverse people, and (2) embedded in policies, practices, operations, and decision-making within the housing, homelessness, and VAW sectors.

2. Raise social assistance, disability benefits, and minimum wage to livable rates, ensuring equitable access to social benefits for diverse women and gender diverse people.

    - Conduct a rights-based, gender equity analysis of income support programs to identify barriers to access and to streamline the provision of supports.

3. Adopt policies and practices to improve collaboration between the VAW sector, the homelessness sector, and the housing sector.

    - Conduct or commission an inquiry on systemic violations of the right to housing at the intersection of the housing, VAW, and homelessness sectors, seeking to identify how particular gaps between the sectors may deepen homelessness or marginalization for some women, girls, and gender diverse people.
    - Invest in the development of a GBA+, rights-based framework for coordinating service delivery across the housing, VAW, and homelessness sectors, recognizing that women often move between services in both sectors and deserve to have their right to housing upheld within and between each.

4. Work across departments, ministries, and sectors to ensure housing stability and ongoing supports and services for women and gender diverse people who are transitioning from mental health care, child protection services, and corrections.

    - Work with lived experts to determine how best to harmonize data and assessment tools to ensure women and gender diverse people leaving public systems do not transition into homelessness.

5. Invest in provincial/territorial knowledge development and data management specific to homelessness amongst women and gender diverse people, with the goal of advancing an

integrated systems approach to preventing homelessness, violence, and negative interactions with public systems.

- ↳ Work with lived experts to determine how best to collect real-time, person-specific data on housing precarity and system navigation amongst women, girls, and gender diverse people.

6. Integrate improved accessibility standards, based on **Universal Design Principles**, into provincial/territorial building codes and ensure that these requirements apply to *all* residential and shelter spaces.

7. Create provincial/territorial housing and shelter standards that meet the diverse needs of women and gender diverse people experiencing homelessness or housing precarity, developed in partnership with lived experts and Indigenous communities.

8. Make long-term investments in women-led and women-focused organizations, non-profits, and housing providers serving women and gender diverse people experiencing housing need. Investments should rapidly advance these organizations' ability to develop supportive and affordable housing for women and gender diverse people impacted by homelessness, substance use, disabilities, and child welfare involvement.

- ↳ Investments should prioritize Indigenous organizations, non-profits, and housing providers who serve Indigenous women, girls, and Two-Spirit people.

9. Ensure landlord/tenant legislation does not have a direct or indirect discriminatory effect on women, girls, and gender diverse people, including for those who are residing in transitional housing or social housing. In so doing, particular consideration should be given to the intersection between landlord/tenant legislation and other policy areas that affect the right to housing for these groups (e.g., child welfare).

Municipal Governments

1. Adopt coordinated strategies for preventing and ending homelessness for women and gender diverse people, grounded in data that reflects the unique ways in which these groups experience homelessness.

    ↳ Work with lived experts, Indigenous communities, and services providers to adapt coordinated access systems and by-name lists that reflect the unique realities of housing precarity and homelessness for women and gender diverse people.

2. Use vacant or underused city-owned land, infrastructure, and buildings to create rapid affordable housing initiatives for women and gender diverse people who are experiencing the greatest level of need.

    ↳ Such initiatives should prioritize Rent-Geared-to-Income housing, supportive housing, and housing by and for Indigenous women, girls, and Two-Spirit people.

3. Conduct an intersectional policy audit of existing homelessness services and shelters to identify gaps in safety and service-delivery impacting gender diverse people who are homeless.

    ↳ Work with lived experts to develop recommendations on how best to make services and shelter spaces more accessible and secure for gender diverse people.

4. Invest in municipal eviction prevention programs, such as the ***Eviction Prevention in the Community*** program in Toronto (ON).

    ↳ Implement rent banks as a low-barrier measure to provide rental supports for women and gender diverse people at risk of homelessness.

    ↳ Improve access to legal information, advice, and representation for low-income women, girls, and gender diverse people facing housing precarity or housing rights violations.

5. Implement a landlord registry to regulate the quality and conditions of rental units being made available and implement rental replacement bylaws to adequately house individuals impacted by renovictions and demovictions.

6. Employ rigorous standards to define affordable housing within the specific context of the municipality, based on the real cost of housing locally and other cost of living measures (e.g., food, cost of transportation).

   ↳ Such standards should reflect the disproportionate financial and care burden borne by women and gender diverse people who are parents or caregivers.

THIS IS **EXHIBIT "C"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

B-1-9713

PROJECT
WILLOW
YWCA-CJI-CMW

"Don't tell them you're homeless"

Experiences of gender-based violence among women experiencing homelessness in Waterloo Region

B-1-9713

B-1-9714

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YW Kitchener-Waterloo · YWCA Cambridge · Feminist Shift · CJI Imagine a Just Community · Coalition of Muslim Women Kitchener-Waterloo

Women and Gender Equality Canada · Femmes et Égalité des genres Canada

B-1-9714

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Introduction

This report captures the experiences of women (cis, trans, two-spirit) and gender-diverse individuals as they navigate safety, violence and justice while being homeless or unhoused and using emergency services in Waterloo Region.

It explores topics like the frequency of violence, how current systems and policies perpetuate violence, and what sort of change is recommended for our community to build necessary safety and trauma supports into emergency shelter services in order to provide better support to shelter users. This report is based on participants' experiences with gender-based violence, focusing on all the different forms it takes, such as physical violence, verbal violence, emotional/mental violence, sexual violence, spiritual/religious violence, financial violence, racism, homophobia, and transphobia. This research highlights the shortcomings of current systems of support and provides recommendations on how to build emergency services that address, mitigate and prevent experiences of gender-based violence.

It is rare to be able to capture such a candid and extensive account of what it is like for women experiencing homelessness in our community, especially as they navigate gender-based violence. We are thankful for every person who took the time to share their experience, to advocate for themselves and for better systems and to help guide this project and the change it hopes to help facilitate in Waterloo Region. This research is one part of a larger initiative called Project Willow, funded by Women and Gender Equality Canada, that will build community capacity and rally stakeholders to develop a community plan to enhance safety and access to justice for women experiencing housing instability because of violence, as well as those who experience magnified violence because of their housing instability.

> ***"I feel like I am abusing myself but I also feel like everyone is abusing me."***
>
> — Survey participant

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Methodology

The criteria for participation in this research was identifying as a women (cis, trans, two-spirit) or gender-diverse individual who have recently used (within the last three years) or were currently using (between December 2021 and February 2022) the YW KW emergency shelter and services. Participants who qualified were engaged to patriciate in a multi-question survey and/or semi-structured interviews.

The project was led by the Director of Advocacy at the YW KW, Jennifer Gordon, who is an experienced researcher with over ten years of experience in academic and community research settings and with research ethics around human participants. All researchers involved in collecting data received TCPS2 training, the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans. This is a certificate research ethics training developed and used by federal agencies CIHR, NSWERC and SSHRC. Researchers also kept reflexive journals, highlighting and addressing any concerns as the research progressed. All concerns were addressed and acted upon by committee. A built-in process for complaints and feedback regarding ethics was developed, encouraging participants to communicate any concerns to the lead researcher as well as giving the option to escalate their concerns to a once-removed governance committee comprised of the CEOs of YW KW and YWCA Cambridge.

Participation was voluntary. We used posters and word-of-mouth to advertise the opportunity for participation and our research assistant helped to ensure folks staying at the shelter were aware of the poster and made themselves available to answer any questions regarding the research. It was made clear to participants that there was no obligation to participate and that there were no consequences if they declined to participate or stopped their participation at any point in the process. We wanted to ensure participants felt they could be honest in their opinions and share freely without any perceived consequences. While most of our participants were staying in the YW KW emergency shelter at the time of engagement, we also asked several other organizations to share information about the project with those who may have recently left the shelter system, including YWCA Cambridge, Sanguen Health Centre, The Working Centre, Cambridge Shelter Corp, and ACCKWA.

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Surveys were completed online via a web link which was accessed on provided tablets as well as on paper copies, which were then inputted into the online survey platform. Interviews were conducted over zoom, typically with the participant using a landline phone to call in. Interviews were also recorded with consent and transcripts of these recordings were produced. Real wage compensation was provided to all participants for their time in the form of gift cards.

In total, 48 participants completed the survey, another 13 completed interviews, three of these interviews were conducted mid 2020 during exploratory research intended to inform this project.

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“If somebody is going through trauma, it’s somebody put that on them. Right? Yeah. I guess sometimes we will return to situations that are no good for us, but it still doesn’t really make it our fault, though. It’s just, it’s part of the process.”

— Interview participant 8

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B-1-9721

Demographics

The anticipated participants in this research were current or recent (within the last three years) service users of the YW KW emergency shelter with a majority of participants staying in the emergency shelter at the time of this research. We collected demographics for our survey participants.

Of the 48 participants, 21, or 45%, had been homeless for over a year at the point of participation; 13 participants had been homeless for six to 12 months, nine had been homeless for four to six months; and four had been homeless for less than three months. A majority, 89%, were between the ages of 25–54; two participants were between 18–24; two participants were between 55–64; and one participant was 65+. In total, 88% of participants self-reported as having a mental health condition and 31% of participants identified as having a disability. In terms of gender identity, 86% of participants identified as a woman and 13% identified as trans or non-binary. Regarding race, 67% of participants identified as white; 4% identified as Black-African; 4% as First Nations, Inuit or Metis and 16% had a mixed heritage. We did not collect demographics for our interview participants due to the small nature of our sample and in the interest of protecting their identities.

To better understand the geographic representation of participants, we asked where participants were spending most of their time. Unsurprisingly, 38 out of 48 participants stated they were spending most of their time in Kitchener, also the location of the YW KW emergency shelter. Three participants stated that they were spending most of their time in Waterloo, and seven participants spent most of their time in Cambridge.

We recognize that, while this research fairly accurately represents the demographics of the folks accessing the YW KW emergency shelter services at the time it was collected, it does present a rather specific group of experiences from a demographics standpoint. Further understanding is needed on the experiences of women and gender-diverse individuals who are experiencing homelessness and choosing to not use emergency shelter services. This form of homelessness tends to remain hidden and is common for women, particularly those from nondominant cultural backgrounds and gender-diverse/LGBTQS2+ people. We encourage readers to carry this critical analysis with them as they read this report and reflect.

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Results

Defining the violence

Our community understanding of the experiences of homeless women is limited, even more so when we talk about their experiences of violence. One participant considered the difference between men and women's homelessness resting on the experience of gender-based violence itself:

> ***"The difference is sexual harassment and rape. Just overall being weaker. And yes, they [women] were put in more danger just by size alone. Men are obviously bigger, stronger, more capable to take advantage. And it happens a lot and happens often and it sucks."***
>
> — Interview participant 13

Another participant talked about always feeling vulnerable and scared:

> ***"Everybody's got their own backgrounds, their own lives, their own stories, right? So you run into everybody, and I know not everyone is harmful. But when you're already on edge, and you're scared, and you're nervous, and you've got nowhere to go, and you're just running into people that are from all different walks of life, who may hurt you ... "***
>
> — Interview participant 5

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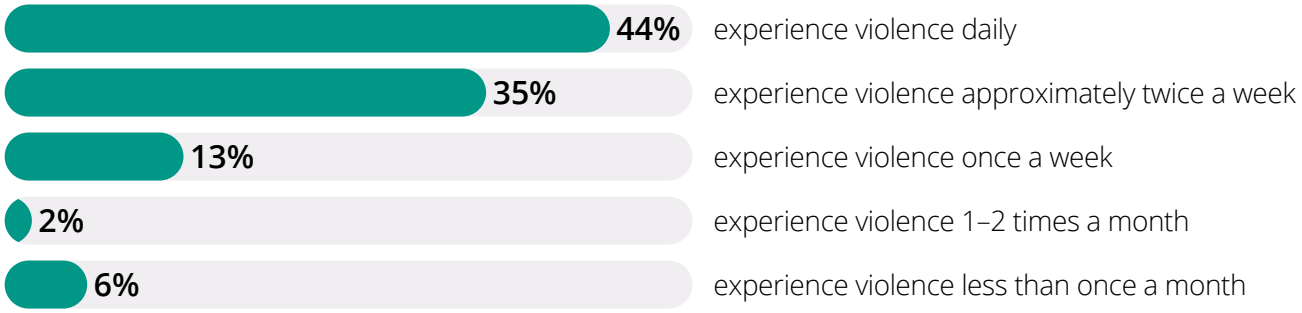
Frequency of violence

Responses to our survey showed that the vast majority of women who are currently or recently considered homeless or unhoused experience violence daily or weekly (92%). Broken down: 44% of respondents said they experience violence daily, 35% experience violence approximately twice a week, 13% experience violence once a week, and 8% experienced violence 2 times a month or less.

Figure 1: Frequency of violence experienced

How often do you experience any of the types violence from the last question (physical, verbal, emotional/mental, sexual, spiritual, financial, racism, homophobia and/or transphobia)?

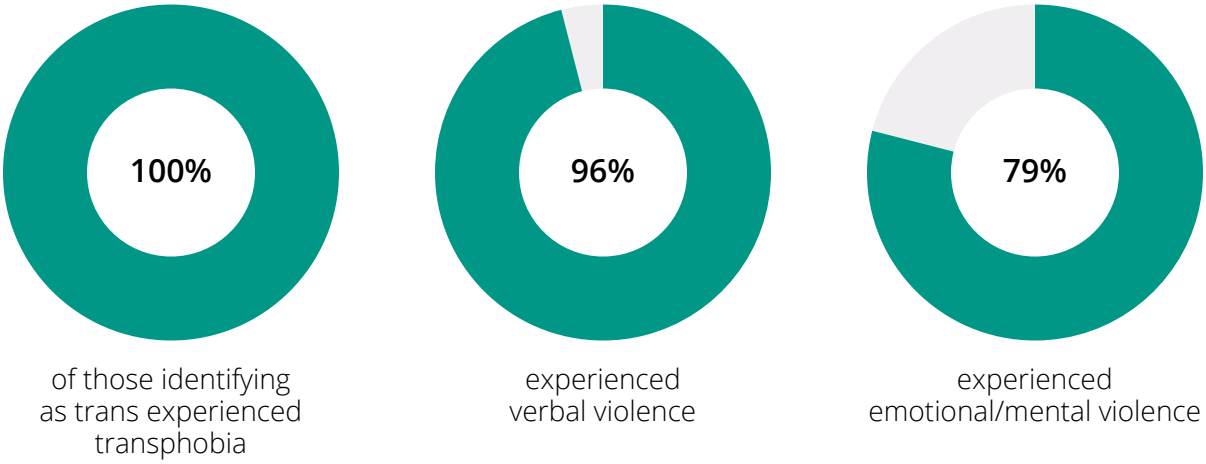


> ***"It happens all the time, like on the streets, like every day on every street. Like every time you walk down the sidewalk. More so in a larger city like Kitchener."***
>
> — Interview participant 6

Types of violence

Figure 2: Types of violence experienced

Based on your experiences, what types of violence might you experience on any given day?



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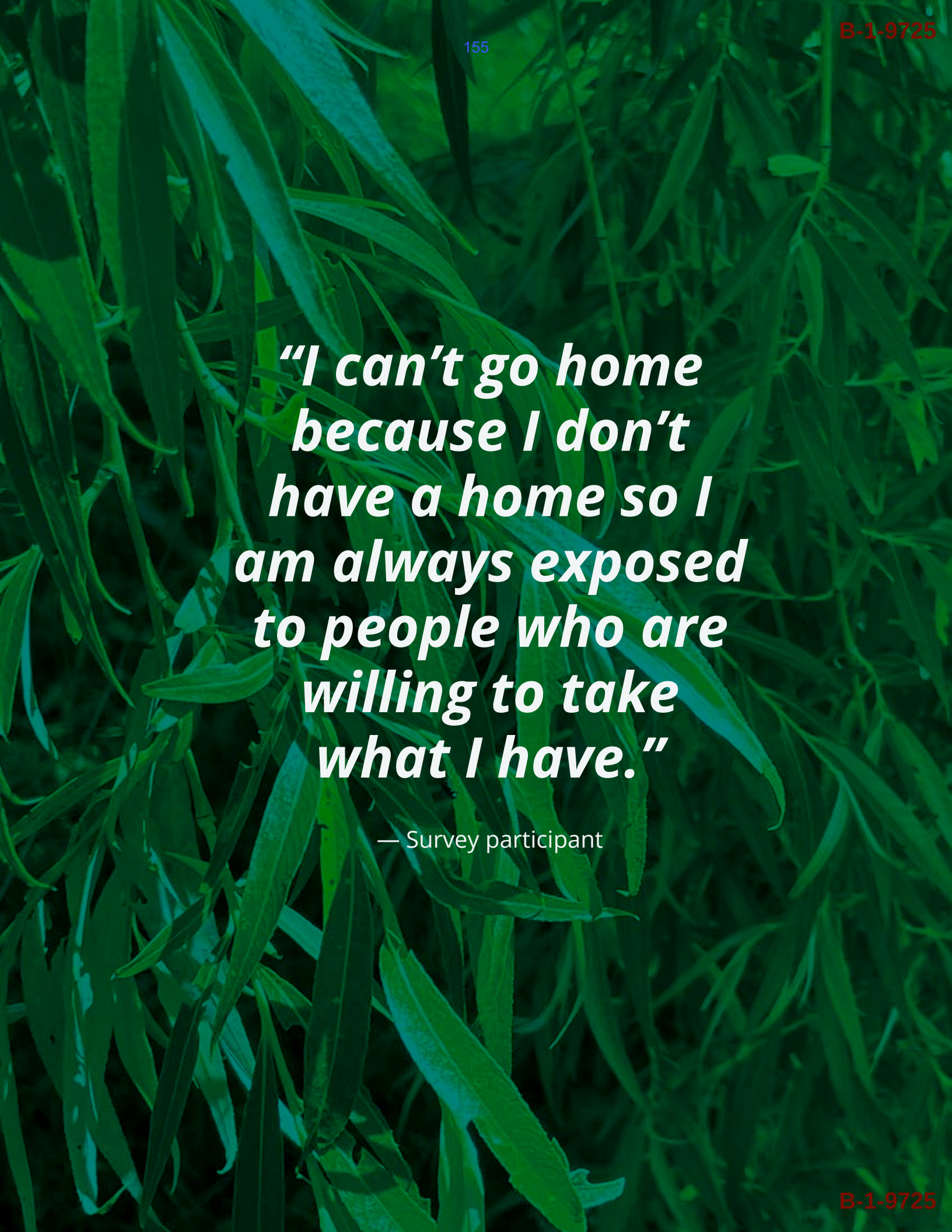

“I can’t go home because I don’t have a home so I am always exposed to people who are willing to take what I have.”

— Survey participant

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Our survey asked participants what types of violence they may experience in a given day, week or month and most participants reported experiencing multiple types of violence. The most common type of violence experienced was verbal violence, characterized by yelling, name-calling, shaming, etc., with 96% of participants reporting experiencing it, sometimes from peers or partners, but also sometimes from strangers on the street:

> ***"You can't see verbal abuse. Exactly. Yeah, like for how old I am, I'm 46, I shouldn't look this way. Yeah, so much I've had to put up with, people putting me down and verbally abusing me."***
>
> — Interview participant 7

The second most common type of violence experienced was emotional/mental violence, which was experienced by 79% of participants. Emotional/mental violence was defined as things like controlling your every move, overreacting to things you say, making you feel insecure or little, etc. One participant shared:

> ***You know, in my younger days, I never said nothing. I spent many years in abuse and just kind of smile it away. Right? Yeah, I guess at some point you can't smile anymore. You can't hide it, right?"***
>
> — Interview participant 10

Participants also talked about financial violence, 63% of participants reported having experienced it. Financial violence was characterized by someone taking all of your money, controlling how you use your money or denying you access to your money. Financial violence was identified as happening in intimate relationships, but also from a systemic lens in terms of the limited income they can collect from OW/ODSP and the strict stipulations on how it be used.

Physical violence was experienced by 54% of participants and was defined by things like hitting, punching, beating, kicking, burning or using objects or weapons to inflict harm.

Sexual violence was experienced by 33% of participants on any given day, week or month and spiritual/religious violence, characterized by the use of your spiritual or religious beliefs to hurt, scare or control you, was experienced by 27% of participants.

When it came to racism, 60% of those identifying as a person of colour experienced racism in a given week. Sixty percent of those identifying as queer identified homophobia as a regular weekly violence they experienced and 100% of those identifying as trans in the survey and in our interviews stated that they experienced transphobia on a daily basis. One trans participant shared important words around building acceptance for trans identity:

> ***"There needs to be like a big group meeting for the world so they can open up their eyes and ears to know that these aliens called trans gay weird fruit people exist. I've been here the whole time. We've just been in hiding... But we're at a stage now in the world where like, we are past that. Okay, that idea is long since gone. It's dead now. Yeah. So people need to move forward. They need to accept that whether they want to or not, because the world is gonna keep moving."***
>
> — Interview participant 6

Where is it happening?

Identifying the physical spaces where violence is happening in the community came with the answer of anywhere and seemingly everywhere. This is largely attributed to the lack of safety that comes with being vulnerable and completely exposed without a space to shelter that you can control. So everywhere came with a sense of risk:

> ***"There are no real safe places in the community"***
>
> — Survey participant

> ***"I think I am so nervous everywhere because I have been humiliated so badly the last six months"***
>
> — Survey participant

Participants also talked about shelters feeling unsafe, particularly co-ed shelters and spaces where they are sharing a room with multiple other strangers. Other community services that are more dominated by men were also identified as often feeling unsafe. Motel environments were included in this, with safety concerns largely attributed to drug use and dealing happening at these sites. Participants also talked at length about feeling unsafe in private homes or dwellings, particularly if drugs are involved:

> ***"Violent people can be in a lot of places, but mostly, but mostly crack houses or the more rough places that you don't want to be hanging out in. You know, I don't do dark alleys late, late at night by yourself. You always want to be with somebody..."***
>
> — Interview participant 1

Layers of violence

What we discovered through the survey and conversations with women was that there are layers of violence experienced by participants in this research. On any given day, they can experience unique episodes of many of the different types of violence, and they can experience it at the hands of many different people (felt to be anyone and everyone) and systems. Further, they can experience it almost anywhere in the community. This constant trauma comes to define much of the existence of being a woman or gender-diverse individual and being homeless in Waterloo Region:

> ***"You do not know how much actual physical, emotional and financial trauma that each one of us have gone through before we've even been able to have the strength and the courage to walk through these doors. Okay, because unless you've been through it yourself, then you don't know it."***
>
> — Interview participant 6

This layered experience of violence has made safety an important priority for 92% of participants, a sentiment reiterated by one of our interview participants:

> ***"I can say very happy to hear that you guys are wanting to address the safety of women in general because the violence has escalated and I'm glad to see someone finally take initiative to start taking notice, though we've already lost too many people"***
>
> — Interview Participant 1

B-1-9730

Ripple effect of violence

The research team was interested in understanding and documenting the ripple effect of the violence being experienced by women experiencing homelessness, particularly how violence and the quest for safety from violence impacted decision-making, access to necessary services, and how participants themselves perpetrated violence for their own safety.

When we flush this out, decision-making was often done with the goal of reducing experiences of violence or greater harm or was manipulated through the pathways provided to women, most designed to help them avoid shelter use. Some key themes emerged including: failure of prevention and diversion services, avoiding visible homelessness and emergency shelters, not accessing needed services, and the escalation of violence in the way of using violent acts to create a reputation that people do not want to cross .

B-1-9730

Figure 3: Ripple effects of violence

Do any of these things apply to you in your effort to stay safe?

83%	I have stayed in a housing situation that is abusive or violent because it felt safer than being homeless.
73%	I have avoided using co-ed emergency shelter services (such as the one in Cambridge) because of safety concerns.
69%	I have avoided using the police or decided not to report a situation of violence because it felt unsafe.
65%	I have avoided accessing the services and support I need? (ex. food, clothing, medical help, etc.) because I was concerned I would run into an abuser and/or experience violence.
65%	I have avoided spaces that can be male-dominated (ex. soup kitchens, safe consumption sites, co-ed shelters, etc.) because I have felt uncomfortable or concerned for my safety.
61%	I have used one or more prevention programs or services (examples: Rent funds, landlord negotiations, referrals to rooming houses or co-ed spaces, someone who helps you do problem-solving so you can stay in the housing you currently have) that kept me in an unsafe situation in order to avoid becoming homeless or accessing a shelter?
41%	I have made connections with people who are known to be violent as a way to keep myself safe.
41%	I have used violence on others to keep myself safe.

Failure of prevention and diversion services

Participants were asked to comment on their use of prevention and diversion services in Waterloo Region. Diversion services are formal and informal services such as rent funds, landlord negotiations or support, referrals to rooming houses, motels, or co-ed spaces, and staff support to help a person mitigate housing issues so they can stay in their current housing. We wanted to understand if/how these services in their current form, designed to help people avoid homelessness and the shelter system, may contribute to experiences of violence. We found that 60% had used a prevention or deterrent service that actually kept them in a violent or unsafe housing situation.

> ***"Because before, when I come to speak or when I had to go homeless, none of the workers helped me. She actually put me right back into the situation that I told her I was getting away from. Every time I've asked for help, they've denied me, misguided me, led me in the wrong direction."***
>
> — Interview participant 7

For one participant, the shelter she was provided with for her and her daughter was in a motel, regardless of the identified safety risks she shared with the worker:

> ***"The worker from when I came here when I was 32 with my daughter, she was eight. Yeah, I told her my ex is a crack dealer and he's dealing at the Sherwood Hotel. You know where she put me and my daughter? In the Sherwood Hotel."***
>
> — Interview participant 7

Avoiding homelessness and emergency shelters

In total, 83% of participants talked about staying in a housing situation that is abusive or violent because it felt safer than being homeless or using the emergency shelter system.

We found that contributing to this statistic is our make-up of shelter options in Waterloo Region outside of the domestic violence shelter system (which caters specifically to women fleeing domestic violence). Currently, women have two guaranteed options: the YW KW emergency shelter in Kitchener or The Bridges co-ed shelter in Cambridge. When it came to looking at these alternatives to staying in an abusive home, there appeared to be gaps around safety considerations in our emergency shelter systems. Seventy three percent of survey respondents stated they felt unsafe in co-ed shelters and so avoided them. One participant shared about the violence they faced while staying in the co-ed shelter:

> ***"I went there once and the first night I was there I was unfortunate to be raped."***
>
> — Interview participant 6

Another participant shared:

> ***"The women's shelter definitely feels safer than a place with co-ed services to me. I've found if you keep your head down and don't start anything those that seem scary will leave you be."***
>
> — Survey participant

For some participants, however, the women's emergency shelter also felt unsafe, which led them to choose camping and other rough sleeping options instead:

> ***"Sometimes, I camp because even staying in an all-women shelter feels unsafe to me. I feel people recommend the shelter too much because it's the only one and I feel unsafe there sometimes."***
>
> — Survey participant

Sleeping rough or in a tent far in the bush was something several participants talked about doing in order to avoid being identified as homeless, but this came with other risks:

> ***"And I did live in a tent for the four seasons in Canada. And that is not fucking easy to do. If you don't have knowledge of the bush, any knowledge. Like, if you've got no money to start off you're fucked, you're dead. Yeah. Yeah, like point blank."***
>
> — Interview participant 6

Missing out on needed services

Participants talked about male-dominated ("masculinized") spaces or services coming with inherently greater risk should they access them. Sixty four percent of participants said they avoided spaces they perceived to be male-dominated (ex. soup kitchens, meal programs, safe consumption sites, co-ed shelters, etc.) because they had safety concerns. Another 65% stated that they avoided accessing the services and supports they need (ex. food, clothing, medical help, etc.) because they were worried they would run into an abuser and/or experience more violence while trying to access:

> ***"Like any time, yeah I [avoid it]. Mostly the soup kitchen any time I'm there, there's an aggressive situation ..."***
>
> — Interview participant 7

> ***"You know, so I don't want to do the regular people that go there. So just I guess from what I've observed, from my standpoint, men are more comfortable there. Women tend to be a little more cautious. You know, stuff like that."***
>
> — Interview participant 12

B-1-9736

“I slept in the parking garage across the street because I wanted to make the statement that I do have nowhere to go. And I’m not going back to a building that I’ve been raped in.”

— Interview participant 6

B-1-9736

Perpetrating violence

Perpetrating more intense violence than what they were already experiencing was an avenue for safety for many participants, particularly for those who have been homeless for longer periods of time. A total of 41% of participants reported using violence towards someone else as a perceived way to prevent violence from happening to them. Forty one percent also reported that they strategically engage in relationships and friendships with known violent people as a way to gain protection. One participant recounted the role a violent act she committed played in keeping her safe from others:

> ***"People were like, like she did that tonight? Oh, fear. Yeah. Always. Yeah, there's a lot of people who didn't want to focus on me after that because they thought like I could do some serious damage."***
>
> — Interview participant 13

Participants also talked about keeping weapons on them, just in case, particularly if they didn't have a phone:

> ***"I don't have too many rules, no. I try to carry around a blade but I don't usually have a phone, so..."***
>
> — Interview participant 3

Further, some participants recounted situations where their weapon was critical in helping them get out of an unsafe situation:

> ***"It's only a pellet gun. But I pulled it out. I pulled it out of my backpack. And I said, well follow this. And I pointed it at him and he ran away. I didn't know what he was gonna do to me."***
>
> - Interview Participant 2

Impact on mental health

Mental health concerns were a significant ripple effect of the ongoing threat of violence or experience of it. Eighty eight percent of participants self-reported having mental health concerns. Mental health closely tied to those who had experienced emotional abuse (81% of participants) as well as verbal abuse (98%). Typically, participants' mental health concerns were rooted in past trauma:

> ***"Because you fight back, you're more likely to end up dead. And that's really how I lived the for the first few years of my life by myself. And it caused me a lot of emotional trauma, complex trauma disorder, you know like PTSD."***
>
> — Interview participant 1

However, participants also talked about how their current situation exasperated their mental health. One participant shared this:

> ***"Just an example, when people threaten your life, or beat you up or steal from you or, you know, stick a needle in your arm with something and you're sleeping for 13 hours. Terrifying. You don't know when it's safe to sleep. You don't know. And then you wonder why that person's gone for a week and then they're put back in the room. That same time, you know, it's not like you go tell every staff member because you know, you don't."***
>
> — Interview Participant 5

How women are dealing with violence (or the threat of it)

We asked participants to identify what was the level of their concern for personal safety at the present moment comparative to other stressors in their life, and 92% said it was an important concern to them. When we developed this question, we hadn't anticipated that some participants would be at the point of accepting violence as inevitable and so had given up searching for safety, making it less of a priority for them. One participant stated:

> ***"What's gonna happen is gonna happen. You have no control over it. I can't control if something's gonna happen bad."***
>
> — Interview participant 4

Support network

Participants shared the benefit of talking to people about their situation. Some participants reflected on their younger years when they wanted to stay hidden while experiencing homelessness. As older adults, with more experience, they tend to value talking to staff at social service agencies, to others who could help them, as well as to others who could relate to their experience.

Figure 5: Support networks used

Who do you feel comfortable talking to about your safety concerns and/or experiences of violence?

60%	Staff at social services (e.g., St John's Kitchen, Sanguen, ACCKWA, SOS, YW Shelter, Cambridge Self Help Food Bank, Ray of Hope, etc.)
44%	Other women/trans*/non-binary people experiencing homelessness
33%	Friends
29%	Family
17%	Victim Services
16%	Counsellor/therapists
15%	Crisis Lines (Here 24/7 or SASC)
6%	Hospital staff
4%	Faith leaders
4%	Cultural leaders
2%	Police officers
2%	Paramedics (EMS)
2%	Probation officers

In exploring the support network that participants leaned on for help, we asked who they felt comfortable talking to about their safety concerns and/or experience of violence. Topping the list (60% of participants) was staff at social service agencies. One participant shared:

> ***"Yeah, the staff here at the shelter are pretty good that way. Yeah. They, you know, they see a problem or you talk to them, they try to accommodate and help you in any way they can. Yeah."***
>
> — Interview participant 5

Another common support identified by 44% of participants were their peers, other women/trans/non-binary people experiencing homelessness. Friends were identified by 33% of participants and 29% identified their family as being part of their support network.

However, numerous participants felt like they didn't have a support network at all. This was especially visible in survey responses where participants would write in answers about keeping to themselves, not trusting anyone, not talking to others about their violence or, as one participant shared, that people already knew about their experience and didn't care:

> ***"I don't really tell other women, they see it happen to me and do nothing to stop it."***
>
> — Survey participant

B-1-9742

“This is what I was talking about earlier, eh, because I have a lot of knowledge. And I said, just give me a classroom, right, with just twenty women for one day, right, and just one room with them and me and I would tell them so much, and teach them so much. What I went through and how to deal with it now. Just give me one class.”

— Interview Participant 2

B-1-9742

Safety rituals

Safety rituals are defined as sets of rules, beliefs or processes that someone follows to reduce the risk of violence and enhance personal safety. Often, these safety rituals are in place because of gaps and shortcomings in systems of support or due to the nature of being a woman in community. To explore the informal ways that participants create or find safety, we asked them what advice, based on their own experiences, they would give to a woman who is newly homeless to help them stay safe. Participants were eager to share what they had learned.

The collective advice given told a grim tale of the sacrifices homeless women make to stay safe:

- ***"You can't trust anyone, not even your friends."***
- ***"I will change the way I present myself in the means of my gender or ethics in order to blend in with an environment in which I believe is violent."***
- ***"Always be fully aware of your surroundings and don't be too trusting of those in similar situations, just be observant."***
- ***"Keep to yourself, most people haven't noticed me because of that and so when conflict happens they leave me out of it."***
- ***"Stay away from drugs and drug dealers."***
- ***"Don't tell people you're homeless, it's like giving them permission to take advantage of you."***
- ***"Keep to yourself until you know who you are dealing with."***
- ***"Be friendly to everyone because then you're never somewhere you don't know anyone who can help you."***

There was little consistency in the safety rituals shared by participants. Where one participant would follow one set of rules, another would contradict them, suggesting opposite rituals that work for them. However, among the diversity in approaches used to help create safety, some themes emerged: trusting your gut and your learned intuition, connecting with people by keeping someone you trust close by, keeping a phone on you, staying within public view and isolating from people or trying to blend in.

B-1-9744

"If I see any violence, I roll into a ball my cover my head. I fall to the ground, curl into a little ball and cover my head and pray."

"I will change the way I present myself in the means of my gender or ethics in order to blend in with an environment in which I believe is violent."

"Be friendly to everyone because then you're never somewhere you don't know anyone who can help you."

"You can't trust anyone, not even your friends."

"I try to stay safe and spend all my time trying to stay away from people."

"I have no advice, I'm still living in violence."

B-1-9744

"Go to shelters, but make sure that you get a stable place to live. Because sometimes, the longer you are in the shelter, the worse you can become."

"Don't tell people you're homeless, it's like giving them permission to take advantage of you."

"Make sure you find somebody you can trust in the community. Don't stay on the street. Don't be alone when you're homeless."

"Don't trust men you don't know, even the ones you do can turn bad."

"Ask for help sooner when people can still help you."

Coping through substance use

Substance use was quickly identified as a method of coping among participants. In our survey, 75% of respondents stated they were using substances to cope with their experiences of violence and resulting trauma. However, substance use also came up as method used among peers to "de-escalate" a violent situation or person, although it was always a temporary measure:

> ***"Okay, I've seen situations where there'd be so many girls, and they all get together and fight. And yes, somebody that they know will be, say they start fighting right inside your room. And if you have any dope, then you give them dope to use and it keeps everybody mellow and fine. And then when it's all gone and they start all over again. It's just a play."***
>
> — Interview participant 3

This same participant also shared how substance use led to more violence perpetrated by users, sharing from her own personal experience:

> ***"They have a puff of that stuff on one person. I mean, I myself died on it, died. Here. One puff of that stuff. And they go to sleep on and on. And don't report the blackout. You don't remember smoking the goodies you got. And when you wake up, you think everybody stole your stuff. Well, you're violent raging that you want your dope back. Meanwhile, you smoked it all."***
>
> — Interview participant 3

Gut feelings and learned intuition

> ***"I go with gut instincts. Things, yes. Checking your surroundings and the people around you."***
>
> — Interview participant 8

Following gut feelings and learned intuition often went hand in hand when women assessed their level of safety in a situation. Participants spoke at length about being aware of their surroundings, always having a plan for a way out and, for some, carrying weapons or pepper spray. They talked about not knowing how to describe it but having instincts that kick in and even if they don't know for sure why these instincts happen, they habitually follow them in order to keep safe. One participant recounted:

> ***"And I go with my gut instinct a lot, actually. Yeah, I guess I could be at Tim Hortons and then just always be inside and just have this really bad feeling. Like for no reason at all. Something inside of me would say we'll just leave and I would just, you know, grab my coffee and go..."***
>
> — Interview participant 5

Participants also talked about past experiences helping to inform their gut instincts. One participant shared what she learned from working on the street:

> ***"Actually, I kind of follow my gut. You kind of get a sense when you're working on the street like I was a young age and also if there's like red flags that they send out, like you can kind of tell if environments are going to be safe. Like, I don't know how to explain it except from a working girl's perspective."***
>
> — Interview participant 1

Another participant talked about how her experience of abuse made her a better judge of character, a quality she uses to help ascertain whether a situation is safe or not for her:

> ***"Yeah, like you always got to be aware of your surroundings, like always know who's around you. I find like, I, it's funny that I've been in an abusive relationship for 15 years because I find like, I am a good judgment of character when it comes to people. I just did find myself trapped. But I think that you always need to, like, kind of know who's around, you know, what type of people are around, you know, where to not overstep with certain people."***
>
> — Interview participant 9

Engaging with people

For some participants, engaging with people was a core strategy for keeping safe, both as a deterrent of violence and to provide help if violence does happen. Trust was a complicated experience for participants, some suggesting it's wisest to trust no one and others emphasizing the importance of finding someone to trust. One participant shared:

> ***"Make sure you find somebody you can trust in the community. Don't stay on the street. Don't be alone when you're homeless. Yes, go to a shelter if you have to. Don't stay outside yourself or go to some guy's house if he offers you place to stay. Don't do that because it's not going to end well."***
>
> — Interview Participant 1

Other participants talked about trying to get to know people around town and being social as a strategy of ensuring someone is around to help you if you need it:

> ***"When I go out all night, I don't worry so much because I know a lot of the people out there and I can go down any alleyway and I know somebody, I know who they are. And I've sat down and talked to some friends of them. So I know there's someone out there. And if something were to happen, they'd be on my side. They'd be there to help."***
>
> — Interview participant 10

Staying in public settings and around numerous people, even strangers, was a common strategy for women to stay safe, particularly so for women who did not have cell phones or other ways of calling for help:

> ***"It's dangerous and don't go where you're not close to the city, and like other people, because if you need help and need to run, you need to get people fast, right? Because that could be life or death."***
>
> — Interview participant 1

Keeping a cell phone

For participants, phones became a critical lifeline to safety, particularly for being able to call for help if they needed it. Access to devices differed among participants, many of them unable to afford a phone. This created a reliance on set up voicemails and public phones or pay phones as well as help from strangers if they needed it. For some participants, this meant they stayed close to the shelter at all times, as they hadn't historically had good experiences relying on strangers for help:

> ***"Right. A lot of times, a lot of people don't want to get involved no more. They'll just walk right by ya."***
>
> — Interview participant 3

For those that did have a cell phone, it was something they kept with them at all times

> ***"I would always make sure, like, I have a phone, if something were to happen that I would be able to call emergency right away or make sure there's people around. Okay. If I have that, then I'm not alone..."***
>
> — Interview participant 5

And for many, cell phones had a track record of helping them:

> ***"Yeah, I'd put my phone on my bed, underneath my sheets. If I thought things was escalating with me and my ex, I just left it there just in case I wasn't sure what was going on, and he'd go 'you call the police?' and I'd say, 'oh yeah, I forgot about that' and ask them in just to help mediate things."***
>
> — Interview participant 10

Isolating and blending In

Some participants, weary of others from experience, recommended isolation and blending in or hiding as a way to stay safe. One participant talked about this process being a journey where she shuts parts of herself down to stay safe:

> ***"I just tend to even shut down more and keep to myself even more and just try to isolate myself and just keep to myself more than I would normally do."***
>
> — Interview participant 1

Another talked about keeping to yourself to avoid being taken advantage of:

> ***"Stick to yourself as much as you can, like, just, you know, don't be so open and giving. Don't let people know too much about you, because they just take advantage and they will take everything from you and just make you weak."***
>
> — Interview participant 5

For participants who chose isolating and blending in, it was also important to not trust people. This was highlighted by one participant who advised not to trust people who are in similar situations:

> ***"Always be fully aware of your surroundings and don't be too trusting of those in similar situations. People that are in desperate situations may act in desperate and harmful ways."***
>
> — Survey participant

Participants also talked about brushing off situations or deflecting violence they are receiving to try and blend in and not bring attention to themselves:

> ***"Like, I would almost not really ignore the situation, but try and like, divert the attention to something different, or just be like, Okay, I understand, I understand, and just kind of try and like, brush it off to the side and walk away from the situation."***
>
> — Interview participant 9

Experience of the justice system

Figure 6: Police

Have you ever decided not to report an experience of violence to the police?

66.7%	Yes (I have experienced violence and not reported it)
12.5%	No (I report the experiences of violence I have)
18.8%	Decline to answer
0%	Not Applicable (I've never been in a situation of violence to report)

The majority of participants had complicated feelings regarding law enforcement. These feelings stemmed from direct experiences with the police as well as their fear of more violence after police involvement. It all amounted to a severe lack of trust in the law enforcement process.

B-1-9754

"The climate in which the police and the homeless population encounter each other is fragile and rooted in multiple traumas for the humans accessing services. It is difficult to trust any organization, human or resources that is there to help someone when a human's trauma is often based on the manipulation of that very thing."

— Survey participant

B-1-9754

Some participants had past experiences with being detained that included being strip searched for minor theft charges which led to disillusionment with the police:

> ***"I think the police a lot, a lot of times that, you know, you're getting like, you're getting stripped, searched for a theft under or something that you got in trouble within the courts or something. Because you're hungry and you went, you took something from Walmart to eat. I'm just saying, for example, right? You're already feeling like this pig for doing what you're doing. But you're hungry, right. And people will do anything to get their food if you're hungry. Right. So then you go into the police station. I mean, take all your clothes off and you're naked now. And you're completely stripped of any sort of self-worth you have. Right. And I don't think it's necessary. I mean, for a violent crime. Sure. Right. But for something small, um, I think they should really, you know, weigh the two, right?"***
>
> — Interview Participant 8

The experience of being charged by the police and the decisions that followed also made the police an unreliable support for some participants:

> ***"I was in isolation at a detention centre in Hamilton all on my own, and it made me feel unsafe because I was alone and no one would know if something bad happened to me. Looking back, I don't feel like that was warranted."***
>
> — Survey participant

Similarly, past convictions made participants feel like if they used the police services, they might end up back in jail:

> ***"I didn't feel like they needed to know about my past, because I'd made amends to those relationships and I was worried their involvement would ruin that. I didn't deserve the last round of being charged, assaulted or locked in the women's detention centre and I didn't want it to reoccur."***
>
> — Survey participant

Participants recounted situations where they were blamed by police, even though they were the victims who called for help:

> ***"The police don't treat you like the victim. Sometimes, they treat you like you did something wrong."***
>
> — Interview participant 8

One participant had received two convictions through this exact experience:

> ***"I have been arrested twice for crimes I didn't commit, even when I was the victim."***
>
> — Interview participant 11

Lastly, participants also talked about the lack of accountability that often followed when reporting did happen:

> ***"Last time he was released the same night and I had to pay for that."***
>
> — Survey participant

> ***"They didn't show up, I waited 6 hours."***
>
> — Survey participant

This yo-yo and unpredictable experience with police has led to less trust or outright refusal to call the police when participants have been the recipient of harm. The majority of participants in our study reported at least some experience with police. Of them, 67% of participants stated they would not involve police if they experienced violence and 19% declined answering.

> ***"Um, yeah, I don't see police or calling police as good, a lot of times people are intimidated by calling them because I don't feel that they're super helpful when it comes to situations that we've been through with them. Personally, I've avoided calling them and dealt with it on my own. I've even lashed out at someone that's lashed out at me, which isn't right... so yeah, I would say that. I don't, I'm not big on calling police."***
>
> — Interview participant 8

> ***"I don't trust the police or anything about it. I feel that cops are corrupt and don't believe u sometimes, making bullying 'n abuse more."***
>
> — Survey participant

A common fear of using the police was the threat of violence escalating. One participant shared about a situation which took place while they were staying in shelter and they refused to let staff call police about a serious issue due to such a fear:

> ***"I wouldn't let people [shelter staff] use the police. Yes, they have tried to and no I would not let them. Well, because I'm 1 against 60."***
>
> — Interview participant 3

Police are also being used as a tool of threat in some abusive situations. One participant shared:

> ***"I had been in an abusive relationship for over 15 years. I had been so brainwashed in thinking that I could not survive without my spouse by my side to support me financially. I was afraid to be on my own with my children. I also received a lot of pressure from my in-laws to not report situations because it would "ruin his life." My spouse also had me addicted to narcotics as a means of control and would use it against me by threatening to report me to family services or tell the police."***
>
> — Survey participant

B-1-9760

Moving forward in this work

Restorative justice

Participants had a lot to say about their current options around justice and law enforcement. While many made definitive decisions based on past experiences engaging with law enforcement, others saw a gap where their options were to either to forget it or take the chance on what might happen. Participants felt that there were instances in their lives that did not warrant police presence, but still needed some sort of resolution. One participant shared:

> ***"There should be some sort of justice that helps people before the police take a step, before police and maybe a little above counselling, right. Yeah, some sort of profession that intervenes, before it comes to a legal matter, right? Because it's relationship-centred, the world is full of relationships..."***
>
> — Interview participant 8

B-1-9760

Along a similar vein, some participants talked about wanting more judgement-free and safe options that didn't do things like risk family destruction or more relationship blow-ups:

> ***"I felt like they were destroying my family because they took my kids' dad over an argument because it was loud and emotional and they assumed there was more to it than there really was. It wasn't fair my kids had to see that."***
>
> — Survey participant

And others shared about wanting to move past the situation, for the violence to just stop, and jail wasn't seen as the most likely means of making this happen:

> ***"He's the father of my children, I don't want him to be in jail, I just wanted it to stop."***
>
> — Survey participant

> ***"I didn't want payback."***
>
> — Survey participant

Researchers introduced to participants to restorative justice as a potential process that could fill this identified gap. For some participants, this was a welcome alternative:

> ***"I'd rather tell the staff. I'd rather talk to the staff here than talk to the cops."***
>
> — Interview participant 4

Participants even thought about restorative justice as a way to make amends for their own actions:

> ***"I don't want to talk to everyone who has harmed me, but I want people who I have harmed to talk to me."***
>
> — Survey participant

Participants were asked about scenarios in which they may see themselves using a restorative justice approach. Overall, participants varied in their responses. Situations that included physical or verbal violence, situations of racism, situations of violence based on sexuality, situations of violence based on gender presentation, or big fights or feuds with friends, family or others were all examples where participants felt restorative justice processes could be helpful. Participants also thought restorative justice would be helpful to reconcile situations where they were the aggressor or in exchange for having probation revoked. Results varied in more serious occurrences like sexual assaults and situations where they were controlled or manipulated.

Restorative justice was seen by some as a therapeutic opportunity for folks to work through their trauma, a way to stop the hurt from happening over and over, a way to recognize the help both parties needed and a way to avoid situations getting worse with time:

> ***"I think that yeah, I think the longer you leave it, the worse it could get."***
>
> - Survey Participant

> ***"I think that, you know, we're human, we make mistakes, and people sometimes are not in the right, either state of mind, or maybe under the influence, it's something and we may not be thinking at that moment, and we react in different ways. And I think that if we just took the time, and like I said, educated or have classes, stuff like that..."***
>
> - Interview Participant 5

B-1-9763

“I have used restorative justice to repair my family relationships, it was a good experience for me because I was also a victim in the same circumstances where I was charged as the aggressor. It was helpful to talk this through in the interests of rebuilding and moving forward with my family.”

— Survey participant

B-1-9763

Participants further saw restorative justice as a potential way to break up generational violence:

> ***"A lot of abusers have been abused and never received help for that. So, they're just going to continue to lash out. Right? Yeah. I think a lot of men that abuse women have probably been abused as children. Right. I don't think that any of us are just born violent. I think violence is something you saw, or you were involved in or were around. This might help that.***
>
> - Interview Participant 8

Participants discussed some barriers they might face when engaging in restorative justice. One concern was that it might be difficult to open up to their abusers or having their abusers open up to them. Others talked about not knowing if they could trust in the process, and a few felt that it ran the risk of potentially making things worse. A very common concern was about being face-to-face with the person who was violent towards them:

> ***"Being scared that the person is still around you know, then you got to see this person every day? Definitely would be to deter me. I wouldn't, you know, wouldn't want to put the weight back on them unless it was that they were willing to go and get with help with you."***
>
> – Interview Participant 8

Some participants were wary that the process wouldn't be met by their abusers with the same enthusiasm they had to resolve issues.

> ***"Other than that, I just guess, like, the willingness of both parties, both parties, you're gonna have to be willing to try to make it work. Because if you're not, then it's not going to work at all right, then there's really no point."***
>
> - Survey Participant

Even still, one participant was still willing to try:

> ***"I don't know, like, I'm, I am actually, like, I am all for programs like this. I don't think there's anything that would prevent me from wanting to try. I would always want to try, especially for the sake of my daughters. If there was, like, I think when it comes to what he has done to me, I don't think he would be willing to listen and understand or try and, you know, but I think like, there's a lot of history now with my two daughters, and he's missing out on a relationship with my two daughters. And I think if there was programs that would help in that aspect, I would be all for it as well, I don't think I would not want to try. I would want to try for sure."***
>
> - Interview Participant 9

B-1-9766

Systemic changes for safety

Participants were asked to reflect on a list of potential actions that could be taken to address their raised concerns and highlight the actions they found valuable. The most agreed upon action, with 79% of participants favouring it, was bringing in trauma and mental health supports to the women's emergency shelter. This was framed as a way to help women who have and are experiencing violence to work past mental health as a barrier to moving forward. It was also talked about as a way to help address some of the peer-to-peer violence that can happen in an emergency shelter setting.

Sixty one percent of participants also wanted to see the creation of more gendered housing along the continuum of affordable, supportive and transitional. Looking at solutions around justice, a total of 57% of participants want to see an alternative way to deal with violence rather than relying on the current police or court systems. Lastly, 52% of participants prioritized the creation of spaces and services exclusively for women and gender-diverse folks, this includes adapting current services as well as adding services in order to build in more safety and access.

Beyond giving an analysis on some suggested actions, participants were also encouraged, in the survey and throughout the interviews, to share their own ideas around how to increase safety, minimize the violence they experience, and build stronger pathways of support across systems. Suggestions reflect a few trends: rethinking the approach to emergency shelter services and building on the model, making emergency phones more available, doing more to weave systems of support together, and reconsidering policies/processes around housing priority lists.

B-1-9766

Attitudinal shift around shelter use by service providers

The first issue participants highlighted in the interviews and surveys was the need for an attitudinal shift by service providers, including those offering prevention and diversion programming. Participants noted that service staff often try to dissuade women from using the shelter system, thus keeping them in more vulnerable positions and keeping them hidden and with less access to needed support in the community:

> ***"I think women need to know that it's not okay to be abused in any means, and there's no wrong reason to call if you're being abused, you're being abused, and you have every right to call and seek shelter and seek a safe place to be."***
>
> — Interview participant 9

Mental health and physical health supports

Participants talked candidly about how their mental health impacted their safety and how violence impacted their mental health. Introducing more trauma and mental health supports inside the shelter system was talked about extensively by participants and for some this was seen as the first step forward for women accessing services:

> ***"The ability to address the mental health and trauma pieces in which lead women to addictions and homelessness in the first place is something I have always believed to be at the forefront of being a piece of the shelter system. Housing, the safety in which one feels when they don't have to be wet and unsafe on the street is only the tiniest fraction of being able to offer support to women in this community. A piece of the solution, is addressing the fragility of the client in which accesses services."***
>
> — Survey participant

Participants suggested that having counsellors on site who are readily available for when women work up the courage to talk and who were familiar with what they may be experiencing would be optimal. One participant suggested:

> ***"I think having access to a counsellor, or to whoever it is, a worker that people have access to them at all times. Okay! Night or day!"***
>
> — Survey participant

A large part of the recommendation for having supports directly inside the shelter system was due to the immensely negative experiences participants had been subject to when trying to access more mainstream services geared towards the general public. They reported often feeling pushed away or struggling to conform to expectations in that environment:

> ***"It happens. I mean, people, you feel so bad about yourself that you just don't want to be here... And the reason that I'm homeless and I was afraid to say anything, but at the same time I was trying to get some help. It was just like, it wasn't open arms, open door. It was just like, they pushed me away. Yeah, they weren't listening."***
>
> — Interview participant 5

Participants also noted that they would like more readily available physical health supports and suggested a nurse be permanently stationed at the shelter.

Enhancing safety measures

Several participants had experienced both the emergency shelter system and the domestic violence shelter systems in Waterloo Region and they discussed the differing safety measures between the two. For one participant, the presence of fences and surveillance cameras was a key element of feeling safe:

> ***"Um well, you know, as far as difference, there's security differences. Okay. That's definitely security differences because in a domestic shelter there's fences all the way around. There's a lot of cameras right. Here, we're wide- open downtown right. So that's a different thing."***
>
> — Interview participant 8

B-1-9770

“Um well, you know, as far as difference, there’s security differences. Okay. That’s definitely security differences because in a domestic shelter there’s fences all the way around. There’s a lot of cameras, right. Here, we’re wide-open downtown, right. So, that’s a different thing.”

— Interview participant 8

B-1-9770

When comparing the domestic violence shelter system to the emergency shelter system, participants talked about the security that comes with access to a shelter space 24/7. This was felt to be a benefit of the COVID-19 pandemic measures, which allowed the YW KW emergency shelter to operate 24/7 and folks were not required to leave during the day, as was the previous practice:

> ***"They can come in the shelter at nighttime but then they got to be thrown out on the street at eight o'clock [a.m.]. We were lucky here. The girls here. We're lucky right now. We don't have to leave early in the morning. But the other places do, right."***
>
> — Participant 3

Participants wanted to see more safety within the shelter as stories of situations where folks were violent toward each other emerged. One participant suggested zero tolerance and personal consequences:

> ***"Yeah, because I believe in zero tolerance for violence. Right. And I've seen violence up there, and it's just as brushed off like, right. And it shouldn't be brushed off. I don't think I think I don't, you know, depending on the situation, I think if it needs to be dealt with legally, then cool. Otherwise, there should still be a personal consequence. Yes, that is what I'm trying to say.***
>
> — Interview participant 8

Recreational and life skills programming

Another key distinction of the emergency shelter system noted by participants, particularly those with experience in the youth shelter system and domestic violence shelter system, was the lack of programming available, whether it was recreational to help create more positive relationships among shelter users, opportunities to volunteer or help out around the shelter, or activities more concentrated on life skills building. Participants expressed a desire for more holistic services in the emergency shelters:

> ***"Like, it's not... like it's a shelter. Right. But it's, I think that if a lot of people here, they don't know what to do with themselves. Yeah, even myself, I don't know sometimes. I don't know. You know, there's so many hours in a day, and I'm not working right now. So I'll help clean up or I'll sleep outside just because, you know, yeah. But if they had, like, you know, a game night, or something. I think it would keep some of the women busy and make them feel better about themselves. You know, what I mean?"***
>
> — Interview participant 5

Expanding models

Most of our participants reported feeling overwhelmed by the intensity of being bunked with so many people in a room and some shared that they also felt uneasy in motel settings that have less built-in support, security and that often have more open drug use. Participants suggested a way to account for the differing levels of support and unique needs experienced among shelter users was to expand the model. There was a huge degree of empathy for fellow shelter users and what they may be experiencing, but it came with the realization that having to meet all these different needs in one shelter and under one model wasn't working effectively and supporting participants as well as it could.

One participant broke it down:

> ***"They shouldn't be all in one shelter. Families and mental health should really be concentrated on because there's a lot of these they're not doing anything to help their mental health. They're just making it worse by getting they're not doing anything to help it. They need to make sure that they get the proper help they need and they don't, they just get in one shelter and mix all together in a room and it's a very toxic environment and can break people because we have no choice but we have nowhere else to go."***
>
> — Interview participant 1

Participants also liked the idea of having single-occupant rooms to avoid conflict and theft and to minimize the anxiety of having to watch everybody that comes into the room. Two participants recounted experiences using shelters with individual rooms, one participant spoke of the model used by the domestic violence shelter system in Waterloo Region:

> ***"When they sent me to the shelter on Heritage, I really liked that one, because there was like programs and stuff. Yeah, and teaching classes and stuff like that, and there was counsellors, and you had your own room with its own key and there was a washroom and you know, and there wouldn't be keys floating around. You know, you know that there's not 10 different people that have a key to your room."***
>
> — Interview participant 5

Another participant talked about a shelter model she experienced in downtown Vancouver:

> ***"They turned hotels into single occupancy rooms that were harm reduction and that was your own room, and somehow, you also had your own bathroom at $335 a month, and you get free lunch and nurses who can do anything. They were very very hands on and their heart was in it."***
>
> — Interview participant 1

Another participant suggested a model that left the gendered approach behind altogether:

> ***"The entire idea of gender-based shelters I believe are seeing their end. Between the existence of queer folks, the evolutions of families and the need to have human energy, regardless of gender within your everyday life as you suffer and succeed and try to continue on as normal as possible. It's important to acknowledge the idea of a HUMAN SAFE SPACE... If the system acknowledged the very basic pains of society before the systemization of the humans who suffer from that, wear those people down... and jade, hurt and leave them behind... it seems a much easier idea to entertain."***
>
> — Survey participant

Emergency phones

Participants referenced extensively their reliance on phones in order to call for help if they are experiencing violence as well as a tool that generally helped them feel more in control of their safety. While those without phones often rely on the general public when they are experiencing harm, it wasn't felt that this was a reliable practice. Participants talked about pay phones becoming obsolete in town and so helping to ensuring all accessing women have phones, as a safety tool, was encouraged.

Stronger engagement among systems

Participants found the systems they needed for support to be disjointed and filled with gaps and they felt they were the ones who suffered. Often episodes of violence happened in their lives, which escalated situations to where participants would need to use multiple systems to get the help they need. One participant's experience summed this up perfectly.

This participant was in a violent relationship and found herself fleeing and taking up shelter at Women's Crisis Services. She was able to find stability and secure housing and moved in with her two kids. Sometime later, she got word that she was at the top of the list for affordable housing, and so she gave notice to her current market rent landlord. In a tragic incident, she was attacked on the street and beaten up and had trauma to her head and body. In the hospital, she coded once and was in a medical coma for a week. Her hospital stay was long and during her medical coma, she lost her current housing (as she had given notice) and all of the contents of her house were thrown out, including everything she had saved from her first flee from violence.

Also, because she was in the hospital, she wasn't able to sign the paperwork on her affordable housing unit and no one came looking for her. So she lost her place in line for housing. Still, throughout this whole process (and up to the date of the interview) her ex was stalking her. Given her condition following the attack, she had her kids go live with her mother-in-law, and now her mother-in-law and ex were keeping the kids from her. When the hospital discharged her, she was still medically fragile had nowhere to go, and so the police dropped her off in front of the YW KW emergency shelter. She is now unable to reclaim her old apartment or her spot on the housing list and is unable to find resolution with her abuser in order to see her kids.

Without better collaboration between systems, women who are vulnerable and marginalized can often get lost in these systems and end up deeper in the clutches of violence and more vulnerable than before. Participants shared experiences of being sent all over the community for services and never actually being considered eligible or denied access, being forgotten about for referrals, being turned away because they were passing as not homeless, not qualifying for support in the domestic violence sector and so many more. The reliance on so many systems for support left women particularly vulnerable, especially if they are were not already connected into the shelter system or to support workers who could help advocate on their behalf.

B-1-9776

“Some guy beat me up on the street. Yeah, I was in the hospital because of it... I died a few times... Meantime my landlord, he got rid of everything in my apartment and I lost my rent geared to income housing and I ended up discharged from the hospital and driven to the shelter.”

— Interview Participant 5

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Housing priority

Participants talked about the need for more housing and encouraged the building of that housing to be quick, they also talked about raising rent costs and the impossibility of finding an affordable place. Women are faced with less housing options in our community because of their safety needs. Accommodations like rooming houses and other arrangements that are within their budgets come with a set of inherent risks to safety that many women don't feel comfortable with or have had negative experiences with in the past. They felt that there should be housing priority, as there is for other groups, for homeless women, given their experiences of violence and abuse.

Participants recounted many instances where they felt their male friends, living in similar unhoused situations, were getting housing much quicker than they were and they were also having experiences of getting bumped down the list by women experiencing domestic violence who receive priority placement, an irony when they too have experiences of violence.

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Our commitment

Our commitment to the cis women, trans, two-spirit, and non-binary folks who shared their life experiences and vulnerability with us throughout this research is that it will not be in vain. We are dedicated to weaving together the different branches of community to create solutions that prioritize the wellbeing of women, to develop stronger systems that address safety and justice and help women who have experienced gender-based violence move forward from their experiences. This work must always have roots in their shared experience.

It's with optimism that we introduce Project Willow, a community building project dedicated to supporting systemic change for unhoused and homeless women experiencing gender-based violence. Together, the YW Kitchener-Waterloo, Community Justice Initiatives and the Coalition of Muslim Women Kitchener-Waterloo will be working with community stakeholders to create a five-year community safety and justice plan that will respond directly to the shared experience and needs identified through two core research projects, this report included as one. We welcome the community to follow this work and get involved.

Now is the time.

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Project Willow advocates for systems change that enhances the safety of women experiencing homelessness from gender-based violence, while also exploring ways of using non-punitive measures to achieve justice and healing. This project is rooted in, and guided by, the voices of those with living experience.

For more information visit:
feministshift.ca/project-willow

Feminist Shift

YWCA KITCHENER-WATERLOO

YWCA CAMBRIDGE

CJI Imagine a Just Community

Coalition of Muslim Women Kitchener-Waterloo

Women and Gender Equality Canada / Femmes et Égalité des genres Canada

B-1-9780

THIS IS **EXHIBIT "D"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

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United Nations A/HRC/31/54

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the thematic report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Leilani Farha, prepared pursuant to Council resolution 25/17. In the report, the Special Rapporteur considers homelessness as a global human rights crisis directly linked to increased inequality of wealth and property, requiring urgent attention. She examines how homelessness is caused by States' failures to respond both to individual circumstances and to a range of structural causes, abandoning responsibility for social protection and allowing unregulated real estate speculation and investment to exclude a growing number of people from any form of housing. She outlines a clear set of obligations on States under international human rights law that, if complied with, would eliminate homelessness. She proposes a global campaign to eliminate homelessness by 2030.

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Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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I. Introduction

1. The present report of the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, is submitted pursuant to Human Rights Council resolutions 15/8 and 25/17.

2. Homelessness is a global human rights crisis that demands an urgent global response. It is occurring in all socioeconomic contexts — in developed, emerging and developing economies, in prosperity as well as in austerity. It is a diverse phenomenon, affecting different groups of people in different ways but with common features. It is symptomatic of the failure of governments[1] to address growing inequalities in income, wealth and access to land and property and to effectively respond to the challenges of migration and urbanization. Homelessness occurs when housing is treated as a commodity rather than as a human right.

3. At the same time, homelessness represents individual experiences of some of the most vulnerable members of society, characterized by abandonment, despair, erosion of self-esteem, denial of dignity, serious health consequences and loss of life. The term "homeless" describes not only a lack of housing but also identifies a social group. The close link between the denial of rights and a social identity distinguishes homelessness from deprivations of other socioeconomic rights. People denied water or food are rarely treated as a social group in the way homeless people are. Those who are homeless are subject to stigmatization, social exclusion and criminalization.

4. Homelessness is an extreme violation of the rights to adequate housing and non-discrimination and often also a violation of the rights to life, to security of person, to health, to protection of the home and family and to freedom from cruel and inhuman treatment. However, it has not been addressed with the urgency and priority that ought to be accorded to so widespread and severe a violation of human rights. Homelessness was not mentioned in the Millennium Development Goals, is absent from the Sustainable Development Goals and has been rarely mentioned in the preparatory work for the United Nations Conference on Housing and Sustainable Urban Development (Habitat III). Violations of the right to life because of homelessness have rarely been addressed as such by international human rights bodies.

5. In the present report, the Special Rapporteur considers how homelessness is experienced as a human rights violation and how it can be effectively challenged and eliminated if addressed within a human rights framework. She urges that the elimination of homelessness be affirmed as a cross-cutting human rights priority in socioeconomic policy, planning and development.

6. The Special Rapporteur solicited and received over 70 responses with information and views on the issue from States, civil society, national human rights institutions and United Nations agencies.[2] She held a two-day expert consultation in Buenos Aires[3] with 25 experts in homelessness and the right to housing from around the world. She is grateful for

[1] In the present report, "governments" refers to all levels of government, including local and subnational, unless otherwise stipulated.

[2] All responses to questionnaires and information on the consultation are available from www.ohchr.org/EN/Issues/Housing/Pages/Homelessnessandhumanrights.aspx.

[3] Co-organized with the Argentinian non-governmental organization Centro de Estudios Legales y Sociales in November 2015.

all the information and guidance received. The Special Rapporteur is also appreciative of the important work done on this topic by her predecessor, Miloon Kothari.

II. Towards a human rights definition of homelessness

A. What does "homelessness" mean?

7. The word "homelessness" in English does not always have an equivalent translation in other languages. In English, "homelessness" suggests both a lack of physical housing and a loss of a sense of social belonging. In some other languages, the closest word to homelessness would be "rooflessness", lacking shelter or transience. In French, homelessness is referred to as either "*sans domicile fixe*" or "*sans-abrisme*". In Spanish, homelessness is referred to as "*sin hogar*" or "*sin techo*" or "*en situación de calle*" or "*poblaciones callejeras*".

8. Definitions of homelessness adopted by international agencies, governments, researchers or civil society vary widely, depending on language, socioeconomic conditions, cultural norms, the groups affected and the purpose for which homelessness is being defined. It is generally agreed, however, that the experience of homelessness around the world is not fully captured without a richer definition that goes beyond reference to deprivation of physical shelter.

9. The definition of homelessness is often based on where individuals live or sleep, for instance, those who sleep "rough", in emergency shelters or in institutions, such as prisons or psychiatric institutions. While definitions on the basis of location have the advantage of being less ambiguous, they tend to distort perceptions of who is homeless. Single men will live on the streets or in shelters, for example, while women with children will seek other options, such as with family or friends, to avoid the severe repercussions associated with street life, including violence and child apprehension.

10. Homelessness has also been defined with reference to what is lacking. The Statistics Division of the Department of Economic and Social Affairs of the United Nations has defined "primary homelessness" as persons living without a shelter or living quarters and "secondary homelessness" as including persons with no place of usual residence. In some contexts, homelessness is understood as a lack of access to land as well as to shelter. In rural Bangladesh, for example, homelessness is assessed on the basis of whether a household has a regularized plot of land as well a roof overhead.[4] Other definitions focus on being deprived of a certain minimum quality of housing. The Institute of Global Homelessness has proposed as a global definition: "lacking access to minimally adequate housing", while listing various categories of living situations that fall within this general definition.

11. However, many people living in informal settlements and lacking basic services are certainly deprived of minimally adequate housing yet they have worked hard to establish and build homes and, importantly, would not self-identify as homeless. It would, therefore, be inappropriate to define the more than 1 billion people worldwide estimated to be living in informal settlements as homeless, even though their needs are critical and must also be addressed as a priority. Within informal settlements there are, however, residents who have established temporary accommodation because they have no other options who are living in

[4] See G. Tipple and S. Speak, "Definitions of homelessness in developing countries", *Habitat International*, 29 (2005), p. 342. See also the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2005/48).

particularly precarious situations — overcrowded and unsafe situations, sometimes renting informally, subject to eviction at a moment's notice or in grossly inadequate shelter unfit for human habitation. These households might reasonably be considered and may self-identify as homeless.

12. Different definitions can create different perceptions and policy priorities. In Japan, when homelessness was defined in terms of those living on the street, available data suggested declining numbers as a result of shelter programmes. However, when defined as "lacking access to minimally adequate housing", data showed increasing numbers of homeless.[5]

13. Definitions relating only to a lack of physical shelter also fail to take into account the loss of social connection — the feeling of "belonging nowhere"[6] — experienced by homeless persons. A number of States have attempted to address this concern by referencing the rupture of family or social connections in their definitions of homelessness. Including the more qualitative aspects of social exclusion linked to homelessness, however, can make definitions too imprecise for some purposes.

14. Different types of homelessness can also be understood in relation to choices of survival strategies and lifestyles. Advocates for street-connected children and young people suggest that a definition of homelessness that recognizes agency and choice as well as deprivation is preferable.

B. A three-dimensional human rights definition of homelessness

15. Different definitions of homelessness serve different purposes. A universally applied definition with common measurement, as proposed by the Institute of Global Homelessness could play an important role in promoting enhanced State accountability and informing development goals.

16. From a human rights perspective, the Special Rapporteur advocates a flexible and contextual approach to defining homelessness that recognizes experiences and understandings of homelessness among different groups and in diverse circumstances. A human rights definition should focus attention on the most desperate situations while ensuring that those who are homeless identify those circumstances themselves, define their needs and are recognized as actors in effecting change to fully realize their right to adequate housing. The social dimensions of homelessness are also central to a human rights definition.

17. In light of these considerations, the Special Rapporteur proposes the following three-dimensional approach anchored in human rights:

(a) The first dimension addresses the absence of home — both the absence of the material aspect of minimally adequate housing and of the social aspect of a secure place to establish a family or social relationships and participate in community life;

(b) The second dimension considers homelessness as a form of systemic discrimination and social exclusion, recognizing that being deprived of a home gives rise to a social identity through which "the homeless" is constituted as a social group subject to discrimination and stigmatization;

[5] Rayna Rushenko, "Homelessness and related policy in Japan and Malaysia", presentation on homelessness in a global landscape, 2 June 2015. Available from http://media.wix.com/ugd/d41ae6_167a5007c11a4cc49fe75499fd60325b.pdf.

[6] United Nations Human Settlements Programme, *Strategies to Combat Homelessness* (2000).

(c) The third dimension recognizes those who are homeless as rights holders who are resilient in the struggle for survival and dignity. With a unique understanding of the systems that deny them their rights, homeless people must be recognized as central agents of the social transformation necessary for the realization of the right to adequate housing.

18. A human rights definition of homelessness undermines "moral" explanations of homelessness as personal failures to be solved with acts of charity and instead reveals patterns of inequality and injustice that deny those who are homeless their rights to be equal members of society.

III. Discrimination, stigmatization and social exclusion

A. Social construction of homelessness

19. Those who are homeless are constructed as a social group. Worldwide, their identity is created and then reinforced by people who have more money, more power or more influence. It is a vicious circle. Laws, policies, business practices and media stories depict and treat homeless people as morally inferior, undeserving of assistance and authors of their own misfortune, and blame them for the social problems they come to represent. Once stigmatized, their needs are further neglected and inequality and discrimination further entrenched.

20. Strategies to address homelessness are, ironically, often tainted with prejudice and stigmatization. For example, in August 2015, the office of the Mayor of New York introduced a mobile telephone application called Map the Homeless[7] that allowed users to take snapshots of homeless people and report them to the police. Social media hashtag labels included #AggressivePanhandling and #Violent.

21. Homeless people are subject to constant intimidation and harassment by authorities and the general public; they are denied access to basic services or places to shower, urinate or defecate; they are rounded up and forced out of cities and relocated to uninhabitable places; they are walked over and passed by; they are subject to extreme forms of violence, including hate crimes and sexual violence; and they are often the subject of vilification. At the same time, some forms of homelessness remain totally invisible and neglected, in particular in parts of the global South, where homelessness remains relatively unacknowledged or where the distinction between very precarious housing conditions and homelessness may not be easily drawn.

22. The humiliation homeless people suffer in their daily lives cannot be underestimated. Take for example, the experience of women who lack adequate sanitation facilities, especially during menstrual cycles, or of families who are treated like "human waste", forced to establish their households on or next to a garbage dump. Homeless people have told the Special Rapporteur, often through tears, that more than any material security, what they yearn for is to be "seen", to be recognized and treated by society as human beings with inherent dignity and respect.

[7] Available online from https://play.google.com/store/apps/details?id=com.dfox.nycmapthehomeless&hl=en.

B. Criminalization of homelessness

23. National and local laws often make homeless people into lawbreakers, rather than protecting their rights. Laws are created to render homeless people invisible, to displace them from land or housing and destroy their makeshift shelters. In many places punitive measures such as fines or incarceration are imposed for activities linked to basic survival, including constructing any kind of shelter out of cardboard.[8] Laws enable authorities to "rescue" street-connected children, depriving them of their liberty without due process or respect for the social networks upon which they rely.

24. Such laws are often framed under the guise of public health and safety but, in reality, the aim is to "beautify" an area for the promotion of tourism and business or to increase property values. Examples are countless: in Zimbabwe, an operation to "sweep out the rubbish" through demolitions of shanty towns in 2005 left up to 1.5 million people homeless in the middle of the winter.[9] In June 2014, the Mayor of Honolulu introduced new measures to crack down on homelessness because tourists want to see "their paradise, not homeless people sleeping". In Medellín, Colombia, during the World Urban Forum, the homeless population was transported outside of the city.[10] In Australia, "move on" laws permit authorities to "disperse" homeless people "where a person's mere presence could cause anxiety to another person or interfere with another's 'reasonable enjoyment' of the space".[11]

C. Discrimination in access to land and housing

25. The favouring of profit over people's human rights through the unequal allocation of land, property, housing and related services in cities is a major driver of homelessness. Unregulated or underregulated financial and other market forces, and unfettered land and property speculation resulting in escalating land values, all contribute to the inequality of wealth distribution and homelessness. These systemic inequalities are compounded by direct discrimination against people who are poor, often pushing them to precarious housing conditions, including into informal settlements or on occupied land, and ultimately into homelessness. Many municipalities use planning and zoning laws or regulations to prevent construction of shelters or affordable housing in their communities. Homeless people are often denied opportunities to live in central locations; instead, they are compelled to live in remote, isolated and poorly serviced areas where there are no jobs.

26. Dichotomies of legal/illegal, formal/informal and deserving/undeserving applied in the global South parallel the criminalization of homelessness in northern countries. The urban poor are made "illegal" and "encroachers" by the denial of fair access to land and legal status or title. People who have been rendered homeless in urban centres are relocated

[8] National Coalition for the Homeless, *Share No More: The Criminalization of Efforts to Feed People in Need* (October 2014), available from http://nationalhomeless.org/wp-content/uploads/2014/10/Food-Sharing2014.pdf.

[9] Owen Dyer, "Zimbabwean clearance policy leaves 1.5 million people homeless", *British Medical Journal*, vol. 331, No. 7509, p. 130 (2005).

[10] Greg Scruggs, "Medellin Opens Its Changing Streets to the World Urban Forum", available from https://nextcity.org/daily/entry/medellin-opens-its-changing-streets-to-the-world-urban-forum.

[11] Response to the questionnaire from the Australian Human Rights Commission.

to city peripheries and deprived of economic opportunities and social networks, a process that has been labelled "socio-spatial stigmatization".[12]

27. Widespread and severe discrimination and stigmatization on the ground of homelessness has rarely been addressed effectively by national human rights institutions or subjected to effective judicial or administrative remedies, and only rarely recognized in domestic legislation as a prohibited form of discrimination.

IV. Interconnected causes of homelessness

28. Homelessness is caused by the interplay between individual circumstances and broader systemic factors. A human rights response to homelessness addresses both. It understands that homelessness may be linked to individual dynamics such as psychosocial disabilities, unexpected job loss, addictions or complex choices to become street–connected, and that a major cause of homelessness is the failure of governments to respond to unique individual circumstances with compassion and respect for individual dignity. A human rights approach must also, however, address the overarching structural and institutional causes of homelessness — the cumulative effect of domestic policies, programmes and legislation, as well as international financial and development agreements that contribute to and create homelessness. In her consultations, the Special Rapporteur found that inequality and the conditions that breed it are the most consistently identified causes of homelessness.

29. Rapid global urbanization has resulted in an astonishing accumulation of wealth for a few, accompanied by increasing poverty for many. Reliance on private market housing supply to respond to urbanization needs has meant that new housing supply has targeted mostly the rich, creating inflated real estate values, speculation and significant deficits of affordable housing. People who move to cities often have no choice but to live in informal settlements where millions suffer, in varying degrees, from poor sanitation, lack of access to clean water, overcrowding and makeshift structures. Instead of ensuring access for people in need of housing, land regulations, planning and zoning have rendered informal settlements "illegal", favoured commercial development over housing and failed to respect the social function of land as a public good. The legacy of colonialism in some countries has embedded inequality in land and property.

30. The precariousness of informality and the prevalence of development-based evictions continue to be major structural causes of homelessness. Informal neighbourhoods are wiped out and replaced with high-end tourist attractions, shopping malls or entertainment districts. Land contamination and mismanagement compound these effects. Evictions without adequate resettlement, as is common, invariably lead to homelessness.[13]

31. Worldwide, there is evidence of a consistent pattern: governments have abandoned their critical role in ensuring social protection, including affordable housing, have cut or privatized social benefits and have deferred to the private market, allowing private actors and elites with access to power and money to control key areas of decision-making.[14] As a result, real estate and speculative capital have guided land use and urban development.

[12] See *Urban Policies and the Right to the City in India*, United Nations Educational, Scientific and Cultural Organization (New Delhi, 2011), pp. 63-75. Available from http://unesdoc.unesco.org/images/0021/002146/214602e.pdf.

[13] See, for example, the case of the Badia community in Lagos, Nigeria (case NGA 1/2015). An urgent appeal by the Special Rapporteur will be made available at the thirty-first session of the Human Rights Council.

[14] Response to questionnaire from the Danish Institute for Human Rights.

Even where there has been large-scale investment in affordable housing, such as in Sao Paulo, Brazil, the interests of speculative capital have dominated.[15] Labour market deregulation, reduced rates of taxation on wealthier individuals and corporations, displacement by extractive industries, dams and other developments, the privatization of infrastructure and services, predatory lending and many other factors have all emerged from the abandonment of the central role of governments.

32. The proliferation of trade and investment agreements has dramatically altered State accountability, with the interests of large corporate investors prioritized over obligations to protect human rights and ensure the sustainability of local enterprises and communities.

33. Fiscal crises around the world have resulted in significant increases in homelessness and have given rise to a new category of homeless — highly educated individuals who had a good standard of living but who, due to an economic crisis, experienced unemployment and ultimately homelessness. The 2008 crisis, for example, and the accompanying austerity measures, caused a massive rise in homelessness in several European countries.[16] Evidence suggests, however, that widespread homelessness did not occur in the aftermath of the global economic crisis in countries where governments were careful to ensure that reactive measures did not undermine social protection.

34. The causes of homelessness vary among particular groups. Street-connected children come from families with a wide range of experiences, including death, dislocation, disease, isolation, poverty, mental illness, domestic violence, child abuse and drug use. Women are forced into homelessness because of violence, unequal access to land and property, unequal wages and other forms of discrimination. Persons with disabilities are made homeless by lack of work, livelihoods and accessible housing. Young people are often denied access to housing and services in cities if they do not have appropriate government-issued documentation or identity cards. Conflict results in massive displacement and migration, as has been evidenced clearly by the waves of refugees from countries such as Afghanistan, Eritrea, Iraq, Somalia and the Syrian Arab Republic escaping from conflict, widespread violence and insecurity.

35. Rural homelessness has been the result of decreasing food security from household production, climate change, corporatization of agriculture, loss of land through subdivision at inheritance, declining civil security in rural areas, extreme poverty, unregulated resource exploitation and natural disasters. Rural homelessness usually leads people to migrate to urban areas in search of work and housing.

36. Many societal changes without adequate State responses contribute to homelessness. For example, the break-up of traditional family structures is a prevalent cause of homelessness. Men who move to cities for economic reasons often forgo shelter in order to save money to send back to their families in rural areas. In many States, long traditions of extended family support and kinship responsibility at the community level have been eroded. Illness, including the HIV/AIDS pandemic, is both a major cause and effect of homelessness.

37. Natural disasters, such as the 2004 tsunami in South-East Asia and the 2008 earthquake that struck Sichuan Province, China, result in homelessness by destroying housing, infrastructure and livelihoods and setting back housing strategies. The earthquake

[15] Response to the questionnaire from the Public Defender of Sao Paulo, Brazil.

[16] See, for illustration, the response to the questionnaire from the Spanish Ombudsman; Olga Theodorikakou et al, "'Neo-homelessness' and the Greek Crisis" (2013), available from http://feantsaresearch.org/IMG/pdf/ot_et_al_review.pdf; and European Commission, "Homelessness during the crisis", available from http://ec.europa.eu/social/BlobServlet?docId=9847&langId=en.

in Nepal in 2015 left thousands homeless, with 320,000 children sleeping rough in the immediate aftermath.[17] Informal settlements are often located in disaster-risk areas. International responses to natural disasters tend to focus on immediate emergency needs for medical care and shelter, sometimes requiring proof of prior residence or tenure arrangements in order to provide services — which homeless people lack — and neglecting the need for longer-term strategies to address the resulting legacy of homelessness.

38. The common denominator in virtually all structural causes of homelessness is government decision-making inconsistent with human rights — neglecting or failing to respond adequately to the needs of the most disadvantaged in response to crises or economic developments and allowing unregulated market forces to render large numbers of people homeless.[18] Homelessness is created when apparently external structural causes converge with the systemic patterns of social exclusion and discrimination and when governments fail to address new challenges within a human rights framework.

V. Homelessness and marginalized groups

39. Discrimination is both a cause and a consequence of homelessness. Those who face discrimination on the grounds of race, ethnicity, place of origin, socioeconomic status, family status, gender, mental or physical disability, health condition, sexual orientation and/or gender identity and age are more likely to become homeless and, once homeless, experience additional discrimination. The intersections of other grounds of discrimination with homelessness vary in different countries. In some, for example, racial inequality intersects strongly with homelessness. In Brazil, African-Brazilians make up only 7 per cent of the population of wealthy areas and yet make up the majority in informal settlements.[19] In the United States of America, black families are seven times more likely to be homeless than white families.[20]

40. The ongoing legacy of discriminatory customary and statutory laws on divorce, inheritance and matrimonial property — as well as social practices that attribute housing to male heads of households and the resultant poverty — deprive women of security of tenure and render them particularly vulnerable to homelessness.[21] When women are widowed, separated or divorced,[22] need to leave violent households or flee situations of armed conflict or natural disasters, or are evicted from their homes, they face significant risks of becoming homeless.[23] Divorced and widowed women in Bangladesh and Lebanon, for example, are reported to be living in dilapidated shacks in dangerous informal settlements and women fleeing violence in Kyrgyzstan and Papua New Guinea are left with few housing options.[24]

41. The global economic crisis has had a distinct impact on women's homelessness. In Spain, for example, many single mothers were overindebted from home purchases. In many

[17] Save the Children, "320,000 Children Homeless in Nepal" (1 May 2015), available from www.savethechildren.org/site/apps/nlnet/content2.aspx?c=8rKLIXMGIpI4E&b=9241341&ct=14637607.

[18] According to the response to the questionnaire from the Norwegian Refugee Council, humanitarian aid often is allocated to male heads of households, thus further discriminating against women.

[19] *The Economist*, "Race in Brazil" (28 January 2012), available from www.economist.com/node/21543494.

[20] National Coalition for the Homeless, "Who is homeless?" (2009), available from www.nationalhomeless.org/publications/facts/Whois.pdf.

[21] Response to the questionnaire from Human Rights Watch, United States.

[22] Response to the questionnaire from Monarch Housing Association.

[23] Response to the questionnaire from Human Rights Watch, United States.

[24] Ibid.

cases, former partners or husbands who shared mortgages refused to negotiate with banks for debt restructuring, relief or cancellation. When their homes were repossessed, they were left with significant debt, often living in insecure housing — at severe risk of homelessness.[25]

42. Once homeless, women's experiences are acute. They are exposed to high rates of violence, including rape. In its inquiry into the situation of missing and murdered indigenous women in Canada, the Committee on the Elimination of Discrimination against Women recognized the link between Aboriginal women's poverty, homelessness and their disappearances and murder.[26]

43. Homelessness among children and young people has reached critical proportions. Factors that push children into leaving home include parents' unemployment and poverty; family disintegration and parental abuse; parental drug and alcohol addictions; and being orphaned owing to HIV/AIDS, Ebola, armed conflict or natural disaster. Some families, unable to support children because of extreme poverty, abandon or send them to urban areas to work.[27] Children raised in residential institutions often find themselves homeless when they reach the age at which institutional care ceases.[28] Identified "pull" factors include "spatial freedom, financial independence, adventure, city glamour and street-based friendships or gangs".[29]

44. Most families of street-connected children have experienced persistent discrimination, poverty and social exclusion. Street-connected children and young people face particular challenges, including the threat of being removed from their parents for neglect and put into orphanages or foster systems.[30] Lesbian, gay, bisexual, transgender and intersex young people are overrepresented in homeless populations in some countries and face additional stigmatization and social exclusion from their families and communities, and are more vulnerable to violence and more likely to be turned away from shelters.

45. Families with children are at increasing risk of homelessness as parents are deprived of the income necessary for housing and supply of affordable housing is depleted. In Ireland, families with children have become the fastest growing group within the homeless population.[31] Those families risk losing their children to public authorities for failing to provide adequate housing.

46. People on the move, especially international migrants, refugees and internally displaced persons, are also at significant risk of homelessness. Those groups suffer multiple discrimination and numerous obstacles in securing temporary or permanent housing. In many countries, such as Denmark[32] and the Netherlands, public shelters do not accommodate migrants or only accommodate them for limited periods of time.[33] Migrants are consequently forced to settle in slums, shacks and derelict or unfinished buildings;

[25] Ibid.
[26] See CEDAW/C/OP.8/CAN/1, paras. 112-118.**Error! Hyperlink reference not valid.**
[27] Response to the questionnaire from Safe Child Africa, United Kingdom.
[28] Response to the questionnaire from Ombudsman of the Republic of Moldova.
[29] See A/HRC/19/35, para. 19.
[30] Responses to the questionnaire from the organizations El Caracol AC of Mexico and Habitat for Humanity of Hungary.
[31] Response to the questionnaire from the organization FOCUS, Ireland.
[32] Response to the questionnaire from the Danish Institute for Human Rights.
[33] See case No. NLD 1/2014, in A/HRC/29/50.

migrant domestic workers have reported being forced to sleep in hallways, unprotected living spaces or closets of the homes in which they work.[34]

47. Persons with disabilities are particularly vulnerable to homelessness. In all parts of the world, psychosocial disability can make it impossible for people to secure employment and earn a living to pay for housing.[35] At the same time, many States do not ensure access to the community-based support that people with disabilities need. In States where people with perceived psychosocial disabilities are institutionalized, the support or housing available upon their release are often inadequate.[36] Where deinstitutionalization has been implemented, States have failed to provide the necessary social support for housing in the community.

VI. The human rights framework for addressing homelessness and access to justice

A. State obligations

48. Homelessness lies at the extreme end of the spectrum of violations of the right to adequate housing. As such, States should treat homelessness with the highest level of urgency. Twenty-five years ago, the Committee on Economic, Social and Cultural Rights stated that a State party to the International Covenant on Economic, Social and Cultural Rights in which any significant number of individuals are deprived of basic shelter and housing is, prima facie, failing to discharge its obligations under the Covenant.[37] States are required to demonstrate that every effort has been made to use all resources that are at their disposition in an effort to satisfy, as a matter of priority, those minimum obligations.[38]

49. State obligations in relation to homelessness have been clearly articulated and can be summarized as follows:

(a) States have an immediate obligation to adopt and implement strategies to eliminate homelessness. These strategies must contain clear goals and timelines and must set out the responsibilities of all levels of government and of other actors for the implementation of specific, time-bound measures, in consultation with and with participation by homeless people;[39]

(b) States must combat discrimination, stigma and negative stereotyping of homeless people as a matter of urgency and provide legal protection from discrimination because of social and economic situation, which includes homelessness;[40]

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[34] Human Rights Watch, "Domestic plight: how Jordanian laws, officials, employers and recruiters fail abused migrant domestic workers" (27 September 2011), available from www.hrw.org/report/2011/09/27/domestic-plight/how-jordanian-laws-officials-employers-and-recruiters-fail-abused.

[35] Response to questionnaire from the Ombudsman of Albania.

[36] Response to the questionnaire from Human Rights Watch, United States.

[37] See Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties' obligations, para. 10.

[38] Ibid.

[39] See Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing, para 12; concluding observations of the Committee on Economic, Social and Cultural Rights on Canada (E/C.12/CAN/CO/4 and E/C.12/CAN/CO/5).

[40] See Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 35.

(c) Evictions should never render individuals homeless. The prohibition of evictions leading to homelessness is immediate, absolute and is not subject to available resources;[41]

(d) Eviction without full consultation with those affected is a clear violation of international human rights. The obligation to explore every alternative to eviction, never to evict into homelessness and to ensure that residents are adequately consulted about resettlement plans should be applied under domestic law to both private and public land or property owners.[42] States must take all appropriate measures, to the maximum of available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available;

(e) States have an immediate obligation to ensure that every decision or policy is consistent with the goal of the elimination of homelessness. Any decision that results in homelessness must be regarded as unacceptable and contrary to human rights. Policy and planning must apply the maximum of available resources, including unused or vacant lands and housing units, with a view to ensuring access to land and housing for marginalized groups;

(f) States have a firm legal obligation to regulate and engage with non-State actors so as to ensure that all of their actions and policies are in accordance with the right to adequate housing and the prevention and amelioration of homelessness. Regulation of private actors should include requirements on developers and investors to address homelessness and work in partnership to provide affordable housing in all developments;[43]

(g) Access to effective remedies to homelessness must be ensured, including enforcement of obligations linked to the progressive realization of the right to housing and the elimination of homelessness.[44]

B. Access to justice

50. It is of critical importance that courts and international human rights bodies engage more actively with the need for access to justice and protection of human rights of those who are homeless. Access to effective remedies was the subject of the first case under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights regarding foreclosure procedures in Spain, where an estimated 400,000 mortgage foreclosures took place between 2008 and 2012.[45] The Committee clarified that ensuring effective judicial remedies for the right to adequate housing is an immediate obligation of States, since "there cannot be a right without a remedy to protect it", and held that the State had violated the obligation to provide effective remedies in the context of foreclosure procedures.

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[41] See Committee on Economic, Social and Cultural Rights, general comment No. 7. See also S. Wilson, "Breaking the tie: evictions from private land, homelessness and a new normality", *South African Law Journal*, volume 126, No. 2 (2009).

[42] See, for example, *City of Johannesburg Metropolitan Municipality v. Blue Moonlight Properties 39 (Pty) Ltd and Another* (CCT 37/11) [2011] ZACC 33 (1 December 2011).

[43] See Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States Parties' obligations.

[44] See concluding observations of the Committee on Economic, Social and Cultural Rights on Canada (E/C.12/CAN/CO/4 and E/C.12/CAN/CO/5).

[45] See communication No. 2/2014, *I.D.G. v. Spain*, Views adopted by the Committee on Economic, Social and Cultural Rights on 17 June 2015. In its response to the questionnaire, the organization Arrels Fundació estimates that, for every 100,000 persons, 71 are homeless in Spain.

51. Other treaty monitoring bodies and human rights mechanisms have articulated legal standards with respect to remedies in the context of homelessness. In *A.T. v. Hungary*, the Committee on the Elimination of Discrimination against Women addressed the link between violence against women and homelessness, recommending as part of an effective remedy to "ensure that A. T. is given a safe home in which to live with her children".[46]

52. In its 2014 concluding observations on the United States, the Human Rights Committee noted that criminalization of homeless people raises concerns of discrimination and cruel, inhuman or degrading treatment.[47] It recommended that the federal Government engage with State and local authorities to abolish discriminatory laws and policies criminalizing homelessness; intensify efforts to find solutions for people who are homeless; and offer incentives for decriminalization to local authorities.. The federal Government recently announced that it is implementing the recommendations, including by linking access to federal housing grants to the repeal of local laws that criminalize homelessness.

53. The Human Rights Committee has also acknowledged that widespread homelessness leads to serious health consequences and death and has stated that positive measures are required under article 6 of the International Covenant on Civil and Political Rights on the right to life to address homelessness.[48] The Committee has considered homelessness in the context of forced evictions, finding that failure to consider that an eviction might result in homelessness constitutes an arbitrary interference with the home.[49]

54. Regional human rights systems have also, to various extents, offered avenues for effective remedies for those who are homeless. The revised European Social Charter, in its article 31, includes the obligation "to prevent and reduce homelessness with a view to its gradual elimination". In *European Federation of National Organisations working with the Homeless (FEANTSA) v. France*,[50] the European Social Rights Committee held that "the measures currently in place to reduce the number of homeless are insufficient, both in quantitative and qualitative terms", and constituted a violation of article 31.2 of the Charter.

55. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have developed important jurisprudence recognizing the obligation of the State to protect the special relationship between indigenous peoples and land in addressing violations in which, for example, members of indigenous communities have been "violently forced from their homes and traditional lands into a situation of ongoing displacement".[51] In addition, in considering the plight of street-connected children, the Court has explained that the right to life requires States to take positive measures to ensure access to the conditions needed to lead a dignified life, recognizing that the right to life belongs "at the same time to the domain of civil and political rights as well as economic, social and cultural rights".[52]

56. The African Commission on Human and Peoples' Rights has affirmed that the right to adequate housing is implied in the African Charter by its articles 14 on the right to property, 16 on the right to highest attainable standard of mental and physical health and

[46] See communication No. 2/2003, *A.T. v. Hungary*, Views adopted by the Committee on the Elimination of Discrimination against Women on 26 January 2005, para. 9.

[47] See CCPR/C/USA/CO/4.

[48] See, for example, CCPR/C/79/Add.105, para. 12.

[49] See communication No. 2073/2011, *Liliana Assenova Naidenova et al. v. Bulgaria*, Views adopted on 30 October 2012, para. 14.7.

[50] Complaint 39/2006 (2007).

[51] See Inter-American Court of Human Rights, *Moiwana Community v. Suriname*, judgement of 15 June 2015, para. 186. Available from www.corteidh.or.cr/docs/casos/articulos/seriec_124_ing.pdf

[52] See Inter-American Court of Human Rights, *Villagran-Morales et al. v. Guatemala*, judgement of 19 November 1999. Available from www.corteidh.or.cr/docs/casos/articulos/seriec_63_ing.pdf.

18 (1) on protection accorded to the family.[53] It considers that forced evictions leading to homelessness are contrary to the Charter, and has urged all States to report on measures taken to address homelessness and to appoint an independent national body to monitor State compliance with the right to adequate housing.[54]

57. Important advances have been made in domestic jurisdictions recognizing that homelessness violates a range of human rights. The Grundgesetz (Basic Law) of Germany has been interpreted to ensure that adequate and humane housing is a component of a minimum standard of living in line with human dignity.[55]

58. The Supreme Court of India has affirmed that the right to life "includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life, such as adequate nutrition, clothing and shelter".[56] The High Court of New Delhi initiated a case on its own motion to consider whether the demolition of a temporary homeless shelter in preparation for the 2010 Commonwealth Games had violated the right to life. The loss of the shelter resulted in the death of one former resident. The Court ordered the Delhi government to rebuild the shelter and to stop evicting homeless persons in winter.[57]

59. Claims brought by homeless people before domestic courts have led to significant advances in many jurisdictions. In Argentina, homeless people have the right to assistance, but it is claimed on a case-by-case basis before the court. For example, in *Q. C. S. Y. v. Government of the Autonomous City of Buenos Aires*, the National Supreme Court ordered the Buenos Aires government to provide adequate shelter for a homeless mother and her disabled son, noting that there should be a minimum guarantee of access to housing for those facing situations of extreme vulnerability.

60. The Colombia Constitutional Court ordered the Municipality of Dosquebradas and the Department of Risaralda to design a pilot programme for homeless people in line with constitutional requirements and relevant experiences of other municipalities. The Court also called on all relevant authorities to immediately prepare a national public policy for homeless people in line with requirements of the national law about the rights of homeless people.

61. The Constitutional Court of South Africa ordered the Government to devise and implement a comprehensive and coordinated programme to realize the right to adequate housing that prioritizes those in most urgent need.[58] In the context of forced evictions, the Court has implemented a number of protections for those threatened with homelessness, including imposing on all levels of government a duty to meaningfully engage with

[53] See resolution 231 of the African Commission on Human and People's Rights, on the right to adequate housing and protection from forced evictions, available from www.achpr.org/sessions/52nd/resolutions/231.

[54] See African Commission on Human and People's Rights, Principles and Guidelines for the Implementation of Economic, Social and Cultural Rights, available from www.achpr.org/files/instruments/economic-social-cultural/achpr_instr_guide_draft_esc_rights_eng.pdf.

[55] Response to the questionnaire from Germany.

[56] See Supreme Court of India, *Francis Coralie Mullin v. The Administrator*, judgement dated 13 January 1981, para. 6.

[57] Urban Rights Forum: With the Homeless, *The Trajectory of a Struggle* (2010), available from http://hlrn.org.in/documents/SAM-BKS_The_Trajectory_of_a_Struggle.pdf.

[58] See *Government of the Republic of South Africa et al v. Grootboom et al,* case No. CCT11/00 of October 2000.

communities involved in resettlement and recognizing the obligations of private landlords to ensure that no one is evicted into homelessness.[59]

62. In many countries, social movements are incorporating legal strategies into broader political strategies to challenge homelessness and affirm the right to adequate housing. Abahlali baseMjondolo, the South African shack-dwellers' movement, and other organizations in South Africa have developed approaches to social mobilization linked to legal strategies to claim rights, without losing sight of the fundamentally political nature of the struggle for adequate housing. [60]

63. In Argentina, the non-governmental organization Centro de Estudios Legales y Sociales has integrated test-case litigation to advance the right to adequate housing for homeless people with political initiatives, in order to change the way land, property and housing is distributed and ensure broader access to justice. The newly adopted Law for the Province of Buenos Aires on Access to Dignified Habitat affirms a number of guiding principles, including the right to the city, the social function of property, meaningful democratic participation and equitable sharing of benefits of urbanization.

64. The Special Rapporteur is encouraged by the proliferation of locally based initiatives to create more robust human rights frameworks, programmes, policies and laws, whether they take the form of new constitutional rights, charters on the right to the city/human rights city, local ordinances or enhanced mandates for human rights institutions and ombudspersons. Much more is needed, however. The implementation of a human rights framework for governance at all levels is the most critical component of any strategy for the elimination of homelessness.

VII. Metrics of homelessness and human rights accountability

65. Measuring the extent of homelessness among different groups helps to assess priorities, ensure effective design and implementation of policy responses and determine whether States are meeting their human rights obligations. According to the Committee on Economic, Social and Cultural Rights, States have an obligation to measure the extent of homelessness, using data disaggregated by gender, race and other relevant characteristics, and to establish effective means of monitoring progress.[61]

66. Beyond national measures of homelessness, there is also a need for global indicators. Addressing homelessness should be a central part of global development goals. While the Sustainable Development Goals omit any explicit reference to homelessness, target 11.1 of the Goals commits States to ensure access for all to adequate, safe and affordable housing and basic services and upgrading slums by 2030. Measuring and committing to reduce and eliminate homelessness with clear benchmarks and timelines will be critical to the successful realization of this target.

67. There are, however, serious challenges in measuring homelessness, both within States and globally, that need to be addressed. It has proven difficult to secure accurate and comparable data from all States in order to develop reliable global data. The Statistics Division of the Department of Economic and Social Affairs has noted that data on the

[59] See *City of Johannesburg Metropolitan Municipality v. Blue Moonlight Properties 39 (Pty) Ltd and Another*, case No. CCT 37/11, paras. 46, 54 and 57.

[60] See Jackie Dugard et al., "Rights-compromised or rights-savvy? The use of rights-based strategies to advance socio-economic struggles by Abahlali baseMjondolo, the South African shack-dwellers' movement", *Social and Economic Rights in Theory and Practice* (2014).

[61] See the Committee's general comment No. 4 on the right to adequate housing.

number of homeless households is scarce in all regions.[62] Initiatives to count the number of homeless people have often emerged organically from local communities and address variable local conditions and challenges in different ways. Local governments, service providers, ombudspersons and human rights institutions can play important roles in ensuring that data are accurate and inclusive. This, however, makes it challenging to develop common measures across cities and internationally.

68. Some States have also been reluctant to collect and provide reliable data, perceiving it to be contrary to their interests, particularly if they are seeking to attract development or tourism or to host mega events. Data collected by governments need to be supplemented by information that may only be available to non-governmental organizations and community-based organizations working directly with homeless populations.

69. The Institute of Global Homelessness has brought together researchers and civil society organizations working on homelessness from around the world to take up these challenges, urging a renewed commitment to achieving the most useful global measures through the adoption of a standard approach based on collaboration with governments.[63] The Special Rapporteur is hopeful that collaborative initiatives such as this will provide a foundation for significant advances in understanding global patterns and challenges in relation to homelessness and enhanced accountability to the obligation to eliminate it.

70. While improved statistical data will be important to guide public policy and to hold governments accountable, adjustments will need to be made for the inevitable limitations, omissions and possible distortions in available data. Challenges associated with measuring homelessness should not be allowed to encourage policies that respond only to the visible and more easily measured forms of homelessness. Homelessness among single men living on the streets or using emergency shelters is more easily measured. It is more difficult to measure homelessness among women, children and young people living temporarily with family or friends, or among those most marginalized and precariously housed within informal settlements, who may be altogether left out of census or data collection. It is equally difficult to identify and measure homelessness among indigenous households or communities displaced from ancestral lands. Members of ethnic minorities may not wish to be identified by authorities. In Kenya, for instance, many of the people who become homeless because of ethnic violence did not want to be identified for fear of reprisal.[64] Policy responses and assessments of progress in eliminating homelessness must make allowances for less visible dimensions of homelessness that may not have been measured.

71. It is also important to supplement data on services used by homeless people with estimates of those who are homeless but do not access services. When homelessness is assessed by counting the number of people sleeping in shelters or using services, improvements in those services may appear to increase the number of homeless, when in fact lower numbers simply reflect some improvements in meeting emergency needs. On the other hand, some cities have denied services as a punitive means of attempting to reduce the numbers of homeless in their jurisdiction. In those cases, lower numbers of people in homeless shelters is evidence of a serious violation of human rights. It is always important, therefore, to look behind numbers. Policies and accountability measures based exclusively on raw numbers are inadequate or incomplete from a human rights standpoint. Raw

[62] See http://unstats.un.org/unsd/demographic/products/dyb/techreport/hhchar.pdf, para. 68.

[63] See Institute of Global Homelessness, “A global framework for understanding and measuring homelessness” (2015), available from http://works.bepress.com/dennis_culhane/188.

[64] See V. Metcalfe et al., *Sanctuary in the city? Urban displacement and vulnerability in Nairobi* (London, 2011), available from www.rescue.org/sites/default/files/resource-file/Sanctuary%20in%20the%20City.pdf.

numbers may perpetuate exclusion and invisibility and fail to identify changes in the nature or experience of homelessness.

72. For this reason, the Special Rapporteur underlines the critical importance of qualitative evidence, including, for example, oral testimony, photographs or videos. A human rights-based measurement of homelessness should focus on prevention and on addressing underlying causes, and qualitative information capturing actual experiences often reveals more about how to prevent or solve it than numbers alone.[65] It is also vital to understand the trajectories into and out of homelessness, with longitudinal analysis of how people become homeless, how long they are homeless and how they escape from it to supplement point-in-time counts.

73. A human rights approach to effective measurement must involve genuine consultation with stakeholders. For some groups, statistical invisibility or being excluded from a census is experienced as marginalization and likely to lead to neglected needs in programmes and legislation. For other groups, however, such as street-connected young people or irregular migrants, being identified by government authorities may be threatening. Homeless people are best placed to ensure that methods of measurement are accurate and inclusive and at the same time sensitive to their circumstances.

VIII. Strategic policy responses to homelessness

74. The Special Rapporteur's consultations suggested that, while effective policy responses depend on particular circumstances, effective strategies must always be multi-pronged, engage a range of policies and programmes and address simultaneously social exclusion and housing deprivation. Most importantly, strategies must be led by stakeholders, combining social mobilization with legislative and policy reform.

75. The Committee on Economic, Social and Cultural Rights has focused on the need for comprehensive housing strategies to address homelessness, framed around the right to housing and ensuring monitoring and accountability with goals, timelines and complaints procedures. Similarly, in the case of street children, the United Nations High Commissioner for Human Rights advocates a holistic approach that recognizes rights as interdependent and interconnected, through a coordinated approach across government departments and with the involvement of family and community.[66]

76. Housing First has recently emerged as a dominant model for responses to homelessness in countries such as Belgium, Denmark, Hungary, the Netherlands, Portugal, and the United Kingdom of Great Britain and Northern Ireland. The model is straightforward, providing chronically homeless people, for example, those with psychosocial disabilities, with housing and support as needed.[67] There are obvious benefits of keeping people in their communities as opposed to providing treatment services without housing, and this model offers easily measured outcomes. At the same time, concerns have been raised that Housing First may not serve as a generalized model as it tends to focus on

[65] Institute of Global Homelessness, "A global framework for understanding and measuring homelessness" (2015), available from http://works.bepress.com/dennis_culhane/188/.

[66] See A/HRC/19/35, para. 30.

[67] Lars Benjaminsen, "Policy review update: results from the Housing First-based Danish homelessness strategy", *European Journal of Homelessness*, vol. 7, No. 2 (December 2013), available from www.feantsaresearch.org/IMG/pdf/lb_review.pdf.

visible forms of homelessness and does not address systemic causes of homelessness or ensure rehabilitation and production of affordable housing.[68]

77. National homelessness strategies have relied on legislation to clarify government obligations. Scotland enacted the Homelessness etc. (Scotland) Act in 2003, which includes the commitment to make housing a legal right by 2012. In keeping with this, an order was passed by the Scottish Parliament in 2012 that ensures that all individuals assessed to be "unintentionally homeless" have a right to settled accommodation.[69]

78. In many countries, national human rights institutions are able to investigate allegations of human rights violations related to homelessness and make recommendations to relevant authorities to design public policy and to remedy those violations. For the first time, the Human Rights Commission of Mexico City held a public hearing with groups of homeless people, then issued a report that focused on their human rights situation, including discrimination, criminalization and other human rights issues.[70]

79. The Norwegian Refugee Council has canvassed a number of housing alternatives to prevent and address homelessness for internally displaced persons. Options include incremental housing — providing land or a basic house for the recipient to upgrade over time; housing purchase certificates; social housing; the transfer of public buildings to private ownership; rental support; incremental tenure — starting from administrative recognition then legal recognition, developmental recognition to establishment of towns or districts; neighbourhood upgrades; and support for municipalities.[71]

80. Homeless people have begun to reassert their identity through human rights claims through both social movements and legal action. In South Africa, the shack-dwellers' movement, Abahlali, has emerged as a vibrant social movement, claiming the right to housing through both legal and political means. In Uganda, the Uganda Network on Law, Ethics and HIV/AIDS provides free legal representation for homeless widows dispossessed of their homes and properties as a result of discriminatory property and inheritance laws.[72] In the Simon Community in northern Belfast, homeless people, with the assistance of the organization Participation and the Practice of Rights, launched the Homelessness Action Charter to promote the human rights of homeless people.[73] In Canada, homeless people and supportive organizations challenged as unconstitutional national and subnational governments' failure to effectively address homelessness,[74] while simultaneously lobbying for legislation[75] to create a national homelessness and housing strategy. In the United States, homeless peoples' organizations have systematically and successfully challenged laws and policies that criminalize homelessness and have lobbied for federal, State and municipal housing strategies. In El Salvador, local community members formed a national

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[68] Response to questionnaire from the Danish Institute for Human Rights.

[69] See www.gov.scot/News/Releases/2012/11/tackling-homelessness21112012.

[70] Comisión de Derechos Humanos del Distrito Federal, *Informe especial: Situación de los derechos humanos de las poblaciones callejeras en el Distrito Federal 2012-2013* (Mexico City, 2014), available in Spanish from http://cdhdfbeta.cdhdf.org.mx/wp-content/uploads/2014/09/poblaciones-callejeras-integrado-imprenta.pdf. Executive summary in English.

[71] See Norwegian Refugee Council et al., "Home sweet home: housing practices and tools that support durable solutions for urban IDPs" (Geneva, Internal Displacement Monitoring Centre, March 2015), pp. 25-51.

[72] See www.uganet.org/site/women-property-rights.

[73] Response to the questionnaire from the organization Participation and the Practice of Rights, United Kingdom.

[74] See *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852.

[75] See Bill C-400, an act to ensure secure, adequate, accessible and affordable housing, available from https://openparliament.ca/bills/41-1/C-400/.

commission for residents to advocate for housing rights alongside other civil society organizations.[76]

81. There are diverse models for ensuring participation of stakeholders in strategies to address homelessness. Brazil, for example, has created a participatory model for social policy that relies on policy councils of stakeholders. In Munich, Germany, special units for the prevention of homelessness have provided support in preventing evictions or repossessions.[77] In Europe, FEANTSA has organized and advanced rights claims on behalf of homeless people in a wide range of legal and political forums.

82. There is no universal policy or legislative solution to homelessness. It must be addressed in multiple ways, engaging with the structural causes of homelessness in particular circumstances. Any chosen policy must address issues faced by different groups and support individuals in their own personal struggles. The FEANTSA survey of strategies finds that effective strategies must be evidence-based, comprehensive, multi-dimensional, rights-based, participatory, based on statutes or legislation, sustainable, needs-based and bottom-up.

83. All levels of government should design and implement policies, laws and strategies to prevent and remedy homelessness. Failure to do so reflects that homelessness has neither been recognized nor addressed as a violation of human rights. What is lacking at all levels is a shared commitment to ensuring the enjoyment of the right to adequate housing — and related rights such as life and health. As the Consortium for Street Children has stated, "the greatest challenge for all street-connected children is being identified and treated as a rights holder".[78]

84. Since ensuring the enjoyment of human rights is a firm legal responsibility of all levels of government, policymakers can be compelled to incorporate human rights into their laws, policies and programmes, such as: consulting with homeless people throughout the policy development and implementation process; incorporating measureable goals and timelines into strategies; including monitoring and review mechanisms to ensure successful outcomes; and providing homeless people with a mechanism through which to claim their rights and with access to remedies. These are essential requirements for there to be meaningful inclusion of homeless people in the human family, restoring to them dignity, respect and protection under the rule of law.

IX. Conclusions and recommendations

85. **Widespread homelessness is evidence of the failure of States to protect and ensure the human rights of the most vulnerable populations. It is occurring in all countries, regardless of the phase of development of their economic or governance systems, and it has been occurring with impunity. The nature and scope of homelessness globally suggests society's lack of compassion for the full scale of deprivation and loss of dignity associated with being homeless. It is a phenomenon requiring urgent and immediate action by the international community and by all States.**

86. **Homelessness is one of the least examined consequences of unabated inequality, unfair distribution of land and property and poverty occurring on a global scale. It is a result of State acquiescence to real estate speculation and unregulated markets — a**

[76] Response to the questionnaire from the organization FUNDASAL, El Salvador.
[77] See European Commission, "Homelessness during the crisis", Research note 8/2011 (2011), p. 16.
[78] Response to the questionnaire from the organization Consortium for Street Children.

result of treating housing as a commodity rather than as a human right. It is rooted in a global privileging of wealth and power, and scapegoating and scorning of those who do not have a home.

87. **Homelessness disproportionately affects particular groups, including women, young people, children, indigenous peoples, people with disabilities, migrants and refugees, the working poor, and lesbian, gay, bisexual and transgender people, each in different ways, but with common structural causes. These include: (a) the retreat by all levels of government from social protection and social housing and the privatization of services, infrastructure, housing and public space; (b) the abandonment of the social function of land and housing; (c) the failure to address growing inequalities in income, wealth and access to land and property; (d) the adoption of fiscal and development policies that support deregulation and real estate speculation and prevent the development of affordable housing options; and (e), in the face of urbanization, the marginalization and mistreatment of those who are most precariously housed in informal settlements, living in temporary overcrowded structures, without access to water, sanitation or other basic services and living under the constant threat of eviction.**

88. **Instead of being treated as a group of rights bearers whose rights have been systematically violated, homeless people have become a stigmatized group subject to criminalization, discrimination and social exclusion. To be homeless is to experience acts of violence, a shortened life span and ill-health and to be criminalized for survival strategies for eating or sleeping in public space. Homeless people are rendered voiceless and invisible, banished to the peripheries of cities and towns, out of sight. Their humanity and dignity are rarely considered in legislation, public policies and strategies.**

89. **Failures to measure and document homelessness effectively, including in its less visible forms and in its more qualitative dimensions, have contributed to the lack of State-led or global responses. The absence of any reference to homelessness in development goals attests to the continued marginalization of homeless people.**

90. **From a human rights perspective, State obligations in relation to homelessness are well established and have been clearly articulated. These include the following immediate obligations of States: (a) to adopt and implement strategies to eliminate homelessness, with clear goals, targets and timelines; (b) to eliminate the practice of forced eviction, especially where it will lead to homelessness; (c) to combat and prohibit in law discrimination, stigma and negative stereotyping of homeless people; (d) to ensure access to legal remedies for violations of rights, including for the failure of States to take positive measures to address homelessness; and (e) to regulate third-party actors so that their actions are consistent with the elimination of homelessness and do not discriminate either directly or indirectly against homeless people.**

91. **In line with the present conclusions, the Special Rapporteur offers the following recommendations to States:**

(a) All States must commit to eliminating homelessness by 2030 or earlier if possible, in a manner that upholds international human rights and in keeping with target 11.1 of the Sustainable Development Goals;

(b) All States must develop and implement, on an immediate basis, coordinated rights-based strategies to prevent and eliminate homelessness. Those strategies must include measureable goals and timelines; be developed and implemented in consultation and collaboratively with stakeholders; make explicit reference to international human rights law, including the right to adequate housing and non-discrimination; include monitoring and review mechanisms to ensure

progress; and incorporate claiming mechanisms for alleged violations of human rights, including failures of States to adequately implement required strategies;

(c) Homelessness strategies must be cross-sectoral, clearly allocate and coordinate responsibilities of all levels of government and address the structural causes of homelessness, including those that are particular to the needs of marginalized or vulnerable groups;

(d) More reliable measures of homelessness, inclusive of less visible forms of homelessness and its qualitative dimensions, must be developed. Data collection methodologies should combine longitudinal analysis of homelessness with point-in-time counts. Beyond adopting definitions and methodologies suited to local circumstances, States and subnational governments should apply internationally agreed upon definitions, methodologies and indicators to permit a more objective assessment of progress made, including with respect to target 11.1 of the Sustainable Development Goals;

(e) Any and all laws or measures that criminalize, impose fines on or restrict homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces, must be immediately repealed;

(f) Homeless people must be recognized as a protected group in all relevant domestic anti-discrimination and hate-crime laws, including where relevant in national Constitutions, national and subnational human rights legislation and in city charters;

(g) A careful review of existing legislation and policies must be undertaken to ensure that those that include discriminatory intent or effect against people who are homeless are repealed or amended, in compliance with international human rights law. Funding or transfer payments for local programmes should be made conditional on the elimination of all laws that criminalize or discriminate against homeless persons;

(h) Homeless people must be ensured access to hearings and effective remedies for violations of their rights, including as a result of the failure of States to take reasonable measures within the maximum available resources to eliminate homelessness. Class or group actions should be facilitated where possible and effective remedies should be available in multiple forums, including courts, administrative tribunals and national human rights institutions;

(i) National and local governments must re-engage and recommit to their role of providing social protection and ensuring access to affordable housing for marginalized and vulnerable groups, reaffirming that housing is a human right rather than a commodity. Subnational governments must have access to adequate resources to meet their allocated responsibilities;

(j) Any evictions that may result in homelessness, including those intended to render homeless people less visible, such as to promote tourism or facilitate mega events, must be recognized under domestic law as gross violations of human rights and be immediately stopped. Forced evictions must not occur without prior meaningful consultation with affected groups, an exploration of all alternatives, including in situ upgrading, and the implementation of agreed-upon resettlement options for those affected;

(k) Special attention must be directed to homelessness among indigenous peoples caused by displacement from land and resources and the destruction of cultural identity. Indigenous peoples should be provided with resources to implement

programmes to address homelessness in both urban and rural contexts, consistent with the Declaration on the Rights of Indigenous Peoples.

92. **The Special Rapporteur offers the following recommendations to other actors**

(a) The media, including journalists, editorial boards, producers and owners, must ensure that homeless people are never depicted in a discriminatory or hateful manner. Oversight and regulation in this regard is needed;

(b) Humanitarian assistance must not be conditional on place of residence prior to conflict or natural disaster. Property titles or other documents that are often not available to people who are homeless should not be a barrier to receiving emergency and longer-term humanitarian assistance;

(c) Lawyers and advocates must work closely with homeless people and their representatives to ensure that homelessness is addressed as a human rights violation through any available avenues. The judiciary must develop its capacity and commitment to adjudicating these claims, including where the claims seek a remedy requiring positive measures. In this context, States must refrain from adopting positions in litigation that are contrary to international human rights law.

THIS IS **EXHIBIT "E"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

Challenging Discriminatory and Punitive Responses to Homelessness in Canada

Marie-Eve Sylvestre* and Céline Bellot**

State and local governments have long turned to legal norms such as criminal law, anti-panhandling statutes, and land use planning and development by-laws and have relied on policing strategies to control the poor and homeless in Western countries.[1] Since the 1990s, Canadian cities have adopted a new series of local policies that emphasize the enforcement of provincial statutes and by-laws against urban disorder.[2] These strategies have generated much debate and controversy. Scholars, community groups, and lawyers have challenged the legitimacy and the discriminatory aspects of these policies, as they fall disproportionately on homeless people and racial minorities.

In both the historic and modern eras, punitive responses to homelessness were largely based on negative stereotyping, prejudices, and discrimination. Those who are homeless are wrongly portrayed as morally inferior, lazy, and dishonest individuals (the "moral depravation" discourse), blamed for their own misfortunes (the "choice" discourse), and are treated as criminals or potential serious offenders needing to be repressed and confined,

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1 Michel Foucault, *Discipline and Punish – The Birth of the Prison*, translated by Alan Sheridan (New York: Vintage Books, 1977); Katherine Beckett & Steve Herbert, *Banished: the New Social Control in Urban America*, (New York: Oxford University Press, 2010); Mary Ann Poutanen, "Images du danger dans les archives judiciaires. Comprendre la violence et le vagabondage dans un centre urbain du début du XIXe siècle, Montréal (1810-1842)" (2002) 55 Revue d'histoire de l'Amérique française 381.

2 Marie-Eve Sylvestre et al, "Le droit est aussi une question de visibilité : occupation des espaces publics et parcours judiciaires des personnes itinérantes à Montréal et à Ottawa" (2011) 26:3 RCDS 531 [Sylvestre et al, "Occupation des espaces publics"]; Catherine Chesnay, Céline Bellot & Marie-Eve Sylvestre, "Taming the homeless one ticket at the time : the penalization of homelessness in Ontario and British Columbia" (2013) 55:2 Canadian Journal of Criminology and Criminal Justice 161 [Chesnay, Bellot & Sylvestre, "Taming the homeless"]; Damian Collins & Nicholas Blomley, "Private Needs and Public Space: Politics, Poverty and Anti-Panhandling By-Laws in Canadian Cities" in Law Commission of Canada, ed, *New Perspectives on the Public-Private Divide,* (UBC Press, 2003); Joe Hermer & Janet Mosher, *Disorderly People – Law and the Politics of Exclusion in Ontario*, (Halifax: Fernwood Publishing, 2002) [Hermer & Mosher, *Disorderly People*].

rather than as equal citizens worthy of respect and consideration (the "criminality" discourse).

These three sets of beliefs have little to do with homeless individuals' actual circumstances, or reality. However, their prevalence has had important legal implications for social rights litigation, preventing a necessary debate about the complexity and the multi-factorial dimension of homelessness – a phenomenon rooted in various social, economic, and political causes. In this chapter, we suggest that a broader discussion of the origins of the moral depravation, choice and criminality discourses, and the consequences of these three discourses for homeless people and communities, strongly support the recognition of homelessness as an analogous ground of discrimination under section 15 of the *Canadian Charter of Rights and Freedoms,*[3] as well as claims to social and economic rights, such as access to housing, education, employment, health care, and social services under both section 7 and section 15 of the *Charter.*[4]

Since the Supreme Court of Canada's decision in *R v Kapp*[5]*,* a person claiming that her rights have been violated pursuant to section 15 of the *Charter* has to demonstrate that (1) a law creates a distinction, in purpose or effect, based on an enumerated or analogous ground; and (2) the law is discriminatory within the meaning of the equality guarantee, *i.e.,* that it creates a disadvantage by perpetuating prejudice or stereotyping in a way that does not correspond to the group's actual circumstances or reality.[6] Moreover, the Court has held that an analogous ground of discrimination is often the "basis for stereotypical decisions made not on the basis of merit, but on the basis of a personal characteristic that is immutable or changeable only at unacceptable cost to personal identity."[7] The specific question of whether homelessness is an analogous ground of discrimination under section 15, like

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3 Part I of the *Constitution Act, 1982,* being Schedule B of the *Canada Act 1982* (UK), 1982, c 11 [*Charter*].

4 This chapter will focus on section 15. See Margot Young, "Context, Choice and Rights: PHS Community Services Society v Canada (Attorney General)" (2011) 44:1 UBC L Rev 221; Marie-Eve Sylvestre, "The redistributive potential of Section 7 of the Charter: incorporating socio-economic context in criminal law cases and in the adjudication of rights" (2012) 42:3 Ottawa L Rev 389 (for more specific arguments on section 7 and the idea of choice).

5 2008 SCC 41.

6 *Ibid*, at para 17.

7 *Corbiere v Canada (Minister of Indian & Northern Affairs)*, [1999] 2 SCR 203 at para 13 [*Corbiere*] (confirmed in *Baier v Alberta*, 2007 SCC 31 at para 64).

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the issue of poverty as an analogous ground,[8] has yet to be settled by the courts.[9]

In the first part of this chapter, we will present homelessness as a complex and multi-factorial phenomenon characterized by a series of important traits related to a lack, or inadequacy, of housing arrangements, as well as by well-defined patterns of social exclusion and discrimination. We will then show how prevalent stereotypes and prejudice faced by homeless persons as they are policed and criminalized, both historically and in the present, are perpetuating disadvantage and have occluded consideration of the broader structural causes of homelessness. Next, we will suggest that homelessness cannot be explained simplistically through narratives of choice, but rather that it is, like several other enumerated or analogous grounds of discrimination, a social construct attached to some individuals that is not

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8 See Masse v Ontario (Ministry of Community and Social Services) (1996), 134 DLR (4th) 20
(Ont Div Ct), leave to appeal to CA refused (1996), Admin LR (2d) 87n1, leave to appeal to SCC refused (1996), 39 CRR (2d) 375 (in which the court refused to recognize welfare recipients as a "discrete and insular minority" where reductions in the level of welfare were challenged at para 71 of the Divisional Court decision); Polewsky v Home Hardware Stores Ltd (1999), 68 CRR (2d) 330 (Ont SCJ) (Gillese J rejected a challenge under section 15 of the Charter because, "[t]he poor in Canadian society are not a
group in which the members are linked by shared personal or group characteristics" at 346); and Toussaint v Canada (Minister of Citizenship and Immigration), 2011 FCA 146 at para 59 and Boulter v Nova Scotia Power Inc, 2009 NSCA 17 at paras 42–44 (where the Courts refused to recognize poverty as an analogous ground). But see Dunmore v Ontario (AG), 2001 SCC 94 (L'Heureux-Dubé J, concurring, would have held that the occupational status of agricultural workers constituted an analogous ground); Falkiner v Ontario (Ministry of Community and Social Services) (2002), 59 OR (3d) 481 (CA) (the court accepted that membership in the group of "sole-support mothers on welfare" could be considered grounds for a claim of discrimination based on the enumerated ground of sex and partly on an analogous ground. Application for leave to appeal to the Supreme Court of Canada was granted on 20 March 2003, but Ontario decided not to pursue its appeal in September 2004). See, generally, Martha Jackman & Bruce Porter, "Justiciability of Social and Economic Rights in Canada" in Malcolm Langford, ed, Social Rights Jurisprudence: Emerging Trends in International and Comparative Law (Cambridge: Cambridge University Press, 2009).

9 *Federated Anti-Poverty Groups of British Columbia v Vancouver (City of)*, 2002 BCSC 105 (the Court upheld a Vancouver by-law prohibiting aggressive panhandling and solicitation of a captive audience. Justice Taylor was of the opinion that the by-law did not violate section 15 of the Charter stating that the poor or more specifically "those who panhandle" could not be considered an analogous ground given that the choice to panhandle was not an immutable trait over which they had no effective control, at para 273-6). See also *R v Banks,* (2005) 248 DLR (4th) 118 (Ont Sup Ct) [*Banks*] (aff'd 2007 ONCA 19, Juriansz JA, leave to appeal to SCC refused, (2007) 376 NR 394 confirming the constitutionality of the Ontario *Safe Streets Act*, 1999, SO 1999, c 8, based on similar reasoning).

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immutable, but that is difficult to change. We will argue that, when it comes to homelessness or to other enumerated or analogous grounds of discrimination, the courts' consideration of immutability in a section 15 analysis must include consideration of the complexity and embeddedness of the social structures and interactions at play.[10] In particular, we will show how criminalization and penalization[11] of homeless people create further exclusion and homelessness and how such punitive responses make this social condition even more difficult to change. Ultimately, we hope that the reconsideration of the prevailing stereotypes and prejudices applied against homeless individuals will make it possible to address the social, political, and economic causes of homelessness, in order to offer different rights-driven legislative and regulatory responses to homelessness.

A. Perpetuating Disadvantage: a Review of Prevailing Stereotypes and Prejudice about Homeless People

1) Defining Homelessness as a Multi-Factorial Phenomenon

Defining homelessness is a challenging enterprise: social problems are fundamentally constructed by a certain set of social and cultural arrangements and shaped by the intentions and objectives of those committed to such an exercise.[12] Whereas many scholars and policy-makers define homelessness more or less restrictively, in terms of lack or inadequacy of housing arrangements, others refer more broadly to complex and multi-dimensional

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10 For an interesting analysis of these issues, see also Sonia Lawrence, "Choice, Equality and Tales of Racial Discrimination: Reading the Supreme Court on section 15 of the Charter", (2006) 33 Sup Ct L Rev (2d) 115; David Robitaille, "La conception judiciaire de la pauvreté au Canada: condition sociale immutable ou simple question de volonté? " (Bruxelles, 2008), online : Service de lutte contre la pauvreté, la précarité et l'exclusion sociale www.luttepauvrete.be.

11 While this may be an unusual term in English, "penalization" refers to the growing tendency to resort to regulatory criminal law, which includes provincial and federal statutes as well as by-laws rather than criminal law (most notably found in the Criminal Code and specific federal statutes) as the primary punitive normative system in the resolution of conflicts related to the use of public spaces. Marie-Eve Sylvestre, "Disorder and Public Spaces in Montreal, Canada: Repression (and Resistance) through Law, Politics and Police Discretion" (2010) 31 Urban Geography 803 [Sylvestre, "Disorder and Public Spaces"]

12 John David Hulchanski, "Who are the homeless? What is homelessness? The Politics of Defining and Emerging Policy" in *UBC Planning Papers* (Vancouver: The University of British Columbia, 1987) Discussion Paper no 10; David Hulchanski et al, "Homelessness, what's in a word?" in David Hulchanski et al, eds, *Finding Home: policy options for Addressing Homelessness in Canada,* (Toronto: Homeless Hub, 2009) 1, online: The Homeless Hub http://homelesshub.ca.

factors embedded in dynamics of rights violation, social exclusion and inclusion, poverty, and discrimination.[13]

In an attempt to come up with an inclusive and comprehensive definition of homelessness in Canada, the *Canadian Homelessness Research Network* recently developed a typology based on the nature of housing circumstances as well as the duration and frequency of homeless episodes.[14] This typology includes (1) people living on the streets or in places not meant to be permanent living spaces, such as under bridges, in alleys, sidewalks, building doorways, tunnels, and ravines, and in vehicles, shacks, tents, or garages, et cetera ("unsheltered"); (2) people living in emergency shelters, whether on a temporary, occasional, or more permanent basis, including in overnight shelters, violence against women shelters, and emergency shelters for people fleeing disasters ("emergency sheltered"); (3) people who do not have security of tenure or their own home, including people "squatting" friends', families,' or colleagues' living spaces, transitional housing arrangements, people in institutional care, such as prisons or mental health institutions and in reception centers for newly arrived immigrants ("provisionally accommodated"); and (4) those who are not strictly speaking homeless, but who are improperly or vulnerably housed, including those occupying housing that is unsafe, unhealthy, unaffordable, overcrowded, or inappropriate for other reasons, such as lacking in available support services necessary for persons with disabilities or mental health issues and people living under threat of eviction, unemployment, family breakdowns, or violence and abuse ("at risk of homelessness").[15] This typology also distinguishes between those experiencing transitional, short-term, and chronic homelessness.[16] These groups are not, however, rigid or static. People who are provisionally accommodated or at risk of homelessness are also likely to experience homelessness as described in the first two categories (unsheltered

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13 See for example, Le Réseau d'Aide aux Personnes Seules et Itinérantes de Montréal, online : RAPSIM www.rapsim.org (the definition used by RAPSIM : "Une personne itinérante, c'est une personne qui n'a pas d'adresse fixe, qui n'a pas l'assurance d'un logement stable, sécuritaire et salubre pour les jours à venir, au revenu très faible, avec une accessibilité souvent discriminatoire à son égard de la part des services publics, pouvant vivre des problèmes occasionnant une désorganisation sociale, notamment, de santé mentale, d'alcoolisme et/ou toxicomanie et/ou de jeux compulsifs, ou dépourvue de groupe d'appartenance stable").

14 Canadian Homelessness Research Network (2012), online: The Homeless Hub www.homelesshub.ca.

15 *Ibid*.

16 European Federation of National Organizations working with People who are Homeless (FEANTSA) (2007), online: FEANTSA www.feantsa.org (this typology largely mirrors ETHOS, the European typology on homelessness and housing exclusion developed by FEANTSA).

or emergency sheltered) for short periods of time because of housing affordability, poor property maintenance, or other issues.

As a result, the majority of homeless people are not chronically homeless, but rather are temporarily without stable housing for certain periods of time. The length and frequency of these periods will vary according to the person and the circumstances. The most recent study published by the Research Alliance for Canadian Homelessness, Housing and Health (REACH) explains that:

> [T]he division between these two groups [those who are vulnerably housed and those who are homeless] is false. The people we identified as 'vulnerably housed' were not just at risk of homelessness; in the past 2 years, they had spent almost as much time homeless (just under 5 months per year) as the homeless group did (6.5 months per year). Instead of two distinct groups, this is one large, severely disadvantaged group that transitions between the two housing states.[17]

According to this definition, homelessness encompasses different realities and is the result of multiple causes, including economic changes and loss of employment, poverty, domestic violence, land use and planning strategies, neighbourhood gentrification and community displacement, state and institutional failures to address the needs and respect the rights of vulnerable groups such as refugees, youth released from foster homes, ex-prisoners released from correctional facilities, people with mental or intellectual disabilities in need of support, et cetera. There are a myriad of individual circumstances that combine with systemic causes, such as physical and mental health problems, eviction, unemployment, family breakdown, addiction, and migration.[18]

Despite the diversity of the housing arrangements uncovered by this typology however, homelessness can also be characterized as being the result of massive rights violation, including rights to life, liberty and security of the person, equality, and various social and economic rights related to housing, decent income, health and access to social services, or education. Homeless people have in common the experience of social exclusion and discrimination which are both exemplified and exacerbated by the adoption of punitive

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17 Emily Holton, Evie Gogosis & Stephen Hwang, *Housing Vulnerability and Health: Canada's Hidden Emergency* (Toronto: Research Alliance for Canadian Homelessness, Housing, and Health, 2010).

18 Danielle Laberge, ed, *L'errance urbaine* (Sainte Foy: Les Éditions MultiMondes, 2000).

responses to homelessness.[19] As we shall demonstrate, discrimination and exclusion do not only produce and reproduce homelessness; they are also intrinsically linked to being homeless. Such prejudice and stereotypes obscure the social, economic, and political causes of homelessness and thwart efforts to address these underlying factors by blaming those who are its victims, imputing personal characteristics of moral inferiority, laziness, dishonesty, and criminality which, in turn, provide an 'explanation' for the problem of homelessness. While homelessness in Canada in its current form dates back to policy and economic changes that began to occur in the late 1980s, patterns of discrimination towards homeless people have a much longer history.

2) Historical Patterns of Discrimination

The historical antecedents to modern patterns of discrimination against homeless people can be traced back to at least the thirteenth century, when vagrants, *sans aveux* (without an agreement of loyalty and allegiance to a lord) and *gueux* (beggars), were the primary targets of repressive measures of social control in France.[20] Still, in the eighteenth century, the King's agents tirelessly chased homeless people, applied red-hot brands on their bodies, and confined them in *dépôts de mendicité* (workhouses).[21] Historical sources estimate the number of homeless individuals confined in *dépôts* to be more than 230, 000 over a period of twenty-two years between 1756 and 1778 with a peak of over 50, 000 mendicants arrested in the course of one year in 1767. The mortality rate among those in confinement was extremely high.[22] The first vagrancy ordinance was enacted in France by François 1er in 1534. Subsequently, it appeared under sections 269 and 276 of the *Code pénal*

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19 Céline Bellot & Bernard St-Jacques, « La gestion pénale et l'itinérance : un enjeu pour la défense des droits » in Shirley Roy & Roch Hurtubise, eds, *L'itinérance en questions* (Québec : Presses de l'Université du Québec, 2007) 171.

20 Julien Damon, "Cinq variables historiques caractéristiques de la prise en charge des SDF " (2003) 27:1 *Déviance et société* 25 at 27. Robert Castel, *Les métamorphoses de la question sociale : une chronique du salariat* (Paris : Gallimard, 1999).

21 David Johnston, *A general, medical and statistical history of the present condition of public charity in France* (Edinburgh: Oliver & Bond, 1829) at 469, online: Open Library http://archive.org/stream/ageneralmedical00johngoog#page/n6/mode/2up.

22 *Ibid.*

23 *Code pénal* art 269 & 276.

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(1810)[23] and was punishable by imprisonment for three to six months. These dispositions were officially abolished in France only in 1992.[24]

Similarly, the first vagrancy statute was passed in England in 1349, making it "a crime to give alms to any who were unemployed while being of sound body and mind."[25] The wording of the statute clearly states that those who "live[d] of begging" did refuse to work and were "giving themselves to idleness and vice, and sometimes to theft and other abominations,"[26] reinforcing the loose associations between homelessness, laziness and criminality. Yet, for sociologist William Chambliss, there is a close connection between the adoption of the first vagrancy statutes in England and social and economic circumstances of the time. According to Chambliss, there is little doubt that it was enacted for the purpose of "[forcing] laborers (whether personally free or unfree) to accept employment at a low wage in order to insure [landowners] an adequate supply of labour at a price [they] could afford to pay[27]" – this at a time when the Black Death had killed millions of labourers and when landowners were ruined by the price paid for various wars and crusades.

With the abolition of feudalism in England and the subsequent transition to a market economy, vagrancy statutes shifted their focus from labourers to criminals who, "to the great terror of her majesty's *true* subjects,"[28] were attacking merchants transporting goods on the roads or

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24 *Loi no 92-1336 du 16 décembre 1992*, JO, 23 décembre 1992, 17568 ; see also Julien Damon, " La prise en charge des vagabonds, des mendiants et des clochards. Le tournant récent de l'histoire" (2007) 43 Revue de droit sanitaire et social 933.

25 William Chambliss, "A Sociological Analysis of the Law of Vagrancy" (1964) 12:1 Social Problems 67 at 68 [Chambliss, "A Sociological Analysis"].

26 35 Ed. 1 c. 1, cited in Chambliss, at 68.

27 Chambliss, above note 25 at 69.

28 *Ibid* at 74 quoting 14 Ed. c. 17 (1571).

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anyone who was likely to engage in criminal activity.[29] In 1824, the United Kingdom adopted *An Act for the Punishment of Idle and Disorderly Persons, and Rogues and Vagabonds*, providing for the commitment of any person wandering in any public place who begged while "being able wholly or in part to maintain himself or herself, or his or her Family, by Work or by other Means, and wilfully refusing or neglecting to do so."[30] Again, references to idleness and disorder as well as explicit distinctions drawn between vagrants and her majesty's "true subjects" have the effect of downplaying the importance of social structures and economic changes, suggesting that homeless people were lazy or morally inferior individuals unworthy of respect or dignity.

The first *Vagrancy Act* was adopted in Canada in 1869, modeled upon English legislation.[31] It was replaced by the Canadian *Criminal Code* in 1892.[32] Section 207 of the *Criminal Code* created a list of twelve enumerated offences falling within the vagrancy section of the Code and aiming to address a multitude of social problems ranging from labour ("not having any visible means of maintaining himself"; "being able to work and refusing to do so"; "begging" while not being a "deserving object of charity"); morality ("indecent exhibition"; "being a common prostitute"; keeping or frequenting a "common bawdy-house"; living off the avails of prostitution,"); mischief (breaking

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29 *Ibid.* Chambliss' class-based analysis was challenged by some historians who argued that vagrancy statutes evolved throughout history as a response to different concerns unrelated to specific forms of economic organization: from paupers coming from the countryside to the cities, carrying diseases and overburdening poverty-relief aid mechanisms in the city in the sixteenth-century, to prostitutes and other wanderers who threatened small town morality in the nineteenth-century to a catchall category for any undesirable people in twentieth-century North America: Jeffrey S. Alder, "A Historical Analysis of the Law of Vagrancy" (1989) 27 *Criminology* 209 at 213-216; Paul A. Slack, "Vagrants and Vagrancy in England, 1598-1664" (1974) 27 *The Economic History Review* 360. In our view, this historical research adds to Chambliss' analysis but does not discredit it. See also JM Beattie, *Crime and the Courts in England 1660-1800* (New Jersey: Princeton University Press, 1986), who suggests that houses of correction were first established in England "to punish and to attempt to reform the able bodied poor who refused to work" (at 492). According to Beattie, the detainees held in houses of corrections included "the vagrant and disreputable poor, prostitutes, and street urchins, those who refused to work ("wanting more wages than the law allows"), servants and apprentices who disobeyed their masters and unmarried mothers" (at 493).

30 *An Act for the Punishment of Idle and Disorderly Persons, and Rogues and Vagabonds*, 1824 (UK), 5 Geo IV, c 83, s 3.

31 Prashan Ranasinghe, "Reconceptualizing Vagrancy and Reconstructing the Vagrant: A Socio-Legal Analysis of Criminal Law Reform in Canada, 1953-1972" (2010) 48 Osgoode Hall LJ 55 at 62 [Ranasinghe, "Reconceptualizing Vagrancy"].

32 *Criminal Code*, SC 1892 (55-56 Vict), c 29, ss 207 & 208.

windows, roads, walls, or gardens); and other common nuisances ("loitering"; causing disturbance while being drunk; "disturbing the peace" by discharging firearms; or rioting). A person convicted of one of these various offenses was labelled a "loose, idle, disorderly person or vagrant" within the wording of section 207.[33] According to Ranasinghe, the eclecticism of these offenses shows the three different ways in which the vagrant was perceived in nineteenth century Canada. First, vagrants were thought to be "indolent, lazy and worthless" individuals who did not want to work. Second, they were seen to be "professional" or "habitual criminals," as in the case of prostitutes or tramps, likely to engage in more serious criminality if provided the right opportunity. Lastly, "they were considered "morally depraved" or "outcasts," belonging to a "self-perpetuating class of citizens who lived without fixed abode."[34] Furthermore, many of the vagrancy offenses listed in section 207 were interpreted by the courts as not applying to "persons of good character" or "respectable citizens,"[35] thereby demonstrating the discriminatory nature of such provisions.[36] These vagrancy provisions remained virtually unchanged until the 1950s, when five offences listed in section 207 of the *Criminal Code*, including offences related to causing disturbance, public nuisance, and mischief were removed and relocated to different sections of the Code, while the other offences were significantly revised.[37]

Section 179 of the current *Criminal Code* still provides that everyone who "(a) supports himself in whole or in part by gaming or crime and has no lawful profession or calling by which to maintain himself," or "(b) having at any time been convicted of an offence under [specific sexual offences

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33 Section 207 read as follows: "Everyone is a loose, idle, or disorderly person or vagrant who … "

34 Ranasinghe, "Reconceptualizing Vagrancy", above note 31 at 60-61. See also David Bright, "Loafers are not going to subsist upon public credulence: Vagrancy and the Law in Calgary, 1900-1914" (1995) 36 Labour 37 at 41-42 (Bright argues that while North American studies have largely emphasized the fact that vagrancy provisions were used by the ruling class to control the lower classes, Canadian studies have rather insisted on promoting respect for values of order and respectability, concealing evident class interests).

35 Ranasinghe, "Reconceptualizing Vagrancy", above note 31 at 74, n 87 (referring to *R v Kneeland*, (1903) 6 CCC 81, at 87 (Qc KB) and *R v Law*, (1924) 42 CCC 123, at 124 (Winnipeg Police Ct)).

36 Jean-Marie Fecteau, *La liberté du pauvre. Crime et pauvreté au XIXe siècle québécois* (Montreal: VLB, 2004); Marcela Aranguiz, *Vagabonds et sans abris à Montréal : perception et prise en charge de l'errance, 1840-1925* (Montréal, RCHTQ, coll. « Études et documents du RCHTQ », no 12, 2000) [Aranguiz].

37 Aranguiz, *ibid* at 67-71; *Criminal Code*, SC 1953, c 51, s 164(1).

involving children], is found loitering in or near a school ground, playground, public park or bathing area,"[38] commits vagrancy.[39]

Throughout the Middle Ages and into the contemporary era, homeless people were stereotyped as lazy or morally depraved, or as criminals who were unwilling to work and intentionally chose to remain in such a precarious social condition. Homelessness was explained and addressed as an individual moral failure rather than in relation to its structural causes, so that the victims of economic changes leading to displacement or unemployment were blamed for their predicament, suspected of being a threat to society and likely to engage in serious criminality. As the Supreme Court of Canada acknowledged in *Heywood,*[40] legislative responses to homelessness created "status" offences, related to personal characteristics rather than to prohibited actions. In this respect, Cory J wrote:

> Historically, the essence of the offence of vagrancy was that of being a loose, idle or disorderly person or vagrant, rather than the doing of any of the specific acts referred to in the vagrancy provisions. In the 195354 *Criminal Code* (S.C. 195354, c. 51) the vagrancy provisions were restructured so that the focus shifted from being a vagrant to doing the acts prohibited by the section. However, it is significant that the acts prohibited were still primarily related to the status of the accused rather than the nature of the acts themselves.[41]

3) Modern Patterns of Penalization, Social Profiling and Discrimination against Homeless People

Anti-panhandling statutes and anti-disorder by-laws adopted in Canadian cities in the 1990s are, in many ways, modern substitutes for vagrancy laws. Their renewed popularity has been largely attributed to the success and notoriety of the "broken-window" theory. According to this theory, the absence of social and legal responses to petty crime and to the first signs of disorder in a neighbourhood (a broken window, for example) may signal to potential offenders that a neighbourhood is not concerned with preserving order in its public spaces and that crime will be tolerated or accepted. Moreover, according to the theory, disorder causes law-abiding residents to

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38 *R v Heywood,* [1994] 3 SCR 761 [*Heywood*] (section 179(b) was held unconstitutional and inoperative by the Supreme Court. Justice Cory, writing for the majority, held that this provision violated section 7 of the *Charter* and was not justified under section 1).

39 *Criminal Code*, RSC 1985, c C-46, s 179.

40 *Heywood,* above note 38.

41 *Ibid.*

leave because they no longer feel safe in their environment. Thus, informal control mechanisms are relaxed and a spiral of urban decay and crime begins.[42]

The proponents of this theory have associated homeless individuals with broken windows or signs of disorder. They believe that homeless people are potential criminals and suggest that they should be particularly targeted by police intervention and eliminated from public spaces to prevent subsequent disorder and more serious crime in local communities. They portray homeless people who are deemed responsible for disorderly acts as "disreputable or obstreperous or unpredictable."[43] They distinguish between "regulars" and "strangers" by referring to regulars as "both 'decent folk' and some drunks and derelicts who were always there but 'knew their place,'" while adopting the view that "strangers [are], well, strangers, and viewed suspiciously, sometimes apprehensively."[44] Illustrating the clear moral overtone present in the broken-window theory, proponents suggest that these undesirable people are associated with the threat of having a "stable neighbourhood of families who care for their homes and mind each other's children" transformed into an "inhospitable and frightening jungle," inhabited by "unattached adults."[45] They further compare "respectable people" to "street people," "good citizens" to homeless people, and "good kids" to "criminals or wannabes."[46]

The proponents of broken-window theory also rely heavily on the myth of homelessness by choice, insisting that homeless people should be held responsible and repressed for their choice to live on the streets. They observe that "[c]learly, not all those designated as homeless in these [cases] are in this condition involuntarily. Yet, their choice to live on the streets is disruptive to others."[47] They adopt Scheidegger's classification of people living in the streets: these individuals fall either in the category of the *have-nots*, who are genuinely poor and will, in time, move back into mainstream society; the *can-nots,* who are seriously mentally ill and/or drug addicts; or

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42 James Wilson & George Kelling, "Broken Windows: The Police and Neighborhood Safety" (1982) 249 Atlantic Monthly 29.

43 *Ibid* at 30.

44 *Ibid*.

45 *Ibid* at 31.

46 George Kelling & Catherine Coles, *Fixing Broken Windows: Restoring Order and Reducing Crime in our Communities* (New York: Martin Kessler Books, 1996).

47 *Ibid* at 66.

the *will-nots,* for whom living in the streets has become a lifestyle (*i.e.,* a choice).[48]

The broken-window theory has been largely discredited in the academic literature. Scholars have demonstrated the lack of conclusive empirical evidence to support the connection between physical disorder and serious criminality, or the fact that order-maintenance policing had brought about declines in crime rates.[49] Others have questioned the theory's democratic legitimacy, suggesting that the community on behalf of which policy-makers claimed to act was not a homogenous body and that the policing of disorder was actually responsive to specific social, political, and economic interest groups in the neighbourhood, rather than to a general community consensus.[50] Yet others have criticized the discriminatory impact of policies adopted pursuant to the broken-window theory on the poor and racial minorities. For instance, in New York, complaints about police misconduct increased by 68 percent in the first three years of implementation of the recommended programs and aggressive stops and frisks fell

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48 *Ibid* at 68; Kent Scheidegger, "Brief Amicus Curiae of the Criminal Justice Legal Foundation in Support of Respondents" filed on 25 October 1994 in *Tobe v City of Santa Ana*, 892 P 2d 1145 (Cal 1995).

49 Bernard Harcourt, *Illusion of Order: The False Promises of Broken Windows Policing* (Cambridge: Harvard University Press, 2001) [Harcourt, *Illusion of Order*]; Bernard Harcourt & Jens Ludwig, "Broken Windows: New Evidence from New York City and a Five-City Social Experiment" (2006) 73:1 U Chicago L Rev 271; Franklin Zimring, *The Great American Crime Decline* (Oxford: Oxford University Press, 2007); John Eck & Edward Maguire, "Have Changes in Policing Reduced Violent Crime? An Assessment of the Evidence" in Alfred Blumstein & Joel Wallman, eds, *The Crime Drop in America* (Cambridge: Cambridge University Press, 2000) 207; Jock Young, *The Exclusive Society: Social Exclusion, Crime and Difference in Late Modernity* (London: SAGE, 1999).

50 Steve Herbert, *Citizens, Cops and Power* (Chicago: University of Chicago Press, 2006); Williams Lyons, *The Politics of Community Policing* (Ann Arbor: University of Michigan Press, 1997); Marie-Eve Sylvestre, "Policing the Homeless in Montreal: Is This Really What the Population Wants?" (2010) 20:4 Policing & Society 432.

disproportionately on Blacks and Hispanics in the city.[51] Finally, some scholars criticized the moralistic aspects of the broken-window theory, suggesting that its proponents made strong normative judgments about what a good life should be and how people should behave in public places.[52]

Despite the raging controversy around this theory, our research has found that public officials and the police in Canada have relied, sometimes heavily, on the practices and on the stereotypes implicit in the broken-window theory (*i.e.,* homeless people are dangerous and potential criminals; homeless people have chosen to live on the streets; and homeless people are morally inferior to other citizens), in order to justify the adoption of punitive responses to homelessness over the last two decades. As programmatic responses that addressed the causes of homelessness such as social housing, investment in health care, or employment policies have been reduced or eliminated, governments have adopted unprecedented measures based on the stigma of homelessness as a perceived moral failure and designed to make homeless people disappear from the public sphere, rendering these social and economic changes invisible.

Throughout Canada, local and provincial authorities have prohibited antisocial behaviour in public spaces, such as parks, subway stations, and sidewalks. Ontario was the first province to adopt this type of legislation with the passage of the *Safe Streets Act* in 1999.[53] British Columbia followed suite, enacting its own province-wide *Safe Streets Act* in 2004.[54] Except for two specific borough bylaws subjecting all public places and squares to curfews, and controlling the presence of dogs and other animals, the City of Montreal

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51 Eliot Spitzer, *The New York City Police Department's 'Stop & Frisk' Practices: A Report to the People of the State of New York from the Office of the Attorney General*, (New York: Diane Publishing, 1999) (between January 1998 and April 1999, whites who represent 43.3 percent of the population in New York City accounted for 12.9 percent of all stops, whereas Blacks, who represent 25.6 percent of the population and Hispanics, who represent 23.7 percent, accounted respectively for 50.6 percent and 33.3 percent of all stops). See also Paul Eid, Johanne Magloire & Michèle Turenne, "Profilage racial et discrimination systémique des jeunes racisés " (2011) at 30, online : Commission des droits de la personne et des droits de la jeunesse www.cdpdj.qc.ca (establishing a relation between the adoption of antisocial behaviour policies in Montreal and racial profiling).

52 Harcourt, *Illusions of Order*, above note 49; Sylvestre, "Disorder and Public Spaces", above note 11.

53 1999, SO 1999, c 8.

54 SBC 2004, c 75.

and the Province of Quebec did not adopt new legislation.[55] However, local authorities and the police ranked combating antisocial behaviour among the highest concerns in the city and insisted that it should become a priority. The police worked with general, open-ended existing legislation,[56] while the City of Montreal and its boroughs made regulatory changes to the status of some public places, for instance by transforming them into parks in order for the police to control curfews. Significant architectural changes were also made to the public domain in order to restrict access to public spaces by homeless people. These included erecting walls and fences or adding concrete blocks around vacant lots or abandoned buildings that used to be occupied by the homeless and introducing new public furniture, such as park benches divided into three discrete sections separated by metal arm-rests, to prevent anyone, including the homeless, from lying down on them.[57]

All these measures have had severe effects on homeless populations and on people who use public space for activities related to their subsistence and survival. Homeless people rely on public spaces, from the moment the shelter requires them to leave in the morning, to the first line-up in front of the community health clinic, food bank, or soup kitchen, to the employment centre or a community organization to get social support, and then back to the final line-up in front of the shelter in the evening. By definition, homeless people are always on the move and always exposed – hence the French word "itinérant." Their lack of access to private space means that homeless people

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55 City of Montreal, Ville-Marie Borough, P-3, o.8.1., Order modifying the park curfews order, Resolution CA06 240540, Minutes from August 1, 2006 Council; City of Montreal, Ville-Marie Borough, Order adopting and modifying the City of Montreal Bylaw on the Control of Dogs and Other animals, Minutes from June 5, 2007, Council.

56 Relevant legislation includes: City of Montreal, by-law, RBCM, c B-3, *By-law concerning noise*; City of Montreal, by-law, RBCM, c C-10, *By-law concerning dog and animal control*; City of Montreal, by-law, RBCM, c P-1, *By-law concerning peace and order on public property*; City of Montreal, by-law, RBCM, c P-12.2, *By-law concerning cleanliness and protection of public property and street furniture*; City of Montreal, by-law, RBCM, c P-3, *By-law concerning parks*; City of Montreal, by-law, RBCM, R-037, *By-law prescribing conditions regarding the possession and use of any transportation ticket issued under the authority of the Société de transport de Montréal*; City of Montreal, by-law, RBCM, R-036, *By-law prescribing standards of safety and conduct to be observed by passengers in the rolling stock and immovables operated by or for the Société de transport de Montréal*; *Highway Safety Code*, RSQ c C-24.2, ss. 444-453.1 & 505.

57 Sylvestre, "Disorder and Public Spaces," above note 11; Service de police de la Ville de Montréal, "Optimization of the Neighborhood Police" (2003).

are forced to meet their most basic needs in public spaces.[58] They are highly dependent on being able to use such spaces, yet at the same time are vulnerable to discriminatory treatment in them[59].

In a research project on the penalization of homelessness in Canada, we collected data on the number of tickets issued against homeless people for violations related to their use and occupation of public spaces in the last decade in eight Canadian cities, including Vancouver, Winnipeg, Toronto, Ottawa, Gatineau, Montreal, Quebec City, and Halifax[60]. The results provide significant insights on the repressive practices to which homeless people are still subject in Canada, as well as on the patterns of discrimination and social profiling.

First, since the adoption of provincial statutes such as the Ontario *Safe Streets Act*[61] or the implementation of policies against anti-social behaviour, there has been a consistent increase in the number of tickets issued against homeless people. For instance, in Toronto, certificates of offences[62] were nine times more frequent in 2006 (6, 356 certificates) than they were in 2000 (710 certificates), with an overall increase of 800 percent and with the total number of certificates reaching 16, 860 in a period of six years.[63] In Ottawa, certificates of offences were fifteen times more frequent in 2006 (1, 527 certificates) than in 2000 (103 certificates), with a total increase of 1, 400 percent and a total number of certificates reaching 4, 882 in the six years after Ontario's *Safe Street Act* came into force.[64] This finding is echoed by O'Grady et al., who showed that the number of tickets issued to homeless youth has

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58 Danielle Laberge & Shirley Roy, " Pour être, il faut être quelque part : la domiciliation comme condition d'accès à l'espace public" (2001) 33 Sociologie et sociétés 115.

59 Hermer & Mosher, *Disorderly People*, above note 2.

60 Sylvestre et al, "Occupation des espaces publics", above note 2.

61 *Safe Streets Act*, 1999, SO 1999, c 8.

62 *Provincial Offences Act*, RSO 1990, c P. 33, s 3 (According to this statute, proceedings may be commenced by filing a "certificate of offence" or a "Provincial Office Notice" in addition to laying an information).

63 Chesnay, Bellot & Sylvestre, "Taming the homeless", above note 2.

64 Sylvestre, et al, "Occupation des espaces publics," above note 2 at 544.

been increasing exponentially over the past decade (2000-2010)[65]. In British Columbia, 1,370 tickets were issued between 2005 and 2008; 91.7 percent of these were issued within the Metro Vancouver area. The number of tickets has increased six-fold since B.C.'s *Safe Streets Act*[66] came into force in 2005, amounting to an increase of 543 percent over that period.[67] In Montreal, between April 1st, 1994 and December 31st, 2010, the police issued 64, 491 statements of offence to 8,252 homeless people for violations of municipal by-laws or Montreal Transportation Society (STM) regulations. Almost half of those statements (30, 551) were issued between January 1st, 2006 and December 31st, 2010. As a result, there were 6.5 times more tickets issued in 2010 (6, 562 statements) than in 1994 (1, 035 statements).[68]

In all the above-named cities, including Montreal, these numbers are only the tip of the iceberg since they only include individuals who, at the time of the issuance, gave their address as one of the organizations or shelters working with street youth or the homeless population in the city. Moreover, homeless individuals are also charged with infractions to provincial legislation. For instance, in Ontario, tickets are also routinely issued under the *Highway Traffic Act*,[69] the *Liquor License Act*,[70] the *Environmental Protection Act*,[71] and the *Trespass to Property Act*,[72] as well as under municipal by-laws. These non-*Safe Streets Act* infractions are not included in our statistics.

Secondly, in every Canadian city, homeless people are sanctioned either for resorting to street survival strategies (such as practicing squeegee or panhandling), or for merely being in public spaces, rather than being punished for causing any particular harm or presenting a specific threat to personal

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65 Bill O'Grady, Stephen Gaetz & Kristi Buccieri, "Can I see your I.D.? The policing of youth homelessness in Toronto" (2011), online: The Homeless hub www.homelesshub.ca (the authors showed that the number of tickets has been exponentially increasing for the past decade (2000-2010) in the case of homeless youth).

66 *Safe Streets Act*, SBC 2004, c 75

67 Chesnay, Bellot & Sylvestre, "Taming the homeless", above note 2.

68 Céline Bellot & Marie-Eve Sylvestre, "La judiciarisation des personnes itinérantes à Montréal : 15 années de recherche, faits et enjeux" (22 February 2012), online: The Homeless Hub www.homelesshub.ca [Bellot & Sylvestre, "La judiciarisation des personnes itinérantes"].

69 RSO 1990, c H 8.

70 RSO 1990, c L 19.

71 RSO 1990, c E 19.

72 RSO 1990, c T 21.

integrity or security. In Ontario, Quebec, and British Columbia, the most common offences for which homeless people are charged include "soliciting a person in a stopped, standing or parked vehicle" (these tickets represent 47.6 percent of the total of tickets issued in Toronto and Ottawa); "soliciting a captive audience—using or waiting to use an automated teller machine, a phone booth, public washroom, bus stop, parking lot"; or "soliciting someone who is a vehicle" (these tickets represent 71 percent of the total of tickets issued in Vancouver);[73] or "public drunkenness" or "public consumption of alcohol" (these tickets represent 61 and 37 percent of all tickets issued pursuant to Montreal and Quebec City by-laws respectively.)[74]

Our studies have also found that these repressive measures have had an impact on homeless individuals of all ages. For instance, in Montreal, between 1994 and 2004, 31 percent of statements of offence were issued against individuals below the age of thirty; 36 percent against homeless people between thirty and forty-four years of age and 33 percent against individuals above forty-five years old. Women received approximately 8 percent of all statements issued during that period, while 92 percent were issued to men.[75] Generally speaking, the more unstable and visible homeless people are, the more likely it is that they will receive statements of offence. Nonetheless, whether individuals are younger or older, male or female, whether they are chronically, episodically, or transitionally homeless, and whether they live on the streets, in shelters, or are transitioning from friends or family housing units, they receive statements of offences simply because they occupy public spaces on a daily basis, to satisfy their most basic needs.

In 2005, the Quebec Human Rights Commission established a taskforce to examine the potentially discriminatory effect of City of Montreal by-laws on homeless people[76]. In November 2009, the Commission produced a legal opinion suggesting that the over-penalization of homeless people was a direct consequence of their being targeted and socially profiled by the

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73 Chesnay, Bellot & Sylvestre, "Taming the homeless", above note 2.

74 Bellot & Sylvestre, "La judiciarisation des personnes itinérantes", above note 67; Dominique Bernier et al, "La judiciarisation des personnes itinérantes à Québec: des discours aux chiffres" (November 2011), online : The Homeless Hub http://www.homelesshub.ca/judiciarisationquebec.

75 Céline Bellot et al, "Judiciarisation et criminalisation des populations itinérantes à Montréal" (2005), online : RAPSIM http://www.rapsim.org/docs/rapport_Bellot_05_VF.pdf [Bellot et al, "Judiciarisation et criminalisation"].

76 Commission des droits de la personne et des droits de la jeunesse du Québec, "The Judicialization of the homeless in Montreal : a case of social profiling. Executive Summary of the Opinion of the Commission" at 1 (2009), online: CDPDJ www.cdpdj.qc.ca [Commission des droits de la personne et des droits de la jeunesse du Québec, "The Judicialization of the homeless in Montreal].

Montreal police[77]. The Commission argued that homeless people were victims of "systemic discrimination" because discrimination ensued from a series of factors including citywide policies, institutional statements, by-laws, policing practices, and discretion, and was not the result of an isolated factor.[78] Based on our studies, the Commission estimated that homeless people had received between 30 percent and 50 percent of all statements of offences issued on the territory served by the Montreal police in 2004 and 2005. For instance, in 2004, at least 3, 281 of 10, 397 statements of offences were issued to homeless people (31.6 percent). Using the same methodology, we have found that between 2006 and 2010, homeless people received, on average, approximately 25 percent of all statements of offences issued by the Montreal police.[79] In contrast, the most recent estimates establish that homeless people represent between 1 to 2 percent of the population of Montreal.[80]

According to the Commission, social profiling is a form of discrimination pursuant to section 10 of the Quebec *Charter of Human Rights and Freedoms*,[81] which prohibits discrimination on a number of grounds, including "social condition." Social condition has been a prohibited ground of discrimination under the Quebec *Charter* since its adoption in 1975. In a 1994 policy statement on social condition, the Quebec Human Rights Commission describes this ground as referring to a rank, a social position, or class attributed to someone principally because of his or her level of income, occupation, and education, having regard to the objective and subjective components of each.[82] Homelessness has been accepted by human rights tribunals, courts, and the Quebec Human Rights Commission as a form of "social condition."[83] Like racial profiling:

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77 Christine Campbell & Paul Eid, "La judiciarisation des personnes itinérantes à Montréal : un profilage social" (2009), online : CDPDJ www.cdpdj.qc.ca [Campbell & Eid, "La judiciarisation des personnes itinérantes à Montréal"].

78 *Ibid.*

79 Bellot & Sylvestre, "La judiciarisation des personnes itinérantes," above note 67.

80 Statistics Canada, *Census 2005*, cited in Campbell & Eid, "La judiciarisation des personnes itinérantes à Montréal", above note 76 at 43.

81 RSQ c C-12, s 10.

82 Commission des droits de la personne et des droits de la jeunesse, *Lignes Directrices sur la Condition Sociale* (Montréal: Commission des droits de la personne, 1994).

83 *Ibid* at 45.

> [s]ocial profiling refers to any action taken by one or several persons in a position of authority with respect to a person or a group of persons, for the purposes of safety, security or public protection, that relies on social condition, whether it is real or presumed, without any reason or reasonable suspicion, with the effect of subjecting that person to differential treatment. This includes any action taken by persons in a position of authority applying a specific measure in a disproportionate manner on one segment of the population because of their social condition, real or presumed.[84]

According to the Commission, social profiling is triggered by an action taken against a person based on the fact that the person appears to be a member of an identified group of people. In the case of homelessness, profiling may be based on a person's "sloppy or neglected appearance," "bad bodily odour or personal hygiene," and "used and ill-assorted clothing."[85] Social profiling can be exercised in different ways. It can be the result of a broad interpretation of by-laws in order to criminalize homeless people. For instance, the Montreal police used the general prohibition against using "street furniture for a purpose other than the one for which it is intended"[86] to ticket homeless people who are lying down on a park bench instead of sitting upright on it. It can also be the result of issuing a statement of offence for an offence that would otherwise go unchecked for the rest of the population, such as jaywalking or throwing a cigarette butt on the sidewalk.[87]

The evidence we collected, as well as the findings of the Quebec Human Rights Commission, are extremely relevant in light of the Canadian *Charter*'s jurisprudence on social and economic rights, because lack of empirical evidence is often used by the courts to reject discrimination claims.[88] For instance, in *R v Banks*, the Ontario Court of Appeal examined

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84 Campbell & Eid, "La judiciarisation des personnes itinérantes à Montréal", above note 76 at 89-96 [translated by authors].

85 *Ibid* at 89.

86 City of Montreal, revised by-law C P-12.2, *By-law Concerning Cleanliness and Protection of Public Property and Street Furniture*, s 20.

87 Campbell & Eid, "La judiciarisation des personnes itinérantes à Montréal", above note 76 at 90-96.

88 See Martha Jackman, "Reality Checks: Presuming Innocence and Proving Guilt in Charter Welfare Cases" in Margot Young et al, eds, *Poverty: Rights, Social Citizenship, Legal Activism* (Vancouver: UBC Press, 2007) 23 (the author provides an interesting analysis of the use of empirical evidence).

the constitutionality of section 3(2) of the Ontario *Safe Streets Act*[89] and found that it did not violate section 15 of the *Charter*. Among other things, the Court held that the appellants had failed to establish, as a matter of fact, that there was selective enforcement by the police of the prohibition against soliciting in an aggressive manner while on the roadway against those who beg or squeegee.[90] In coming to this conclusion, Juriansz J relied on the trial judge who qualified the evidence in question as "frail."[91]

Our studies also found that authorities frequently adopt abusive, harassing behaviour towards the homeless population, such as issuing a statement of offence to someone who is sleeping, or issuing multiple statements of offence for the same behaviour in a very short period of time. The Quebec Human Rights Commission came to the general conclusion that several City of Montreal by-laws had a discriminatory impact on, and that they infringed homeless people's rights to life, security, integrity, dignity, liberty, and equal access to public spaces[92]. The Commission recommended that: (1) "the institutional standards and policies of the SPVM [Service de police de la ville de Montréal] be amended to remove any element that targets and stigmatizes the homeless;" (2) "the use of repressive methods by the SPVM against the homeless be based, not on a perception that their presence might be disturbing or threatening, but on neutral behavioural criteria applicable to all citizens, such as the degree of nuisance or danger created by the behaviour;" (3) "that each municipality and borough, as well as the provincial government, review all the regulatory and legislative provisions that punish behaviour in public spaces to ensure that they identify a specific nuisance and that the provision is justified;" and (4) "the State strengthens the economic and social rights set out in the Charter at the earliest opportunity to protect the rights of the most vulnerable people in society, and in particular the rights of the homeless."[93] A few days prior to the Human Rights Commission's report, the Commission of Social Affairs of the Quebec National Assembly also released the report of the Parliamentary Commission on Homelessness, recommending the eradication of the judicial records of homeless people who had been convicted of violating municipal by-laws and

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89 *Safe Streets Act*, 1999, SO 1999, c 8.

90 *Banks,* above note 9 at para 95.

91 *Ibid.*

92 Commission des droits de la personne et des droits de la jeunesse du Québec, "The Judicialization of the homeless in Montreal", above note75 at 5.

93 *Ibid*, at 5-6.

provincial statutes related to the occupation of public spaces.[94] In doing so, the Parliamentary Commission recognized the ineffectiveness of punitive strategies aiming at penalizing homeless people in Quebec.

Depending on their personal circumstances, homeless people and vulnerably housed people are a relatively powerless group of individuals in Canadian society. Their voices are largely unheard and their interests tend to be overlooked in the political process. For instance, they are not considered interested parties when cities put forward development or revitalization projects which will have significant impact on homeless communities and on the vulnerably housed, by displacing them, by raising the price of housing or property, or by increasing demands for repression and containment of homeless populations. In the words of a former Montreal City Councillor, "they [homeless people] are not welcome anywhere."[95]

Similarly, community organizations and shelters that provide homeless services are not welcome in most neighbourhoods. Local neighbourhood movements informally called "Not in my Backyard" (NIMBY) have been formed in several cities, essentially advocating that, while social and community groups working with homeless people should be allowed to exist and continue their activities, they should not be allowed to do so in their neighbourhood. These movements have prevented the operation, centralization, and expansion of community shelters. For instance, there was significant resistance within the community when the *Refuge des jeunes de Montreal*, a drop-in center and shelter for homeless youth, had to move to the Montreal Gay Village in 2010. Businesses and resident associations expressed their opposition to the move, arguing that there were already too many community organizations serving the homeless population in the area and that it would attract further criminal activity.[96]

The case of the City of Ottawa further illustrates the kinds of stigma and exclusion faced by homeless people and community shelters. In 2005, an Ottawa City Councillor called for, and obtained, a moratorium on downtown homeless services. His rationale was that the concentration of social supports in the downtown area had created a ghettoizing effect and had also attracted homeless people to Ottawa. This was a point of view shared by former Mayor O'Brien who, in 2007, stated that Ottawa was attracting the homeless "like seagulls at the dump" by offering so many services. On another occasion, Mayor O'Brien compared homeless people to pigeons, saying that if we

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94 Commission de la santé et des services sociaux sur l'itinérance au Québec, "Itinérance : Agissons ensemble" (2009) at 20, online : Dianova www.dianova.ca.

95 Clairandrée Cauchy, "Les itinérants ne sont bienvenus nulle part, dit le conseiller Peter Yeomans", *Le Devoir* (12 May 2004).

96 Annabelle Nicoud, "Refuge des jeunes: un déménagement controversé", *La Presse* (8 June 2010), online : La Presse www.lapresse.ca.

would stop feeding them, they would stop coming.[97] These beliefs reflect general stereotypes about homeless people as inferior, irresponsible, and undesirable inhabitants who will bring about urban decay and disorder. These views are, however, not grounded in empirical evidence: this is not a chicken-and-egg situation and shelters and community organizations choose to locate near the population they wish to serve. Moreover, if social support for the homeless population were to be stopped, homeless people would not disappear. Their situation would simply become even more critical and precarious.

Attitudes towards homeless people are informed by prejudices and stereotypes that are generally applied to poor people.[98] A recent Angus Reid survey commissioned by the Salvation Army found that, despite widespread concern about poverty as one of the most serious problems facing Canada, a disturbingly high number of respondents viewed people living in poverty as morally inferior, lazy, and responsible for their own circumstances.[99] The survey found that nearly half of all respondents agree with the notion that if poor people really want to work, they can always find a job; 43 percent agree that "a good work ethic is all you need to escape poverty;" 41 percent believe that the poor would "take advantage" of any assistance given and "do nothing;" 28 percent believe the poor have lower moral values than average; and nearly a quarter believe that "people are poor because they are lazy." The results of this survey reflect the patterns of discrimination and prejudice described in expert evidence considered by Ferrier J in *R v Clarke*, in which it was found that "there is widespread prejudice against the poor and the homeless in the widely applied characterization that the poor and homeless are dishonest and irresponsible and that they are responsible for their own plight."[100]

The prevalence of discriminatory attitudes towards those who are poor or homeless has led most provinces and territories to include some form of protection from discrimination on the ground of social condition, receipt of social assistance, or source of income, in their human rights legislation. The *Canadian Human Rights Act*[101] does not however include a ground of discrimination linked to social condition. In 2000, the *Act* was reviewed by a

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97 "'Pigeons' squawk over mayor's comments on homeless", *CBC News* (25 April 2007), online: CBC www.cbc.ca.

98 Martha Jackman, "Constitutional Contact with the Disparities in the World: Poverty as a prohibited ground of discrimination under the *Canadian Charter* and Human Rights Law" (1994) 2:1 Rev Const Stud 76 at 90-95.

99 Salvation Army, "Debunking myths about Poverty in Canada" (2011), online: Salvation Army www.salvationarmy.ca.

100 [2003] OJ No 3883 (CanLII) (Ont Sup Ct).

101 RSC 1985, c H-6.

special panel chaired by former Supreme Court Justice Gérard Laforest at the request of the federal Minister of Justice. The panel was asked to consider whether the ground of "social condition" should be added to the *Act*. Relying on extensive research and consultations held across Canada, the panel stated that:

> Our research papers and the submissions we received provided us with ample evidence of widespread discrimination based on characteristics related to social conditions, such as poverty, low education, homelessness and illiteracy. We believe there is a need to protect people who are poor from discrimination... We believe it is essential to protect the most destitute in Canadian society against discrimination. At the very least, the addition of this ground would ensure there is a means to challenge stereotypes about the poor in the policies of private and public institutions. We feel that this ground would perform an important educational function.[102]

Nonetheless, these discriminatory attitudes towards people living in poverty still pervade the judicial system. For instance, in rejecting the appellants' section 15 *Charter* claim in *R v Banks*, Juriansz JA held that the proposed analogous ground of "the poor who beg" or "beggars"[103] referred to an activity, rather than to "an immutable or constructively immutable personal quality that [could] only be changed at a 'great personal cost'" to personal identity and dignity.[104] He pointed out that the appellants themselves referred to begging as a "private choice of a means of subsistence."[105]

In light of the prevailing patterns of penalization, social profiling and discrimination outlined above, we shall now examine the question of immutability as it applies in the context of homeless people. We argue that being homeless cannot be understood merely as a question of personal choice, but rather is a social construct that is difficult to change. We conclude that the use of punitive responses to homelessness by the State aggravates the social condition of homeless individuals.

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102 Canadian Human Rights Act Review Panel, "Promoting Equality," at Part One, ch 17(e), online: CURA www.socialrightscura.ca.

103 *Banks*, above note 9 at para 98.

104 *Ibid* at paras 98-100.

105 *Ibid* at para 101.

B) Homelessness and the question of immutability and choice

Understanding homelessness as a choice is a simplistic explanation - one that does not take into consideration how human actions and conditions are socially constructed as well as embedded in social structures, constraints, and interactions.[106] Creating a dichotomy between choice and constraint is misleading, as it does not correspond to lived experience. The challenge, then, becomes to determine how such reality can be effectively translated into our existing legal categories, which tend to be unnecessarily rigid and binary.

In many ways, homeless people are ordinary individuals. They are intelligent, autonomous, and creative. They are rational and capable of elaborating sophisticated strategies. While some of them quietly suffer their fate, others struggle, resist, and fight against injustice. Many homeless people also claim responsibility for their choices, including their decision to become homeless. We could all too easily conclude that homeless people have assimilated and transformed the discourse of their domination into something of their own choosing but, in doing so, we would be missing something fundamentally important. Choice is indeed crucial for homeless people: it gives them control over their lives and it allows for resistance against the prevailing social and economic order.

This being said, we should also realize that these affirmations of choice are systematically accompanied by a series of explanations regarding the circumstances surrounding their actual decisions. Ethnographic studies are replete with stories showing the complexity of homeless people's choices: some relate having been thrown out of their families due to alcohol or drug problems, others report having voluntarily given up on entering the formal economy due to either a lack of cultural capital or skills, or simply because of racism, and others admit to having decided to quit a job or a community to preserve their integrity or resist physical, sexual, or institutional violence.[107] This is of particular concern with regards to Aboriginal people who are disproportionately represented in the streets of many Canadian cities. For instance in Montreal, around 40 percent of children coming from northern communities have been victims of some form of sexual abuse.[108] Distress is

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106 See Marie-Eve Sylvestre, "Rethinking Criminal Responsibility for Poor Offenders: Choice, Monstrosity and the Logic of Practice" (2010) 55:4 McGill LJ 771 (contains a more detailed argument).

107 See for example Mitchell Duneier, *Sidewalk* (New York: Farrar, Straus and Giroux, 1999) [Duneier, *Sidewalk*]; Philippe Bourgois & Jeff Schonberg, *Righteous Dopefiend*, (Berkeley: University of California Press, 2010).

108 Brian Myles, "Le tiers-monde au bout de la rue", *Le Devoir* (26-27 February 2005).

also a part of life in these communities: for example, the suicide rate in Nunavik is up to seventy-nine deaths for every 100, 000 inhabitants.[109]

Furthermore, recognizing homeless people's freedom and autonomy should not allow us to forget that homelessness and housing precariousness create constraints that have overarching effects on homeless people's options and opportunities, as well as on their immediate everyday life decisions. In his book on the working poor, David Shipler explains how pervasive socio-economic disadvantage can be:

> [E]very problem magnifies the impact of the others, and all are so tightly interlocked that one reversal can produce a chain reaction with results far distant from the original cause. A run-down apartment can exacerbate a child's asthma, which leads to a call for an ambulance, which generates a medical bill that cannot be paid, which ruins a credit record, which hikes the interest rate on an auto loan, which forces the purchase of an unreliable used car, which jeopardizes a mother's punctuality at work, which limits her promotion and earning capacity, which confines her to poor housing.[110]

Choices and options are extremely limited when one experiences homelessness. While the assumption behind criminalization and regulation of homeless people is that governments have an interest in punishing them, and thus "encouraging" them to change their characteristics, social science research indicates otherwise. Living in precarious arrangements is not the end of autonomy and agency choice, but rather the context within which personal choices are made. For example, the choice between begging, squeegeeing, selling stolen or lost goods or drugs, singing, or performing is one of limited options among a series of survival strategies. Choosing to sleep on the sidewalk often does not result only from the fact that shelters are full (although this is a stark reality in many cities). Nor is it because the people in question cannot afford to pay for a cheap hotel room for the night (most street people end up making a small sum of money every day), or because they just spend all of their money on drugs (although they may spend some of it that way.) Many homeless echoed one of the following sentiments: they feel safer surrounded by friends in the streets; they feel that they can better escape from the police when they are outside, they need to save money for the winter season; they feel more comfortable using drugs in the streets since they disturb less people (or so they think); they avoid the risk of becoming sick while alone; they do not want to get used to sleeping in a bed because they are generally unable to afford it; they want to sleep either with their dogs or close

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109 *Ibid.*

110 David Shipler, *The Working Poor: Invisible in America* (New York: Vintage Books, 2005) at 7.

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to their personal belongings or their place of work (*i.e.,* they need to keep their vending spot on a street), *et cetera*.[111]

Because of the prevalence of stereotypes and stigma applied to homeless people, the lived experience of homelessness involves far more than economic deprivation and absence of housing. While being homeless cannot be considered as central, or essential to one's identity or dignity, in the same way as other enumerated grounds of discrimination can,[112] in many ways it becomes an all-encompassing social identity or social label for individuals. Homelessness defines one's personhood in a way that is socially constructed and difficult to change. Virtually every part of society perceives and treats a person differently once they become homeless. Law enforcement officials treat homeless people as potentially dangerous, disorderly, and in need of severe regulation and they apply measures in a discriminatory fashion, on the basis of visible signs of poverty. Politicians tend to treat homeless people as a "problem" to be kept out of a neighbourhood, by denying basic sustenance or other services, rather than as equal citizens entitled to fundamental human rights.

The broader category of homelessness defines a disadvantage that can be difficult for an individual to overcome. Street exit is a long and difficult process, which generally involves considerable movement back and forth from being homeless to being "vulnerably housed." For example, when applying for a job, it is hard to justify the period of time that the individual remained unemployed because he or she was homeless. When applying for an apartment, the homeless person often has difficulties providing references to future landlords and is seen as an undesirable tenant.

Moreover, our research has shown that penalization or criminalization only aggravate this situation, creating further homelessness and social exclusion. In the last decades, homeless people who occupy public spaces in Canada have carried several thousands of dollars in unpaid fines. The vast majority of homeless people are rarely able to pay the fines, and because of this, they frequently end up being incarcerated. For instance, in Ontario, only 0.3 percent of all certificates of offences issued against homeless people (e.g., 51 out of 16, 860 in Toronto and 14 out of 4, 880 in Ottawa) were actually paid between 2000 and 2006.[113] In Montreal, of the 7, 650 statements of offence that reached a complete resolution during the period of the first Bellot study (1994-2004), 72.3 percent were closed after the offender was incarcerated for default of payment of the amount due.[114] Bellot found that offenders in Montreal spent, in total, more than 70, 000 days in prison for the

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111 Duneier, *Sidewalk*, above note 106 at 85-87.

112 *Corbiere,* above note 7 at para 13; *Banks,* above note 9 at para 101.

113 Sylvestre et al, "Occupation des espaces publics" above note 2 at 550.

114 Bellot et al, "Judiciarisation et criminalisation" above note 74.

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non-payment of statements of offence between 1994 and 2004. She further predicted that pending cases would result in an additional 200, 000 prison days. According to Statistics Canada, the average daily cost per inmate held in provincial custody is $143.03.[115]

The connections between homelessness and (costly) incarceration in Canada are now well documented. The likelihood of being incarcerated is high among homeless people and the number of people who are homeless or vulnerably housed when they are arrested, jailed, or released from jail in Canada is steadily increasing. In a 2009-2010 study conducted by the John Howard Society of Toronto, involving 363 inmates in four provincial correctional facilities in the Toronto area, 69 percent of the respondents experienced residential instability in the two years prior to their incarceration; 24 percent had used a shelter during that period; and 23 percent were homeless (living on the street, in places unfit for habitation, in a shelter or couch-surfing.)[116] Contrary to popular belief, this is not because homeless people are more dangerous and more likely to be criminals than other citizens. In the same study, researchers found that homeless people were significantly less likely to have been incarcerated for a violent offence than other individuals[117].

High incarceration rates among homeless and vulnerably housed individuals are largely explained by structural factors. First, homeless people are more visible and often targeted by law enforcement because of their occupation of public spaces, and may end up incarcerated for these reasons. Second, criminalization has been one of the dominant state responses to homelessness in the last decades and, accordingly, the number of adults with no fixed address admitted to correctional facilities has increased. Third, studies have shown that homeless people are more likely to be incarcerated for default payment of fines, as well as for being unable to offer guarantees to the criminal justice system upon arrest, but also at the sentencing stage (*i.e.* their incapacity to provide an address may result in temporary detention, and their incapacity to show employment can prevent the issuance of alternative sentences, such as probation or conditional sentences).[118] Finally, the number

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115 Laura Landry & Maire Sinha, *Adult Correctional Services in Canada 2005-2006* (Ottawa: Statistics Canada, 2008) at 24 (the amount referenced does not include capital costs).

116 Amber Kellen et al, *Homeless and Jailed: Jailed and Homeless* (Toronto: John Howard Society of Toronto, 2010).

117 This is also confirmed by our studies on the penalization of homelessness in Canada. See above, note 74.

118 Danielle Laberge et al, “Le rôle de la prison dans la production de l’itinérance. Rapport de recherche soumis au Conseil québécois de la recherche sociale” (1998), online: UQÀM www.er.uqam.ca.

of ex-prisoners released onto the streets is very high. Thus, homelessness leads to incarceration, and incarceration, in turn, produces homelessness.

In the same John Howard Society of Toronto study, researchers found that 32.2 percent of respondents expected to be homeless upon discharge from prison. The rate of homelessness among respondents upon discharge was 22.9 percent. That rate had increased to 32.3 percent within days of discharge. Moreover, homeless respondents were more likely to need a full range of services upon discharge. Those surveyed anticipated their service needs within the next six months to include transportation (92 percent); finding affordable housing (90 percent); getting low-cost or free furniture (87 percent); finding low cost or free clothing (82 percent); replacing identification documents (76 percent); finding low-cost or free food (74 percent); and assistance with finding a job (62 percent). Lack of availability of these services is directly related to rates of homelessness among those discharged from prisons.

Incarceration and criminalization also have long-lasting effects on homeless people, impeding their street exit process and community reintegration. In several studies, including our own, people report losing housing and child custody, as well as their jobs while in jail, increasing the proportion of people relying on income support programs upon discharge. While a warrant of committal will only be issued in Ontario if a Justice is satisfied that the person who has defaulted is able to pay, and that the incarceration of the person would not be contrary to the public interest,[119] when a fine has been in default for at least 90 days, the provincial Ministry of the Attorney General may disclose to a consumer reporting agency the name of the defaulter, the amount of the fine, and the date the fine went into default,[120] The fact that a fine remains unpaid will thus affect a person's credit rating. So, a homeless person trying to re-establish him- or herself would be confronted with poor credit and would be unable to get basic services, like heat, water, phone, *et cetera*. Perhaps even more importantly, landlords routinely check prospective tenants' credit before renting an apartment, and debt collection on unpaid fines may compromise a tenant's ability to pay rent. In the words of an officer for the Collection Services in Ottawa: "unless they sort out their unpaid fines, they won't be able to get the rest of their lives in order."[121] Similarly, in British Columbia, having these debts can potentially affect a homeless person's access to a driver's license or a health card, since the Insurance Corporation of British Columbia, a Crown

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119 *Provincial Offenses Act*, above note 61, s 69(14).

120 *Ibid*, s 69.1.

121 Sylvestre et al, "Occupation des espaces publics" above note 2 at 551.

Corporation in charge of collecting fines and fees relating to the BC *Safe Streets Act*[122], is also responsible for issuing these documents.[123]

In addition to creating homelessness and impeding the street exit process, thereby making homeless people's social condition very difficult to change, punitive measures are very costly for Canadian society. A study conducted in 2006 showed that correctional facilities for adults and young offenders, cost $3,720 and $7,917, respectively, on a monthly basis.[124] The monthly costs of homeless services provided by the police, health care system, and other social supports were estimated at $4,583 per capita. The cost of ensuring access to adequate housing and community-based services for homeless people is relatively small in comparison. The Emergency Homelessness Pilot Project (EHPP), initiated by the City of Toronto in 2002, provided rent supplements to former homeless occupants of Tent City, and assisted them in finding and maintaining housing. The estimated total monthly cost of housing, including the housing component of social assistance, rent supplement, and community worker support, was less than $1,000 per person.[125] The monthly cost of a new social housing unit has been estimated at $1,080.[126] Another study conducted in 2011 analyzed the cost savings associated with the provision of transitional housing and supports for "homeless ex-offenders" relative to the cost of not providing such support.[127] The analysis demonstrated that better outcomes can be achieved at lower costs with transitional housing and supports in place for individuals when they are released from prison. The likelihood of re-offending decreases and the public funding spent on prisoners is far less than the alternative of continued re-incarceration. The estimated savings was $350, 000 per person when services are in place.[128]

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122 SBC 2005, c. 75

123 Chesnay, Bellot & Sylvestre, "Taming the homeless" above note 2.

124 Sylvia Novac et al, *Justice and Injustice: Homelessness, Crime, Victimization and the Criminal Justice System* (Toronto: Centre for Urban & Community Studies, University of Toronto, 2006) at 23 [Novac et al, *Justice and Injustice*].

125 Gloria Gallant, Joyce Brown & Jacques Tremblay, *From Tent City to Housing: An Evaluation of the City of Toronto's Emergency Homelessness Pilot Project* (Toronto: City of Toronto, 2004).

126 Novac et al, *Justice and Injustice*, above note 123 at 23.

127 John Stapleton, Brendon Pooran & René Doucet, *Making Toronto Safer: A Cost-Benefit Analysis of Transitional Housing Supports for Men Leaving Incarceration* (Toronto: John Howard Society of Toronto, 2011).

128 *Ibid.*

C) Conclusion

Both historically and in the contemporary era, homeless people have been subject to systemic rights violations, widespread discrimination and prejudice based on stereotypes and misconceptions. In particular, the false association between homelessness and criminality and the strongly-held beliefs that homelessness is caused by moral failures and personal choices, and therefore, that homelessness can be deterred by regulating homeless people and their use of public spaces, have prevented the recognition and enforcement of homeless people's most fundamental human rights. Such ill-founded beliefs in turn supported repressive measures, from the death penalty to banishment in the Middle Ages, to confinement in workhouses and houses of corrections in the eighteenth and nineteenth centuries, to the targeted surveillance, profiling, systemic issuance of tickets, and incarceration for default payment of fines of the last decades. Such stereotypes and stereotype-driven public responses do not reflect the complexity of homelessness and do not correspond to the actual circumstances or the reality of homeless people in Canada. On the contrary, these discriminatory and punitive responses simply serve to produce more homelessness by maintaining homeless people under constant surveillance in public spaces, contributing to judicial debts and incarceration and impeding homeless people's street exit processes and their participation in social and political life. Such strategies have also cost significant amounts of money that could have been saved had governments approached the problem of homelessness through more reasonable, cost-effective and human rights affirming means.

Our analysis challenges the false beliefs and stereotypes that underlie prevailing patterns of penalization, social profiling and discrimination against homeless people within Canadian society. We argue for a more accurate understanding of homelessness, one which encompasses precarious housing arrangements and multiple transitions from periods of homelessness to periods of being at risk of homelessness, and which also accounts for dynamics of rights violations, social exclusion, poverty and discrimination that constitute the reality of being homeless – making it a condition that is not immutable but is difficult to change. This holistic conception of homelessness, combined with a reconsideration of the various stereotypes and beliefs that surround this condition, provides the basis for recognizing homelessness as an analogous ground of discrimination under section 15 of the *Charter*. When it comes to considering enumerated and analogous grounds of discrimination, we suggest that the courts should follow an analysis of immutability that takes into consideration how personal conditions and identity are socially constructed and embedded in specific economic and political contexts as well as dynamics of power.

In that sense, our analysis highlights the importance of social rights litigation practice which argues for the recognition of human rights for homeless people as well as exposes the discriminatory underpinnings of inadequate programs and of state neglect of the interests of marginalized

groups. Our analysis also points to the need for immediate legislative changes to strengthen the human rights claims of people who are homeless. For example, human rights legislation should provide enhanced protection from discrimination based on social condition and against social profiling, including at the federal level, and this should be backed up by solid legal opinions and reports issued by legal organisations. The ground-breaking work produced by the Quebec Human Rights Commission on social and racial profiling provides an example of initiatives that are called for elsewhere.

Although important and necessary however, engaging in social rights litigation, combating social profiling and making legislative changes to human rights legislation alone are not enough to end discriminatory practices and promote homeless people's rights, in particular because of important material and structural barriers to access to justice. Substantive remedies and political changes are also required at both national and local levels. Across Canada governmental responses to homelessness over the past three decades have been marked by a prevailing tendency to neglect programs addressing the social, economic, and political causes of homelessness in favour of punitive responses. As we have argued, programs and policies in this area must be informed by a holistic vision of homelessness and the reality that homelessness is deeply embedded in, and the product of, social structures and interactions rather than the result of individual failure and choice. To effectively tackle the real problems of homelessness and housing insecurity, governments must adopt national and provincial policies on homelessness dealing with income inequality, education, housing, health, employment and access to justice and to community support and social services[129]. In order to succeed, such policies must be based on the recognition of homeless people as citizens entitled to human rights and must welcome a multiplicity of interventions and actions in order to respond to the diversity of the phenomenon[130].

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129 In 2012, in response to longstanding demands from Quebec civil society, the Quebec government announced the establishment of a national policy to help combat homelessness. The Minister for Social Services and Youth Protection, Véronique Hivon, held a forum on June 17-18, 2013 to discuss the preliminary platform and promised to release the policy followed by an intervention plan shortly. See online: Portail Québec http://communiques.gouv.qc.ca. The National Policy on Homelessness was finally adopted on February 27, 2014: Quebec Government, Politique nationale de lutte à l'itinérance, Ensemble pour éviter la rue et en sortir, 2014: www.msss.gouv.qc.ca/itinerance

130 In this respect, see the critiques addressed against the adoption of an across the board Housing First model in Canada: RAPSIM www.rapsim.org.

THIS IS **EXHIBIT "F"** REFERRED TO
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CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

Commission des droits de la personne et des droits de la jeunesse Québec

Cat. 2.120-8.61.2

THE JUDICIARIZATION OF THE HOMELESS IN MONTRÉAL: A CASE OF SOCIAL PROFILING

EXECUTIVE SUMMARY OF THE OPINION OF THE COMMISSION

Introduction

The mission of the Commission des droits de la personne et des droits de la jeunesse is to defend the principles set out in the *Charter of human rights and freedoms*. The legislator gives the Commission, whose members are appointed by the National Assembly, responsibility for promoting and upholding the principles set out in the *Charter*, and for receiving and examining suggestions, recommendations and requests made to it concerning human rights and freedoms with a view to making the appropriate recommendations to the Government.

During the summer of 2004, several groups asked the Commission to launch an investigation into allegations of systemic discrimination against the homeless in Montréal. A three-party taskforce made up of the Commission, the Réseau d'aide aux personnes seules et itinérantes de Montréal (RAPSIM), and the City of Montréal was created in 2005. The taskforce also brought together elected members of the City of Montréal's executive committee, the mayor of the Ville–Marie borough, public security and social development officials and advisors, representatives from Service de police de la Ville de Montréal (SPVM) and the Société de transport de Montréal (STM).

Members of the taskforce were unanimous in finding that that the issue of large numbers of tickets for minor offences affected the homeless in particular, and lead to a prison term, in a high percentage of cases, for non-payment of tickets. They agreed that imprisonment was not a solution to the problem of homelessness.

The problems connected with homelessness are complex and involve several stakeholders, including various levels of government. Some of the problems currently facing the itinerant population stem from the choice made by the State to use a repressive approach to manage homelessness in Montréal.

The main cause for the use of the courts to deal with the homeless is the enforcement of regulatory and legislative provisions concerning public spaces, and the manner in which these legal instruments are applied by the police.

Despite the efforts expended, the work of the subcommittee set up by the three-party group to analyze the discriminatory effect of City of Montréal by-laws did not produce any concrete results. The Commission therefore decided to assess to what extent the municipal by-laws and their enforcement are consistent with the *Charter of human rights and freedoms*.

In light of its responsibility under subparagraph 6 of the second paragraph of section 71 of the *Charter* and its undertaking as a member of the three-party taskforce, the Commission conducted the analysis of the *Charter* compliance of, first, the municipal by-laws on uncivil behaviour and, second, the institutional standards and practices of the SPVM that guide the enforcement of the by-laws.

The repression of homelessness

In the first part of its opinion, the Commission provides a sociological overview of homelessness and sketches the socio-historic background to the State-sanctioned repression of homelessness, paying

particular attention to the discourse focusing on the fight against “uncivil behaviour”. This discourse was first promoted by the Mayor of New York in the late 1990s, and is often used today in Montréal and other cities around the world to justify penal sanctions for the behaviour patterns associated with homelessness, based on the enforcement of municipal by-laws governing the use of public spaces.

The opinion also contains a quantitative overview of the use of the courts to deal with the homeless in Montréal. Citing a major study on the topic, the Commission shows that the number of tickets issued annually to the homeless under municipal and STM by-laws jumped by 327 % between 1994 and 2005. In 1998—the year following the introduction of neighbourhood policing in Montréal—the number of tickets issued to the homeless recorded its largest annual increase.

During the period studied, most of the offences under municipal by-laws concerned minor breaches of public order considered to be “uncivil behaviour” by the SPVM. These included drinking alcohol or being drunk in public, or being found in a park after closing time.

Based on the most recent data on the subject, the Commission observes that young homeless people are more likely to be penalized for actions that are considered to constitute a disturbance or to be inappropriate in a public space, such as lying on a public bench, loitering in a group, or jaywalking.

The Commission’s opinion shows that the intensive enforcement of municipal by-laws by the SPVM leads to a disproportionate number of tickets issued to the homeless. Although the homeless make up less than 1% of the Montréal population, they received 31,6 % of the tickets issued by the police under municipal by-laws in 2004, and 20,3 % in 2005.

Discriminatory impact of police standards, municipal by-laws and legislation

In the second part of its opinion, the Commission analyzes the *Charter* compliance of several factors whose interaction leads to discrimination against the homeless. It considers that the discrimination is systemic because it does not result from an isolated standard or practice, but rather from the combined effect of several standards, policies and police methods, and also from certain by-laws and legislative provisions. Among these inter-related factors, the Commission focused in particular on the institutional standards and policies of the SPVM, the way in which they are applied by police officers, certain by-laws concerning the use of public spaces, and certain legislative provisions imposing prison sentences for unpaid fines.

The Commission examines the institutional standards and policies of the SPVM that are meant to guide the enforcement, by police officers, of the various municipal by-laws dealing with the use of public space (including the report on the improvement of the neighbourhood policing system (*Rapport d’optimisation de la police de quartier*, 2003), the action plans and annual reviews of the SPVM from 2004 to 2009, the codes used to classify police calls and interventions, etc.).

The Commission shows that, taken as a whole, these factors have helped build, and then justify, a system of exclusion that forces the homeless out of public spaces.

It appears, from this analysis, that the standards and policies have made the fight against uncivil behaviour and “public disorder” a priority target for the police. In addition, the standards and policies assign responsibility for disorder and uncivil behaviour to certain groups, including the homeless, panhandlers, squeegees and prostitutes.

The SPVM standards and policies describe the presence of the homeless as “disturbing” and “causing insecurity”, and suggest that they have a propensity to disrupt public order and commit uncivil behaviour. In this way they reinforce the stereotypes that suggest that the homeless pose a threat to security and occupy public spaces in a socially deviant way that, in itself, calls for penal sanctions.

Social profiling

The homeless are at risk of social profiling because SPVM standards and policies make them designated targets for police monitoring and surveillance. In the view of the Commission, the excessive use of the courts to deal with the homeless results more from police bias, with the goal of clearing public spaces, than from a neutral and impartial enforcement of the law without regard to social condition.

If, in the case of racial profiling, skin colour is the factor that triggers police intervention, in the case of social profiling, the trigger is the visible signs of poverty or marginality.

The Commission shows, with examples, that social profiling occurs in particular when individuals are—or assumed to be – homeless, are ticketed for minor offences that are rarely, if ever, punished by the police when committed by other citizens (for example, loitering, spitting, dropping cigarette ends, lying on a public bench, being drunk in public, jaywalking, etc.).

Vaguely drafted by-laws can open the way to the targeting of the types of behaviour associated with homelessness. The opinion cites the case of a municipal court judge who was surprised to find that lying down on a public bench could result in being charged by the police under a municipal by-law prohibiting the use of street furniture for a purpose other than the one for which it is intended. The judge was even more uncomfortable with the fact that, for this offence, the minimum fine was $500, completely out of proportion to the seriousness of the offence committed – lying down on a public bench.

It is also possible to infer social profiling when police officers behave unsuitably with the homeless, for example by making uncalled-for or offensive remarks concerning their social condition, or by issuing tickets repeatedly. The opinion cites an example given by the SPVM of five men aged between 27 and 48 who had received between three and five tickets on the same day for offences such as “loitering while drunk” or obstructing traffic.

Social profiling also occurs when police officers make unusual decisions concerning the homeless, for example by making identity checks without reasonable grounds or issuing fines that are disproportionate to the seriousness of the offences committed.

The Commission considers that the stigmatization of the homeless in SPVM standards and policies as well as the ensuing police profiling, undermines the rights of the individuals concerned to the safeguard of their dignity without discrimination based on social condition.

The Commission’s opinion shows that the discriminatory targeting of the homeless is not rationally linked to the objective pursued by the SPVM, which is to reduce the feeling of insecurity felt by citizens in the presence of the homeless, and to respond to complaints from citizens. This is problematic, since it shifts the justification for police actions from punishment for behaviour that objectively threatens security and public order to punishment for behaviour subjectively considered to be threatening by other members of the public.

For this reason, the homeless are more likely to be punished by police officers to quell fears based on prejudice than because of the actual degree of nuisance or danger created by their behaviour. In fact, the scientific data shows that there is no significant correlation between the rate of uncivil behaviour and the crime rate in a given neighbourhood.

In addition, the SPVM appears to have overestimated the degree of insecurity and number of complaints likely to be generated by the presence of the homeless in the downtown area. In any case, there is no evidence to support the conclusion that citizens support the priority use of repressive methods to deal with the cohabitation difficulties caused by the presence of the homeless in public spaces.

Discriminatory by-laws

Although most of the discrimination experienced by the homeless can be attributed to the standards that guide the enforcement of municipal by-laws by the police, the Commission considers that some of the by-laws themselves contain a discriminatory bias.

The discriminatory effect can be indirect, for example when apparently neutral provisions penalize behaviour associated with homelessness that does not constitute an actual nuisance. This type of offence may still, after analysis, be *Charter* compliant if the wording of the provision identifies an actual nuisance that justifies the prohibition of the behaviour concerned. If the provision does not identify the nuisance, it is up to the State to demonstrate on what conditions it is justifiable to punish an apparently inoffensive type of behaviour.

For example, one STM by-law states that a person loitering in the metro system, even without disturbing or obstructing other people, is guilty of an offence. In this case, the provision does not identify the nuisance caused, making a prohibition on loitering difficult to justify because the behaviour itself does not constitute a nuisance.

The Commission also considers that certain by-laws and municipal ordinances create discrimination towards the homeless because they were passed with the evident goal of restricting access by the homeless to public spaces. For example, one by-law enacted by the Ville–Marie borough closed its 15 remaining parks and squares that were still open at night, several of which were used by the homeless to sleep. As a result, several of them without a home to go to were placed in an illegal situation when they tried to snatch a few hours of sleep.

This by-law made by the Ville-Marie borough undermined the homeless' right to life and to personal security, inviolability and freedom, without discrimination, and also their right to the safeguard of their dignity. The Commission considers that closing public spaces completely to the homeless at night is not a reasonable measure and that the by-law should be repealed.

Similarly, the Commission analyzes the *By-law concerning dog and animal control,* amended by the Ville–Marie borough to ban dogs from Émilie-Gamelin park and Viger square, two public places frequented by the homeless with dogs. The provisions prohibiting dogs in these two parks are discriminatory and must be amended. The municipal by-law violates the right of the homeless to have access, without discrimination, to public spaces, and infringes their right to dignity and freedom, as well as causing them moral harm by, once again, reinforcing their feeling of exclusion.

This violation of rights is unjustified, since the nuisance caused by dogs in parks can be controlled by targeted provisions in by-laws, as is the case in other parks.

Imprisonment

The Commission has also looked at the consequences, for the homeless, of being imprisoned for unpaid fines in light of the rights recognized by the *Charter*.

It considers that this practice is extremely harmful for people with a very low, or no, income. For the homeless, the damage is even greater because imprisonment hinders the social reintegration process which many have started or are trying to start.

The Commission considers that the provisions of the *Code of Penal Procedure* that impose a prison sentence for unpaid fines have a discriminatory effect on the homeless. Nothing in the Code justifies this discrimination on the basis of social condition.

As a result, the Commission recommends that the *Code of Penal Procedure* be amended to eliminate the discriminatory effect on the homeless of the current provisions imposing a prison sentence for unpaid fines.

Prevention instead of repression

Last, in the third part of its opinion, the Commission recommends that the State drop its repressive approach to the problems connected with homelessness and focus on a preventive approach that respects the fundamental and socio-economic rights protected by the Charter.

The State must take all appropriate measures to protect the rights of its most vulnerable citizens. More specifically, the Québec government must introduce a policy on homelessness addressing various problems, including the lack of coherence and continuity in the assistance provided to the homeless by various agencies, the mental health and additional problems they experience, the lack of social integration support measures for young people leaving youth centres, the lack of support for labour market integration and schooling for the homeless or people at risk of homelessness, and the unsuitability and inadequacy of social assistance scales with regard to the basic needs of the poorest people in society.

Given the key importance of access to housing in the fight against homelessness, the Commission looked at this problem in more detail. It demonstrates that Québec has a duty, under its international commitments and the fundamental and socio-economic rights protected by the Québec Charter, to guarantee access to suitable housing for all the homeless. It points out that the right to suitable housing for the homeless will involve providing access to social housing along with community support. This is a time-tested and sustainable formula to allow the homeless "to get off the streets" because it allows them not only to have access to housing but more importantly to remain in it.

The public funding used to provide financial assistance for community support measures in social housing is insufficient. The Commission considers that more money must be invested in subsidized social housing to ensure the residential stability of a large number of unemployed people and people in low-security, low-pay jobs, whose limited financial resources place them at constant risk of becoming homeless.

The Commission recommends:

1. that the institutional standards and policies of the SPVM to combat uncivil behaviour be amended to remove any element that targets and stigmatizes the homeless;

2. that the use of repressive methods by the SPVM against the homeless be based, not on a perception that their presence might be disturbing or threatening, but on neutral behavioural criteria applicable to all citizens, such as the degree of nuisance or danger created by the behaviour;

3. that training on the social causes of homelessness and the risk of being profiled facing the homeless be provided for police officers employed by the City of Montréal;

4. that each municipality and borough, as well as the provincial government, review all the regulatory and legislative provisions that punish behaviour in public spaces to ensure that they identify a specific nuisance and that the provision is justified. In addition, the Commission recommends that the enforcement of by-laws that are not consistent with the Charter be suspended until amended or repealed by the relevant authority;

5. that the by-law enacted by the Ville-Marie borough to close the last remaining 15 parks that were still open at night be repealed;

6. that the provision of the *By-law concerning dog and animal control* introduced by the Ville-Marie borough to specifically ban dogs from Émilie–Gamelin park and Viger square be repealed;

7. that the *Code of Penal Procedure* be amended to eliminate the discriminatory impact, especially on the homeless, of the current provisions imposing a prison sentence for unpaid fines;

8. that the State strengthens the economic and social rights set out in the *Charter* at the earliest opportunity to protect the rights of the most vulnerable people in society, and in particular the rights of the homeless;

9. that a policy on homelessness be introduced to ensure that the State, its representatives and its service providers formally launch a joint and planned action to allocate targeted resources with priority given to the homeless;

10. that as part of the policy on homelessness, the government:

    a. implements concrete measures to improve coordination between the stakeholders dealing with the homeless, thereby ensuring continuity of services and a better harmonization of the various categories of intervention;

    b. strengthens and enhances existing measures to reach the homeless with mental health or addiction problems wherever they are, to ensure that they benefit from appropriate support and medical supervision from the health and social services network;

    c. strengthens and increase the resources allocated to allow the homeless to benefit from personalized, long-term therapeutic supervision;

    d. strengthens existing measures and programs supporting the social reintegration of young people leaving youth centres, especially when enrolled in education or seeking employment;

    e. strengthens and enhances measures and programs to support the homeless or individuals at risk of homelessness when enrolled in educational or vocational integration programs;

    f. uses the Market Basket Measure (MBM) to set the level of financial support for poor individuals provided by social assistance and social solidarity programs;

11. that the State give priority to a preventive and proactive approach to homelessness, in particular by providing sufficient and adequate housing for the homeless or individuals at risk of homelessness, if they so desire;

12. that the government increase and make recurrent the funding provided for new social housing projects through the various programs administered by the Société d'habitation du Québec;

13. that the government increase the budget of $5 million allocated to the *Cadre de référence sur le soutien communautaire en logement social* to match the dollar estimates made by its partners in the social and community housing sector;

14. that the government provide stable and recurrent funding for the *Cadre de référence sur le soutien communautaire en logement social*, adjusted annually to reflect the actual needs of the public and private organizations offering community support for social housing.

November 6, 2009

THIS IS **EXHIBIT "G"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

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June 2000

The Honourable A. Anne McLellan
Minister of Justice
284 Wellington Street
Ottawa, Ontario
K1A 0H8

Dear Minister:

On behalf of my colleagues Mr. William W. Black, Me Renée Dupuis, Dr. Harish Jain and myself, I enclose the Report of the Canadian Human Rights Act Review Panel.

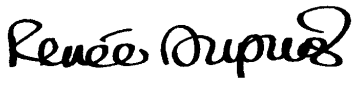
We wish to thank you for entrusting us with this ambitious mandate. We think we have arrived at reasonably workable proposals and are pleased to have completed the task within a very short time. Our consultations provided us with the opportunity to hear from many interested Canadians about how important protecting and promoting human rights is to them. We hope you will support our global vision to strengthen human rights in the federal sector.

I would like to state that my task as Chair was made easier by the strong commitment and frank and fruitful exchanges provided by my colleagues.

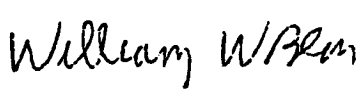
Our task was also made easier by the outstanding work of our Research Director, Jim Hendry and our Executive Director, Patricia Lindsey. All the Panel Members are grateful for their support and that of the members of our Secretariat staff including, Helen Berry, Mary Lou Ellard-O'Neil, Mimi Lepage, Susie Nantel, Brigitte Poullet and Patrice Robinson.

Yours Sincerely,

Honourable Gérard V. La Forest, Chair



Me Renée Dupuis, Panel Member



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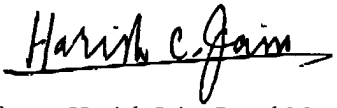

Professor Harish Jain, Panel Member

Canadian Human Rights Act Review
Panel Members

The Honourable Gérard La Forest, Chair
Mr. Justice La Forest is a widely respected, retired Supreme Court of Canada Judge. He has a broad range of expertise including administrative, constitutional and human rights law. In the 1970s, he was a commissioner of the Law Reform Commission of Canada and acted as a consultant to federal and provincial governments. He was first appointed to the bench in 1981 (New Brunswick Court of Appeal) and was appointed to the Supreme Court in January 1985, retiring in 1997.

Professor William W. Black
Professor Black is a professor of human rights law at the University of British Columbia and one of the past directors of the Human Rights, Research and Education Centre at the University of Ottawa from 1989 to 1993. Mr. Black conducted a review of the B.C. Human Rights Code that resulted in many practical changes to the Code. He has been a member of many human rights advisory committees, task forces and a member of the B.C. Human Rights Commission.

Me Renée Dupuis
Renée Dupuis has been practising law in Québec City since 1973. She specializes in human rights, Aboriginal peoples' rights and administrative law. She was a member of the Canadian Human Rights Commission (October 1989–October 1995). She carried out a study published by the Canadian Human Rights Commission in 1997: *The Canadian Human Rights Commission and Sexual Harassment Complaints*. She lectures in administrative law at the École nationale d'administration publique. She designed and directed seminars on democratic institutions and the protection of human rights for senior officials and judges from French-speaking countries. She was associated with the research program of the Royal Commission on Aboriginal Peoples, which published a report she co-authored in 1995: *Canada's Fiduciary Obligation to Aboriginal Peoples in the Context of Accession to Sovereignty by Québec*. She has acted as legal adviser for many Québec Aboriginal groups and as a consultant for various federal and provincial departments. The author of many books, articles and lectures, she published in 1999 at Carswell a work on the legal status of Aboriginal peoples in Canadian law: *Le statut juridique des peuples autochtones en droit canadien*.

Professor Harish C. Jain
Mr. Jain is a professor at the Michael G. DeGroote School of Business at McMaster University who specializes in systemic discrimination issues and has written extensively on this subject. Mr. Jain is an expert in human rights issues, particularly from an employment law context. He previously served as a panel member of the Canadian Human Rights Tribunal from 1986 to 1992, and then from 1996 to 1998. He was a member of the National Multicultural Liaison Committee of the Canadian Association of Chiefs of Police, and has worked extensively as a policy and research advisor to the government of South Africa on employment equity and affirmative action issues.

PART ONE: INTRODUCTION

CHAPTER 1
Summary of the Mandate, Consultation and Research Process

On April 8, 1999, the Honourable Anne McLellan, Minister of Justice, announced the establishment of an independent Panel to conduct a review of the *Canadian Human Rights Act*. The Act had not been comprehensively reviewed since it was passed in 1977.

Our mandate was to examine the purpose of the Act and the grounds listed in it, to ensure that the Act kept current with human rights and equality principles. We were also asked to review the scope and jurisdiction of the Act, including the exceptions contained in it. Our mandate also included a review of the current complaints-based model and to make recommendations for enhancing or changing the model to improve protection from discrimination, while ensuring that the process was efficient and effective. We were also asked to consider the powers (including the audit powers under the *Employment Equity Act*) and procedures of the Canadian Human Rights Commission and the Human Rights Tribunal. Notably, the equal pay provisions were not part of our mandate.

Our Approach to the Review

We met early in our mandate to decide how we were going to approach this extremely large task. We developed a research plan that identified the issues raised in our mandate. This plan formed the basis for an extensive research effort to support our decision-making process.

The research plan also formed the basis for a Consultation Paper released to the public in July, 1999. It contained over thirty pages of questions we thought were relevant to the issues raised by our mandate. The Consultation Paper was intended to inform interested persons about the subjects we wished to review and discuss, especially those people or groups who would attend the consultation sessions planned for the fall. Both the research plan and the Consultation Paper were based on the same set of questions to assist in the organization of the research and consultation.

Other research papers were commissioned from well-known experts in the field of human rights. We sought proposals publicly on two issues: the addition of the ground of social condition, and the provision of the Act that excepts the *Indian Act* and acts authorized by this statute. We pursued these two projects publicly because of their high profile. Authors of papers prepared summaries that were translated and placed on our web page so that the public would have access to this important information. Whenever possible we placed these papers on our web site to inform those who wished to express their views to us at our consultations or in writing. We wished to make our process as transparent as possible. We have relied on these papers extensively in our Report. We have provided very brief descriptions of the contents of these papers in an Annex to our Report.

We developed an elaborate consultation process as part of our approach. We wanted to hear from as many employers, service providers, labour organizations, human rights groups and other non-governmental organizations, and members of the public as possible on the issues raised in our Consultation Paper. Our consultation process had different streams. We organized round table discussions with employers, labour organizations and government departments in Ottawa. We held round table discussions with non-governmental groups in Halifax, Montreal, Toronto, Ottawa, Edmonton and Vancouver. We also hosted evening meetings in each of these cities to hear from members of the general public. These public meetings were announced in the local media. We also held expert meetings on specific subjects areas.

We deeply regret that we could not visit each city, province and territory because of time and budget restrictions. However, we did provide travel funding for those who were invited and who wished to attend a meeting.

Participation for our consultations was determined by reviewing applications. Those wishing to attend our meetings were asked to fill out an application for an invitation. We were looking to hear from organizations that had experience and knowledge of human rights issues in the federal jurisdiction that would help us with our work. Our consultation process was designed to accommodate the needs of people and organizations whose budgets might not allow them to participate. In many cases, we provided travel funding for individuals

to come to our consultation meetings. We also provided submission funding for a number of organizations operating on very small budgets.

Our Web site was a key aspect of our consultation plan. We posted key issues of concern to us, and in addition to the summaries of our research papers we posted summaries of all our round table discussions. The third phase of our consultations included a request for written submissions to be provided by December 1st, 1999, in order to be able to take account of all of the written submissions in our Final Report. We received over 200 written submissions and over 250 individuals participated in the oral hearing phase of our consultations.

We had an opportunity to consult with many provincial and territorial human rights commissions by meeting, letter or conference calls, including the Québec Human Rights Tribunal. These Commissions and Tribunals shared their experiences and their concerns in their respective jurisdictions.

We met with the two previous Chief Commissioners to discuss the evolution of the Commission since its inception. We had extensive meetings with the Canadian Human Rights Commission and Tribunal. We would like to thank the Chief Commissioner of the Canadian Human Rights Commission and the President of the Tribunal and their staffs for the volumes of information they provided to the Panel, and their openness to the review process.

We benefited enormously from the high caliber of oral and written submissions. Individuals and organizations were frank about their concerns with the existing system. But many groups also took the time to reflect on positive solutions that would advance human rights in the federal system. We are grateful to all those who took the time to respond to our consultations. During the course of our consultations we learned a great deal about additional issues that we had to consider. For example, some unions raised the issue of an internal human rights responsibility system, similar to what employers require to comply with health and safety laws. This suggestion was highlighted in our summary of the labour meetings in order that employers and non-governmental organizations could respond to it in their written submissions.

We met several times in Fredericton to deliberate on what we heard and read. We now wish to report on our deliberations in the following chapters.

We have abided by the terms of our ambitious mandate and we have respected the strict time frame. We believe that we have succeeded in providing an accurate account of the concerns of the Canadian people on human rights issues. We wish to give the government the message that it is time to reinforce human rights in Canada and a global view of the changes that are needed.

(e) Social Condition

Issue

We were asked to consider whether social condition should be added as a prohibited ground of discrimination in the Act. None of the current grounds are specifically economic in nature. However, we certainly came to understand the close connection between many of the current grounds and the poverty and economic disadvantage suffered by those who share many of the personal characteristics already referred to in the Act.

This section deals with discrimination on the ground of social condition. A separate but related issue is whether the Act should guarantee certain social and economic rights. That issue is discussed in the next section of the report.

What We Heard About Poverty

During our consultations we heard more about poverty than any other single issue. Many groups are very concerned by poverty in Canada and want government to do something to assist the economically disadvantaged.

We heard a great deal about the growing disparity between poor people and the affluent in Canada. We were struck by the desire expressed by the people who attended our consultations for an instrument to fight back. They wanted the Act to become that instrument.

"Poor people face discrimination every day — indignities, lack of respect from the media, business, and all levels of government. A growing proportion of Canadians are living in poverty, and that poverty is deepening. Growing up in poverty has life-long effects on people's lives and their ability to be healthy and participate in their community." (End Legislated Poverty)

"Discrimination on the basis of poverty is not simply an attack on the dignity and equal citizenship of people living in poverty. It is itself a major cause of poverty." [...]

Systemic patterns of discrimination because of social condition in the private sector [...] exacerbate poverty. Here they are immune from Charter scrutiny and adequate human rights protections for the poor are therefore of even more critical importance [...] Systemic issues of credit-worthiness assessment, deposit requirements, co-signor requirements and the like loom large in the denial of services, housing and facilities to poor people." (Charter Committee on Poverty Issues)

"It is possible that a more expansive application of this ground might have a considerable impact, for example, in corrections and conditional release, given that a large majority of federally sentenced offenders come from relatively disadvantaged socio-economic situations." (Solicitor General Canada)

"The problem with the term 'social condition' is that it is so lacking in specificity that it applies to every member of society and does so on numerous levels. It would appear not to be directed to protecting a particular group, but everybody. [...] A person's social condition at any particular point in time is not necessarily an immutable characteristic [...] and thereby fails the test of immutability. Nor is 'poverty' — if that is the actual characteristic sought to be protected under the description 'social condition' — an immutable characteristic of any individual. There is no question that poverty is an unfortunate occurrence in our society, but one that contains the possibility of being overcome given the variety of mechanisms in place to assist those who are in need." (Canadian Bankers Association)

"The immigration program strives for a balance between humanitarian, family reunification and economic objectives. 'Social condition,' if adopted as a ground of discrimination [...] could bring the CHRA into conflict with the economic objectives of the *Immigration Act*— that is to select and admit people to Canada that can contribute to the country's social and economic well-being [...] If the costs of immigration are seen to exceed the benefits, support for immigration overall could diminish." (Citizenship and Immigration Canada)

"Social condition enables us to recognize the specifics, characteristics and vulnerability of economically disadvantaged persons and to prohibit distinctions based on these objective data and even on stereotypes, disadvantages and prejudices." (Ligue des droits et libertés)

Bill S-11

In June 1998, the Senate passed Bill S-11 to add the ground of "social condition" to the Act. In the spring of 1999, the Bill was defeated in the House of Commons. At that time the Minister of Justice said she wished to address this issue within the comprehensive review of the Act this Panel was asked to conduct.

Other Human Rights Legislation in Canada

The Québec *Charter of Human Rights and Freedoms* is the only provincial human rights law prohibiting discrimination on the ground of social condition. However, several other provinces and territories include narrower grounds, which cover characteristics that would likely be covered by the ground of social condition. Only the federal, New Brunswick and Northwest Territories acts offer no protection from similar discrimination. Newfoundland's legislation uses the term "social origin." Discrimination based on "source of income" (or "lawful source of income") is prohibited in the legislation of Nova Scotia, Alberta, British Columbia, Manitoba, Prince Edward Island and the Yukon. Ontario and Saskatchewan use the term "receipt of public assistance." These grounds do not always apply to all areas covered by the legislation. In British Columbia, for example, the prohibition of discrimination based on the source of income only applies to housing. Ontario prohibits discrimination based on the receipt of social assistance, but only in relation to accommodation (housing).

International Obligations

Internationally, the United Nations Committee on Economic, Social and Cultural rights, in its concluding observations on Canada's performance under the *International Covenant on Economic, Social and Cultural Rights* in December 1998, expressed concern about this issue. The Committee urged federal, provincial and territorial governments "to expand protection in human rights legislation [...] to protect poor people in all jurisdictions from discrimination because of social or economic status."

What Does "Social Condition" Mean?

We were asked by the Minister of Justice to consider the addition of a ground of "social condition" specifically. To consider this question, we need to determine what this might mean and, if we decide to recommend adding it to the Act, whether there should be a statutory definition.

The Québec experience with this ground provides the most guidance about its meaning. Jurisprudence has developed over time. The Québec courts and Tribunal have clarified the factors that should be considered in determining whether an act is discriminatory on the ground of social condition.

In the case of *Commission des droits de la personne du Québec v. Gauthier* (1993), the Québec Tribunal said:

> **"[T]he definition of 'social condition' contains an *objective* component. A person's standing in society is often determined by his or her occupation, income or education level, or family background. It also has a *subjective* component, associated with perceptions that are drawn from these various objective points of reference. A plaintiff need not prove that all of these factors influenced the decision to exclude. It will, however, be necessary to show that, as a result of one or more of these factors, the plaintiff can be regarded as part of a socially identifiable group and that it is in this context that the discrimination occurred."**

This language is generally consistent with guidelines concerning the meaning of social condition issued by the Québec Commission in 1994.

Though "social condition" does not mean the same thing as poverty, for the purpose of our examination, we will take it to refer to identifiable classes of individuals in disadvantaged social and economic situations. This identification rests on the social and economic indicators of disadvantage these individuals share (the objective component), as well as the way they are perceived by others (the subjective component). The idea that a group can suffer because of the perceptions of others and can be defined by those perceptions is contrary to the concept of equality. This is how stereotypes work.

Is There a Need for the Ground of "Social Condition"? Does Such Discrimination Come Within Federal Jurisdiction?

Our research papers and the submissions we received provided us with ample evidence of widespread discrimination based on characteristics related to social conditions, such as poverty, low education, homelessness and illiteracy. We believe there is a need to protect people who are poor from discrimination.

Barriers to employment for the socially and economically disadvantaged do not differ a great deal between federal and provincial jurisdictions. Educational requirements set unnecessarily high can create a serious barrier. The unemployed have more difficulty finding a job than those who are employed. The requirement that job applicants pay for an aptitude test, or supply tools or expensive uniforms can also be barriers to employment for the poor.

Barriers to services exist within federal jurisdiction. In banking services, research papers and submissions made to the Panel referred to the attitudes of bank employees and the large number of identification documents required just for opening an account as major barriers. People with low incomes were less likely to have bank accounts than those with higher incomes. They are less likely to possess certain pieces of identification needed for these purposes. Some banks are moving out of lower income neighbourhoods. The freezing of funds from cashed cheques has a significant effect on the poor, who cannot afford to wait for the cheque to clear. People who are poor even have trouble cashing government cheques. We were told during our consultations that complaints were filed with the Commission on behalf of single mothers denied mortgages because they were on welfare or could not meet minimum income requirements. The complaints were dismissed because social condition was not a ground. In the case of *D'Aoust v. Vallieres* (1993), the Québec Tribunal held that the refusal of a mortgage by a provincially regulated financial institution was discrimination on the ground of social condition when evidence showed the complainant had sufficient means to obtain a mortgage, but was refused when the institution found out she was a welfare recipient.

We were told that people who are poor experience problems with telephone services. In its "Terms of Service" published in Telephone Directories, one company advises that generally, it cannot require deposits from an applicant or customer at any time unless: (a) the applicant or customer has no credit history with the company and will not provide satisfactory credit information; (b) has an unsatisfactory credit rating with the company due to payment practices in the previous two years regarding the company's services; or (c) clearly presents an abnormal risk of loss. These terms were approved by the CRTC. We were told in a submission of at least one complaint filed with the Commission challenging a company's decision to categorize a single mother on welfare, but with a spotless credit history, as "an abnormal risk of loss" solely because she was unemployed. According to the submission, the complaint was dismissed by the Commission because "social condition or receipt of public assistance is not a prohibited ground of discrimination under the CHRA."

Housing on Indian Reserves is another matter that falls within federal jurisdiction. In its Concluding Observations on Canada's last report on compliance in 1998, the United Nations Committee on Economic, Social and Cultural Rights expressed "deep concern" about "the shortage of adequate housing, the endemic mass unemployment and the high rate of suicide, especially among youth in the Aboriginal communities."

Many of these factors, such as low income and lack of education, are also barriers facing groups characterized by other grounds, such as race and disability. A disproportionate number of people from the First Nations, for example, live in extreme poverty and have few educational and employment opportunities.

Some barriers related to poverty could be challenged on one or more of the existing grounds. However, these cases have rarely been successful. They are difficult to prove because they do not challenge the discrimination directly. Such a case may require complex expert testimony about the economic status of the group affected, since it may be necessary to show a disproportionate effect on a particular group. Evidence can be even more difficult to obtain if the case involves the interaction of multiple grounds. Perhaps more fundamentally, if a policy or practice adversely affects all poor people or all people with a low level of education, a ground-by-ground consideration of the issue can be seen as a piecemeal solution that fails to take into account the cumulative effect of the problem.

Is "Social Condition" Similar to Other Grounds Now Included in the CHRA?

The Act's focus on the prohibition of discrimination on the listed grounds defines its purpose in many ways. The current grounds represent the kinds of distinctions that have had a discriminatory effect on individuals in the past and can be expected to continue to have this effect unless steps are taken to prohibit their unjustifiable use.

We thought it would be appropriate to consider whether the ground of social condition would result in similar protection for similar reasons.

In deciding whether an individual or a group are protected by the equality provisions of the Charter, the courts usually consider the following:

(a) whether the personal characteristic is immutable because it is beyond the control of the individual or cannot be altered except at an unacceptable cost to the individual;
(b) whether those possessing the characteristic lack political power;

(c) whether there are historical patterns of discrimination against individuals with this characteristic;
(d) whether members of the group experience similar social and economic disadvantage;
(e) whether there is a relationship between the personal characteristic shared by members of the group and the grounds listed in the Charter.

The general definition of social condition we are using covers persons who experience patterns of social and economic disadvantage. The aim is to target protection by using personal characteristics in the same manner as equality concerns are raised under the Charter.

The Panel can hardly dispute the fact that characteristics such as poverty and a low level of education have historically been associated with patterns of disadvantage. However, some of the other criteria are open to debate. For example, some people escape poverty and improve their level of education. The Québec definition of social condition covers such situations as being on welfare. If those factors are treated as constituting singly a specific social condition, they do not appear immutable. It is fair to ask whether social condition at any time should be considered immutable.

Further, the courts have not often found such characteristics as occupation or job status, income level or source of income, residence or detention in a correctional facility to be protected grounds under the Charter. But there have been a few cases where the courts have protected from discrimination groups defined by a number of grounds at once, such as single motherhood, race and age.

Research done for the Panel shows that poverty is immutable in the sense that it is beyond the control of most poor, at least over considerable periods of their lives. There is evidence that poverty is inherited because individuals whose parents were poor are more likely to live in poverty. Similarly, there is a correlation between one's educational level and that of his or her parents. Our research also shows that while people may move from social assistance to a low-paying job to employment insurance, few actually move into income levels high enough to escape their condition of poverty.

We heard a great deal about prejudice against people just because they are poor. The National Anti-Poverty Organization stated before the Senate committee:

"[…]The issue here is not poverty itself, but, rather the gratuitous discrimination against the poor.[...] Those of us on the receiving end of this treatment understand what a blatant affront to human dignity this treatment is." (Fred Robertson, NAPO testimony, Senate Standing Committee on Legal and Constitutional Affairs)

There is a difference between a valid justification for the refusal of a loan and a denial based on stereotypes about the poor.

We were given examples showing that prejudice against the poor goes so far as to question their concern for their children and their parental ability.

"What consigns children to poverty is a change in attitude of their parents.[…] To enter into parenthood single, as a lark, because you just felt it would be a fun thing to do, is impossibly selfish. We compound their [the parents'] folly by telling them not to bother learning how to feed their children a nutritious breakfast. Don't worry, we say. Send your kids to school and we'll set up a breakfast program. Do vast droves of kids starve to death during the summer vacation when the programs aren't available? Of course not. Their mothers are forced to feed them." (Breaking the poverty cycle, November 28, 1999, by Christina Blizzard — *Toronto Sun*)

"If we want children to get a good and healthy start in life, what we need more than anything else is responsible parents." (The Fraser Institute, Fraser Forum, January 1997, In the Interests of Children, Chris Sarlo)

"It might be good for teachers and health workers who come in contact with Canada's poorest parents to help them as well. It's possible that loving attention to one's children cannot be learned. But what a shame it would be if our compassionate society did not try to teach it." (Editorial — *Globe and Mail*, April 21, 1997)

"That's why health and education policy makers should help Canada's most needy children, often the poorest ones, by helping their mothers and fathers learn how to be better parents." (Editorial — *Globe and Mail*, April 21, 1997)

"In general, children in poor families have the parental deck stacked against them in the first three years of their life.[…] A supply-side approach to poverty would invest mightily in the time availability and parenting skills of poor parents.[…]" (William Thorsell — *Globe and Mail*, November 30, 1996)

Ontario Premier Mike Harris cut a $37 welfare supplement for pregnant beneficiaries — expressing concern that the funds were squandered.

> "What we're doing, we're making sure those dollars don't go to beer, don't go to something else, but in fact, if there are requirements for the health of the mother, they'll get it from us. [...] But it won't be a blanket cheque that can be spent on anything. It will be spent to the benefit of the child." (Premier apologizes to welfare recipients, *Ottawa Citizen* — April 17, 1998)

He later apologized for the comment.

Our research produced the following quotation taken from a "confidential" memo about the groups used in political focus testing for the federal strategy on child poverty.

> "Somewhat surprisingly, moral explanatory accounts of poverty were more common and powerful perceived causes of poverty: lack of responsibility, effort or family skills were universally cited explanations ... Most secure participants see children as deserving and their parents as less so [possibly unwitting agents of their children's misfortune] [...] Welfare recipients are seen in unremittingly negative terms by the economically secure. Vivid stereotypes [bingo, booze, etc.] reveal a range of images of SARs [Social Assistance Recipients] from indolent and feeble to instrumental abusers of the system. Few seem to reconcile these hostile images of SARs as authors of their own misfortune with a parallel consensus that endemic structural unemployment will be a fixed feature of the new economy." (Obtained by Jean Swanson of End Legislated Poverty under Access to Information from HRDC)

There is an interrelationship between the ground of social condition and other grounds listed in the Act such as race, sex and disability. The severely disabled and single older women are among the poorest in Canada. Women still earn less than men on average. Illiteracy (in French or English at least) might be associated with disability or national or ethnic origin. Yet, as noted earlier, even taken together, those grounds do not encompass all people who are illiterate.

Many expressed the concern that social condition is too vague, unlike grounds such as sex and colour. The income and education criteria are relative. However, our research suggests that if we were to recommend a narrower ground of discrimination, such as receipt of public assistance, the protection provided by the Act would become fragmented. Many would only be protected temporarily while on welfare and lose that protection when their source of income changed, even though the disadvantages they suffer might remain the same. The term "poverty" should be avoided because there is no consensus about its meaning or measurement. Our research tells us that the Low-Income Cut-off (LICO) set by Statistics Canada is used by most researchers in Canada, but Statistics Canada only sanctions its use as an indicator of "strained economic circumstances," not as a poverty threshold. On the other hand, the very existence of stereotypes about the poor shows they are often seen and treated as a distinct group. Existing grounds such as age and disability are also relative, and there is considerable debate about how to define disability and race.

Some might say poverty and illiteracy are less likely to form part of an individual's identity than sex or religion. On the other hand, our research shows that the persistence of such factors and the way they shape social and economic relationships suggest they are a part of one's identity or perceived identity.

Adding the Ground

We believe it is essential to protect the most destitute in Canadian society against discrimination. At the very least, the addition of this ground would ensure there is a means to challenge stereotypes about the poor in the policies of private and public institutions. We feel that this ground would perform an important educational function. It sends out a signal about assumptions and stereotypes to be taken into account by policymakers.

Litigation on this ground should not displace study, education and the need to look at other means to find solutions to the problems experienced by the people who are poor. The best way to combat poverty and disadvantage remains private and public activity aimed at improving the conditions of the socially and economically disadvantaged. Perhaps the addition of this ground will spark more of this activity. We hope so.

As a further step, the ground of social condition should be added to the list of grounds in the affirmative action or equity program defence. Public and private organizations should be able to have programs aimed at improving the conditions of individuals on the grounds specified in the Act, including this one.

We heard some concerns that adding this ground could overwhelm the Commission with claims based on social condition. However, the Québec experience does not suggest there would be a large number of claims on such a ground.

The Panel also believes that the Commission should carry out studies on social condition in the furtherance of its educational purpose.

The Definition

The Panel believes that the ground of social condition should be defined in the Act in a manner similar to the Québec definition, with the addition of a provision limiting it to disadvantaged persons.

The Québec definition quoted above is not in fact a single definition, but a list of characteristics to look for in assessing whether an action is discriminatory. As the Québec Tribunal states, it is not necessary to prove the presence of all of these characteristics (objective and subjective) in a single case. But the characteristics must describe a socially identifiable group (the objective component). The subjective component is an important element of the definition because it helps distinguish between people perceived as part of a socially identifiable and stereotyped group, and other individuals, such as students, who may temporarily have a low income but are not subject to such perceptions of inferiority.

The fact that a tribunal must consider whether the claimant has shown the presence of a number of factors in what is alleged to be a discriminatory act, rather than a single personal characteristic as is the case with most of the other grounds, makes the tribunal's job harder. It would be simpler if the tribunal only had one factor to consider, for example, the level of income. However, the advantage of the multiple factor approach is that it reflects the subtlety of the perceptions about a group of disadvantaged individuals who may not all share the same characteristics, but who suffer from a similar sort of persistent disadvantage.

The Québec definition also contains factors that are a matter of degree, such as the level of income or wealth and education. This means that this ground is different from a ground such as sex. However, the Act prohibits discrimination on such grounds as disability, which is often a matter of degree. The fact that the definition contains a number of factors makes the definition more flexible and avoids the need to make specific rules about where to draw the poverty line, for example. This way, poverty would be considered as one factor in determining whether a person's social condition has resulted in discriminatory government or private action. Other relevant factors could be considered and weighed to determine whether the treatment of this individual or group of individuals was based on this ground.

The Panel considered whether the ground should cover only disadvantaged persons or also persons distinguished as a group by their privileged position. In other words, we wondered whether the definition should be a neutral term like race or sex or refer to disadvantage like the ground of disability. There have been cases in Québec where the ground was held to prohibit discrimination against individuals with above average incomes or prestigious occupations. In our view, this is not appropriate for two reasons. First, we feel that the protection here is aimed at those who suffer disadvantage because of their social condition. Second, we do not want to propose a ground that is too broad. The Act could contain a definition similar to a proposed (but defeated) amendment to Bill S-11, which provided that "*social condition* includes characteristics relating to social or economic disadvantage."

We believe the ground of social condition should be designed to protect persons whose situation of poverty is ongoing rather than persons who may temporarily find themselves in that condition.

Possible Exemptions

It is clear that rights are not absolute. Any discussion of a right must consider whether other factors should be put in the balance with it.

Litigation on this ground would require the Tribunal to deal with economic and social issues that courts have not yet seen under the Charter. Most of the cases in Québec on the ground of social condition have concerned residential accommodation. These cases will have few equivalents in the federal sector because housing is a matter of provincial jurisdiction, though federal government housing policy and bank mortgages would fall within federal jurisdiction. Housing issues involving Aboriginal people living on reserves is also a matter within federal jurisdiction. There are only a few cases where complaints based on social condition in employment and services were successful in Québec.

The pattern of complaints in the federal sector could be substantially different. Many statutes and government programs make distinctions based on economic classifications. There are cases where the Tribunal and

the courts held that the concept of "services [...] customarily available to the general public" covers a broad range of governmental activity, including matters such as unemployment insurance, policing, immigration, employment and research grants, and even taxation under the *Income Tax Act*. And, as stated earlier in our Report, the Supreme Court of Canada has held that human rights legislation has primacy over other legislation. The Tribunal's remedial powers are also relatively broad.

The Panel is concerned that the addition of this ground may lead to considerable litigation over complex government programs and an overall reluctance by government to initiate social programs.

We could see challenges against many laws and programs, including tax and immigration laws, employment insurance and training programs, on the ground that they discriminate against the socially and economically disadvantaged. If those laws and programs are found to be services available to the general public and if the principle of primacy means they are inoperative where they conflict with the Act, the Tribunal would have the power to nullify legislative and government decisions that have very wide policy and budgetary implications. Of course, government agencies could put forward the *bona fide* justification in the case of services. This could involve the Tribunal in weighing policy choices like the courts are called on to do under the Charter. It is not clear how well the *bona fide* justification is suited to deal with these concerns. The Tribunal and the courts have not been very consistent in defining the defence they apply in primacy cases.

Recently, the courts have been tending to narrow the interpretation of the concept of "services" in cases where there may be a conflict with other statutes. Increasing their policy role might give the courts an incentive to continue narrowing the scope of the protection offered by the Act.

One way of limiting the effect of the ground would be to recommend a narrow definition of social condition. This does not seem to the Panel to be a good idea because it would limit the good that the addition of the ground might give and hinder the future development of the ground. Instead, we are recommending that the ground be defined in a manner similar to that developed in Québec, with the exception that it would be limited to people who are disadvantaged.

On the other hand, we believe that some government programs could involve the Tribunal in complicated policy issues on which it should not be in a position to second-guess the government. The complicated scheme of taxation under the *Income Tax Act* is a good example. Another might be immigration, where issues of control over entry into Canada are at stake. We believe the government should be able to adopt programs intended for certain categories of underprivileged without these programs being challenged because they do not address all categories of underprivileged. The government should be able to exempt such programs from the Act at least for a limited, renewable time. We feel there should be a time limit on the exemption because other exemptions we have been called upon to consider more than twenty years after passage of the Act were provisionally placed in the Act in 1977. This would allow the exemptions to be reduced as experience with litigation on this ground grows. It might be feasible to review the exemptions as part of the five-year review of the Act we are recommending in chapter twenty. The government should be able to justify any exemption made this way. Exemptions should not be used as an *ad hoc* way of avoiding scrutiny when the government simply wants to shield from litigation a service for which there is no provable justification. These exemptions are meant only for true government services, and not services provided by Crown Corporations or Departments that are similar to those in the private sector.

The ground would apply to services offered by the private sector too. However, these services are closer to the kind of services meant to be defended using the *bona fide* justification. In the *Dickason v. University of Alberta* (1992) case on mandatory retirement, the Supreme Court of Canada ruled that the kind of deference given to broad governmental decisions based on competing claims for resources should not be extended to the private sector.

Finally, we are aware that our recommendations concern only discrimination based on the condition of underprivileged persons and that the Act does not cover the whole reality of poverty, which comes under the general responsibility of government.

Recommendations:

124. We recommend that social condition be added to the prohibited grounds for discrimination listed in the Act.

125. We recommend that the ground be defined after the definition developed in Québec by the Commission des droits de la personne and the courts, but limit the protection to disadvantaged groups.

126. We recommend that the Minister recommend to her Cabinet colleagues that the government review all programs to reduce the kind of discrimination we have described here and create programs to deal with the inequalities created by poverty.

127. We recommend that the Act provide for exemptions where it is essential to shield certain complex governmental programs from review under the Act.

128. We recommend that the Act provide that both public and private organizations be able to carry out affirmative action or equity programs to improve the conditions of people disadvantaged by their social condition, and the other grounds in the Act.

129. We recommend that the Commission study the issues identified by social condition, including interactions between this ground and other prohibited grounds of discrimination and the appropriateness of issuing guidelines to specify the constituent elements of this ground.

THIS IS **EXHIBIT "H"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

Social and Economic Condition

Vulnerable groups protected by human rights legislation are more likely to experience low social and economic status or condition.[218] Poverty is linked inextricably with inequality, particularly for women (especially lone mothers and elderly women), Aboriginal persons, racialized groups and persons with disabilities. Housing is one of the primary social areas in which an individual's socio-economic condition may contribute to the treatment he or she experiences. In order to properly address human rights issues that arise in housing, it is impossible to ignore the role that poverty may play in exacerbating an individual's experience of discrimination.

While the ground of "receipt of public assistance" enables the Commission to address some forms of discrimination based on a person's social and economic condition in the area of housing, it fails to cover broader issues of poverty. Those living in poverty who are not in receipt of public assistance, for example, the working poor, homeless persons, and those who are otherwise not eligible for public assistance, are not entitled to the protection of the *Code* in housing. Further, the current language of the *Code* does not allow the Commission to easily address systemic issues of poverty. For example, the *Code* provides limited opportunity to address, through complaints of discrimination, the situation of a person who is living in poverty because social assistance benefits are too low, and who not have adequate food or housing.

Homelessness is one of the most extreme manifestations of low social and economic status. Those who are homeless are lacking "many of the things that keep people healthy like income, social status, support networks, education, a healthy environment for children, jobs, [and] health services..."[219] As a result, homeless people frequently find themselves at the outermost margins of society.

The homelessness disaster in Ontario's cities has been well documented. In addition to extensive work conducted by the Toronto Disaster Relief Committee and the City of Toronto's annual report cards on homelessness, the extensive Golden Report on Homelessness[220] was released in January 1999.

An excerpt from the Golden Report describes the full extent of the problem:

> Homelessness[221] has reached unprecedented levels in Toronto, as well as in other cities across the country. In Toronto, there are far too many homeless people and their numbers are increasing. More people are living on the streets and using shelters, and

pressure on drop-in centres, food banks, and other emergency services is constantly increasing. Evictions are on the rise, and waiting lists for social and supportive housing continue to get longer.[222]

Homelessness is not confined to Toronto.[223] Other reports have documented increased rates of homelessness in other Ontario cities including Peterborough, Kitchener, Sudbury, Brampton, London, Windsor, Ottawa, Hamilton, and even smaller communities, such as Parry Sound.[224]

Those living in a state of homelessness are highly vulnerable to ill health and the spread of disease. Due to the unpredictability and instability of their day-to-day circumstances, many will find it very difficult to maintain medication or treatment programs. Other hazards include harassment, abuse, extreme stress, malnutrition, dehydration, sleep deprivation, and inclement, sometimes life-threatening, weather.

Some Facts About Homelessness in Toronto:[225]

- A “typical” homeless person is no longer a single, alcoholic, adult male. Youth under 18 and families with children are now the fastest-growing groups in the homeless and at-risk populations. In 1996, in Toronto, families accounted for 46 percent of the people using hostels and 5,300 children were homeless.
- Between 30 – 35 percent of homeless people suffer from mental illness. The estimates are higher for some population groups: for example, 75 percent of homeless lone women suffer from mental illness.
- At least 47 percent of hostel users come from outside Toronto.

The Golden Report gives an overview of some of the causes of homelessness:

- Increased poverty – poverty has increased due to public policy changes such as restrictions on Employment Insurance eligibility and cuts to public assistance
- A lack of affordable housing
- Deinstitutionalization and lack of discharge planning - the lack of adequate community support programs has resulted in increased numbers of people with mental illness and addictions who are discharged from hospitals and jails being homeless
- Social factors – domestic violence and physical and sexual abuse, for example, have increased the rates of homelessness[226]

It is clear that one’s social and economic condition has a direct bearing on the likelihood of one becoming homeless. For example, those living in poverty are at a greater risk of not being able to secure affordable housing or of not being able to make the rent payments for the housing that they do have.

Discrimination also contributes to homelessness. Housing providers continue to screen out prospective tenants on the basis of prohibited *Code* grounds, including the receipt of public assistance, and on the basis of stereotypes about poverty and the poor. This is often done through the use of rigid selection criteria and rent-to-income ratios, along with requests for exorbitant rent deposits and guarantors.

Once an individual or a family becomes homeless, the potential for discrimination increases further. As mentioned in the section dealing with the ground of family status, the Golden Report states "it is not uncommon for families that are staying in shelters or in motels, families with good credit histories and good references, to be refused an apartment by many different landlords. Discrimination can make the rental housing market impenetrable for those most in need of housing."[227] It is extremely difficult for one who has become homeless to re-enter "mainstream" society. J. David Hulchanski, a professor in University of Toronto's Faculty of Social Work and Director of the Centre for Urban and Community Studies at the University of Toronto, has noted:

> The homeless are people who have passed from one 'status slot' in society to a situation that has no status. The discrimination and unequal treatment is as complete as it possibly can be. They cannot access or enjoy any of the rights or opportunities of people who are adequately housed. In the ordinary course of day-to-day life, they are in a state of 'social abeyance.' They are dependent on emergency services for their basic survival. These services are not provided in a comprehensive and systematic fashion so as to help people 'exit' their social abeyance as quickly as possible. Rather, the emergency services have emerged on a haphazard basis and have proven to be inadequate by many forms of evaluation and research.[228]

According to the Golden Report, the following groups are at high risk of being or becoming homeless: families with children, youth, abused women, Aboriginal people, and immigrants and refugees.[229]

The Golden Report made numerous recommendations for combating homelessness, including:

- appointment of a facilitator for action on homelessness
- establishment of a 24-hour homelessness services information system
- creation of a sufficient new supply of supportive and low-cost housing
- treatment programs made available specifically for young parents with substance abuse problems
- dedicated and supported housing for young homeless mothers
- establishment of partnerships between youth shelters and landlords
- additional supportive housing units for abused women and their children
- provision of emergency shelter for immigrants and refugees

- an increase in the shelter component maximum for social assistance so that it equals 85 percent of median market rent
- a shelter allowance program that would reduce the share of income that low-income people spend on housing to between 35 and 40 percent of income
- the establishment and implementation of protocols for all persons with no fixed address who are discharged from institutions
- establishment of a harm-reduction facility on a pilot basis to accommodate up to 30 homeless people who cannot participate in programs that require total abstinence
- establishment of a high-support residential program for people with severe mental illness on site at a hospital
- creation of an overall provincial policy on supportive housing which ensures that definitions of special need and eligibility for supportive housing are broad enough to include "hard to house" homeless people

These recommendations appear to be comprehensive, thoughtful and practical. Yet, nearly eight years later, many of them have not been implemented and the problem of homelessness in Ontario's cities shows no signs of abating.

International Commitments

The *Universal Declaration of Human Rights*, adopted by the United Nations General Assembly in December 1948, proclaimed the inviolability of social and economic rights. Social and economic rights contained in the *Declaration* include the right to own property[230], the right to social security and to the realization of social and economic rights "indispensable for [a person's] dignity and the free development of his [or her] personality"[231], rights with respect to employment[232] and rights with respect to education.[233] Article 25 of the *Declaration* recognizes a right to a certain standard of living, including a right to housing:

> Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, *housing* and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. [emphasis added]

Article 2 of the *Declaration* states that everyone is entitled to these rights without distinction of any kind based on grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The moral statements expressed in the *Declaration* were given legal force through two covenants: the *International Covenant on Civil and Political Rights* and the *International Covenant on*

Economic, Social and Cultural Rights.

The *ICESCR* is one of the most influential and comprehensive international documents in the area of social and economic rights. Article 11 of the *ICESCR* states:

> The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and *housing*, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. [emphasis added]

The *General Comment on the Right to Adequate Housing* by the Committee on Economic, Social and Cultural Rights[234] reiterates that the enjoyment of the right to adequate housing must not be subject to any form of discrimination. As well, it clarifies that the right is to *adequate* housing, including considerations of security of tenure, accessibility, habitability, and affordability, among others. Financial costs associated with housing should not be at a level where the attainment and satisfaction of other basic needs are compromised or threatened.

In addition, there are a series of international conventions, declarations and agreements that address economic, social and cultural rights. These instruments have further refined international legal norms relating to a wide range of socio-economic issues. [235]

Protection of economic, social and cultural rights has been deemed necessary as the right to live a dignified life can never be attained unless all basic necessities of life - work, food, housing, health care, education and culture - are adequately and equitably available to everyone.

Canada became a State party to the *ICESCR* in 1976. The *ICESCR* is a legally binding instrument with States parties accepting the responsibility to implement and maintain the rights guaranteed therein. Article 28 provides that the Covenant's provisions "shall extend to all parts of federal States without any limitations or exceptions." Accordingly, the *ICESCR* is binding on the federal government and each of the provinces and territories, and rights that are within provincial competence are the obligation of the provincial and territorial governments. Before ratification of both the *ICESCR* and the *ICCPR*, there was extensive consultation between the federal government and the provinces. After a 1975 Federal-Provincial Ministerial Conference on Human Rights, all the provinces gave their consent to Canada's ratification of both covenants.

Article 2 describes the nature of the legal obligations under the *ICESCR* and the manner in which States parties should approach implementation of the substantive rights. States parties are required to take steps to the maximum of their available resources with a view to achieving progressively the full realization of *ICESCR* rights by all appropriate means. The *Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights* state that

legislative measures alone are not sufficient: administrative, judicial, policy, economic, social and educational measures will be required by governments to ensure *ICESCR* rights.[236]

It is clear that for many Canadians, these international and domestic rights are an unrealized promise. Many continue to struggle in the rental housing market, and may find themselves in housing that is neither affordable nor adequate, or, in extreme cases, may find themselves without housing of any kind. One's housing situation is generally a good indicator of one's overall social and economic condition.

On several occasions, the United Nations has expressed significant concern about Canada's record in implementing social and economic rights.[237] Most recently, in May 2006, the Committee on Economic, Social and Cultural Rights, which oversees the *ICESCR*, issued its review of Canada's compliance with the Covenant. The Committee was critical of fact that 11.2% of Canada's population still lived in poverty in 2004, particularly in light of Canada's economic wealth and resources. The Committee noted with concern that poverty rates remain very high among disadvantaged and marginalized individuals and groups such as Aboriginal persons, African Canadians, immigrants, persons with disabilities, youth, low-income women and single mothers. [238]

The Committee also noted with concern the "insufficiency of minimum wage and social assistance to ensure the realization of the right to an adequate standard of living".[239] The Committee recommended that "the State party assess the extent to which poverty is a discrimination issue in Canada, and ensure that measures and programmes do not have a negative impact on the enjoyment of economic, social and cultural rights, especially for disadvantaged and marginalized individuals and groups."[240]

As well, concern has been expressed about the disproportionate number of women, especially lone mothers, living in poverty and the effect that one's socio-economic condition has on one's ability to access adequate housing; some reports have directly attributed blame to cuts in social funding.[241]

These strong words from the Committee on Economic, Social and Cultural Rights were echoed in April of 1999, by the Human Rights Committee, the body that oversees the *International Covenant on Civil and Political Rights*. That Committee issued a report on Canada's compliance under the Civil and Political Covenant that stressed the interdependence between civil and political rights and economic and social rights. The Committee observed that "homelessness has led to serious health problems and even to death."[242]

Canada has also been subjected to criticism in the international context for the failure of its courts to provide remedies for violations of social and economic rights. Judicial and legislative reluctance to address social and economic issues as rights has real consequences for vulnerable groups, and

has contributed to an increased focus on the role of human rights commissions and human rights legislation in protecting these rights.

OHRC Advancement of Housing Protections Through Social and Economic Rights

It has long been argued that human rights commissions have an obligation to become more involved in protecting and promoting economic and social rights and in implementing international treaties to which Canada is a party, such as the *ICESCR*.

The addition of "social condition" as a ground to human rights legislation has been proposed as one option for better dealing with economic inequality in Canada, and for more effectively addressing broader human rights issues related to housing.[243] Section 10 of the Quebec *Charter of Human Rights and Freedoms* has provided for equal recognition and exercise of rights without discrimination on the basis of social condition since it came into force in 1976. Although not defined in the legislation, the courts have interpreted the ground to include a person's standing in society as based on occupation, income, level of education or family background, and to include perceptions based on one or more of these factors.[244]

In the past several years there has been strong support among human rights organizations[245] and other bodies, among them the Canadian Senate[246] and the Canadian Human Rights Act Review Panel,[247] for adding "social condition" to other human rights legislation in Canada. This has resulted in the inclusion of "social condition" in human rights legislation in two additional jurisdictions: the Northwest Territories in 2002, and New Brunswick in 2005.[248] These two pieces of legislation have provided statutory definitions similar to the judicial interpretation of the ground in Quebec, addressing treatment based on a person's association with a socially identifiable group based on income, occupation, and/or education.[249]

Human rights legislation in other provinces and territories also provides some limited protection relating to social and economic rights. Like Ontario, Saskatchewan protects against discrimination on the basis of "receipt of social assistance", but extends the protection beyond housing accommodation to a broader number of areas.[250] Alberta, British Columbia, Manitoba, Nova Scotia, Nunavut, and the Yukon provide some wider protections in prohibiting discrimination based on "source of income",[251] although in British Columbia this protection is only extended in tenancy. "Source of income" is broader than "receipt of public assistance", which does not protect the working poor or those who may be discriminated against because of another source of income such as spousal support or receipt of pension benefits. However, none of these grounds offer broad protections relating to other determinants of socio-economic status.

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The addition of “social condition” as a ground in the Ontario *Code* has the potential to provide greater rights to freedom from discrimination in a range of ways. For example, the ground may encompass sources of income including and beyond receipt of public assistance, such as retirement incomes, or even a lack of formal income. In addition, adding the ground could provide a means for the Ontario Human Rights Commission to address more directly prejudice relating to poverty, and to acknowledge the systemic disadvantage which social condition and poverty can bring. It is broader than the more limited protections relating to source of income or receipt of public assistance, in that it addresses socio-economic status which can be based on not just on the source and level of income but also on occupation, income, education and family background. It would also have the potential to apply across social areas. Further, it would provide a more effective avenue for the Commission to challenge laws and practices that negatively categorize and stereotype those living in poverty; it would permit the Commission to deal more effectively with issues related to homelessness; and, it would be a means for the Commission and the province to better comply with some of Canada’s international obligations.

However, even in the absence of “social condition” as a specific ground in the *Code*, there may be other ways for the Commission to address issues relating to social and economic rights broadly and housing rights in particular.

The preamble to the *Code* makes explicit reference to the *Universal Declaration of Human Rights* as proclaimed by the United Nations. Many have argued that, as a result, international law has been incorporated into the *Code*. Thus, it is argued, the Commission and the Human Rights Tribunal of Ontario could cite the *Universal Declaration of Human Rights* as a direct source of rights.[252]

In the alternative, international law can be used interpretively. Under this approach, international law does not constitute a direct source of rights, but informs the interpretation of various provisions of the *Code*.

The Supreme Court of Canada has made important statements that highlight the relevance of international human rights law in domestic human rights systems. For example, the Court has affirmed that Canadian law should provide at least as much protection as international human rights law. International law, according to the Court, helps give meaning and content to Canadian law. As Madame Justice L’Heureux-Dubé stated in *Baker* v. *Canada*, one of the Court’s leading cases on the relationship of international law to Canadian law:

> [T]he values reflected in international human rights law may help inform the contextual approach to statutory interpretation and judicial review... [T]he legislature is presumed to respect the values and principles enshrined in international law, both customary and conventional. These constitute a part of the legal context in which legislation is enacted and read. In so far as possible, therefore, interpretations that reflect these values and principles are preferred.[253]

Thus, the Supreme Court has affirmed that administrative decision-makers should listen to international bodies and take Canada's international commitments seriously. Since human rights legislation in Canada has a quasi-constitutional status, international law has a special relationship to human rights codes. The Commission should, therefore, look to international law to expand current understandings of the *Code* to include economic, social and cultural rights within its mandate. As the *Universal Declaration* reminds us, economic, social and cultural rights go to the core of dignity and equality.

To date, however, there continues to be resistance by courts and tribunals in Canada to adopting these approaches. This may be because these arguments are still not commonly made by parties and the international jurisprudence is still relatively unfamiliar to many Canadian decision-makers.

Human rights commissions can do much to raise broader public awareness of social and economic rights through policy development and public education initiatives. The Ontario Human Rights Commission has already taken some steps towards this objective. In February 2000, in partnership with the Canadian Human Rights Foundation, the Commission held a policy dialogue event which brought together human rights agencies from across Canada, provincial government representatives, NGOs, academics and a senior representative from the United Nations Office of the High Commissioner for Human Rights. Attendees analyzed the ways in which commissions, civil society and government can work together to identify issues, developments and challenges in the field of human rights, including how social and economic rights may be better protected and advanced.[254] Later the same year, the Commission held a two-day legal conference to explore how international obligations can be incorporated into the work of Canadian human rights commissions, and to facilitate the development of a litigation strategy for economic, social and cultural rights violations under the Ontario *Code.*

The Commission supported the drafting and adoption of two social and economic rights resolutions by the Canadian Association of Human Rights Agencies ("CASHRA") at its 2001 Annual General Meeting. The first resolution reiterated the international obligations regarding economic, social and cultural rights, and requested that federal, provincial, and territorial governments include the ground of social condition in their human rights legislation. The second resolution committed CASHRA members to use the *ICESCR* as an interpretive tool in enforcement and promotion, and to give full attention to these rights in the exercise of all aspect of their mandates.[255]

The Commission has also released a research paper, produced by its policy and education branch, entitled *Human Rights Commissions and Economic and Social Rights*.[256] This document was shared with CASHRA and other organizations, and posted on the Commission's website. In addition, former Chief Commissioner Keith Norton appeared before the Senate Standing Committee on Human Rights to discuss the machinery of government dealing with Canada's international and national human rights obligations, in particular the role of human rights commissions. The Commission has, therefore, taken steps to address social and economic rights in a range of ways

over the past several years, and will continue to make efforts to meet the challenges of promotion and implementation of these rights, both in general, and in relation to housing issues specifically.

Legislatures, the judiciary, advocacy groups and NGOs also have key roles to play in implementing social and economic rights, in Canada and internationally, and can work in cooperation with human rights institutions in enforcing, monitoring, and promoting these rights.

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[218] The connection between membership in a group identified under the *Code* and the likelihood of being low income has been recognized by the Human Rights Tribunal of Ontario in several decisions as well as by the Courts. Therefore, measures that disadvantage those who are low-income are likely to disproportionately disadvantage members of *Code*-identified groups.

[219] Chisholm, *supra* note 1 at 26.

[220] *Report of the Mayor's Homelessness Action Task Force, supra* note 19.

[221] The Golden Report defines "homeless people" as "those who are 'visible' on the streets or staying in hostels, the 'hidden' homeless who live in illegal or temporary accommodation, and those at imminent risk of becoming homeless." *Ibid*. at iii.

[222] *Ibid*.

[223] However, homelessness in Toronto is particularly severe, with some reports claiming that, per capita, there are more homeless people in Toronto than in New York City and other major U.S. cities: "Once population differences are taken into account, the percentage of people in Toronto using shelters is actually 15.8 per cent higher than in New York." For more detail, see Shapcott, *supra* note 10 at 7.

[224] *Ibid*. at 2.

[225] Information taken from the *Report of the Mayor's Homelessness Action Task Force, supra* note 19 at iv.

[226] *Ibid.* at v.

[227] *Ibid*. at chapter 4.5.

[228] J.D. Hulchanski, "People Without Housing: Homelessness is a Human Rights Violation" (2000) 15(1) Speaking About Rights (Canadian Human Rights Foundation, online:<http://tdrc.net/Report-00-02-DH.htm> (date accessed: October 19, 2006). Professor Hulchanski specializes in housing policy, social welfare, community development and human rights.

[229] *Report of the Mayor's Homelessness Action Task Force, supra* note 19.

[230] See Article 17 of the *Universal Declaration of Human Rights*, *supra* note 74.

[231] *Ibid.* Article 22.

[232] *Ibid.* Article 23.

[233] *Ibid.* Article 26.

[234] Committee on Economic Social and Cultural Rights, *General Comment 4*: *The Right to*

Adequate Housing, 13 December 1991, Article 11(1).

[235] In 1995, the United Nations estimated that there were no fewer than 81 formal agreements which address such issues as poverty eradication, employment generation and social integration; J.W. Foster, "Meeting the Challenges: Renewing the Progress of Economic and Social Rights" (1998) 47 U.N.B.L.J. 197 at 197.

[236] As there is no complaint procedure under the *ICESCR*, the primary mechanism for its enforcement is the state reporting process. Pursuant to Articles 16 and 17, States parties undertake to submit periodic reports to the *ICESCR* Committee on the programmes and laws they have adopted and the progress made in protecting Covenant rights. The U.N. has promulgated guidelines for the preparation of reports.

[237] For example, Concluding Observations issued by the Committee on Economic, Social and Cultural Rights in 1998 expressed serious concern about the state of realization of economic and social rights in such a wealthy country as Canada. The more recent 2006 Concluding Observations, reiterate that most of the 1993 and 1998 recommendations have not been implemented: Canada United Nations Committee on Economic, Social and Cultural Rights, *Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant (Concluding Observations – Canada)*, 10 December 1998, E/C.12/1/Add.31 and United Nations Committee on Economic, Social and Cultural Rights, *Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant (Concluding Observations – Canada)*, 19 May 2006, E/C.12/CAN/CO/4, E/C.12/CAN/CO/5 [hereinafter *2006 Concluding Observations*.

[238] The Committee identified a range of concerns, such as Canada's response to homelessness, a shortage of affordable housing, the insufficiency of minimum wage and social assistance rates, increasing poverty rates among *Code* protected groups, disparities between Aboriginal and African-Canadian people and the rest of the population with respect to realization of *ICESCR* rights, cuts to social programs, and the discriminatory impact of such cutbacks on certain disadvantaged groups and the significant barriers to enforcing ICESCR rights under domestic law. For more information, see the *2006 Concluding Observations*.

[239] *Ibid.*

[240] *Ibid*.

[241] See for example, the United Nations Committee on Economic, Social and Cultural Rights: Concluding Observations on Report of Canada Concerning the Rights Covered by Articles 10 to 15 of the International Covenant on Economics, Social and Cultural Rights, UN doc. E/C.12/1993/19; 20 CHRR C/1. See also recent media coverage such as "Canada's Poor Face 'Emergency": UN" *The Toronto Star* (May 23, 2006), which reported that the United Nations Committee on Economic, Social and Cultural Rights again criticized Canada in its 2006 Annual Report for its inaccessible employment insurance program, its meagre minimum wages, and the fact that it has let homelessness and inadequate housing amount to a 'national emergency.'

[242] Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, 7 April 1999, CCPR/C/79/Add.105.

[243] However, it should be noted that a human rights commission does not have control over the content of its enabling legislation and must rely on the provincial government in question to make amendments through the legislative process.

[244] *Québec (Comm. des droits de la personne)* v. *Gauthier*, *supra* note 199.

[245] For example, see Canadian Human Rights Commission, *Annual Report 1997* (Ottawa: Canadian Human Rights Commission, 1997). In addition, in 2001, the Canadian Association of Statutory Human Rights Agencies (CASHRA) adopted a resolution, which was fully supported by the Ontario Human Rights Commission, recommending the addition of social condition as a ground of discrimination, and communicated this resolution to all provincial and territorial governments and to the federal government. Human rights reform proposals in Saskatchewan and British Columbia have indicated strong support for inclusion of social condition in their human rights legislation; A.W. Mackay, T. Piper & N. Kim, *Social Condition as a Prohibited Ground of Discrimination Under the Canadian Human Rights Act* (Canadian Human Rights Act Review, 2000).

[246] In 1998, Senator Erminie Cohen introduced Bill S-11 which would have added social condition as a prohibited ground of discrimination to the *Canadian Human Rights Act*. The Bill passed unanimously through the Senate and, on October 19, 1998, received first reading in the House of Commons. On April 8, 1999 Justice Minister Anne McLellan announced the creation of the Canadian Human Rights Act Review Panel to consider, among other things, the addition of “social condition” to that Act. Five days later, Bill S-11 was defeated on second reading.

[247] Canadian Human Rights Act Review Panel, *Promoting Equality: A New Vision* (Ottawa: Canadian Human Rights Act Review Panel under the authority of the Minister of Justice and the Attorney General of Canada, 2000) (Chair: Gerard La Forest).

[248] New Brunswick’s legislation was amended effective January 21, 2005, and Northwest Territories included the ground in their *Human Rights Act*, S.N.W.T. 2002, c.18.

[249] The statutory definitions further clarify that this “socially identifiable group” must be one “that suffers from social or economic disadvantage”. Newfoundland’s human rights statute incorporates the term "social origin" as a protected ground, which relates more to a person’s birth status than to his or her current situation.

[250] Coverage extends to contracts, education, employment, housing, professional trades and associations, public services (restaurants, stores, hotels, government services, *etc.*), publications, purchase of property, occupations and trade unions.

[251] Nunavut and British Columbia specify “lawful source of income”.

[252] See for example, Reem Bahdi, “A Modest Proposal: Using International Law and the Ontario Human Rights Code Against Child Poverty” in *Conference Proceedings* Ontario Human Rights Commission, Conference on Economic, Social and Cultural Rights (December 2000) at page 88-89.

[253] *Baker* v. *Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R 817 at paras. 70-71 citing R. Sullivan, *Driedger on the Construction of Statutes* (3rd ed. 1994), at p. 330.

[254] The summary of proceedings, *Human Rights Commissions: Future Directions*, is available on

the OHRC website, at www.ohrc.on.ca.

[255] The text of the resolutions can be found on the OHRC website.

[256] This document, from September 2001, is available on the publications page of the OHRC website, at www.ohrc.on.ca.

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THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

B-1-9877

Canadian Centre for Housing Rights

"Sorry, it's rented."

Measuring Discrimination Against Newcomers in Toronto's Rental Housing Market

B-1-9877

About us

The Canadian Centre for Housing Rights (CCHR) is Canada's leading non-profit organization working to advance the right to housing across Canada. Founded in 1987 and formerly known as the Centre for Equality Rights in Accommodation (CERA), for 35 years CCHR has worked tirelessly at the intersection of human rights and housing. CCHR has a long history of working both domestically and internationally to advance the right to housing. Our model for change-making involves serving renters to help them stay housed, providing education and training about housing rights, and advancing rights-based housing policy including through research, policy development, advocacy, and law reform. We are committed to prioritizing populations in greatest housing need in the work we do and promoting systemic change to ensure that everyone living in Canada has an adequate, accessible and affordable home.

About our research program

One key element of CCHR's mandate is to undertake innovative research to inform the development and implementation of evidence-based policies that promote housing security for everyone living in Canada. Our research, along with all work undertaken across the organization, is guided and shaped by the seven right to housing elements: accessibility, affordability, adequacy, habitability, security of tenure, location (near services and infrastructure), and cultural adequacy.

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Executive Summary

Every year, the Canadian Centre for Housing Rights (CCHR) receives hundreds of calls from newcomers who report experiencing discrimination and other barriers to accessing rental housing. Often, newcomers tell us they can find an apartment to rent, but all too often their applications are denied based on their immigration status, racial or ethnic background, the composition of their family, or because they receive social assistance. Sometimes, housing providers do not say why they are refusing to rent to them, even when they can afford the unit and can provide all the information landlords are legally permitted to request.

CCHR's 2009 report entitled, *"Sorry, it's rented." Measuring Discrimination in Toronto's Rental Housing Market* ("2009 discrimination audit"), has been and continues to be widely cited. In recent years, as CCHR continued to hear about the challenges that newcomers face during their settlement journeys, the need to employ a similar research model to examine the experiences of newcomers in the rental housing market today became evident.

In early 2022, a diverse team of CCHR staff, research assistants and volunteers undertook an audit which found discrimination is a barrier for racialized newcomers seeking rental housing in Toronto.[1] To gauge the scope of discriminatory practices taking place during housing searches, the team employed a popular research method often referred to as paired testing, also known as a discrimination audit. Paired testing is a method that matches two individuals for all relevant characteristics (e.g., income level, gender identity, marital status, etc.) with the exception of one characteristic or a combination of characteristics for which discrimination is to be assessed. The audit CCHR undertook involved conducting 1,370 paired tests in Toronto via telephone and email. As a result of carrying out the audit, we found that racialized newcomers to Toronto face a high degree of discrimination in the rental housing market. This was further confirmed by a survey and interviews in which newcomers shared the myriad challenges they experienced trying to access housing in Toronto's rental sector.

Summary of Findings

In conducting this research, CCHR found that:

- For both men and women, disclosing newcomer status elicited some form of discrimination.
- When telephone auditors appeared to be ("presented" as) from a member of a racial minority group,[2] this compounded the discriminatory treatment they faced when disclosing their newcomer status.
- Female telephone auditors who disclosed a newcomer status faced a 62% increase in discrimination when they had accents that presented as racialized compared with female newcomer auditors who did not have racialized accents.
- Male telephone auditors who disclosed a newcomer status faced a 267% increase in discrimination when they had accents presented as racialized, compared with male newcomer auditors who did not have racialized accents.
- In the telephone audit, we found racialized newcomer women faced a 563% increase in discriminatory treatment when they disclosed that they were caring for a child, compared with when parental status was not disclosed.
- In the email audits, auditors who disclosed newcomer status with names that presented as female faced a 30% increase in discrimination when their name was also presented as racialized, compared with their non-racialized counterparts.
- In many interactions, after a telephone auditor or email auditor disclosed their newcomer status, housing providers outlined stringent criteria they had to meet to rent the unit in question. By outlining such stringent criteria, housing providers were able to deny housing to newcomers to Canada while not necessarily engaging in conduct the Ontario Human Rights Code would classify as discriminatory.

CCHR also conducted a written survey to complement the research done through the paired audits. CCHR staff sent links to the survey through the

organization's digital communications as well as through direct outreach with organizations serving newcomers in the city. We received responses from 74 people who generously shared their experiences searching and applying for housing as a newcomer in Toronto. In that survey:

- Respondents reported experiencing a high degree of discrimination by housing providers and many barriers to accessing housing in Toronto.
- 60% of respondents had been successful in securing housing since their arrival in Canada. This figure alludes to the steep and various barriers that newcomers face in securing housing upon arrival in Canada.
- Of the respondents who had been unable to secure housing on arrival in Canada, all reported a racial identity other than non-racialized, suggesting racialized identities faced heightened barriers to newcomers accessing housing in Toronto.
- Of the 40% of respondents who had been unable to secure housing since arriving in Toronto, 85% were earning less than $2,000 per month (before tax), with 61% earning less than $1,000 per month. A further 62% of respondents who had been unable to secure housing received social assistance.

In addition to the audit and the survey, CCHR's research team conducted semi-structured interviews with 10 newcomers, to further contextualize the other data. The interviewees all reported challenges in accessing housing:

- The newcomers spoke to a range of different experiences and shared the profound difficulties they faced as they endeavored to secure housing upon first arriving in Toronto.
- The most significant barriers they cited included: affordability, race-based discrimination, gender-based discrimination, discrimination based on familial structure or the presence of a child (in particular being a single-parent family), discrimination based on the receipt of social assistance, and a lack of familiarity with Toronto and the norms associated with finding housing.

- Many interviewees noted that not having a credit history in Canada often precluded them from applying to housing units.
- Interviewees often outlined an initial sense of confusion about how and where to seek housing in Toronto, and cited this as a key impediment to securing housing upon arrival.
- All 10 interviewees disclosed that being unable to access housing created significant challenges in other areas of their lives.

Overall, our research indicates that newcomers to Toronto face a concerning degree of discrimination and that the experiences we were able to capture may only represent a fraction of the overall discrimination taking place. With the supply of affordable rental housing in Toronto already severely limited and quite costly relative to median newcomer incomes and financial resources,[3] our research demonstrates that even where housing might be available, heightened barriers to accessing it are being created by discriminatory treatment toward racialized newcomers to Toronto. This leaves countless new residents unable to access adequate housing to start positive settlement journeys in Canada.

The experiences of discrimination described in this report are damaging and have negative impacts on the ability of individuals and families to thrive in Canada. It is important that discrimination in housing against newcomers and members of equity-deserving groups is foregrounded in public conversations and that action is taken on the individual as well as at the policy level to prevent and address it.

Recommendations

1. The Government of Canada should develop new funding streams for programs to support newcomers so that settlement organizations and other civil society groups can better address the specific challenges newcomers face in securing housing.
2. In many instances, a lack of Canadian credit history or guarantor are the basis upon which housing providers deny housing to newcomers. Knowing this, the Government of Ontario and the Government of Canada should establish no-fee guarantor services to support newcomers to access housing upon arrival in Canada.
3. Initiatives to investigate the nature, scope, and impact of discriminatory housing practices against newcomers and other equity-deserving groups should be funded and undertaken across Ontario.
4. The Government of Ontario should provide funding for studies, and the Ontario Human Rights Commission should work with housing organizations and advocates to further investigate these barriers and develop realistic and relevant solutions to ensure people have access to the housing they need.
5. The Government of Ontario should establish a system for monitoring, investigating, and meaningfully enforcing Human Rights Code protections related to housing.
6. The Government of Ontario should implement policies to preserve existing affordable housing stock that is at risk of being lost. These policies should include permitting localized rental replacement bylaws, and financing for municipal acquisition programs that convert at-risk privately owned affordable rental housing into non-profit housing.
7. The Government of Ontario should work collaboratively with municipalities to encourage the development of non-profit and co-operative housing in order to provide more affordable housing options for lower-income households.

8. The Government of Ontario and the City of Toronto should further develop, encourage, and promote education for tenants to learn about their legal rights and for housing providers to learn about their legal obligations.
9. Multi-tenant (rooming) houses provide a deeply affordable housing option for newcomers who live on lower incomes. The City of Toronto should adopt a regulatory framework for multi-tenant houses that allows for the legal operation of this type of housing across the city.

Introduction

Every year over several decades, CCHR has received hundreds of calls from tenants facing discrimination in the rental housing market. These callers tell us they can find an apartment to rent, but frequently their applications are denied based on their immigration status, gender identity or sexual orientation, racial or ethnic background, the composition of their family, or because they receive social assistance. This discriminatory behaviour on the part of housing providers takes different forms, from explicit discriminatory statements like "we don't rent to newcomers," to subtle discriminatory practices.

These more subtle forms of discrimination include the imposition of more stringent rental requirements on some people but not others, which effectively precludes targeted individuals from being considered for apartments. The barriers to accessing rental housing are particularly acute for newcomers, who lack employment or credit history in Canada, and are effectively shut out of even applying for many apartments in Ontario's tight rental market.

Despite the persistence of reported discrimination in the rental housing market in Toronto, CCHR's now decade-old 2009 discrimination audit remains one of the most current resources on the topic. That audit showed, for instance, that 14% of lone-parents and 23% of South Asian men in Toronto experienced discrimination when accessing housing. Moreover, findings point to intersectionality, such that adding the variables of race, ethnicity and/or place of origin to lone-parent status dramatically increased the likelihood of discrimination. For instance, while the report estimated a rate of discrimination of 14% for lone parents overall, this figure jumps to 26% for Black lone parents specifically.[4]

In its 2019 National Housing Strategy Act (NHSA), the federal government took the historic step of committing to the progressive realization of the right to housing in Canada. Through the NHSA, the Government of Canada recognized that adequate housing is a fundamental human right, and is essential to one's sense of dignity, safety, inclusion, and ability to contribute to the fabric of

community and society. However, despite this positive recent commitment, over the past decade the crisis in rental housing for low-income people in Ontario has only spread and deepened.

The Ontario Human Rights Code (the Code) came into force in 1962 and was in part enacted to protect people who rent their housing from discrimination. The Code currently protects people from discrimination on fourteen grounds:

1. Ancestry, Colour, Race
2. Place of Origin
3. Ethnic Origin
4. Marital Status
5. Creed (Religion)
6. Ancestry
7. Disability
8. Sex
9. Sexual Orientation
10. Citizenship
11. Age
12. Family Status
13. Being in Receipt of Public Assistance
14. Gender Identity and Gender Expression

Though this legislation is in place, discrimination on these grounds remains persistent in Ontario's housing market, in part because there is little effective recourse for people who face housing discrimination. Evidence of the persistence of housing discrimination can be found in the number of pending cases before the Human Rights Tribunal of Ontario (HRTO). The HRTO typically hears 3,000 cases per year and is currently experiencing a backlog of nearly

9,000 cases,[5] with an average of 8–9% of cases filed having to do with housing discrimination from 2017 to 2021.[6]

Given the barriers to reporting and receiving recourse for experiences of housing discrimination, it has been very difficult to measure the extent of discrimination taking place in Ontario's rental housing market. Since CCHR continued to hear about this issue regularly in the 10 years since our last discrimination audit, we decided to re-examine the issue using the paired testing method. In paired testing studies, two applicants with the same essential identity profile, with the exception of one or two variables (e.g., racial, family status, or gender identities), respond to the same rental housing advertisement. The responses they receive are then recorded and analyzed by researchers to determine how housing providers responded to auditors presenting with the marginalized identity marker (i.e., the variable that was different between the two applicants). By comparing two interactions with the same housing provider within a particular time period, paired testing is able to illuminate variances in behaviour towards two individuals, and in doing this, sometimes reveal discriminatory conduct that might otherwise be difficult to capture. While this method has been employed extensively and routinely in the United States to measure discrimination in rental housing provision, to date it has not often been used in Canada.

Despite inadequate investigation of housing discrimination experiences in Canada, our previous audit and continued anecdotal reports of discriminatory experiences points to the persistence of widespread housing discrimination, including among racialized newcomers and refugees in Toronto. As of 2021, 46.6% of Toronto's population were immigrants.[7] Year after year, Toronto is the number one destination for newcomers and refugees arriving in Canada, with 29.5% of recent immigrants between 2016 and 2021 opting to settle in Toronto.[8] This report builds on CCHR's 2009 discrimination audit and endeavours to reveal the barriers that newcomers and refugees (and in particular racialized newcomers and refugees) face when trying to secure housing in Toronto.

Audit Methodology

In 2009, CCHR conducted a telephone audit that became the basis of the discrimination audit report. In that study, over the course of 10 weeks, CCHR mobilized 24 volunteers to inquire about upwards of 800 apartment listings by telephone. In creating the 2009 audit methodology, CCHR foregrounded developing a methodology that would be easily replicable to encourage its use by different organizations operating in different jurisdictions.

During the winter of 2022, CCHR coordinated a study in which a diverse group of CCHR research assistants, staff members, and volunteers conducted email- and telephone-based paired testing audits of 1,370 apartments for rent across Toronto. To do this, we matched two individuals on all relevant characteristics (e.g., income level, gender identity, marital status, etc.) except for one or a combination of a small number of variables for which the rate of discrimination was to be assessed. When using paired testing in the housing sector, paired testers apply for an apartment, and then the experience of the testers is monitored by the study's researchers. Over the course of six weeks, five research assistants, five CCHR staff members, and two volunteers undertook this outreach in pairs.

As we did in 2009, CCHR again placed emphasis on developing a methodology that could be easily replicable by other organizations, community groups, and scholars with the hope that this would help facilitate further paired testing studies in the Canadian context. A number of organizations and researchers in the United States conduct in-person paired testing audits. However, in-person paired testing studies are resource intensive, and the ongoing COVID-19 pandemic in the first quarter of 2022 presented extreme challenges for conducting in-person research. CCHR also recognized the need to adjust the methodology to account for the fact that the ways people commonly communicate when seeking apartments have shifted, in particular with the advent of mass usage of smartphones.

Therefore, informed by the methodology of the 2009 discrimination audit, consultation with CCHR staff and partner organizations, and an analysis of

apartment listings in Toronto, CCHR elected to conduct the 2022 paired testing audit by both telephone and web-based correspondence. By employing two modes of communication, we would be able to access a wider range of apartment listings. Additionally, email communication provided the added benefit of lowering the barrier for replicability, since it does not require that volunteer testers physically reflect the attributes and characteristics of the profiles being tested. Also, by undertaking telephone calls in conjunction with email inquiries, new information could be gleaned about how and whether different modes of communication produce different reactions and outcomes.

What follows is a detailed discussion of the various components of CCHR's 2022 paired testing methodology.

Profiles

Unlike the 2009 discrimination audit which tested for the presence of discrimination against a wider range of identities, the 2022 study focused on the experiences of racialized newcomers and refugees in Toronto. In the 2009 study, CCHR developed testing profiles with overlapping or intersecting axes upon which individuals seeking housing could potentially experience discrimination. This approach provided valuable information regarding the lived experiences of those facing multiple forms of marginalization, but could not capture the magnitude of discrimination against each facet of one's identity individually. By contrast, in the 2022 study we sought to isolate single characteristics upon which an individual could experience discrimination so that we could reliably determine the extent to which each facet of the identity profile elicited discrimination from housing providers. To test a single facet at a time, yet also ensure a variety of the identity grounds upon which housing seekers could face discrimination were reflected, our research team created 10 test profiles for the telephone and email audits.[9]

Equity, diversity, and centering the experiences of the communities we serve is a foundational principle of CCHR's work. A key component of our approach to developing the audit identity profiles was ensuring the identities represented in the profiles authentically aligned with some characteristics shared by the

researchers and volunteers reading the scripts on the telephone audits. For example, we ensured that team members who speak English with accents that could be perceived as racialized conducted the telephone calls for corresponding profiles, and the research team developed the profiles with this in mind. The project team itself included individuals with diverse identities with respect to gender, age, race, citizenship, and country of origin, and the work was undertaken collaboratively and thoughtfully. The audit methodology underwent a review of its ethics by external experts, while team members who participated in the audit received training, were provided with a detailed explanation of what the work entailed, and were offered supports in the event that they experienced any troubling incidents (e.g., such as racism, sexism and ablism) during the course of this work.

The following tables outline the test and control profiles for the telephone and correspondence audits.

Table 1: Audit Profiles

This table offers a list of the different profile types and the characteristics we were testing for discrimination by housing providers in the study's paired audits.

Testing for	Test	Control
Newcomer status	Non-racialized newcomer, female	Non-racialized non-newcomer, female
	Non-racialized newcomer, male	Non-racialized non-newcomer, male
Race and newcomer status (women)	Racialized newcomer, female	Non-racialized newcomer, female
	Racialized non-newcomer, female	Non-racialized non-newcomer, female
Race and newcomer status (men)	Racialized newcomer, male	Non-racialized newcomer, male
	Racialized non-newcomer, male	Non-racialized non-newcomer, male

Testing for	Test	Control
Race, newcomer status, and single parent family	Racialized newcomer, female, indicates child	Racialized newcomer, female, does not indicate child
	Non-racialized non-newcomer, female, indicates child	Non-racialized non-newcomer, female, does not indicate child
Newcomer status and race (combined)	Racialized newcomer, male	Non-racialized non-newcomer, male
Race, newcomer status and single parent family (combined)	Racialized newcomer, female, indicates child	Non-racialized non-newcomer, female, does not indicate child

Scripts

For each profile, the research team created standardized telephone and email scripts. The scripts included plausible standard introductions that disclosed the relevant characteristics listed in Table 1, before the auditor asked other questions about the rental unit such as cost, move-in date, or application requirements. Nearly all audits in the United States that examine racial-ethnic discrimination use names to convey race and ethnicity,[10] and outreach for test profiles in the 2022 audit included names that presented as racialized.

Sample telephone and email scripts follow:

Figure 1: Sample Telephone Script – Single Parent Newcomer Household (Test Condition)

> Hello, I am calling about the apartment you have advertised for rent on [street]. Is it still available? I am looking for an apartment for myself and my child.
>
> [Yes] or [no]
>
> [If yes]:
>
> I am new to Canada, so I don't have a Canadian credit history – will this be an issue?
>
> [If conversation continues]:
>
> What is the monthly rent? And when is the apartment available?

Figure 2: Sample Telephone Script – Single Parent Household (Control Condition)

> Hello, I am calling to inquire about the apartment you have advertised on [street]. Is this unit still available? It looks like it would be a good fit for myself and my child.
>
> [Yes] or [no]
>
> [If yes]:
>
> And what is the monthly rent?
>
> When is the apartment available?

Figure 3: Sample Email Script – Newcomer (Test Condition)

> Hello,
>
> I came across your 1-bedroom apartment on [street] and I would like to rent it. Please let me know if this unit is still available or if there are any other one-person units. Also, since I am new to Canada, I do not have a Canadian credit history – will this be an issue?
>
> Best,
>
> [Name]

Figure 4: Sample Email Script – Non-Newcomer (Control Condition)

> Hi there,
> I am contacting you regarding the one-bedroom apartment listed on [website] on [street]. Is the unit still available?
>
> Regards,
>
> [Name]

Sampling Methodology

CCHR developed a methodology for selecting apartment listings that would approximate a representative sample. In 2021, there were 483,538 units of rental housing, rental condominium apartments and private purpose-built rentals in

the City of Toronto.[11] In 2021, the vacancy rate was 4.4% for purpose-built rentals and 1.6% for condominium apartments.[12]

Rental housing units were selected from both the primary (i.e., purpose-built rentals) and secondary rental housing markets (i.e., condominium rentals, basement apartments, etc.). Based on analysis of data from the 2016 Canadian Census of Population by the Canadian Urban Institute, the primary market represented 49.2% of Toronto's rental housing stock, and the secondary market 50.8% of Toronto's rental housing stock.[13] According to the Canadian Urban Institute, "approximately one third (33.4%) of renter households reside in non-condo secondary rental housing, while the remainder (17.4%) reside in condo rental units."[14] Given the low vacancy rate across the rental sector in Toronto, and the speed at which housing units are rented once posted, our team collected listings daily on an ongoing basis throughout the project concurrently with the paired testing. Rental housing ads were collected from a range of web-based platforms including viewit.ca, Kijiji, Craigslist, PadMapper and torontorentals.ca, as well as directly from the websites of large-scale housing providers.

Refugees and newcomers to Canada are over-represented in lower-income groups, and need access to rental housing that is affordable, meaning they are not forced to spend more than 30% of their income on housing. Thus, our research team endeavoured to focus on the most deeply affordable units that we could for this study. Here, it is important to note that rental housing in the city's primary rental housing market is much more affordable than rental housing in the city's secondary rental housing market. To reflect the economic realities faced by many newcomers, the research team determined that the rental rate for the housing units included in the audits should be affordable. Accordingly, since the primary rental market remains more affordable than the secondary rental market, our research team drew more postings from the primary rental market throughout the paired testing process.

It is challenging to find housing units in the private housing market that would be considered deeply affordable in Toronto's current rental housing landscape. However, through the team's initial scans of rental ads, we soon realized that

focusing solely on deeply affordable units would have seriously limited the number of units that could be tested within the project's set time frame. Given the shortage of ads for affordable rental units, to balance the affordability goal with the feasibility of this study, our research team included units with rents no more than 20% higher than the city's average market rent. The team was also cognizant of ensuring geographic variation, and endeavoured to select a roughly even number of units from each of the six administrative districts that comprise the City of Toronto: Old Toronto, Scarborough, York, North York, East York and Etobicoke.

Implementing the Audit

The audit was conducted over a six-week period from mid-January to late-February 2022. While ownership in the Toronto rental housing market is diverse, increasingly, purpose-built rental buildings are owned by the same few companies. In this context, to ensure the integrity of this study, our team did not contact the same housing provider at a high frequency. Throughout the study, we kept track of all audit interactions in a shared database, and in advance of contacting housing providers, auditors searched the database to determine if and when a given housing provider was last contacted. To avoid being detected, it was agreed that housing providers should not be contacted more than once per week. In some instances, this meant that housing units were not included in the study.

In line with the 2009 discrimination audit, telephone and email inquiries from the test and control profiles were undertaken 1.5 hours apart. Though this short time frame could increase the risk that the research project could be detected, while a longer time frame posed the threat of the conditions associated with the unit changing. As in the 2009 audit, this study assumed that the conditions associated with a given unit would be unlikely to change over the course of 1.5 hours.

Each morning during the study, team members collected rental unit postings, and later that day auditors contacted the housing providers either by telephone or email using the previously outlined methodology. To help ensure any changes in the conditions associated with listings would not systematically

favour either member of the testing pair, auditors alternated the order in which calls or emails were made by the test and control.

For the telephone audit, team members called the number provided to them and posed the questions on the associated script, while noting housing provider responses. If the housing provider did not answer the initial call, auditors would call a second time. If the housing provider did not answer the second call and there was an option to leave a voicemail, auditors left a voicemail message. In contrast to the 2009 discrimination audit, the more widespread use of call display in 2022 posed a new challenge. Since the call display might alert a housing provider to the fact that the person on the other end of the line was not who they said they were, it was decided that auditors would obscure their caller ID.

For the email audit, team members employed an email scheduling function to program emails to be sent 1.5 hours apart from different accounts. In the case of the email audits, auditors waited three days to conduct their analysis of the paired test, taking note of the differences in response time to emails from the control and test profiles. If the housing provider did not respond after three days, it was noted as a non-response.

Analysis

Once data was recorded from the telephone and email paired tests, outcomes were entered into a centralized database. Each interaction was assessed and analyzed by researchers to determine whether test profiles experienced more positive treatment, more negative treatment, or no differential treatment when compared to control profiles across the study. Auditors were responsible for providing an overview of correspondence for a given paired test, and then scored the interaction based on metrics which are outlined in Figure 5 below. As in 2009, each pair of responses was assessed by a researcher, and then reviewed by the lead researcher, with the assessments being compared by the researchers to ensure that there was consistency.

Figure 5: Differential Treatment Scale

The following outlines the scoring system employed to assess degrees of discriminatory treatment among paired tests.

0	No differential treatment or minor, seemingly random differences.
1 or -1	Mild degree of differential treatment (differential treatment that may indicate bias but does not necessarily constitute a significant barrier to accessing the apartment). For example: • Minor differences in move-in dates or features. • Minor differences in rent that are not likely to restrict access to the apartment (less than $30 per month). • Minor differences in the housing provider's comments/questions. • Differences in the availability of other suitable units.
2 or -2	Moderate degree of differential treatment (differential treatment that constitutes a significant barrier to accessing the apartment). For example: • Differences in rent or fees that are likely to restrict access to the apartment. • Excessive questions asked of one auditor compared to the other (indicating significant bias in favour of one auditor over the other). • Different move-in date provided, with one being so far in the future that it poses a barrier.
3 or -3	Severe differential treatment (housing access denied). For example: • Apartment not available for one auditor, but available for another. • Both telephone auditors leave a message, but the housing provider only returns one call. • Both email auditors send a message, but the housing provider only responds to one. • Housing providers clearly offer an unsuitable unit, rather than what was advertised (e.g., a one-bedroom renting at $1,600 per month when the auditor is seeking a bachelor at $1,100–$1,200 per month).

Survey

To complement the audit data, the research team also undertook a survey of racialized newcomers and refugees about their experiences trying to access rental housing in Toronto. The intention of the survey was to contextualize the findings of the audit, rather than to provide a representative sample and generalized portrait of the newcomer experience in Toronto's rental housing market. In consultation with project partners Dixon Hall and Christie Refugee Welcome Centre (CRWC), CCHR created survey questions centered on subjects' experiences seeking housing upon arrival in Toronto. The survey was distributed widely among 29 newcomer-serving organizations in CCHR's network in five languages: English, Spanish, Simplified Chinese, Bengali and Arabic. The survey was also distributed through CCHR's email networks and on its social media platforms.

The survey included both fixed-response and open-ended questions. Fixed-response questions can offer clarity for respondents, and are relatively easy for researchers to analyze, but the information they can gather is limited. In order to glean more texture, the survey also included open-ended questions, providing respondents with the opportunity to share their personal experiences in their own words.[15]

The online survey was distributed to partner organizations and their networks in late March 2022, with paper copies also distributed to newcomer-serving organizations that were conducting in-person operations. The survey remained open until late June 2022. The survey included a total of 34 questions and CCHR endeavored to create a survey that should take respondents under 10 minutes to fill out. In total, CCHR collected 74 responses to the survey. Our analytics indeed indicated, for instance, that the online survey took participants an average of nine minutes and nine seconds to fill out.

Interviews

The study also included interviews with racialized newcomers and refugees, who were asked about their experiences accessing housing in Toronto. Again, the intention of these interviews was not to provide a representative and general portrait of the newcomer experience in Toronto's rental housing market, but rather to complement and contextualize the findings of the audit.

In late April 2022, CCHR conducted 10 semi-structured telephone and Zoom interviews with racialized newcomers and refugees. Participants were recruited through a form linked to the survey described above, where participants could indicate their interest in participating in an interview to inform the project. Interviews lasted 30 minutes. The interview questions were centred on the interviewees' experiences trying to secure housing upon arrival in Toronto, and the key barriers they experienced. All participation was confidential. Interviewees were provided with an honorarium.

Results

Discrimination Audit

During January and February 2022, CCHR research assistants, volunteers, and staff members contacted a total of 594 discreet rental housing advertisement listings by telephone and 776 discreet listings by email. This yielded 267 usable paired observations by telephone (45%) and 500 usable observations by email (64%).

Observations were determined to be unusable when:

- One or both paired testers were unable to reach a housing provider by telephone.
- Paired testers did not receive any returned calls upon leaving a voicemail.
- Paired testers did not receive any responses to emails.

The number of usable observations across each of the 10 profile pairs used for the telephone audit ranged from 13 to 43, whereas the number of usable observations across each of the 10 profile pairs used for the email audit ranged from 42 to 60. These numbers are in line with the number of viable tests conducted by the Department of Housing and Urban Development (HUD) in their 2012 paired testing research, *Housing Discrimination Against Racial and Ethnic Minorities*.[16] The lower number of usable observations from the telephone audit reflects a shift in the way that housing seekers and housing providers communicate about rental apartment units – increasingly, telephone calls are eschewed in favour of web-based communication platforms.

In many instances while conducting the telephone audit, the team were able to reach a housing provider once but not twice in the 1.5-hour allotted time period, precluding the opportunity for a usable observation. The team recorded a total of 192 instances in which auditors were able to reach only one housing provider, representing nearly a third (32%) of the discreet listings we contacted in the audit. Though these interactions cannot be considered paired tests, they provided interesting insights into how housing providers are interacting with prospective tenants.

Tables 2 and 3 illustrate the extent of differential treatment that was observed for 10 pairs of test and control profiles. Table 2 outlines the scoring of the interactions in the paired telephone audit, and Table 3 outlines the scoring of interactions in the paired email audit. Both tables include scores of unfairness – mild, moderate, and severe – for the test auditors and the control auditors. These tables also show when there was no observable difference between responses to the test and the control auditor. As with the 2009 discrimination audit, the research team analyzed the nature of any differential treatment detected between the experiences of the test and control profiles and coded it by discrimination level. In almost every instance, the test profile was determined to have experienced some degree of discrimination when compared to the control profile.

Our general findings were:

- For identities coded as racialized, disclosing newcomer status increased discrimination.
- In the telephone audit, presenting as racialized compounded the discriminatory treatment that auditors faced when disclosing their newcomer status.
- Female telephone auditors who disclosed a newcomer status faced a 62% increase in discrimination when they also had accents that presented as racialized compared with those who did not have racialized accents. Male telephone auditors who disclosed a newcomer status faced a 267% increase in discrimination when they had accents that presented as racialized compared with telephone auditors with an identity that presented as having a non-racialized accent.
- In the email audits, female racialized identities faced 214% more discrimination than female identities that were not racialized.
- Both telephone and email auditors that presented as female and racialized who indicated a newcomer status and the presence of a child, faced greater discrimination than racialized newcomer women without children.

Table 2: Extent of Mild, Moderate and Severe Differential Treatment, Telephone Audit

	Discrimination Against Non-Racialized **Non-Newcomers**				Discrimination Against Non-Racialized **Newcomers**				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Women	2%	0%	7%	36%	21%	26%	7%	0.81	42
Men	4%	0%	0%	30%	26%	17%	22%	1.13	23
	Discrimination Against **Non-Racialized** Non-Newcomers				Discrimination Against **Racialized** Non-Newcomers				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Women	7%	0%	14%	57%	7%	7%	7%	0.07	14
Men	0%	0%	3%	45%	21%	16%	16%	0.97	38
	Discrimination Against **Non-Racialized Newcomers**				Discrimination Against **Racialized Newcomers**				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Women	7%	7%	7%	47%	0%	27%	7%	0.33	15
Men	0%	3%	6%	58%	8%	22%	3%	0.50	36
	Discrimination Against **Non-Racialized Non-Newcomer**				Discrimination Against **Racialized Newcomer**				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Men	3%	3%	3%	24%	14%	45%	7%	1.03	29
	Discrimination Against **Non-Parent** Women				Discrimination Against **Parent** Women				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Racialized Newcomer	0%	8%	0%	38%	0%	15%	38%	1.31	13
Non-Racialized Non-Newcomer	3%	7%	7%	55%	14%	3%	10%	0.21	29
	Discrimination Against **Non-Racialized, Non-Newcomer, Non-Parent**				Discrimination Against **Racialized, Newcomer, Parent**				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Women	7%	13%	20%	27%	13%	20%	0%	-0.13	15

Note: Discrimination was rated on a scale ranging from -3 to +3. Stronger negative values indicate greater discrimination against the control group. Stronger positive values indicate greater discrimination against the test group. Mod. = moderate.

Table 3: Extent of Mild, Moderate and Severe Differential Treatment, Email Audit

	Discrimination Against Non-Racialized **Non-Newcomers**				Discrimination Against Non-Racialized **Newcomers**				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Women	13%	2%	0%	58%	7%	7%	13%	0.16	45
Men	10%	0%	4%	58%	0%	0%	27%	0.46	48
	Discrimination Against **Non-Racialized** Non-Newcomers				Discrimination Against **Racialized** Non-Newcomers				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Women	7%	0%	0%	71%	7%	0%	15%	0.29	41
Men	13%	0%	2%	60%	0%	4%	21%	0.32	47
	Discrimination Against **Non-Racialized Newcomers**				Discrimination Against **Racialized Newcomers**				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Women	16%	2%	2%	53%	4%	2%	20%	0.16	45
Men	21%	2%	0%	58%	4%	2%	13%	-0.19	53
	Discrimination Against **Non-Racialized Non-Newcomer**				Discrimination Against **Racialized Newcomer**				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Men	17%	2%	0%	55%	3%	3%	19%	0.12	58
	Discrimination Against **Non-Parent** Women				Discrimination Against **Parent** Women				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Racialized Newcomer	12%	0%	0%	63%	2%	7%	16%	0.30	43
Non-Racialized Non-Newcomer	15%	2%	6%	59%	4%	2%	13%	-0.07	54
	Discrimination Against **Non-Racialized, Non-Newcomer, Non-Parent**				Discrimination Against **Racialized, Newcomer, Parent**				
	Severe (-3)	Mod. (-2)	Mild (-1)	No Difference in Treatment (0)	Mild (+1)	Mod. (+2)	Severe (+3)	Average Score	N
Women	16%	3%	9%	53%	3%	3%	13%	-0.16	32

Note: Discrimination was rated on a scale ranging from -3 to +3. Stronger negative values indicate greater discrimination against the control group. Stronger positive values indicate greater discrimination against the test group. Mod. = moderate.

Whenever a telephone auditor disclosed their newcomer status, they often faced more discriminatory treatment than an auditor who presented as a non-newcomer. For instance, non-racialized newcomer women were treated less fairly than non-racialized non-newcomer women 54% of the time. In contrast, in only 9% of cases was the non-racialized female newcomer favoured over the non-racialized female non-newcomer. This suggests that non-racialized women who disclose a newcomer status can face an increase in discrimination compared to those who do not disclose a newcomer status when searching for housing. A similar effect was seen for non-racialized men.

Moreover, in the telephone audit, racialization compounded the discriminatory treatment that auditors faced when disclosing their newcomer status. Compared to non-racialized newcomer women, racialized newcomer women were treated less fairly 34% of the time. In contrast, non-racialized newcomer women were treated less fairly than racialized newcomer women 21% of the time. This suggests that racialization increases the amount of discrimination that newcomer women face, above and beyond any discrimination they may already experience as a result of being a newcomer or a woman. A similar effect was seen for newcomer men, such that racialization increases the amount of discrimination they face, above and beyond any discrimination they may already experience as a result of their newcomer status or gender.

We see an additional increase in discrimination in the telephone audit when racialized newcomer women disclose the presence of a child. Racialized newcomer women with children were treated less fairly than racialized newcomer women without children 53% of the time. In contrast, racialized newcomer women with children were favoured over their counterparts without children only 8% of the time. This suggests that the presence of a child increases the amount of discrimination racialized newcomer women face, above any discrimination they may already experience as a result of their racialization, newcomer status, or gender.

Similar phenomena were visible within the email audit, albeit the effects were generally less pronounced. By comparison with the telephone audit, there

were more instances in the email audit in which no discriminatory treatment was detected. Much of this may be explained by the fact that many housing providers respond to email inquiries with a generic template, which were the email auditors' initial interactions with housing providers. This can be attested to in our research by the number of responses that our auditors received by email that were identical for the test and control profiles. However, despite less evidence of discrimination in the email audits, by no means did discrimination disappear entirely when potential renters contacted housing providers via this method. Across almost all test pairs in the email audit, the test profile was treated less favourably than the control profile. In most instances, when an auditor disclosed their newcomer status by email, they were more likely to face discriminatory treatment in the response from a housing provider, including when they received a first generic response. This happened across different racialized identities and for both men and women.

As the data began to take shape, researchers noticed that, in some instances, housing providers requested payments from prospective tenants that are prohibited by the Ontario Residential Tenancies Act (RTA). Often, this included requests for deposits that far exceeded first and last months' rent. To account for these interactions in the analysis, the team flagged instances in which housing providers made requests that exceeded or contradicted the RTA. While it is important to understand when housing providers make illegal requests, CCHR also acknowledges that some information housing providers can legally request during the application process can pose significant barriers for newcomers trying to access housing upon arriving in Canada. These barriers should be examined and addressed.

Survey

The survey received responses from 74 people who generously shared their experiences searching and applying for housing as a newcomer in Toronto. CCHR staff sent links to the survey through the organization's digital communications as well as through direct outreach with organizations serving

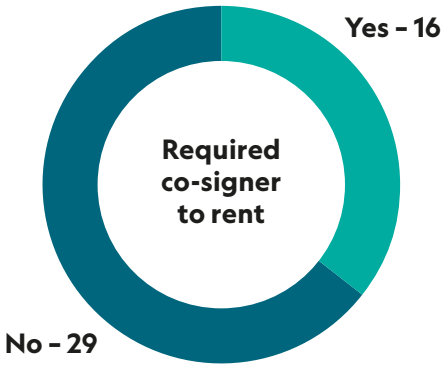
newcomers in the city. This testimony provides important context about what is happening to newcomers as they seek to settle in Toronto.

Of the 74 responses to the survey, only 60% of respondents had been successful in securing housing since their arrival in Canada. This figure alludes to the steep and various barriers that newcomers face in securing housing upon arrival in Canada. Of the respondents who had been unable to secure housing upon arrival in Canada, all reported a racial identity other than non-racialized, reflecting again that newcomers of racialized identities experience heightened barriers to accessing housing in Toronto.

Of the 40% of respondents who had been unable to secure housing since arriving in Toronto, 85% were earning less than $2,000 per month, with 61% earning less than $1,000 per month. A further 62% of respondents who had been unable to secure housing received social assistance.

The following graphs outline some of the key findings of the survey:

Graph 1: Co-signer Requested for Rental Agreement for a Newcomer

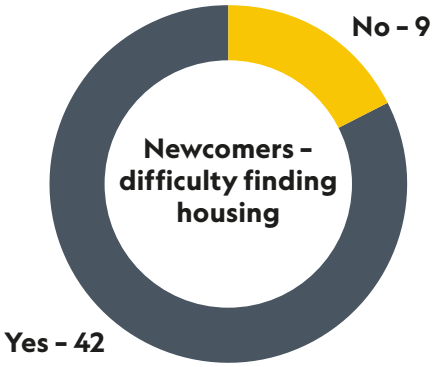


To rent the unit, did you require a co-signer who would agree to pay the rent if you could not pay?

Graph 2: Reasons a Newcomer was Denied an Apartment Rental Unit

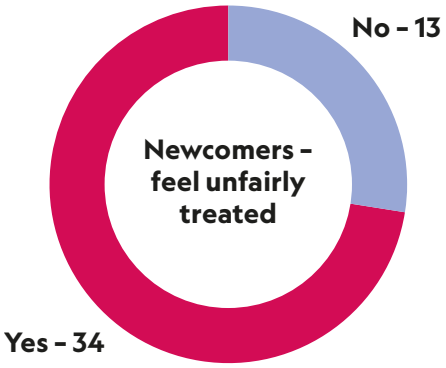
What were the reasons given to you that you could not rent an apartment? (Multiple choice)

Graph 3: Newcomer Status Negatively Affected Search



Do you feel that being a newcomer to Canada made it more difficult for you to find housing?

Graph 4: Newcomers Being Discriminated Against in the Rental Market



Do you feel that you have been treated unfairly by housing providers because you are a newcomer to Canada?

Survey respondents reported experiencing a high degree of discrimination by housing providers and many barriers to accessing housing in Toronto. When answering open-ended questions, respondents who were successful in securing housing often also reported that they experienced poor housing conditions upon securing their first apartment. Survey respondents reported moving into apartments that had maintenance issues, vermin, mold, and poor heating. Of the 45 respondents who were successful in securing a first apartment upon arrival in Canada, only 19 respondents remained in that first apartment. The other 26 respondents reported that they moved on from their initial apartments citing high costs, maintenance issues, poor housing conditions, and in the case of five respondents, informal evictions by the housing provider. These responses suggest a very disruptive path to settlement in Toronto for newcomers.

Figure 6: Feedback by Newcomers Describing their Early Experiences in their Housing Search

Below is a selection of comments from newcomers regarding their early experiences seeking housing in Toronto, edited lightly for clarity.

> "It was difficult to pay the first and last months' rent because we didn't have a Canadian bank account. We had to find a landlord (1) willing to take payment in cash, (2) who was comfortable with the fact that neither of us were employed and that we could not provide a co-signer, and (3) wasn't bothered by the fact that our references from previous landlords were all international."
>
> "Having no credit history, being jobless, having no vehicle and being new without having a settlement worker made our life very challenging. I am still struggling to find a job in my field."
>
> "[It was difficult] not knowing where to find reliable information and who to trust. Without a good grasp of English, any type of support from people living here, or being savvy to navigate the internet and find information yourself, it's almost impossible to find suitable and legal housing."
>
> "The moment I said [that I was a newcomer] 90% of the landlords said I needed a credit score, and that preference would be given to those able to provide a good credit score and job letter."
>
> "Most landlords did not want people receiving Ontario Works."
>
> "I had to give more advance rent than first and last month. I was rejected by multiple landlords because I had no job, even though my savings could cover rent for the whole year."

Interviews

Following the audit and survey, the research team conducted 10 semi-structured interviews with newcomers who reported challenges in accessing housing. Interview questions were informed by background research as well as the preliminary results of the audit and survey data. Interviewees spoke to a range of different experiences and shared the profound difficulties they faced as they endeavored to secure housing upon first arrival in Toronto.

Among the most significant barriers to accessing housing in the city that newcomers cited were:

- Affordability
- Race-based discrimination
- Gender-based discrimination
- Discrimination based on familial structure or the presence of a child, and in particular discrimination based on being a single-parent family
- Discrimination based on the receipt of social assistance
- Unfamiliarity with Toronto and the norms associated with the process of procuring housing

Many interviewees also noted that not having a credit history in Canada in many instances precluded them from applying to a large volume of housing units. Others outlined an initial sense of confusion about how and where to seek housing in Toronto as being a key impediment to securing housing upon arrival.

All 10 interviewees disclosed that being unable to access housing created significant challenges in other areas of their lives. For example, one interviewee described being unable to secure a social insurance number upon arrival, because she and her husband were living in a motel and had no mailing address. In turn, this precluded them from seeking employment which then created additional barriers to securing housing. Others echoed the challenges of seeking employment while residing at a temporary address. Several interviewees further spoke to the ways in which the processing backlog at Immigration, Refugees and Citizenship Canada had left them both unable to secure either employment or housing for many months without the necessary paperwork in hand.

For all interviewees who were successful in securing housing, it took them many months, and in some instances years, to do so. Three of the interviewees who were not successful in securing housing upon arrival remained living in the city's shelter system many months after their arrival. Many of the interviewees

described negative physical and mental health outcomes related to the profound stress associated with being unable to secure housing. Others further detailed how searching for accommodation in Toronto was resource-intensive and required that they spend their limited savings on transit around the city, temporary hotel or motel accommodations, and fees associated with applications for housing units. This in turn left them with less savings to direct towards expenses like first and last month's rent upon securing housing. Finally, interviewees detailed how upon securing housing, the conditions of their housing were inadequate and housing providers took advantage of their status as newcomers and their lack of housing options to neglect repairs, impose unfair rules, and levy unwarranted fees.

Limitations of the Methodology

Discrimination Audit

With this project, CCHR's team endeavored to design and implement a study that fulsomely and soundly tested for the prevalence of discrimination against racialized newcomers and refugees in Toronto's housing market. However, as is the case with any study, there are some limitations to the methodologies employed which are highlighted and discussed below.

Although the research team was methodical in selecting rental units and endeavoured to include many of the most popular housing search platforms, it was not feasible to review all technologies and platforms used in housing searches. For example, the team made the decision to exclude Facebook Marketplace from this study because it would have required the use of Facebook profiles. We determined that though Facebook Marketplace is widely used to search for housing in Toronto, the creation of new profiles might flag our study for housing providers, since Facebook displays how long users have been using the platform. The team also did not include apartments that used "For Rent" signs on their exterior to signify a vacancy and may or may not have been posted online. These two exclusions likely meant that the study excluded a number of units in the secondary rental market, since individual landlords

often use Facebook Marketplace and "For Rent" signs to advertise their vacant units. Second, the decision to hide auditors' caller identifications from housing providers when making telephone calls was likely to have deterred some housing providers from answering their telephones, and likely limited the number of returned calls that were received when an auditor left a voicemail message.

Paired testing relies heavily on the use of individual judgement, as the individuals conducting telephone audits bring different experiences and perceptions to the study, and are likely to conduct telephone calls with some variation. While we made every effort to minimize the potential for individual judgement to impact interactions in the telephone audit, this is a noted criticism of paired testing methods.

The ways in which housing providers and housing seekers communicate have shifted over the past decade. It was very often the case that when a rental listing included a telephone number, the housing provider did not answer their telephone. Overall, this meant that we had less telephone data to analyze. Further, collecting this telephone data was much more resource-intensive than was the case with the previous audit, as auditors had to call repeatedly to receive a response.

Given the limited variable approach adopted in this audit, the team did not have the resources to be able to test every ground upon which newcomers and refugees can face discrimination in Toronto's housing market. For instance, this research does not capture potential discrimination faced by newcomers who are LGBTQ2SIA+, gender-diverse, or receive social assistance when seeking housing. These and additional variables could be considered for future audits.

Again, due to the project parameters and capacity, the paired testing only examined the first stage of the housing search process. The process by which housing seekers secure housing of course goes beyond initial inquiries about a given unit, and there are many opportunities for discrimination throughout the process. Because this study focused on initial interactions between housing seekers and housing providers, it is very likely that there are additional

instances of discrimination taking place in Toronto's housing market, and those could also be of significant scale. This limitation applied in particular to email correspondence in the audit, where increasingly large-scale housing providers return all inquiries with a prefabricated auto-response.

Survey and Interviews

There are several limitations of a web-based survey. However, due to the ongoing COVID-19 pandemic during the winter of 2022, a widely distributed paper-based survey was not feasible. Conducting a web-based survey has the potential to limit the access of those who do not use email or online platforms, and it has been established that telephone and web-based surveys often under-represent marginalized and equity-deserving groups, like people living on low incomes and people experiencing homelessness.[17] This was a concern in conducting a survey focused on the experiences of racialized newcomers. To mitigate the limitations of web-based survey distribution, CCHR distributed the survey through the networks of partner organizations who work directly with racialized newcomers and refugees and have established relationships with individuals and communities, and provided paper copies for distribution at several agencies. A total of 74 responses were collected. Likewise, the interviews provided important context to the numerical audit data and connected voices to the counted experiences of discrimination in Toronto's rental housing market. They were not, however, intended to provide a representative sample of newcomer and refugee housing experiences in Toronto. Therefore, although the findings from these methods are not representative of the experiences of all racialized newcomers and refugees to Toronto, it is important to emphasize that survey and interview data were collected to provide important context and to supplement the findings of the paired testing audit, which was the central aim of the study.

Concluding Discussion

Owing to a limited number of studies and minimal data collected by government agencies on the barriers and discrimination faced by newcomers to Canada, it is currently difficult to gauge the extent of discrimination in rental housing markets across Canada. Nevertheless, the issues of discrimination and the real barriers facing newcomers and racialized residents persist.

The official recourse available to individuals who have faced discrimination in housing is through filing a complaint against the housing provider at the HRTO. However, this process is inaccessible to many. People who contact CCHR's services team about discriminatory treatment often tell us they are not interested in reporting it through official channels, because they are too busy just trying to secure housing. Others understand that the process of making a human rights complaint is complex, wait times are long, and they do not feel it is a good use of their time because they have so many other overriding concerns. Based on our understanding of the scope of the issue from CCHR's 35 years of service provision and the results of our 2009 discrimination audit and this 2022 audit, it can be assumed that formal complaints about discriminatory treatment in seeking housing are underreported through official channels. Even so, in 2021, the HRTO received 381 housing-related complaints comprising 9% of all of applications.[18]

Below, we discuss the implications of the findings of this study.

Discrimination in Toronto's Rental Housing Market Against Newcomers is Widespread

Among both men and women, racialized and non-racialized, newcomer status was associated with an increase in discriminatory treatment. This means that the housing provider's response would likely create some barrier to securing the unit in question for the test applicant when compared to the control applicant. This indicates a high level of discrimination against newcomers, and in particular racialized newcomers, in Toronto's rental housing market.

The lack of available affordable rental housing in Toronto is a major contributor to the difficulty newcomers with limited financial means face when trying to secure housing upon arrival. The limited supply of affordable rental housing has allowed housing providers to increasingly become more selective of who they choose for tenants and who they perceive to be ideal tenants. This appears to preclude newcomers accessing an even wider swath of Toronto's rental housing stock. In both the telephone and email data, disclosing newcomer status elicited high levels of discriminatory treatment by housing providers across racial and gendered identities, even while indicating they had an income to afford the unit. After disclosing newcomer status, telephone and email auditors were routinely asked invasive questions or asked to provide documentation that is beyond what is acceptable by law. In many instances, telephone auditors were told by the housing provider that they could not rent to them. In many instances in the email audit, housing providers responded enthusiastically to the control profile and simply ignored inquiries from email auditors who disclosed newcomer status.

The Discrimination Captured in this Report Likely Reflects a Much Broader Problem

This research captured discriminatory behaviour that occurs when initial contact is made with a housing provider. In many instances, discrimination at this early stage precludes newcomers from accessing rental housing. But CCHR knows from working with our clients that discrimination against a would-be tenant can occur at any point in the process of securing rental housing. Households that may not have been discriminated against in this initial part of the process may experience discrimination at a later stage, such as when viewing the apartment or filling out a rental application. Indeed, many survey respondents and many interviewees reported discriminatory interactions at other stages of the process. This research represents a first step. Further research is needed to gain a broader understanding of discriminatory practices faced by newcomers throughout the process of securing rental housing.

Racialized Newcomers and Single-Parent Newcomer Households Face Particularly High Levels of Discriminatory Treatment

Both the email and telephone audit profiles that presented as racialized faced high levels of discrimination from housing providers. This was the case both when newcomer status was disclosed, and when it was not. This makes clear that a high level of race-based discrimination persists in Toronto's rental housing market. Female telephone auditors who disclosed a newcomer status faced a 62% increase in discrimination when they also had accents that presented as racialized, compared with auditors who did not have racialized accents. Male telephone auditors who disclosed a newcomer status faced a 267% increase in discrimination when they had accents that presented as racialized, compared with when the male newcomer identity was presented without a racialized accent. This suggests that for male newcomers, race can be a driving force in discrimination. In contrast, non-racialized and racialized newcomer women may both face discrimination based on other aspects of their identity, such as their gender, which makes the additional impact of race less salient (though not unimportant) for newcomer women relative to newcomer men.

Discrimination was particularly acute when a racialized and female-presenting telephone auditor disclosed their newcomer status and the presence of a child in their household. In these instances, racialized female newcomers experienced 563% more discriminatory treatment when they disclosed the presence of a child, compared to when they did not disclose this information. This high degree of discriminatory conduct was echoed in interviews, where single-parent newcomers detailed the profound barriers that they faced when trying to secure housing. This research unfortunately confirmed that the barriers to accessing housing as a single-parent, female-led, racialized newcomer family are particularly acute.

Stringent Application Processes are a Mechanism that Housing Providers Use for Discriminatory Purposes

Since the 2009 discrimination audit was conducted, a tight rental housing market has emboldened housing providers to impose more stringent criteria on rental housing applicants. Prospective tenants are routinely asked to provide a wide range of documentation and answer intrusive questions, in many instances including documentation and questions prohibited by the Ontario Human Rights Code. They are also asked to provide excessive advance payments prohibited by the RTA. During the project, auditors noticed many housing providers outlining these stringent requirements at the initial point of contact. Many of the criteria outlined could not reasonably be met by most newcomers to Canada.

Requests at the initial point of contact included credit scores over 680 and three to six months of bank statements and pay stubs. Although housing providers are permitted to turn down applicants based on their credit score, having no credit score is not supposed to count against applicants, and if the lack of a Canadian credit score is related to "place of origin" (a protected ground under the Ontario Human Rights Code), doing so can be considered discriminatory. During this project, when auditors disclosed that their profile did not have a credit history in Canada, many housing providers responded that they would only be able to rent the apartment by paying many months' rent upfront.

Discriminatory Conduct by Housing Providers is Often Hidden

In several instances, auditors unfortunately experienced and recorded interactions with housing providers that involved explicitly racist or sexist statements. However, in most instances, the discriminatory conduct that was observed was much more subtle. Test profile auditors observed that once newcomer status was disclosed, some housing providers asked more questions about familial structure or employment, or proceeded to outline additional rental application criteria; while the same housing provider invited the control

profile to view the unit without mentioning the application process. In other instances, housing providers were eager to end the call quickly after the test profile auditor disclosed their newcomer status, but the same housing provider was eager to have the control profile auditor view the apartment. The majority of the differential treatment detected in this study would not have been immediately apparent to the telephone or email auditors without the ability to compare the treatment through the paired testing. The ability to detect and observe subtle modes of discrimination that work to limit opportunities for marginalized and equity-deserving groups is one of the distinct advantages of this approach. Because of the subtlety of discrimination we can observe using this methodology, it is reasonable to presume that official statistics that endeavour to quantify discrimination and rely on more overt instances do not capture the true scope of discriminatory practices.

Discrimination in the Housing Market May Be Even More Acute as Rental Market Conditions Tighten

A key systemic contributor to a newcomers' struggle to secure rental housing in Toronto is a shortage of affordable rental housing supply. Frequently, units advertised in Toronto are simply out of reach for newcomers, many of whom arrive with limited savings and are living on low incomes. The barriers to accessing rental housing are compounded by the common practices of housing providers imposing larger deposits and advance payments of rent, which they tell applicants they require because they do not have a Canadian guarantor, credit, or employment history.

Against that challenging backdrop, this study demonstrates that newcomers' ability to secure adequate housing is even further limited by discrimination in the housing market. It is important to note here that this research was carried out in February 2022. At the time, rental market conditions were beginning to tighten in the aftermath of a lull in the rental market induced by the COVID-19 pandemic. However, since then, rental market conditions in Toronto have only tightened, with average rents in Toronto in late July of 2022 up more than 20%

over the year prior,[19] with rents in the Greater Toronto Area (GTA) rising at the fastest rate on record.[20] Meanwhile, the vacancy rate in Q1 of 2022 among stabilized purpose-built rental buildings completed since 2005 in the GTA has contracted to 1.8%.[21] The head of the Toronto Regional Real Estate Board expected further increases in the following months as rising interest rates push more people into the rental market.[22]

As it is likely that fiercely competitive conditions will persist in Toronto's rental housing market for some time, we can presume that the barriers to accessing housing for newcomers to Toronto will continue without immediate interventions. Many newcomers are unaware of their legal rights as tenants, and are thus more vulnerable to experiencing illegal requests and conditions in their tenancy arrangements. A lack of understanding of legal rights coupled with limited affordable housing options within a competitive rental housing market is particularly troubling in light of projected population growth. Statistics Canada estimates that between 2020 and 2043, Ontario will see a 28.6% increase in its population, largely driven by immigration.[23] We know that the first stop for most newcomers to Ontario is the GTA. Without tenant protections, education, and an increase in the availability of deeply affordable housing options in Toronto, newcomers will continue to be left with few adequate housing choices. In addition to policy reform and funding for direct supports and programs for newcomers seeking housing, further research is needed to determine how housing market conditions impact the rates of discriminatory treatment that newcomers face in the rental housing market.

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List of Acronyms

CCHR – Canadian Centre for Housing Rights

CERA – Centre for Equality Rights in Accommodation

CMHC – Canada Mortgage and Housing Corporation

CRWC – Christie Refugee Welcome Centre

GTA – Greater Toronto Area

HRTO – Human Rights Tribunal of Ontario

HUD – Department of Housing and Urban Development

RTA – Ontario Residential Tenancies Act

End Notes and Works Cited

1. The term "racialized" is a sociological concept closely related to racism. People seen as belonging to racialized minorities are people who could be perceived as being socially different from, for example, the racial or ethnic majority. In Canada, the term "racialized minority" usually refers to non-white people. The word "racialized" stresses the fact that race is neither biological nor objective but is a concept which is societal in origin. Categorizations other than "racialized" include "people of colour" or BIPOC (Black, Indigenous, People of Colour). See Souissi, Takwa. "Racialized Minorities." The Canadian Encyclopedia, February 23, 2022, https://www.thecanadianencyclopedia.ca/en/article/racialized-minorities#:~:text=In%20Canada%2C%20the%20term%20%E2%80%9Cracialized,which%20is%20societal%20in%20origin.

   The Homeless Hub at York University notes, "Frequently referred to as 'visible minorities' the term 'racialized communities' encompasses all people that are non-Caucasian in race or non-white in colour. Indigenous peoples in Canada are sometimes excluded from this definition, but should not be. [Increasingly,] the term racialized communities is replacing visible minorities because in many municipalities that population of people who are non-white make up the majority, not a minority of the overall population," and that, "Systemic and institutionalized racism often contributes to homelessness amongst these communities." See "Racialized Communities." *Homeless Hub*, https://www.homelesshub.ca/solutions/priority-populations/racialized-communities [Retrieved November 11, 2022].

2. In the study and this report, we refer to "appeared as" as "presented as."

3. See Feinstein, Clarrie. "Average Rents in the GTA Shoot up Almost 20% in the Past Year." *The Toronto Star,* July 28, 2022, https://www.thestar.com/real-estate/2022/07/28/average-rents-in-the-gta-shoot-up-almost-20-per-cent-in-the-past-year.html and Hildebrand, Sean. "Rental Vacancy Rate Continues to Decline in Q1." *Urbanation,* April 19, 2021, https://www.urbanation.ca/news/342-rental-vacancy-rate-continues-decline-q1.

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Centre for
Housing Rights

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THIS IS **EXHIBIT "J"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

B-1-9929

Taking the pulse: People's opinions on human rights in Ontario

Survey overview

Taking the pulse

The Ontario Human Rights Commission (OHRC) undertook a public opinion survey to gauge and give voice to people's attitudes – both positive and negative – about human rights in Ontario.

The survey asked respondents about their human rights awareness, attitudes towards groups, and about personal experiences of discrimination. Some of the questions were purposefully polarizing to most accurately assess both how people feel about human rights and the extent of prejudice towards groups who experience discrimination. The questions were not intended to measure attitudes about specific public policies and the responses should not be read in this manner.

A polling firm conducted the online survey early in 2017 using a sample of 1,501 people age 18 and older. The sample is generally proportionate to Ontario's actual population in terms of gender, age groups, ethnic and racial identities, disability status, foreign-born populations, education and income levels, and regional distribution. For example, the survey sample reflects Ontario's ethnic and racial diversity insofar as 76% of respondents identified as British/European and 24% of respondents identified as having non-European origins.

Terms used in the online survey and report to describe a group's ethnic, racial or visible minority status or other identity, are in accordance with Statistics Canada's 2011 National Household Survey.

The full dataset for the OHRC survey is available online.

Survey highlights

The survey provides a useful indicator of the state of human rights in Ontario today. To that end, several themes and trends – both positive and negative – emerged from the survey.

Discrimination remains a problem in Ontario.

- Two-thirds (66%) of respondents think discrimination is at least somewhat of problem in Ontario.

Discrimination based on race, Indigenous ancestry and poverty is of particular concern.

- A majority (63%) believe race or colour to be one of the most common reasons for discrimination in Ontario, followed by sexual orientation (34%), disability (25%) and creed or religion (24%).
- A higher proportion of Indigenous respondents (70% vs. 49% of all respondents) say they experienced some form of discrimination in the past five years.
- Respondents overall are least positive towards people in receipt of public assistance compared to other groups. Only 39% say they feel at least somewhat positive towards this group.

Discrimination happens mostly at work, or in public places outside the scope of the *Human Rights Code*.

- 45% of respondents who experienced discrimination or harassment in the past five years say it happened at work, 42% say it happened in a public place (i.e. outside the jurisdiction of the *Code*), 16% in a shop or restaurant, and 12% at school.

Negative stereotypes persist about transgender people, refugees, Muslim and Arab people, other racialized groups, Indigenous peoples, homeless people and people in receipt of social assistance.

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- Fewer than half of respondents were positive towards transgender people (46%), refugees (46%), Muslim (45%) or Arab people (44%)
- Respondents were least positive towards people receiving social assistance (39%).
- A large minority agree with the negative (likely based on stereotype) view that *police are at least sometimes justified in profiling or targeting specific groups* including: Muslims (44%), Arab people (42%), young people (41%), Black/African Canadians (40%), South Asians (39%), homeless people (39%), people with mental health disabilities or addictions (39%), and Indigenous peoples (37%).

A lack of understanding of human rights and harmful negative stereotypes may underlie negative attitudes towards Indigenous peoples, people receiving social assistance and other groups.

- Only (55%) of respondents report they have at least some familiarity with Ontario's *Human Rights Code*, while 48% report some familiarity with the OHRC.
- Despite both the provincial and federal governments' focus on reconciliation, only 35% of respondents are at least somewhat familiar with Indigenous rights, and 34% with the impact of colonialism on Indigenous peoples.
- 49% hold the negative view that *Indigenous people receive too many government benefits*. This view is likely based on stereotypes about Indigenous peoples.
- 62% hold the negative view that *it is understandable for a property owner or apartment manager to be concerned about renting to people on social assistance*. Again, this view is likely based on stereotypes about people on social assistance.

On a positive note, there is broad support for further accommodating the needs of people with mental health disabilities and addictions, caregivers, transgender students and people with diverse religions.

- Three in five respondents (60%) say we don't do enough to support people with mental health disabilities and addictions.
- Nine in ten (90%) support rearranging work schedules to allow parents to pick up a child.
- A majority also support allowing transgender students to use washrooms based on their lived identity (73%) or providing a prayer space for students (71%).

Discrimination remains grossly underreported.

- Almost half (48%) of respondents who experienced discrimination kept it to themselves.
- Only 14% say they complained to someone in the organization where it happened.

Human rights protections are in place, but there is room for improvement.

- Three quarters (75%) of respondents think that human rights are at least somewhat well protected in Ontario when discrimination happens. The balance (25%) think they are not very well protected or protected at all

Education is vital to advancing human rights.

- A vast majority (89%) agree that students should learn more about human rights in school.

Why a public opinion survey?

In December 2016, the OHRC launched its 2017-22 Strategic Plan. This plan includes a commitment to monitor and report on the state of human rights in Ontario using data and other evidence-informed approaches. As part of this commitment, the OHRC commissioned a public opinion survey about human rights in Ontario. The survey was conducted in January/February 2017.

The survey questions cover a broad range of the prohibited grounds of discrimination in employment, housing and services under Ontario's *Human Rights Code*. The survey deals with many issues, and devotes particular attention to the four areas of focus in the OHRC's Strategic Plan: Indigenous reconciliation, the criminal justice system, poverty and education.

The OHRC commissioned the survey to gain a better understanding of how different people and groups perceive and experience human rights in Ontario. The survey was designed to meet several goals:

- Creating a tool and baseline dataset to periodically measure and report on the state of human rights in our province
- Gauging how people honestly feel about pressing human rights issues
- Informing OHRC priorities and initiatives

- Advancing public awareness and discourse
- Providing data for independent research.

The OHRC's mission is to promote and enforce human rights, to engage in relationships that embody the principles of dignity and respect, and to create a culture of human rights compliance and accountability. Periodically taking the public's pulse will help the OHRC succeed in this mission. Public opinion surveys can be important tools in gauging this pulse.

Findings

Respondents answered questions about their awareness of human rights, attitudes towards various groups in Ontario, and their personal experience with discrimination. Appendix A outlines the survey methodology.

The questions and responses are summarized and organized to reflect the four focus areas in the OHRC's Strategic Plan (Indigenous reconciliation, the criminal justice system, poverty and education). Endnotes show the cross-tabulation data tables, with links to the full survey data file on the OHRC's website. Appendix B includes the complete survey questionnaire.

Human rights awareness

Is discrimination, including harassment, a problem in Ontario?[1]

Two-thirds (66%) of respondents to the survey think discrimination is at least somewhat of a problem in Ontario. Very few (4%) think it is not a problem at all. Responses were similar for people across the province, and among many population subgroups.

Overall, 12% of respondents think that discrimination and harassment is a *major* problem. Thinking it is a *major* problem is higher among people from the following respondent groups:

- Age 45 to 59 (17%)
- City of Toronto (17%) and Northern Ontario (18%)
- Household incomes under $40,000 (17%)
- Unemployed and/or receiving disability assistance (17%)
- Respondents who indicate they personally experienced discrimination in the past five years (17%).

Across different groups, a higher percentage of Black respondents think that discrimination is a *major* problem (32%), followed by Indigenous respondents (24%), respondents who identify as LGBTQ[2] (23%), respondents with disabilities (17%) and respondents of non-European origins (16%).

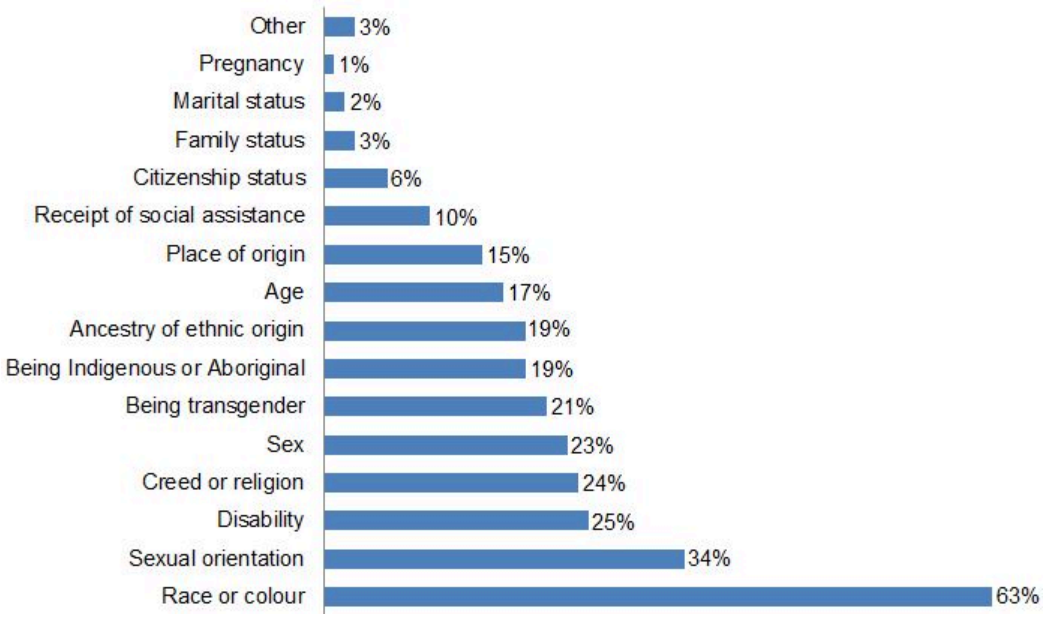
Table 1: Extent that respondents think discrimination is a problem in Ontario

	A major problem	Somewhat of a problem	Not much of a problem	Not a problem at all
Total	12%	54%	30%	4%
British/European	10%	55%	30%	4%
Black	32%	54%	14%	0%
Indigenous	24%	48%	25%	4%
All non-European	16%	53%	28%	3%

What do you think are the most common reasons for discrimination?[3]

When asked to pick the three most common reasons for discrimination or harassment, a majority of respondents (63%) picked race or colour as the most common reason. This is much higher than the next most mentioned reason, sexual orientation (34%).

Graph 1: Most common reasons for discrimination or harassment in Ontario



Higher percentages of the following respondent groups also listed race and colour as a main reason:Race or colour was the top reason across Ontario and in almost all population subgroups. This response was higher among respondents in the 905-area (72%) and the City of Toronto (70%), than other regions (46% to 58%), and was also highest for respondents with a bachelor's degree (70%).

- South Asian (91%)
- Chinese and South East Asian (78%)
- Black (77%)
- Identifying as from a racialized group (75%)
- Born outside of Canada (72%).

While 19% of all respondents chose being Indigenous as one of the most common reasons for discrimination in Ontario, 44% of respondents living in Northern Ontario hold this view.

A higher proportion (40%) of younger respondents (age 18 to 29), respondents identifying as LGBTQ (57%), and respondents living in Northern Ontario (44%) think sexual orientation is a main reason people experience discrimination in Ontario.

A higher proportion of women (25% vs. 16% of men), younger respondents (26% aged 18 – 29), LGBTQ respondents (30%) and people with disabilities (28%) listed being transgender as a main reason for discrimination.

A higher percentage of respondents living with a disability (40%) listed disability as a reason for discrimination, compared to all respondents (25%). Creed or religion were cited more often by Muslim (64%), Jewish (32%) and non-Christian respondents (37%), compared to 24% of Christian respondents.

How well are human rights protected in Ontario?[4]

Six out of ten (61%) respondents think that human rights are somewhat well protected, while only one in seven (15%) think they are very well protected.

A minority (25%) of respondents think that human rights are not very well or at all protected. The percentages are higher among women versus men respondents (28% vs. 22%), respondents who are unemployed and/or receiving disability assistance (34%) and

respondents who have experienced discrimination in the past five years (35%).

Table 2: Impression of protection of human rights in Ontario by personal experience of discrimination

	Very well protected	Somewhat well protected	Not very well protected	Not protected at all
Total	15%	61%	23%	2%
Experienced discrimination, last 5 years (N=725)	12%	57%	27%	3%
Experienced discrimination, not in last 5 years (N=353)	15%	64%	21%	0%
Never experienced discrimination (N=423)	18%	64%	17%	1%

Are you familiar with Ontario's human rights system?

Two-thirds (66%) of respondents believe they know something about human rights protections and obligations.[5] Smaller numbers, however, say they have at least some familiarity with Ontario's human rights laws and system:[6]

- *Human Rights Code* – 55%
- Ontario Human Rights Commission (OHRC) – 48%
- Human Rights Tribunal of Ontario (HRTO) – 36%
- Human Rights Legal Support Centre (HRLSC) – 25%.

Familiarity with Ontario's human rights system is similar across the province and many subgroups, with some exceptions:

- Awareness of the *Code,* the OHRC and the HRTO is linked to higher levels of education and household income
- Respondents who have personally experienced discrimination in the past five years, or who report being very informed about human rights protections and obligations, report higher levels of being at least somewhat familiar with the Code and the three agencies
- Respondents who feel discrimination is a major problem in the province are more likely than others to be aware of the *Code*, the HRTO and the HRLSC
- Black respondents are more likely to be aware of the *Code* and the three agencies than respondents overall, whereas British/European, Chinese/South East Asian or Latin American respondents are less likely to have awareness about human rights laws and agencies.

Table 3: Very/somewhat familiar with human rights Code and agencies by ethnicity

	Total	Indigenous	British/ European	Chinese/ South East Asian	South Asian	Black	Latin American	Arab/ West Asian	All non-European

Base – n=	1501	59	1162	161	63	59	21	20	327
Ontario Human Rights Code	55%	67%	55%	47%	62%	65%	40%	56%	53%
Ontario Human Rights Commission	48%	53%	48%	35%	57%	65%	31%	53%	46%
Human Rights Tribunal of Ontario	36%	44%	36%	29%	40%	57%	12%	38%	37%
Human Rights Legal Support Centre	25%	47%	24%	23%	42%	40%	19%	34%	31%
None of the above	33%	19%	33%	43%	23%	21%	46%	29%	34%

A minority of respondents (one in five) agree that *discrimination is no longer a major issue, so we don't need an OHRC, HRLSC and HRTO.*[7]

A strong majority of respondents in all subgroups agree that students should learn more about human rights and responsibilities in school (45% strongly agree, 89% agree overall).[8]

Attitudes about groups and accommodations[9]

How accepting would you say Ontarians generally are towards people from a variety of cultural backgrounds?[10]

A majority (56%) of respondents feel people in Ontario are generally "as accepting as they should be" towards people from a variety of cultural backgrounds, including immigrants from other countries. Three in ten think people are not tolerant enough, and one in seven (14%) think there is too much tolerance.

How often do you personally have any contact or interact with certain groups of people?[11]

Respondents are most likely to often encounter people of different ethnic origins or religions or racialized groups, and least likely to have contact with refugees or transgender people:

- Over half of respondents have contact with most groups at least sometimes, except with refugees (39%) and transgender people (34%)
- Over half say they have frequent contact with people whose ethnic origin is different than theirs, and roughly half often have contact with people with a different creed or religion, or from a racialized group
- Fewer than one in 10 report frequent contact with refugees or people who identify as transgender.

Table 4: Frequency of contact with specific groups

	Frequently	Sometimes	Rarely	Never
People with a different ethnic origin than yours	54%	36%	9%	1%

People with a different creed or religion than yours	52%	37%	9%	2%
People of colour/visible minorities	49%	38%	12%	2%
Asian people	41%	42%	15%	2%
Black, African or Afro Caribbean people	38%	44%	16%	2%
Immigrants	37%	41%	19%	4%
Lesbian, gay, or bisexual people	29%	42%	24%	4%
Muslim people	27%	40%	26%	7%
Physical or intellectual, cognitive or learning disabilities	25%	46%	26%	3%
People with mental health disabilities or addictions	25%	40%	30%	4%
Arab people	21%	41%	31%	7%
People on social assistance	20%	41%	32%	7%
Indigenous or Aboriginal people	17%	38%	36%	8%
Refugees	9%	30%	46%	15%
Transgender people	8%	26%	45%	21%

Frequency of contact with specific groups is linked to a range of factors, including geographic location, social and economic status, and ethnicity.

Having at least some contact with most groups is higher for respondents who live in the City of Toronto and the 905-area. Respondents in northern Ontario report higher contact with people who identify as lesbian, gay or bisexual (81% vs. 71% overall); people with physical, intellectual, cognitive or learning disabilities (84% vs. 71%); and Indigenous peoples (83% vs. 56%).

In general, respondents' contact with most groups is fairly similar by gender with some exceptions:

- Women are more likely than men to report contact with people who identify as lesbian, gay or bisexual (76% vs. 65%), people with physical, intellectual, cognitive or learning disabilities (73% vs. 68%) or mental health disabilities (70% vs. 61%), and people receiving social assistance (64% vs. 58%)

- Men are more likely than women to report contact with Asian people (87% vs. 80%) and immigrants (80% vs. 75%).

Being in the workplace or school can also increase opportunities for respondent groups to have contact with people from diverse backgrounds:

- People with a college or higher education are generally more likely to report contact with diverse people at higher rates than people with a high school education or less

- However, persons with lower levels of education are more likely to report contact with people with mental health disabilities or addictions, Indigenous peoples, and people receiving social assistance

- Students are among the most likely to have contact at least sometimes with many ethnic groups, racialized groups, people with different religions, and people who are lesbian, gay, bisexual or transgender

- People aged 60 and over, and people who are not currently in the workforce or retired are generally less likely to report contact with various groups.

How positive or negative are you towards specific groups in our society?[12]

Majorities of respondents are at least somewhat positive about 10 of the 15 groups identified in the survey,[13] with the highest levels of positive feelings for people with physical or cognitive disabilities (64% very or somewhat positive), Asian people (62% positive), people of different ethnic origins (62%), and racialized groups (61%).

Fewer than half of the respondents are positive about the five other groups: transgender people (46%), refugees (46%), Muslim (45%) or Arab people (44%), and people receiving social assistance (39%).

Respondents who are not positive are most likely to say they are neutral. Around one in five each expresses negative feelings toward Muslims, people receiving social assistance, refugees and Arab people.

Table 5: Personal feeling toward specific groups

	Very positive	Somewhat positive	Neutral	Somewhat negative	Very negative
People with physical /intellectual/ cognitive /learning disabilities	37%	27%	31%	3%	1%
People of colour / racialized groups	34%	27%	34%	4%	1%
People with a different ethnic origin than yours	33%	29%	35%	3%	0%
Asian people	33%	29%	32%	5%	1%
Black, African or Afro Caribbean people	32%	27%	35%	5%	1%
Lesbian, gay, or bisexual people	32%	24%	36%	7%	2%
People with a different creed or religion than yours	30%	27%	38%	4%	1%
Indigenous people	30%	27%	34%	7%	1%
Immigrants	27%	28%	33%	11%	2%
People with mental health disabilities or addictions	27%	29%	36%	7%	1%
Transgender people	25%	21%	41%	10%	3%
Muslim people	22%	22%	35%	15%	6%
Arab people	22%	22%	36%	15%	4%

Refugees	22%	24%	35%	15%	4%
People in receipt of social assistance	16%	23%	40%	18%	2%

In general, women are more likely than men to feel positive about many groups. Feeling positive is largely similar by age, though younger respondents are somewhat more positive about LGBT communities and refugees.

Respondents in specific equity groups are predictably positive about others in their group, and people identifying as LGBTQ or having a disability are among the most positive toward other groups.

Respondents who report experiencing discrimination in the past five years are more likely to express a positive view toward most of the listed groups, with the exception of immigrants. People who have never experienced discrimination are the least likely to be positive.

The findings indicate having a less positive impression of certain groups may be linked to lack of frequent contact. Respondents have less frequent contact with and less positive feelings towards, transgender people, Arab people, Muslim people, refugees and people receiving social assistance. At the same time, respondents do not encounter often but have a very positive impression of people with physical, intellectual or cognitive/learning disabilities.

Do you agree with the statement that “immigrants should adapt to the laws and norms of our society”?[14]

A majority of respondents agree with the statement that *immigrants should adapt to our laws and norms* (53% strongly agree, 90% agree overall).

Agreement with this statement is generally high across the province and all subgroups, but is somewhat higher among these respondent groups:

- People of Indigenous (95%) or British/European origins (92%)
- Mainstream Protestants (94%) and Jewish people (98%)
- Have not personally experienced discrimination recently or at all (94%)
- Men (93% vs. 88% of women)
- Do not think discrimination is much of a problem in Ontario (93%).

This view increases as age increases and is highest among respondents age 60 and over (98%).

Do you agree with the statement that “it is normal for Ontario to evolve and reflect or adapt to society’s changing cultural diversity”?[15]

Four out of every five respondents (79%) agree to some extent with the statement that *it is normal for Ontario to evolve and reflect or adapt to the changing cultural diversity of our society*.

Agreeing with this statement is somewhat higher among respondents in Toronto (84%) and younger residents (86% age 18 to 29) and students. Agreement is linked to higher levels of education, and being a member of a racialized group or of non-European origin.

Do you agree with the statement that “we need to be cautious of people who are too open in showing their religious beliefs”?[16]

A majority of respondents (62%) disagree with the statement that *you need to be cautious of people who are too open in showing their religious beliefs* while 38% agree.

The respondent groups with higher levels of agreement are:

- Men (44% vs. 31% of women)
- Household incomes of $40,000 to under $60,000 (43%)

- Aged 60 and over (42%)
- Catholic/Orthodox practitioners (40%).

Do you agree with the statement that “Ontario is changing too quickly because of ethnic communities”?[17]

Half of respondents (51%) at least somewhat agree with the statement that *Ontario is changing too quickly because of ethnic communities*.

Respondent groups with higher levels of agreement are:

- High school or lower education (63%)
- Lower household incomes (59% of people with incomes of $40,000 to under $60,000)
- Catholic/Orthodox (59%)
- All Christians (57%)
- Evangelical Christians (56%)
- Aged 45 and over (58%)
- Living in the 905-area (57%)
- Men (54% vs. 49% of women).

Do you agree with the statement that “we would be better off if we stopped letting in so many immigrants”?[18]

A minority of respondents (43%) agree with the statement *we would be better off in Ontario if we stopped letting in so many immigrants.*

At the same time, slim majorities of people with high school or lower education (55%), people staying at home out of the workforce (51%), Indigenous people (55%) agreed with the statement.

How comfortable are you when seeing people wearing religious or cultural attire?[19]

Respondents were presented with a list and asked to indicate how they feel when they see people in public expressing or wearing attire specific to their religious or cultural identity.

A majority are at least somewhat comfortable seeing people wearing each item. Comfort is highest overall for seeing someone wearing a Christian cross around their neck, or an Indigenous person who keeps their long hair in a ponytail (93% each), and nine in 10 are also at least somewhat comfortable seeing either a Jewish kippah or traditional Mennonite clothing. Four out of five express some level of comfort in seeing men with turbans or women wearing hijabs. Comfort is lowest for seeing a woman in a face-covering niqab.

Table 6: Level of comfort when seeing people wearing specific religious or cultural attire

	Very comfortable	Somewhat comfortable	Somewhat uncomfortable	Very uncomfortable
Someone wearing a Christian cross around their neck	60%	32%	6%	1%
Indigenous person with hair long in a ponytail	59%	35%	5%	1%
Man wearing a kippah (Jewish skull cap)	53%	37%	9%	1%
Traditional Mennonite clothing	53%	37%	8%	2%

Man wearing a turban	42%	39%	15%	4%
Woman wearing a hijab (head scarf) covering hair	42%	37%	15%	5%
Woman wearing a niqab or veil covering her face	24%	31%	27%	19%

Comfort with Sikh or Muslim attire is higher among younger people, students and people with higher levels of education (above a high school diploma).

While a majority remain comfortable with women wearing the niqab, a large minority are uncomfortable with it (46% uncomfortable vs. 54% comfortable). Discomfort is higher among mainstream Protestants (55%) and Jewish respondents (58%), and people who have never experienced discrimination personally (50%) or who think discrimination is not very much or at all a problem (57%). Discomfort with women wearing a niqab increases as age increases.

How do you feel about accommodating the needs of specific groups in Ontario?[20]

Three in five respondents say we are not doing enough to accommodate people with mental health disabilities or addictions, and similar numbers say this about the people responsible for caring for family members. Around half feel more could be done to accommodate people with intellectual, cognitive or learning disabilities, or people with physical disabilities. Over four in ten (44%) think more could be done to accommodate Indigenous peoples. Three in 10 (29%) think too much is being done to accommodate French speakers in Ontario.

Table 7: Extent to which enough is done to accommodate the needs of specific groups

	We don't do enough	Just the right amount	We do too much
People with mental health disabilities or addictions	60%	36%	4%
People responsible for caring for other family members	58%	38%	4%
People with intellectual, cognitive or learning disabilities	53%	44%	4%
People with physical disabilities	51%	45%	4%
Indigenous peoples	44%	40%	16%
Transgender people	32%	54%	14%
Pregnant women	20%	73%	7%
Immigrants	17%	59%	24%
Muslim people	17%	58%	25%
People, other than Muslims, who practice a religion	15%	71%	15%
French-speakers	11%	60%	29%

There is a notable gender difference – women are more likely than men to feel more could be done for most of the listed groups. The exception is French speakers, where women's and men's views are similar.

Young respondents aged 18 – 29 and students are more likely than older persons to feel most groups deserve more accommodation. However, the views of all respondents are similarly positive for accommodating family member caregivers and people with physical disabilities. Respondents aged 60 and over are also among the most likely to think the four health-related groups could use additional supports. In general, respondents with household incomes under $40,000 are the most likely to say more could be done for the four health-related groups, as well as for Indigenous, transgender and Muslim people.

Non-Christian respondents are more likely than Christian respondents to feel more accommodation should be made for Muslim people as well as for other people who practice a religion.

In general, a minority of respondents think that *too much* is done to accommodate special groups. This opinion is somewhat higher among people aged 45 to 59, with high school or lower education, or in the $40,000 to under $60,000 household income bracket.

Do you support specific types of accommodations?[21]

Respondents were shown a list of accommodations for specific groups. Support among respondents is highest for accommodating people with physical, mental or learning disabilities or for parents with childcare responsibilities. Strong support is lower for gender or religious/cultural accommodations, but still, seven in 10 or more support these types of accommodations at least somewhat.

Table 8: Level of support for specific accommodations

	Strongly support	Somewhat support	Somewhat oppose	Strongly oppose
Installing small wooden curb ramp for wheelchairs/walkers	77%	20%	3%	0%
Allowing a service animal in a buffet restaurant	61%	29%	8%	2%
Giving student with a learning disability longer to finish an exam	60%	33%	6%	2%
Rearranging work schedules to allow parent to pick up child	52%	38%	8%	3%
Allowing someone time off from work for addiction treatment	48%	42%	8%	3%
Allow transgender students to use washrooms based on lived identity	37%	36%	16%	11%
Prison cafeterias accommodating religious dietary requirements	32%	42%	15%	11%
Allowing extra time away for religious or cultural reasons	29%	43%	18%	10%
Providing a prayer space for students	29%	42%	17%	12%

A majority of respondents (73%) at least somewhat support transgender students using washrooms that correspond with their lived gender identity. A similar majority (71%) also support providing a prayer space in schools for students.

Support for physical and learning accommodations is highest among respondents in Northern Ontario, but otherwise there are few regional differences of note.

Personal experience with discrimination

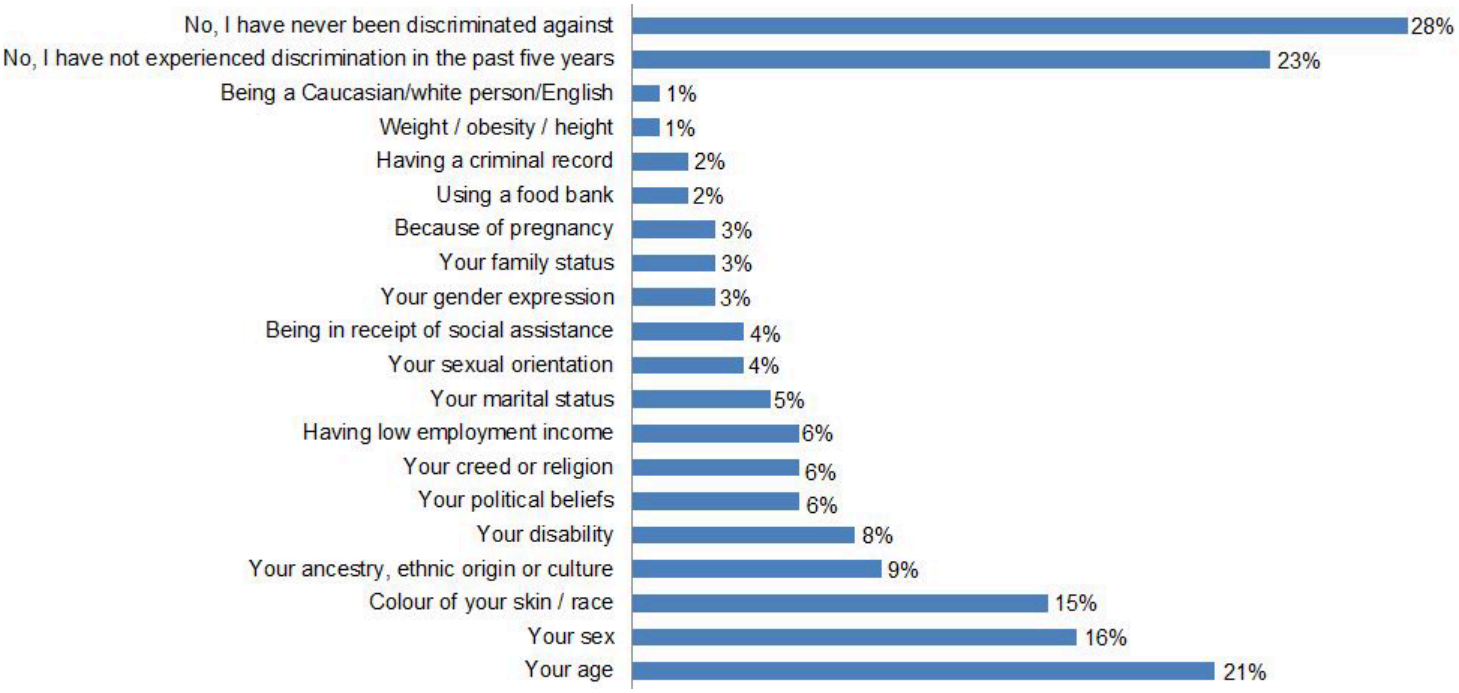
Did you experience discrimination or harassment in the past five years? [22]

Half (49%) of respondents say they have experienced at least one form of discrimination in the past five years.[23] Another quarter (23%) say they have not, and just under three in 10 (28%) have never experienced any of these forms of discrimination.

The most common types of discrimination reported are based on age (21%), gender (16%), and skin colour or race (15%). Around one in 10 reports discrimination due to ancestry/ethnicity or due to a disability.

More younger respondents and people aged 60 or over report age discrimination (33% and 23% respectively), while more women report discrimination based on sex (26% vs. 6% of men).

Graph 2: Incidence of discrimination of specific types in past five years



Discrimination based on skin colour, race or ethnicity is highest among Black, South Asian and Chinese/South East Asian respondents. Christians and Muslims are most likely to report discrimination based on religion.

Table 9: Incidence of race and ethnicity discrimination by specific groups

	Colour of Skin / Race	Ancestry / Ethnicity
Total	15%	9%
Black	70%	18%
South Asian	50%	19%
All non-European	42%	23%

Chinese / South East Asian	36%	23%
Latin American	30%	45%
Indigenous	21%	21%
Arab / West Asian	8%	21%
British / European	6%	5%

A large majority of Black respondents (70%) report experiencing discrimination based on skin colour or race in the past five years. Of respondents living in the City of Toronto, 27% say they experienced discrimination based on skin colour or race in the same period, compared to respondents across the province overall (15%).

Did you experience sexual harassment?[24]

Overall, 7% of respondents say they experienced sexual harassment in the past five years. About one in 10 women (11%) say this happened to them compared to 3% of men.

Experience of sexual harassment is higher among these respondent groups:

- LGBTQ (24%)
- Indigenous (20%)
- Staying at home out of the workforce (15%)
- Aged 18 – 29 (14%)
- Household incomes under $40,000 (12%)
- People with disabilities (11%)
- Born in Canada (8%) vs. another country (4%).

Of the women who experienced any form of discrimination in the past five years, one in five (20%) say at least one incident involved sexual harassment.

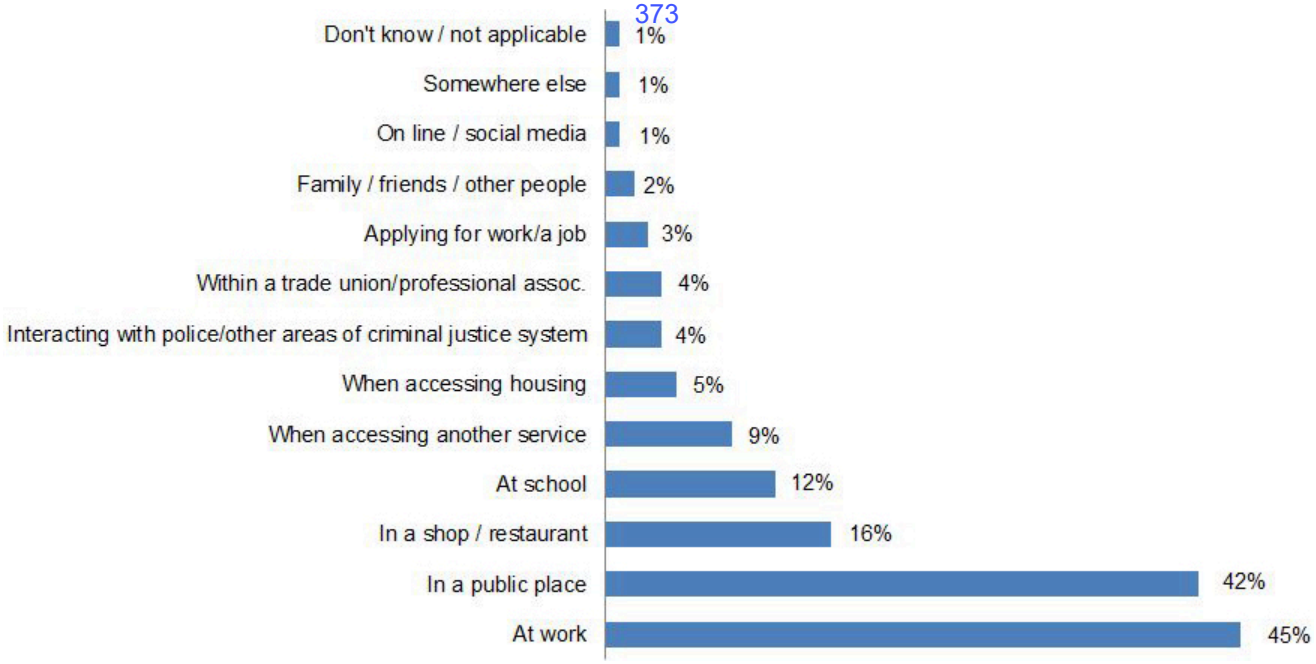
Where did the discrimination or harassment occur the last time?[25]

Just under half (45%) of respondents who experienced discrimination or harassment in the past five years say it happened at work, and 42% say it happened in a public place. One in six (16%) say it was in a shop or restaurant, and 12% say it happened at school.

Discrimination at work is reported somewhat more by these respondent groups:

- Muslim (66%)
- Post-graduate degrees (56%)
- Household incomes of $100,000 to under $150,000 (56%)
- Indigenous (55%)
- Living in south western Ontario (54%)
- Aged 45 – 59 (52%)
- Working full time (52%).

Graph 3: Location of most recent discrimination



Staying at home out of the workforce (59%)*Discrimination in public places* is reported more by these respondent groups:

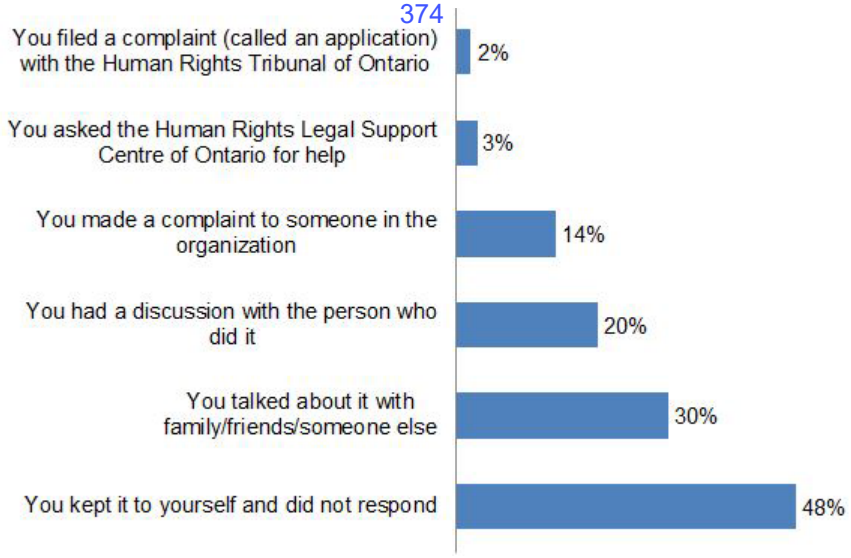
- Chinese/South East Asian (54%)
- Younger (53% age 18 – 29)
- Members of a racialized group (49%)
- Household incomes under $40,000 (49%)
- Living in Toronto (49%).

Although the number of respondents is very small, a high proportion (83%) of respondents who identify as transgender report discrimination in a public place.

How did you respond last time to the discrimination or harassment?[26]

About half of respondents who experienced discrimination in the past five years kept it to themselves and did not respond. Three in 10 discussed it with someone else, and two in 10 discussed the incident with the person who did it. One in seven made a complaint to someone in the organization involved. Only very a small proportion of respondents say they approached either the Human Rights Legal Support Centre (3%) or the Human Rights Tribunal of Ontario (2%).

Graph 4: Response to most recent discrimination



People who report being very well informed about human rights protections and obligations (27%)Only 14% of respondents say they complained to someone in the organization where the discrimination happened. This action is somewhat higher among these respondent groups:

- Ages 45 – 59 (22%)
- Christian (18%)
- Full-time workers (17%).

Criminal justice

Did you think the police would be justified in profiling or targeting specific groups?[27]

When asked about police profiling in general, two-thirds (65%) of respondents agree to some extent that police must treat everyone equally regardless of group identity. One-third (35%) lean towards allowing police to profile communities that supposedly commit more crime.

The view that police should treat everyone equally is somewhat higher among these respondent groups:

- Students (83%)
- Muslim (77%)
- Aged 18 – 29 (76%)
- Household incomes under $40,000 (74%)
- Women (70%)
- Think discrimination is somewhat of a problem in the province (70%)
- Practicing no religion (68%).

Overall, a minority think that police profiling is at least sometimes necessary. This response is somewhat higher among men (41%).

When asked about police profiling of specific groups, just under six in 10 respondents or more (depending on the group) feel police profiling is never or rarely justified. Around four in 10 think it is at least sometimes justified for police to profile or target certain groups: Muslims, Arab people, young people, Black/African Canadians, South Asians or people with mental health disabilities or addictions. The lowest levels of acceptance of police profiling are for people who identify a LGBTQ. Just over one-third of respondents (36%) do not indicate any group they think police would be justified in profiling or targeting.

Table 10: Opinion of police profiling of specific groups

	Never	Rarely	Sometimes justified	Always justified

	Justified	justified	375	
Lesbian, gay, or bisexual people	35%	37%	23%	5%
Transgender people	34%	38%	23%	5%
Chinese people	30%	38%	27%	5%
Southeast Asian people	28%	37%	31%	5%
Latin American people	28%	38%	30%	4%
Indigenous peoples	27%	36%	32%	5%
People with mental health disabilities and addictions	27%	35%	34%	5%
Black/African-Canadian people	27%	33%	34%	6%
Young people	26%	33%	36%	5%
South Asian people	26%	35%	33%	6%
Homeless people	24%	38%	34%	5%
Arab people	24%	34%	35%	7%
Muslim people	24%	32%	35%	9%

Of respondents who report experiencing discrimination in the past five years, 6% who are aged 18 – 29 say it happened when interacting with police or other areas of the criminal justice system.

First Nations, Métis and Inuit (Indigenous) peoples

Experience with discrimination

A higher proportion of Indigenous respondents (70% vs. 49% of all respondents) say they experienced some form of discrimination in the past five years – 21% say it's because of their ancestry, ethnic origin or culture (vs. 9% of all respondents).[28]

Indigenous respondents are somewhat more likely than people of other origins to report discrimination because of:

- Disability (25% vs. 8% overall)
- Low employment income (17% vs. 6% overall)
- Receiving social assistance (17% vs. 4% overall
- Sexual orientation (14% vs. 4% overall).

Indigenous respondents are also more likely to say that at least one of the incidents of discrimination involved sexual harassment (29% vs. 14% of all overall).[29]

A higher proportion of Indigenous respondents also say that the last time they experienced discriminatory treatment was at work (58% vs. 45% overall).[30]

When discrimination did occur, a higher proportion of Indigenous respondents did something about it:[31]

- 31% had a discussion with the person who did it (vs. 20% overall)
- 19% complained to someone in the organization where it happened (vs. 14% overall)
- 11% asked the Human Rights Legal Support Centre for help (vs. 3% overall).

Awareness about rights

One in four Indigenous respondents (24%) say discrimination and harassment is a major problem in Ontario, compared to 12% of all respondents.[32]

One in four Indigenous respondents (25%) say being in receipt of social assistance is a common reason people in Ontario experience discrimination (compared to one in 10 of all respondents).[33]

Around two-thirds (68%) of Indigenous respondents say that human rights are at least somewhat well protected in Ontario (compared to 75% of all respondents.[34]

Indigenous respondents report more familiarity with Ontario's human rights system than respondents overall:[35]

- 67% say they are at least somewhat familiar with the *Code* (vs. 55% of respondents overall)
- 53% are at least somewhat familiar with the OHRC (vs. 48% overall)
- 47% are at least somewhat familiar with the HRLSC (vs. 25% overall)
- 44% are at least somewhat familiar with the HRTO (vs. 36% overall).

Respondents overall say they are familiar at least to some extent with Indigenous or Aboriginal rights (35%) and with the impact of colonialism on Indigenous peoples (34%). Indigenous respondents are more likely to be familiar with these issues (57% and 46%).

Attitudes towards Indigenous peoples

Just over half of respondents (56%) say they have at least some contact or interact with Indigenous peoples.[36]

A higher proportion of Indigenous respondents say they have contact with certain groups compared to all respondents:

- People with physical or intellectual, cognitive or learning disabilities (86% vs. 71%)
- People with mental health disabilities or addictions (86% vs. 66%)
- People receiving social assistance (86% vs. 61%)
- Lesbian, gay or bisexual people (85% vs. 71%)
- Transgender people (52% vs. 34%).

When asked about personal feelings towards specific groups in society, 57% of all respondents say they feel at least somewhat positive towards Indigenous peoples.

When asked about seeing Indigenous people who keep their hair long in a ponytail, the vast majority of respondents (93%) say they are comfortable with this public expression of identity.[37] When asked about accommodating the needs of Indigenous peoples, 44% say that not enough is done, while only 16% say too much is done.[38]

When asked if they agreed with the negative statement that *Indigenous people receive too many government benefits*, 49% of respondents overall hold this view. Slim majorities of specific respondent groups also hold this view:[39]

- Living in Northern Ontario (55%)
- Men (54% vs. 44% of women)
- Household incomes of $100,000 to under $150,000 (54%)
- Christian (53%)
- Have never experienced discrimination (53%)
- Working full time (52%)
- Chinese and South East Asian (51%).

The view that Indigenous people receive too many government benefits increases as age increases, and is highest among respondents aged 60 and over (55%), and among retired persons (55%).

Over one third (37%) of respondents hold the negative view that police are at least sometimes justified in targeting or profiling Indigenous people.[40]

Poverty and low income

Experience with discrimination

Overall, 4% of respondents say they experienced discrimination in the past five years as a result of being in receipt of social assistance.[41] Certain respondent groups are more likely to say this:

- Unemployed and/or receiving disability assistance (21%)
- Indigenous peoples (17%)
- Identify as LGBTQ (15%)
- People with disabilities (12%)
- Household incomes of under $40,000 (11%)
- High school or lower education (9%).

Similarly, these respondent groups are also more likely to say they experience discrimination because of having low employment income:

- Unemployed and/or receive disability assistance (21%)
- Identify as LGTBQ (15%)
- Household income of under $40,000 (14%)
- People with disabilities (12%)
- Aged 18-29 (11%)
- High school or lower education (11%).

Overall, 6% of respondents hold this view.

Two percent of respondents reported using a food bank as the reason they experienced discrimination in the past five years.

Respondents with household incomes of under $40,000 are more likely to say that at least one of the incidents of discrimination involved sexual harassment (21% vs. 14% of all respondents).[42]

A greater proportion of respondents who are unemployed and/or receiving disability assistance (9%), or with household income under $40,000 (8%), say that the last time they experienced discrimination was when interacting with police or other areas of the criminal justice system (vs. 4% of all respondents).[43]

Awareness about rights

One in six respondents (17%) with an annual household income of less than $40,000 say discrimination and harassment is a major problem in Ontario, while 12% of all respondents say this.[44]

One in seven respondents (14%) with this lower income say being in receipt of social assistance is another common reason why people in Ontario experience discrimination, while one in 10 respondents overall say this.[45]

Respondents with this lower income report less familiarity with Ontario's human rights system than respondents overall:[46]

- 51% say they are not very, or not at all, familiar with the *Code* (vs. 45% of all respondents)
- 62% are not very, or not at all, familiar with the OHRC (vs. 51%)
- 69% are not very, or not at all, familiar with the HRTO (vs.64%)
- 81% are not very, or not at all, familiar with the HRLSC (vs. 75% overall).

Attitudes towards people receiving social assistance

Three in five respondents (61%) say they have at least some contact or interact with people receiving social assistance.[47]

A higher proportion of respondents with annual household incomes of less than $40,000 say they have more contact with certain groups, compared to respondents overall:

- People receiving social assistance (72% vs. 61% overall)
- People with mental health disabilities or addictions (72% vs. 66%)
- Indigenous peoples (63% vs. 56%)
- Transgender people (42% vs. 34%).

When asked about personal feelings towards specific groups in society, only 39% of respondents say they feel at least somewhat positive towards people in receipt of social assistance. Respondents are least positive towards this group compared to other groups. Positive feelings towards people in receipt of social assistance increase to 51% for students, 70% for Sikhs, and 71% for Muslims who practice their religion.[48]

Overall, 63% of respondents agree with the purposefully polarizing statement that *we do enough to help people on social assistance, they could do more to help themselves if they wanted to*. Majorities of many different respondent groups also hold this negative view. [49]

When asked if they agreed with the statement that *it is understandable for a property owner or apartment manager to be concerned about renting to people on social assistance*, 62% of all respondents hold this negative view.[50] This view is somewhat higher among these respondent groups:

- British/European origins (76%)
- Household incomes of $100,000 to $150,000 (68%) and $150,000 and over (65%)
- Think that discrimination is not very much or at all a problem in Ontario (68%)
- Have never experienced discrimination (67%)
- Bachelor’s degree (66%)
- College graduates (64%).

However, only around one in seven respondents (14%) strongly agree with this statement.

When asked whether police are at least sometimes justified in targeting or profiling homeless people, 38% of respondents agree with this negative view.

When asked their opinion on the statement that employers should prioritize hiring people born in Canada rather than immigrants when jobs are scarce, 50% of respondents agreed with this negative view.[51] Agreement is in the majority among these respondent groups:

- Indigenous peoples (72%)
- High school or lower education (63%)
- Staying at home out of the workforce (63%)
- Living in Northern Ontario (62%)
- Household incomes from $60,000 to under $80,000 (60%)

When asked their opinion on the statement that *some jobs are better suited to men, some to women,* a considerably higher proportion of men (61% vs. 45% of women) agree with this negative view.[52] Agreement with this statement is also higher among respondents aged 60 and over (57%).

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[1] Table Q.2, cross-tabulation data file.

[2] Lesbian, gay, bisexual, transgender, queer or questioning

[3] Table Q.3, cross-tabulation data file.

[4] Table Q.4, cross-tabulation data file.

[5] Table Q.5, cross-tabulation data file.

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[6] Table Q.6, cross-tabulation data file.

[7] Table Q.10, cross-tabulation data file.

[8] Table Q.10, cross-tabulation data file.

[9] Some of the questions are based on a series of provocative statements intent on eliciting the candid views of respondents.

[10] Table Q.7, cross-tabulation data file.

[11] Table Q.19, cross-tabulation data file.

[12] Table Q.8, cross-tabulation data file.

[13] Respondents were asked this question earlier in the survey before being asked about their frequency of contact with the same 15 specific groups.

[14] Table Q.10E, cross-tabulation data file.

[15] Table Q.10F, cross-tabulation data file.

[16] Table Q.10H, cross-tabulation data file.

[17] Table Q.10D, cross-tabulation data file.

[18] Table Q.10A, cross-tabulation data file.

[19] Table Q.11, cross-tabulations data file.

[20] Table Q.9, cross-tabulations data file.

[21] Table Q.18, cross-tabulations data file.

[22] Table Q.14, cross-tabulation data file.

[23] Respondents were shown a list of possible types of discrimination and asked to indicate which, if any, they have personally experienced in the past five years (multiple mentions were permitted).

[24] Table Q.15, cross-tabulation data file.

[25] Table Q.16, cross-tabulation data file.

[26] Table Q.17, cross-tabulation data file.

[27] Tables Q.12 and Q.13, cross-tabulation data file.

[28] Table Q.14, cross-tabulations data file.

[29] Tables Q.15, cross-tabulations data file.

[30] Tables Q.16, cross-tabulations data file.

[31] Table Q.17, cross-tabulations data file.

[32] Table Q.2, cross-tabulations data file.

[33] Table Q.3, cross-tabulations data file.

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[34] Table Q.4, cross-tabulations data file.

[35] Tables Q.6, cross-tabulations data file.

[36] Tables Q.19, cross-tabulations data file.

[37] Tables Q.11, cross-tabulations data file.

[38] Tables Q.9, cross-tabulations data file.

[39] Tables Q.10, cross-tabulations data file.

[40] Tables Q.13, cross-tabulations data file.

[41] Table Q.14, cross-tabulations data file.

[42] Tables Q.15, cross-tabulations data file.

[43] Tables Q.16, cross-tabulations data file.

[44] Table Q.2, cross-tabulations data file.

[45] Tables Q.3, cross-tabulations data file.

[46] Tables Q.6, cross-tabulations data file.

[47] Table Q.19, cross-tabulations data file.

[48] Tables Q.8, cross-tabulations data file.

[49] Tables Q.10, cross-tabulations data file.

[50] Tables Q.10, cross-tabulations data file.

[51] Tables Q.10, cross-tabulations data file.

[52] Tables Q.10, cross-tabulations data file.

Appendix A: Methodology

The OHRC commissioned the Environics Research Group to do a public opinion survey on human rights in Ontario. The OHRC followed the Ontario Government procurement process for research services and the Environics Research Group was the successful vendor of record.

Environics conducted the survey between January 24 and February 2, 2017, and then provided the OHRC with cross-tabulation data tables and an analysis of findings along with the complete survey data file.

The cross-tabulation data tables and the complete survey data file are available on the OHRC's website for download and additional research. The data tables are numbered and organized based on the survey questionnaire and the information in this report is endnoted accordingly. The information in this report relies on the data identified in the cross-tabulation tables as statistically significant by the Environics Research Group.

Survey method

Environics conducted the survey online using a sample of 1,501 people age 18 and older, drawn from a panel of over 100,000 members. The OHRC chose the online method to avoid a “social desirability” bias, where people tell telephone interviewers what they think is the more socially desirable response. In a more anonymous online survey, people can be more honest about how they feel on sensitive issues like human rights and discrimination. Online panel surveys are a widely accepted research methodology.

Target population

The survey’s objective was to gather data from a representative sample of Ontario residents (18 years and over) that was large enough to be extrapolated to the full population with a reasonable degree of confidence, and that would allow for analysis by important subgroups. A sample size of 1,500 can provide meaningful and statistically reliable results for important segments of the population, whether this is by region, gender, age or other relevant demographic characteristics such as education level, religious practices, LGBTQ identity, presence of a disability, and ethnicity. These factors (and others) were expected to be important differentiators in opinions about human rights in Ontario.

The survey’s sample size presents a challenge when considering another important factor: how discrimination may be unique or distinct when it occurs based on two or more grounds that are protected under the *Code*. The complete survey data file is available for researchers who wish to do a more in-depth intersectional analysis.

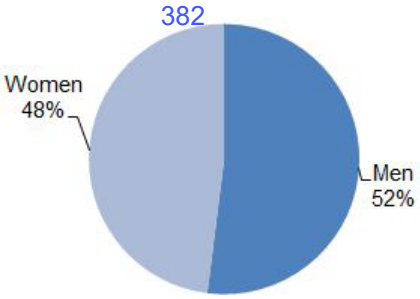
The results of an online panel survey cannot be quoted in terms of “margin of sampling error” in accordance with industry practices.[53] However, the final data were weighted so that the results accurately reflect opinions across strata proportionate to the actual population.

Respondent profile

Table 11: Regional distribution of survey respondents

	Sample Size (Weighted)	Sample Size (Unweighted)	Population*
East/Central Ontario	285	302	20%
Greater Toronto Area GTA	720	661	45%
City of Toronto	315	310	21%
Outer GTA	405	351	24%
South western Ontario	405	420	29%
Northern Ontario	90	118	6%
Total	1501	1501	100%
			* Population % based on 2011 Census

Graph 5: Gender identity distribution of survey respondents



Graph 6: Age distribution of survey respondents

Graph 7: Education level of survey respondents

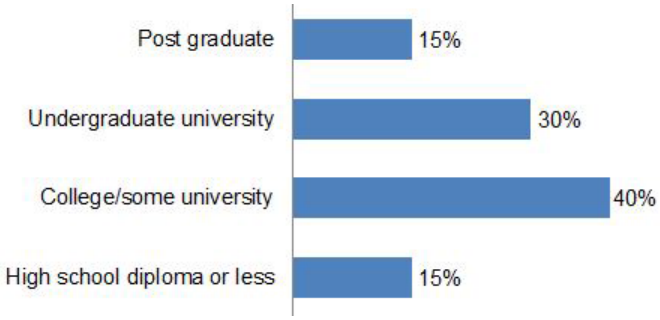


Table 12: Household income of survey respondents

Earn <$40,000	22%
Earn $40k Đ<$60k	17%
Earn $60k - <$80k	17%
Earn $80k - <$100k	13%
Earn $100k - <$150k	19%

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Earn $150k+	13%

Graph 8: Birthplace of survey respondents

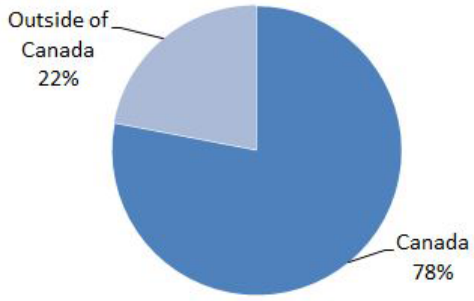

Table 13: Race, ethnicity, religion and disability status of survey respondents

Group	% of Ontario population*	Expected n	Actual n (unweighted)
Racialized/Ethnic groups			
Total racialized groups	25.9	389	363
South Asian	7.6	114	63
Chinese / South East Asian	5	75	161
Black	4.3	65	59
Indigenous	3.5	53	59
Religious groups			
Muslim	4.5	68	36
Hindu	2.9	44	18
Jewish	1.5	23	37
Sikh	1.4	21	11
Disability status			
Persons with a disability	15.5%**	233	332

* Based on the 2011 National Household Survey

** Based on information from the Accessibility Directorate of Ontario

Questionnaire design

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The OHRC based its survey questionnaire on one designed for the Quebec Human Rights Commission through a partnership with several universities. Some of the questions were modified for Ontario's context and the particular needs of the OHRC.

The survey asked respondents 19 questions about awareness of human rights and discrimination, attitudes towards groups and their accommodation needs, and experience with discrimination, as well as 17 demographic questions about level of education, income, labour force participation, creed, age, ethnicity/ancestry/place of birth, current postal code, disability, gender identity, sex-assigned at birth, and lived gender identity.[54]

The OHRC recognizes that the meaning and use of words related to people's identities can evolve and change over time. Certain terms in the questionnaire were chosen to ensure common understanding across respondents. Some terminology and statements were intently provocative, to elicit the candid views of respondents. In this report, we have replaced some of those terms to respect how individuals and groups identify themselves today.

The survey was available in English and French. Respondents were offered the opportunity to communicate by telephone with the polling firm if they had any difficulty completing the survey online.

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[53] As there is no source of random e-mail addresses, this survey used an online panel. Canada's research industry association, the Marketing Research and Intelligence Association (MRIA), has recently issued a new "code of practice" for its members stating that because panel-based surveys are not based on random probability samples, their results cannot be quoted in terms of "margin of sampling error," as is used for probability-based telephone surveys.

[54] Survey Q.E (gender identity), Q.H (sex assigned at birth) and Q.I (lived gender identity) are based on a multi-dimensional sex/gender measure recommended in: Transgender-inclusive measures of sex/gender for population surveys: *Mixed-methods evaluation and recommendations*. Greta R. Bauer, Jessica Braimoh, Ayden I. Scheim, Christoffer Dharma. Published: May 25, 2017https://doi.org/10.1371/journal.pone.0178043.

Appendix B: Survey questionnaire

This survey is being conducted on behalf of the Ontario Human Rights Commission. The questions are general and your responses will not be attributed to you in any way. It will take approximately 15 minutes to complete.

1. Are you 18 years of age or older and a resident of Ontario? (Select one response only)

   Yes

   No [TERMINATE]

2. What area of Ontario do you live in?
   1. Eastern Ontario (i.e. Kingston to Ottawa)
   2. Central Ontario (i.e. Barrie, Peterborough, Orillia etc.…)
   3. City of Toronto (416)
   4. The suburban "905" belt around Toronto
   5. Hamilton-Niagara
   6. Western Ontario
   7. Northern Ontario

3. What are the first three digits of your postal code?

[Validate – L#L - NOTE REGIONAL QUOTAS]

4. In what year were you born?

[Open-ended Numeric – MIN SHOULD BE 1916, MAX SHOULD BE 1998.

5. How would you describe your current gender identity?
    1. Male
    2. Female
    3. Neither male nor female, or gender fluid or diverse
    4. Other cultural gender identity (e.g. Indigenous two-spirit)

1. Thinking about the way things are going these days here in Ontario, would you say that for most people life is generally going very well, somewhat well, not very well or not at all well?

1. Very well
2. Somewhat well
3. Not very well
4. Not at all well

2. For the purpose of this survey, “human rights” means people being free of discrimination or harassment and having equal opportunity in employment, housing, services, contracts and vocational associations (like unions and professional organizations) regardless of factors like race, ethnicity, religion, place of origin, Indigenous or Aboriginal ancestry, sex or gender identity, sexual orientation, age, criminal record, marital or family status, disability or being on social assistance.

Generally speaking, how much of a problem do you think there is in Ontario with people being harassed or discriminated against? Is this…

1. A major problem
2. Somewhat of a problem
3. Not much of a problem
4. Not a problem at all

3. In Ontario, what do you think are the three most common reasons why people experience discrimination and/or harassment? CHECK OFF UP TO THREE RESPONSES

1. Sex
2. Being transgender
3. Age ASK Q. 3a
4. Sexual orientation
5. Being Indigenous or Aboriginal
6. Race or colour
7. Ancestry or ethnic origin
8. Place of origin
9. Citizenship status
10. Creed or religion
11. Pregnancy
12. Family status (responsible for caring other family members, e.g. young children or elderly parents)
13. Marital status
14. Disability
15. Receipt of social assistance
16. Other (SPECIFY)_____

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IF AGE WAS SELECTED IN Q. 3, ASK:

3a. You indicated that you think age is a common reason why people experience discrimination and/or harassment in Ontario. Which form of age discrimination were you thinking of?

1. Discrimination against youth (24 and under)
2. Discrimination against middle age adults (25-64)
3. Discrimination against seniors (65 and over)

4. ASK ALL: How well protected do you think people's human rights are in Ontario when discrimination and harassment happens?

1. Very well protected
2. Somewhat well protected
3. Not very well protected
4. Not protected at all

5. Overall, how well informed do you feel about what protections and obligations you have under human rights law in Ontario? Are you…
    1. Very informed
    2. Somewhat informed
    3. Not very informed
    4. Not at all informed

6. How familiar are you with each of the following?

ROWS

1. Ontario Human Rights Code
2. Ontario Human Rights Commission
3. Human Rights Tribunal of Ontario
4. Human Rights Legal Support Centre of Ontario
5. Indigenous or Aboriginal rights
6. Impact of colonialism on Indigenous or Aboriginal peoples

COLUMNS

1. Very familiar
2. Somewhat familiar
3. Not very familiar
4. Never heard of it

7. How accepting or tolerant would you say people generally are in Ontario towards people from a variety of cultural backgrounds, including immigrants from other countries? Are we…

1. Too tolerant and accepting
2. About as tolerant and accepting as we should be

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3. Not tolerant and accepting enough

8. What is your personal feeling about each of the following groups of people in our society? Do you feel very positive, somewhat positive, neutral, somewhat negative or very negative?

ROWS – RANDOMIZE

1. People with physical or intellectual, cognitive or learning disabilities
2. People with mental health disabilities or addictions
3. People with a different ethnic origin than yours
4. Indigenous or Aboriginal people
5. Black, African or Afro Caribbean people
6. Arab people
7. Asian people
8. People of colour/visible minorities
9. People with a different creed or religion than yours
10. Muslim people
11. Immigrants
12. Refugees
13. People on social assistance
14. Lesbian, gay, or bisexual people
15. Transgender people

COLUMNS

1. Very positive
2. Somewhat positive
3. Neutral
4. Somewhat negative
5. Very negative

9. Here in Ontario do you feel that we do too much, just the right amount or not enough when it comes to accommodating the needs of each of the following groups of people?

ROWS – RANDOMIZE

a) People with physical disabilities

b) People with intellectual, cognitive or learning disabilities

c) People with mental health disabilities or addictions

d) Pregnant women

e) People responsible for caring for other family members (e.g. young children, elderly parents)

f) Immigrants

g) Transgender people

h) Indigenous or Aboriginal peoples

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i) Muslim people

j) People, other than Muslims, who practice a religion

k) French-speakers

COLUMNS

1. We do too much
2. Just the right amount
3. We don’t do enough

10. To what extent do you agree or disagree with each of the following statements:

ROWS – RANDOMIZE

1. We would be better off in Ontario if we stopped letting in so many immigrants
2. Indigenous or Aboriginal people receive too many government benefits
3. Some jobs are better suited for men, some are better suited for women
4. Ontario is changing too quickly because of ethnic communities
5. Immigrants should adapt to the laws and norms of our society
6. It is normal for Ontario to evolve and reflect or adapt to the changing cultural diversity of our society
7. When jobs are scarce, employers should prioritize hiring people born in Canada rather than immigrants
8. You need to be cautious of people who are too open in showing their religious beliefs
9. It’s understandable for an apartment owner or property manager to be concerned about renting to someone on social assistance
10. We do enough to help people on social assistance. They could do more to help themselves if they wanted to.
11. Students should learn more about human rights and responsibilities in school

l) Discrimination is no longer a major issue. Therefore, we don’t need a human rights commission, human rights legal support service and human rights tribunal.

COLUMNS

1. Strongly agree
2. Somewhat agree
3. Somewhat disagree
4. Strongly disagree

11. When you see people wearing the following things in public how does it make you feel? Are you very comfortable, somewhat comfortable, somewhat uncomfortable or very uncomfortable?

ROWS – RANDOMIZE

1. A man wearing a turban
2. Someone wearing a Christian cross around their neck
3. A man wearing a kippah (Jewish skullcap)
4. A woman wearing a hijab (head scarf) covering her hair

5. A woman wearing a niqab or veil covering her face
6. Traditional Mennonite clothing (bonnets and long dresses for women, black pants and hats for men)
7. An Indigenous or Aboriginal person who keeps their hair long in a ponytail

COLUMNS

1. Very comfortable
2. Somewhat comfortable
3. Somewhat uncomfortable
4. Very uncomfortable

Now moving on to a different topic…

12. Here are two points of view about how police forces treat different groups of people. Where would you position yourself? [PUT IN A FOUR POINT SCALE BETWEEN THE TWO VIEWS]

1. The police must always treat everyone exactly the same way, regardless of which group or community they identify with
2. …
3. …
4. The police need to be able to profile or target certain groups or communities that tend to commit more crime if they are going to do their jobs effectively

13. Do you think the police would always, sometimes, rarely or never be justified in profiling or targeting each of the following groups of people when they enforce the law and conduct their investigations?

ROWS – RANDOMIZE

1. Young people
2. Indigenous or Aboriginal people
3. Homeless people
4. People with mental health disabilities and addictions
5. Black/African-Canadian people
6. South Asian people (e.g., East Indian, Pakistani, Bangladeshi, Sri Lankan)
7. Southeast Asian people (e.g., Cambodian, Indonesian, Laotian, Vietnamese)
8. Chinese people
9. Arab people
10. Muslim people
11. Latin American people
12. Lesbian, gay, or bisexual people
13. Transgender people

COLUMNS

1. Always justified
2. Sometimes justified
3. Rarely justified
4. Never justified

14. In the past five years, have you experienced discrimination or been treated unfairly by others because of… (Select all that apply)

1. The colour of your skin or because of race
2. Your ancestry, ethnic origin or culture
3. Your age
4. Your sexual orientation
5. Your disability
6. Your creed or religion
7. Your sex (because you are female or male)
8. Your gender identity (because you are transgender or gender non-conforming)
9. Your gender expression (physical traits, hair, clothes, name, etc.)
10. Because of pregnancy
11. Your political beliefs
12. For being on social assistance
13. Having low employment income
14. Using a food bank
15. Having a criminal record
16. Your marital status (single, married, separated, divorced, widowed)
17. Your family status (i.e. you are responsible for children or aging parents or other dependent family members)
18. Another reason (SPECIFY)_____
98. No, I have not experienced discrimination in the past five years SKIP TO Q.18
99. No, I have never been discriminated against SKIP TO Q. 18

ASK ALL WHO EXPERIENCED ANY DISCRIMINATION IN Q. 14 IN THE PAST FIVE YEARS:

15. Did any of the incidents of discrimination you experienced involve sexual harassment?
    1. Yes
    2. No

16. Thinking about the last time you experienced discrimination, did this occur… (CHECK ALL THAT APPLY)
    1. At school
    2. At work
    3. Within a trade union or professional association
    4. When accessing housing
    5. In a public place
    6. In a shop/restaurant
    7. When interacting with police or other areas of the criminal justice system
    8. When accessing another service
    9. Somewhere else (SPECIFY) _____

17. The last time you experienced discrimination, how did you respond? …CHECK ALL THAT APPLY
    1. You made a complaint to someone in the organization where it happened
    2. You had a discussion with the person who did it
    3. You talked about it with family/friends or someone else outside the organization
    4. You asked the Human Rights Legal Support Centre of Ontario for help
    5. You filed a complaint (called an application) with the Human Rights Tribunal of Ontario

6. You kept it to yourself and did not respond

ASK ALL

18. Here is a list of ways in which people in Ontario sometimes have their needs accommodated. Do you strongly support, somewhat support, somewhat oppose or strongly oppose these accommodations?

ROWS – RANDOMIZE

1. Providing a prayer space for students
2. Allowing transgender students to use washrooms based on their lived gender identity
3. Prison cafeterias accommodating religious dietary requirements (e.g. offering an alternative to pork or beef such as seafood and vegetarian choices)
4. Allowing extra time away (without pay if in employment) for religious or cultural reasons
5. Giving a student with a learning disability longer to finish an exam
6. Allowing someone time off from work for addiction treatment
7. Rearranging work schedules to allow a parent to pick up their child from child care
8. Allowing a service animal like a guide dog in a restaurant with a buffet
9. Installing a small wooden curb ramp at the front of a shop to allow access for customers using wheelchairs or walkers

COLUMNS

1. Strongly support
2. Somewhat support
3. Somewhat oppose
4. Strongly oppose

19. How often do you personally have any contact or interact with each of the following groups of people?

ROWS – RANDOMIZE

1. People with physical or intellectual, cognitive or learning disabilities
2. People with mental health disabilities or addictions
3. People with a different ethnic origin than yours
4. Indigenous or Aboriginal people
5. Black, African or Afro Caribbean people
6. Arab people
7. Asian people
8. People of colour/visible minorities
9. People with a different creed or religion than yours
10. Muslim people
11. Immigrants
12. Refugees
13. People on social assistance
14. Lesbian, gay, or bisexual people
15. Transgender people

B-1-9962

COLUMNS

1. Frequently
2. Sometimes
3. Rarely
4. Never

Demographics – On to some questions about you…

6. Which of the following best describes your own present employment status? (Select more than one response if necessary)
    1. Working full-time
    2. Working part-time
    3. Unemployed or looking for a job
    4. Stay at home full-time
    5. Student
    6. Retired
    7. Ontario Disability Support Program (ODSP)
    8. Ontario Works (“welfare”)
    9. Other social assistance or disability pension

7. What is the highest level of education you have completed? (Select one response only)
    1. Part of high school
    2. Completed high school
    3. Some college or university
    4. College or technical school certificate
    5. University bachelor's degree
    6. Postgraduate university degree/professional designation

8. What was your sex assigned at birth, meaning on your original birth certificate?
    1. Male
    2. Female

IF RESPONSE TO Q. H IS DIFFERENT FROM Q. E, ASK:

1. In your day to day life, what gender do you currently live as?
    1. Male
    2. Female
    3. Sometimes male or sometimes female
    4. Neither male nor female

ASK ALL

10. Were you born in Canada or in a country other than Canada?
    1. Canada
    2. Other country

B-1-9962

B-1-9963

IF BORN IN CANADA, ASK:

11. Were your parents born in Canada, or in a country other than Canada?
    1. Canada
    2. Other country
    3. One parent born in Canada, one in another country

12. People living in Canada come from many different ethno-cultural backgrounds or countries. Which of the following best describes your ancestry, ethnicity or place of origin? (Select up to two responses)
    1. Indigenous/Aboriginal (First Nations (North American Indian – includes Status and Non-Status Indians), Métis or Inuk (Inuit))
    2. British Isles (English, Scottish, Irish, Welsh)
    3. French
    4. Other European
    5. Chinese
    6. South Asian (e.g., East Indian, Pakistani, Bangladeshi, Sri Lankan)
    7. Southeast Asian (e.g., Cambodian, Indonesian, Laotian, Vietnamese)
    8. Black/African or Afro Caribbean
    9. Filipino
    10. Latin American
    11. Arab
    12. West Asian (e.g., Afghan, Iranian, Turkish)
    13. Japanese
    14. Korean
    15. Other: _____

13. Which religion do you practice, if any?
    1. Roman Catholic
    2. Mainline Protestant denomination (Anglican, United Church, Presbyterian…)
    3. Evangelical Protestant denomination
    4. Orthodox Christian
    5. Judaism
    6. Islam
    7. Hinduism
    8. Buddhism
    9. Sikhism
    10. Indigenous or Aboriginal spirituality
    11. Other (SPECIFY)_____
    98. None, do not practice any religion

Ma. How frequently do you practice your religion?

1. Once a week or more
2. Once a month
3. Only on special occasions
4. Never

99. Don't know

14. Which religion did you identify with during your childhood?
    1. Roman Catholic

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2. Mainline Protestant denomination (Anglican, United Church, Presbyterian…)
3. Evangelical Protestant denomination
4. Orthodox Christian
5. Judaism
6. Islam
7. Hinduism
8. Buddhism
9. Sikh
10. Indigenous or Aboriginal spirituality
11. Other: _____
98. No religion

15. Do you identify as lesbian, gay, bisexual or as queer or questioning?
    1. Yes
    2. No

16. Do you have a disability of any kind? CHECK ALL THAT APPLY
    1. Yes, I have a physical disability (e.g. mobility, hearing, vision etc.…)
    2. Yes, I have an intellectual, cognitive or learning disability
    3. Yes, I have a mental health or addiction-related disability
    4. No, I do not have a disability

17. To the best of your knowledge, what was the combined income of all people in your household, before taxes, in 2016? Was it…
    1. Less than $20,000
    2. $20,000 to $40,000
    3. $40,000 to $60,000
    4. $60,000 to $80,000
    5. $80,000 to $100,000
    6. $100,000 to $150,000
    7. More than $150,00

Thank you very much for completing the survey.

If you would like more information about Ontario's Human Rights Code and the work of the Ontario Human Rights Commission please visit www.ohrc.on.ca.

If you believe you have experienced discrimination or harassment and want advice from the Human Rights Legal Support Centre please visit www.hrlsc.on.ca.

If you would like to file a complaint (called an application) with the Human Rights Tribunal of Ontario please visit www.sjto.gov.on.ca/hrto.

THIS IS **EXHIBIT "K"** REFERRED TO
IN THE AFFIDAVIT OF KAITLIN SCHWAN
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF LOS ANGELES DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15th DAY OF AUGUST, 2025

AMY JOY BRUBACHER
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 74929B

IRPP REPORT
September 2020

Canada's Forgotten Poor? Putting Singles Living in Deep Poverty on the Policy Radar

Dean Herd, Yuna Kim and Christine Carrasco

With commentaries by Sherri Torjman, Alain Noël and Ron Kneebone

THE SOCIAL SAFETY NET
FOR WORKING-AGE ADULTS

B-1-9966

ABOUT THE AUTHORS

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Alain Noël is a professor of political science at the Université de Montréal. He works on social policy in a comparative perspective, as well as on federalism and on Quebec and Canadian politics. Between 2006 and 2014, he was president of the Quebec government's Centre d'étude sur la pauvreté et l'exclusion (CEPE). His latest book is entitled Utopies provisoires : essais de politique sociale (Montréal : Québec Amérique, 2019).

Sherri Torjman is a social policy consultant and policy associate with Maytree. She is vice-chair of the Disability Advisory Committee, which provides advice to the Minister of National Revenue. She was vice-president of the Caledon Institute of Social Policy from 1992 to 2017. She was a member of the Leader's Economic Advisory Council and has worked for the National Council of Welfare, the House of Commons Committee on the Disabled and the House Committee on Child Care.

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SUMMARY

Despite federal, provincial, and territorial governments devoting a lot of effort on plans to reduce poverty in recent years, too many Canadians continue to struggle to meet their basic daily needs on incomes that fall far below the poverty line. And, among all household groups, single persons without dependants are most likely to find themselves in these dire circumstances. Working-age singles constitute the largest proportion of beneficiaries on social assistance, and they are three times as likely to live in poverty as the average Canadian. The average income of singles living in deep poverty is less than $10,000 a year, which includes social assistance benefits. Yet, they have been overlooked in social policy reforms for several decades and in many ways remain the "forgotten poor."

This report presents the findings of extensive research about employable singles on social assistance undertaken by Toronto Employment and Social Services, in partnership with the Ontario Centre for Workforce Innovation. Drawing on data from 69,000 singles who were receiving social assistance in Toronto in 2016, and 51 interviews with randomly selected participants, the report highlights these individuals' characteristics, their complex needs, and the barriers they face in moving off social assistance and into employment. Complementing the quantitative analysis, the interviews provide important insights into the daily realities of participants' lives and their journeys on and off assistance.

The report indicates that, contrary to common belief, singles on social assistance are not a homogenous group of young men. For instance, 38 percent of them were women and 38 percent were 45 years of age, or older. Men under the age of 30 accounted for less than 20 percent of the cases. Education levels varied greatly, as did the immigration background of those on assistance. Notably, about a third had not completed high school, but as many as 30 percent had post-secondary credentials of some kind. Naturalized Canadian citizens and permanent residents represented 43 percent of the singles caseload, the same proportion as those born in the country.

One of the key issues highlighted by the report is the fact that public income supports for single individuals living in poverty – in the form of social assistance, tax credits and supplementary benefits – are considerably less generous than those for families. Unlike the many lone parents who have been helped to move out of poverty through targeted programs and child benefits, singles have minimal access to income supports beyond modest social assistance payments. Interview participants described the difficult trade-offs they made between meeting essential needs and other living expenses. They pointed to malnourishment and deteriorating physical and mental health, not to mention the stigma and social isolation, that resulted from spells on social assistance. Singles on social assistance also reported multiple barriers to employment. The most common reasons cited were poor health, a lack of education/skills, limited transportation options, and insufficient Canadian work experience. All of this underscores the importance of better understanding their diverse circumstances and challenges to be able to provide public services tailored to their needs. The report's findings provide

valuable information not only to policy-makers in Toronto, but also across Canada, as the increasing number of singles on social assistance and the limited financial support available to them are nation-wide concerns.

To follow up on this research, the Institute for Research on Public Policy asked three experts to comment on the findings and the broader implications for social policy reform, in particular how policy-makers at all levels of government could better help reduce deep poverty in Canada.

Sherri Torjman, social policy consultant and policy associate with Maytree, has long advocated for a fundamental "reformulation" of the country's patchwork social safety net for working-age adults. She points out that, in the last few decades, tremendous progress has been made lifting families out of poverty, mainly thanks to decades of improvements to the Canada Child Benefit. However, in her view, progress stalled when it came to tackling the complex needs of working-age adults, especially those of singles on social assistance who are often stuck behind the "welfare wall." She puts forth three major policy-reform options: (1) a redesign of Employment Insurance; (2) an expansion of the Canada Workers Benefit to provide an income guarantee to low-income workers and boost their take-home earnings; and (3) a "big bang" rebuild of all income-support programs. She also stresses the need to provide more diverse individualized support services for the most vulnerable.

Alain Noël, professor of political science at the Université de Montréal, argues that the focus of social policy in the last 20 years in member countries of the Organization for Economic Co-operation and Development (OECD) has been to reform the welfare state to deal with the new social risks associated with increasingly polarized labour markets and less stable dual-earner family arrangements. As a result, policy-makers' attention in redesigning income support programs has leaned towards children, work-family conciliation, and labour market integration. He argues that those living alone in poverty were in the blind spot of this "social investment" drive, and that this contributed to maintaining very low welfare incomes for single adults. For instance, Canadian provinces remain in the bottom tier of OECD governments in terms of the adequacy of social assistance income for employable singles relative to median income. While Professor Noël agrees the post-COVID-19 environment may provide policy-makers an opportunity to address long-standing income security gaps, he cautions that there are considerable political risks in betting on new, large-scale, basic income programs as advocated by some. Instead, he encourages multi-pronged solutions focused on lifting people out of deep poverty by significantly increasing social assistance incomes, and providing more supportive employment and social services to those facing multiple challenges.

In a similar vein, Ron Kneebone, professor of economics at the University of Calgary, opines that for decades, Canadian public policies to fight poverty have been driven by politically popular campaigns centered on seniors and families with children. He argues that with single people now making up the largest group of reported households in the census, and singles being disproportionately represented among the

ranks of the poor in the country, it's time for policy-makers to shift the focus of their efforts from simply reducing the poverty rate overall to specifically addressing the problem of deep poverty among singles and its consequences. Professor Kneebone calls not only for a significant increase in social assistance benefits for them, but also for annual cost-of-living adjustments to be made on the basis of changes in rental costs – housing being the most significant affordability challenge for those living in deep poverty.

RÉSUMÉ

Malgré les nombreux efforts que les gouvernements fédéral, provinciaux et territoriaux ont déployés ces dernières années pour réduire la pauvreté, trop de Canadiens peinent encore à subvenir à leurs besoins fondamentaux en raison d'un revenu nettement inférieur au seuil de la pauvreté. Et parmi tous les types de ménages, ce sont les adultes vivant seuls sans personne à charge qui souffrent surtout de cette précarité. Les personnes seules en âge de travailler forment la plus grande partie des prestataires de l'aide sociale et sont trois fois plus susceptibles de vivre dans la pauvreté que l'ensemble des Canadiens. Celles qui vivent dans une extrême pauvreté ont un revenu annuel moyen de 10 000 dollars, prestations comprises. Or toutes les réformes des politiques sociales des dernières décennies ont fait l'impasse sur la situation de ces « pauvres oubliés ».

Ce rapport présente les résultats d'une étude exhaustive sur les personnes seules vivant de l'aide sociale et aptes au travail, menée conjointement par les Services sociaux et d'emploi de Toronto et le Centre ontarien Innovation-Emploi. À partir de données sur 69 000 personnes seules qui touchaient de l'aide sociale à Toronto en 2016 et de 51 entrevues avec des participants sélectionnés au hasard, il met en évidence leurs caractéristiques personnelles, la complexité de leurs besoins et les obstacles à l'emploi qu'ils doivent surmonter. En complément de l'analyse quantitative, ces entrevues jettent un éclairage instructif sur la réalité quotidienne et le parcours de ces assistés sociaux et, parfois, leur réintégration au marché du travail.

Contrairement à une idée répandue, les assistés sociaux vivant seuls ne forment pas un groupe homogène de jeunes hommes : 38 p. 100 étaient des femmes et 38 p. 100 avaient 45 ans ou plus, les hommes de moins de 30 ans comptant pour moins de 20 p. 100 de cette population. Leur niveau de scolarité était aussi très variable, tout comme leur contexte d'immigration. Environ le tiers n'avaient pas terminé leurs études secondaires, mais pas moins de 30 p. 100 possédaient une attestation d'études postsecondaires. Les citoyens naturalisés et les résidents permanents comptaient pour 43 p. 100 des personnes seules vivant de l'aide sociale, soit la même proportion que les Canadiens de naissance.

Le rapport souligne un problème important : les mesures de soutien du revenu – aide sociale, crédits d'impôt ou prestations supplémentaires – sont moins généreuses pour les pauvres vivant seuls que pour les familles. À la différence de nombreux parents

uniques, qui ont bénéficié des prestations pour enfants et de programmes ciblés pour sortir de la pauvreté, les personnes seules ont rarement accès à d'autres formes de soutien que de maigres prestations. En entrevue, les participants ont décrit les pénibles compromis qu'ils doivent faire entre leurs besoins essentiels et d'autres frais de subsistance, évoquant aussi des problèmes de malnutrition, de santé mentale et physique, sans oublier la stigmatisation et l'isolement social qu'ils connaissent lorsqu'ils vivent de l'aide sociale.

En matière d'emploi, ils ont dit se heurter à plusieurs obstacles. Parmi les plus cités figurent une santé fragile, une scolarité et des compétences insuffisantes, des moyens de transport limités et une faible expérience de travail au pays. L'ensemble de ces facteurs montre l'importance de mieux comprendre la situation et les problèmes particuliers de ces personnes vulnérables pour adapter les services publics à leurs besoins. À l'heure où le nombre croissant d'assistés sociaux vivant seuls et le faible soutien financier qui leur est offert sont devenus un enjeu d'intérêt national, cette étude offre de précieuses informations non seulement aux décideurs de Toronto mais à ceux de tout le pays.

Pour lui donner suite, l'Institut de recherche en politiques publiques a demandé à trois experts d'en analyser les résultats dans la perspective d'une réforme des politiques sociales et d'examiner par quels moyens chaque ordre de gouvernement pourrait contribuer à réduire l'extrême pauvreté au Canada.

Sherri Torjman, conseillère en politique sociale et chercheuse à la Fondation Maytree, plaide de longue date pour une refonte du filet social fragmentaire destiné aux adultes en âge de travailler. D'immenses progrès ont été accomplis ces dernières décennies pour sortir des familles de la pauvreté, reconnaît-elle, notamment grâce au renforcement de l'Allocation canadienne pour enfants. Mais il en va tout autrement pour les adultes en âge de travailler, et surtout pour les assistés sociaux vivant seuls, trop souvent pris au « piège de l'aide sociale ». Elle préconise trois réformes majeures : (1) restructurer l'assurance-emploi ; (2) élargir l'accès à l'Allocation canadienne pour les travailleurs afin d'assurer un revenu garanti aux petits salariés et d'accroître leur rémunération nette ; (3) refondre la totalité des programmes de soutien du revenu. Elle souligne aussi l'importance d'offrir aux plus vulnérables des services de soutien plus individualisés.

Alain Noël, professeur de science politique à l'Université de Montréal, observe que les pays membres de l'Organisation de coopération et de développement économiques (OCDE) privilégient depuis 20 ans des politiques sociales visant à réformer l'État-providence en fonction de nouveaux risques sociaux liés à la polarisation des marchés du travail et à la précarisation des ménages à double revenu. Les décideurs ont ainsi restructuré leurs programmes de soutien du revenu en faveur des enfants, de l'équilibre travail-famille et de l'intégration au marché du travail. Si bien que les pauvres vivant seuls se sont retrouvés dans l'« angle mort » de ce mouvement d'« investissement social », ce qui a maintenu au plus bas leurs revenus d'aide sociale. Par exemple, les provinces canadiennes se classent dans le dernier tiers des pays de l'OCDE au cha-

pitre de l'adéquation entre le revenu médian et les prestations d'aide sociale des personnes seules aptes au travail. Certes, l'après-pandémie pourrait inciter nos décideurs à remédier aux lacunes de longue date de la sécurité du revenu, mais Alain Noël prévient qu'une refonte totale des programmes visant à instaurer un revenu minimum garanti telle que préconisée par certains entraînerait d'importants risques politiques. Pour réduire l'extrême pauvreté, il propose plutôt des solutions concertées visant à augmenter considérablement les revenus d'aide sociale, mais aussi à améliorer les services sociaux et d'emploi offerts à ceux qui sont confrontés à un ensemble complexe de difficultés.

Ron Kneebone, professeur d'économie à l'Université de Calgary, soutient dans le même esprit que nos politiques de lutte contre la pauvreté ont été dictées pendant des décennies par de populaires campagnes ciblant les aînés et les familles avec enfants. Mais comme les personnes seules forment désormais la plus grande partie des ménages dénombrés par le recensement, et qu'elles représentent une proportion démesurée des pauvres du pays, il est temps pour nos décideurs de recentrer leur approche de réduction du taux global de pauvreté sur les problèmes et conséquences de l'extrême pauvreté chez les personnes seules. Il propose non seulement d'augmenter leurs prestations d'aide sociale mais aussi de fonder les ajustements annuels au coût de la vie sur les charges locatives, le coût prohibitif des loyers étant la principale difficulté financière rencontrée par les plus pauvres de nos concitoyens.

1. INTRODUCTION

> *The current approach to delivering poverty alleviation to specific groups (e.g., seniors, families with children) has left singles behind, resulting in [their] dominating the demographic of people experiencing deep poverty (Dutton 2019).*
>
> *Nowhere have [the impacts of poverty] been felt more strongly than for single people — many of whom are grappling with mental health issues, addictions, violence and abuse, homelessness and the overall traumatizing effects of entrenched poverty. They in particular have been left behind as a result of severe cuts to Ontario Works in the 1990s ... and other flaws built into social assistance programs (Ontario 2017).*

Fewer Canadians are living in poverty now than was the case in 2006. In that year, according to the Market Basket Measure (MBM), Canada's first official poverty line, 15.6 percent of the population was considered poor.[1] By 2017, this figure had fallen to 9.5 percent (or 3.4 million people). This reduction in poverty has benefited various groups. Between 2006 and 2017, for example, poverty among seniors fell from 7.6 to 3.9 percent, while child poverty fell from 19.2 to 9.0 percent.[2]

These declines are undoubtedly positive and reflect, among other things, an economy that has remained comparatively strong, and the success of specific public policy measures. In particular, the Canada child benefit has played an important role in lifting thousands of parents and their children out of poverty (Statistics Canada 2017).

At the same time, however, more than 5 percent of Canadians experience "deep poverty," defined as incomes below 75 percent of the poverty line. Living in deep poverty means that individuals and families must use all of their income to meet basic necessities such as shelter and food, making it virtually impossible to address other needs or plan for their future.

The existence of deep poverty raises important questions for researchers and policy-makers: Who experiences deep poverty? What unique or compounding challenges do those experiencing deep poverty face when they attempt to escape it, compared with others who are poor? To what extent is the current income security system helping them? And what changes might better support them?

Addressing these questions is important to help those currently living in such dire circumstances, and to reduce the incidence of deep poverty, especially in times of economic

[1] The Market Basket Measure (MBM) is based on the cost of a basket of goods and services that individuals and families require to meet their basic needs and achieve a modest standard of living. Wherever individuals and families are living across the country, if they cannot afford the cost of this basket of goods and services in their particular community, they are considered by the federal government to be living below Canada's poverty line.

[2] In 2017, Canada's official poverty line for a family of two adults and two children ranged from $32,849 in parts of Quebec to $41,362 in parts of Ontario. The average across the 50 regions included in the calculations was $37,489. By comparison, the poverty line for singles ranged from $16,423 to $20,681 (Statistics Canada 2017)

downturn, such as that caused by the COVID-19 pandemic. Qualitative research in particular can shed light on the daily realities and conditions of groups that are often forgotten and that, during this pandemic, face heightened risks, as increasing demand strains social programs and physical distancing measures intensify social isolation.

Previous research has identified the following characteristics associated with both the risk of being poor and longer spells of poverty: having a physical or mental disability; being part of a lone-parent family; having less than a high school education; being a visible minority born outside Canada; and being single (Statistics Canada 2015).

Recent analysis shows that those experiencing deep poverty are more likely to be single compared with the rest of the population. For example:

- Working-age singles are three times as likely to live in poverty (31 percent, or 1.25 million) as the Canadian average (10 percent).
- Singles who live in deep poverty have average incomes of less than $10,000 a year.
- Singles have great difficulty exiting poverty, with previous research suggesting that 20 percent of those aged 45 to 64 experience poverty for six straight years or more (Food Banks Canada 2017; Feng, Dubey and Brooks 2007).

The elevated risk of poverty, especially deep poverty, among unattached single adults is especially important given ongoing demographic shifts. As a result of social, economic and demographic factors – such as population aging and longer life expectancy, higher separation and divorce rates, and, for women, greater financial independence – the number of people living alone has more than doubled in the past 35 years, increasing from 1.7 million in 1981 to 4.0 million in 2016 (that is, from 9 to 14 percent as a share of the population aged 15 and over). Indeed, 2016 marked the first time in census history that one-person households were the most common household type, overtaking households consisting of couples with children (Tang, Galbraith and Truong 2019).

Despite this demographic shift, unattached, single, working-age adults living in poverty are poorly served by income security programs. They have even been referred to as the "forgotten poor" (Sauve 2008). Indeed, most of the successful policy initiatives cited in Canada's national poverty reduction strategy are designed to support families with children (Dutton 2019). To some, this reflects a "family bias" in the amounts of income support provided to low-income people; this is evident not just in the basic benefits provided but also in the design of refundable tax credits (such as those for the goods and services/harmonized sales tax (GST/HST) and the Canada workers benefit), policy measures from which singles benefit significantly less on an adult-equivalent basis.[3]

Building on research undertaken by Toronto Employment and Social Services (TESS), in partnership with the Ontario Centre for Workforce Innovation (OCWI), this IRPP

[3] From this point forward, this paper uses the term "singles" to describe unattached working-age adults who are on social assistance

report focuses on one group in deep poverty – namely, singles receiving social assistance in Toronto (Toronto 2018).[4] The TESS Singles Study was designed to better understand changes to the social assistance caseload in Toronto and to develop greater insights into the characteristics and experiences of singles who receive assistance. The research findings presented in this report provide the backdrop for commentaries from three social policy experts who reflect on the broader challenges facing singles on social assistance with regard to income security; policy measures that have been helpful in supporting other family types; and policy proposals that they believe federal and provincial governments should implement to assist singles experiencing deep poverty.

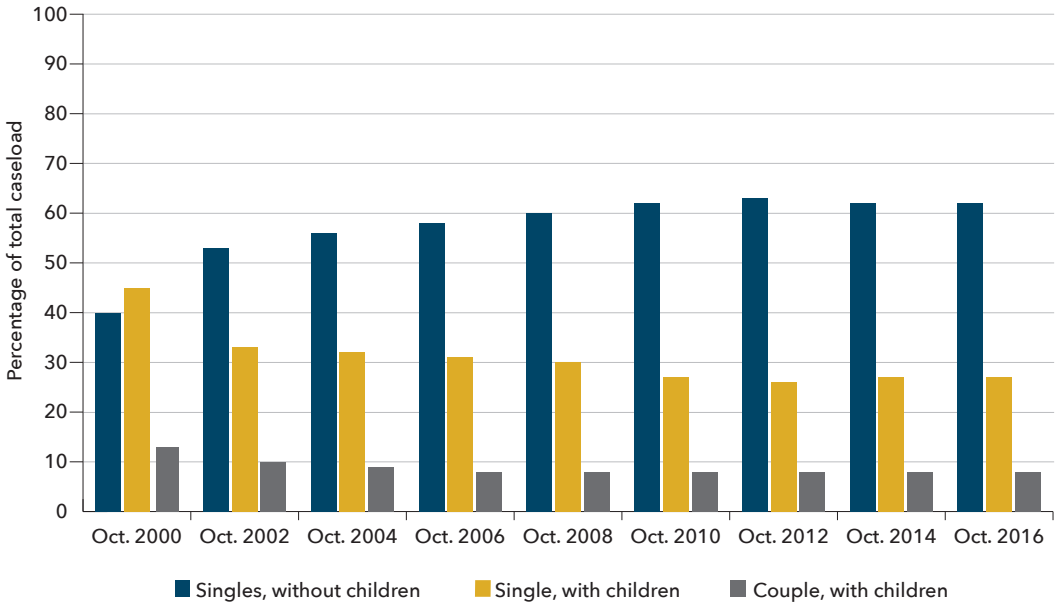
2. THE CHANGING FACE OF SOCIAL ASSISTANCE

Social assistance is a last-resort safety net that provides financial support for basic necessities to those who have exhausted all other options. Along with other federal and provincial income support programs, such as Employment Insurance (EI), Old Age Security and the Canada child benefit, social assistance is an important component of Canada's income security system. Each province and territory has its own social assistance program(s), with different administrative rules, eligibility criteria and benefit levels. The number of people seeking assistance at any time reflects the strength of the (local) economy, as well as various policy changes, not only to social assistance but also to related programs such as EI and child benefits.

Against the backdrop of rising deficits and structural unemployment in the 1990s, traditional social assistance programs were transformed: restructured from "passive" programs of entitlement, based on need, to "active" labour market policies, with an explicit welfare-to-work orientation (OECD 2005a). In the years following these changes, both the size and the composition of social assistance caseloads changed significantly. Across Canada, caseloads fell from a peak of 3.1 million in the mid-1990s to 1.6 million around the onset of the 2008 recession (Finnie, Irvine and Sceviour 2005; Wilkins 2019). This decline reflected the combination of a strong economy, tightened social assistance eligibility rules, stricter eligibility rules for EI, enhanced child benefit payments and cuts to the real value of social assistance benefits. In Ontario, for example, welfare income – which includes basic social assistance payments, child benefits (federal and provincial) as well as other benefits and tax credits – for various family types saw a sharp reduction in 1995 and a steady downward trend over the next decade. This was followed by several years of increases, but mainly for families with children due to increases in child benefits. These changes meant that the welfare income levels for singes fell from $13,331 in 1992 to $9,646 in 2018, mainly as a result of reductions in basic social assistance payments. Over the same period, welfare income for a single parent with one child declined from $26,245 to $21,463, in 2018 dollars (Tweddle and Aldridge 2019).

[4] In Ontario, social assistance consists of two programs: Ontario Works (OW) provides financial and employment assistance to people considered to be employable; the Ontario Disability Support Program (ODSP) provides similar supports to those with disabilities. While this report uses the term social assistance, the focus is on the OW program.

Figure 1. Toronto social assistance (Ontario Works) monthly caseload, by case type, October 2000-October 2016



Source: Toronto (2018).
Couples without children are not shown.

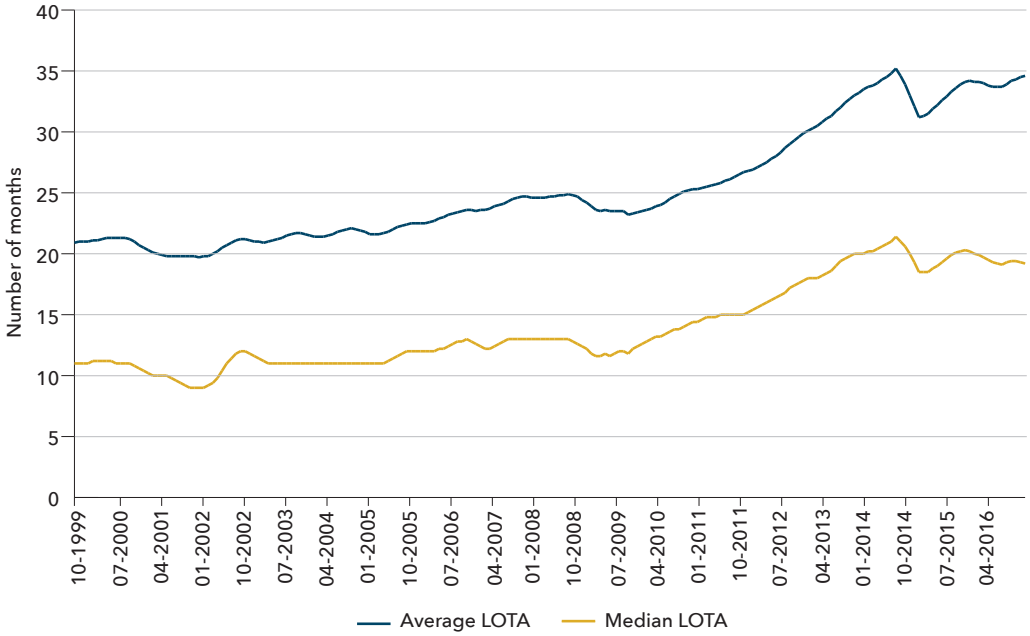
Over this period, the composition of caseloads also changed, with unattached single adults replacing lone parents as the "new face of social assistance" (Stapleton and Bednar 2011). In Ontario, the number of singles receiving social assistance increased from 92,000 in 2000 (compared with 95,000 lone parents) to 151,000 in 2011 (compared with 76,000 lone parents). In other words, the number of lone parents on social assistance declined by 20 percent, whereas singles increased by 65 percent. Similar changes have taken place across much of Canada. For example, the proportion of singles on assistance in British Columbia grew from 62 percent in 1995 to 81 percent in 2012, and between 2012 and 2016 approximately 70 percent of Albertans experiencing deep poverty were single (Pulkingham 2015; Dutton 2019).

Consistent with these trends, significant increases also occurred in the singles caseload in Canada's largest city, Toronto. As shown in figure 1, in the early 2000s, singles represented just under 40 percent of the social assistance caseload in the city.[5] Between 1999 and 2016, the proportion of singles on the monthly caseload increased from 38 percent to more than 60 percent.

Figure 2 shows that singles were also staying on social assistance for longer periods of time, increasing from an average of 21 months in 1999 to 34 months by 2016. Moreover, singles also represent a significant proportion of those on assistance for three to five years. For example, 56 percent of those on social assistance for three years are single; of those on assistance for five years and longer, almost half (47 percent) are single.

[5] Data on the social assistance caseload in Toronto refer specifically to the Ontario Works program.

Figure 2. Singles' average length of time on social assistance (LOTA), October 1999-October 2016



Source: Toronto (2018).

Changes in the composition of social assistance caseloads are a consequence of a combination of factors, including transformations in labour markets and in the nature of work, as well as outdated income and employment supports. Numerous analysts have noted, for example, the emergence of a more polarized labour market – with an increase in higher-skilled and well-paying knowledge jobs, alongside lower-skilled and lower-paid entry level positions (Institute for Competitiveness & Prosperity 2017; Zizys 2011). Among other things, this has given rise to more varied and often precarious forms of employment (Noack and Vosko 2010). While some workers have benefited from more flexible working arrangements, these changes have also broadened and deepened social risks, reinforcing disadvantages for some and creating newly vulnerable populations. This is reflected, for example, in the growing numbers of working poor and comparatively high levels of long-term unemployment, especially among older workers. Notably, the long-term unemployed are more likely to be single, and those in working poverty are almost twice as likely to be single as the average working-age individual (Stapleton 2015; Stapleton 2019; Moazzami 2017).

Those who turn to the income security system for support find that federal programs such as EI and provincial social assistance programs have their own challenges and limitations. The limited coverage provided by EI, for example, means that many unemployed people ultimately turn to social assistance for help. Various reviews and reports have highlighted not only the complexity of the social assistance system in Ontario but also its inadequacy and ineffectiveness (OSARAC 2010; Commission 2012). Given these challenges, commentators have stressed the need to transform existing income security programs and services to address emerging labour market

realities and risks (Mowat Centre 2015). As conversations about the future shape of social assistance and income security continue, with the pandemic providing renewed focus, research on the changing characteristics and experiences of those in need can offer important insights.

3. THE SINGLES STUDY: BETTER UNDERSTANDING SINGLES ON SOCIAL ASSISTANCE

Adopting both quantitative and qualitative approaches, the Singles Study aimed to identify

- the characteristics of singles on social assistance in Toronto;
- how the singles caseload is changing over time;
- the factors that predict exits to employment; and
- the service experiences and needs of singles.

To address these aims, the study drew upon administrative data to summarize the characteristics of and barriers faced by nearly 69,000 singles who were receiving social assistance in Toronto in 2016. In addition to these descriptive statistics, the study examined historical trends among singles, as well as the factors associated with transitioning to employment. Complementing the quantitative analysis, the study involved 51 in-depth semi-structured interviews with randomly selected singles who received social assistance in 2016. Ranging from one to three hours in length, these interviews enabled participants to describe their family backgrounds and support networks, education and work histories, daily routines and efforts to make ends meet, health and housing, and experiences with social assistance. As a result, the interviews provide extensive insights into the daily realities of participants' lives and their journeys on and off assistance.[6]

Combined, the breadth and depth of the quantitative and qualitative components of the TESS Singles Study provide a detailed municipal-level data set on and important insights into the characteristics and experiences of working-age singles on social assistance in Canada's largest city. However, given the increase in the number of singles on social assistance in other parts of the country, and the limited financial support provided to them regardless of where they live in Canada, it is hoped that the study's findings will resonate with, and be of value to, researchers and policy-makers across the country.

3.1 Characteristics of Singles on Social Assistance

Contrary to common belief, singles on social assistance are not a homogenous group of young men (Stapleton and Bednar 2011). In fact, there is no one "type" of single person. For instance, in 2016, 38 percent of Toronto's singles caseload were women and 38 percent of singles were 45 years or older. Women aged 45 and older made

[6] Throughout this study, pseudonyms are used to protect the identity of study participants.

Table 1. Demographic characteristics of singles on social assistance in Toronto, 2016

Variable	Percent
Sex[1]	
Male	62
Age	
Average age (years)	39.5
Under 30	31
30-44	31
45 and over	38
Highest level of education attained[2]	
Less than high school	33
High school diploma	38
Postsecondary credentials	30
Immigration status	
Canadian born	43
Naturalized Canadian citizen	28
Permanent resident	15
Convention refugee	2
Refugee claimant	12
Accommodation type[3]	
Rent	89
Subsidized rent	4
No shelter costs/homeless	5
Earnings	
Percent with earnings	18
Earnings per month (2016$)[4]	$935.4
Number of spells on OW in Toronto	
Number of spells since 2002	1.9 times
N	68,908

Source: Toronto (2018).
[1] Information on sex was missing for 17 individuals.
[2] Information on educational attainment was missing for 500 individuals.
[3] Information on accommodation type was missing for 530 individuals.
[4] N=12,284; average monthly earnings were calculated only for those who reported earnings greater than 0 dollars at least once in 2016.

up 16 percent of the singles caseload, whereas young men (i.e., under the age of 30) constituted less than 20 percent of the singles caseload.

Further, as table 1 shows, 30 percent of these singles had obtained postsecondary credentials of some kind, and 43 percent were Canadian born. The majority had been on social assistance only once between 2002 and 2016. Singles reported facing a diverse range of barriers to employment (as shown in table 2), as indicated by the fact that fewer than one-fifth of singles reported any employment earnings in 2016 (and most did not work consistently throughout the year). Notably, during their appointments with caseworkers, 35 percent of singles reported poor physical or mental health, and 13 percent reported a disability of some kind.

Table 2. Reported barriers to employment among singles on social assistance in Toronto, 2016

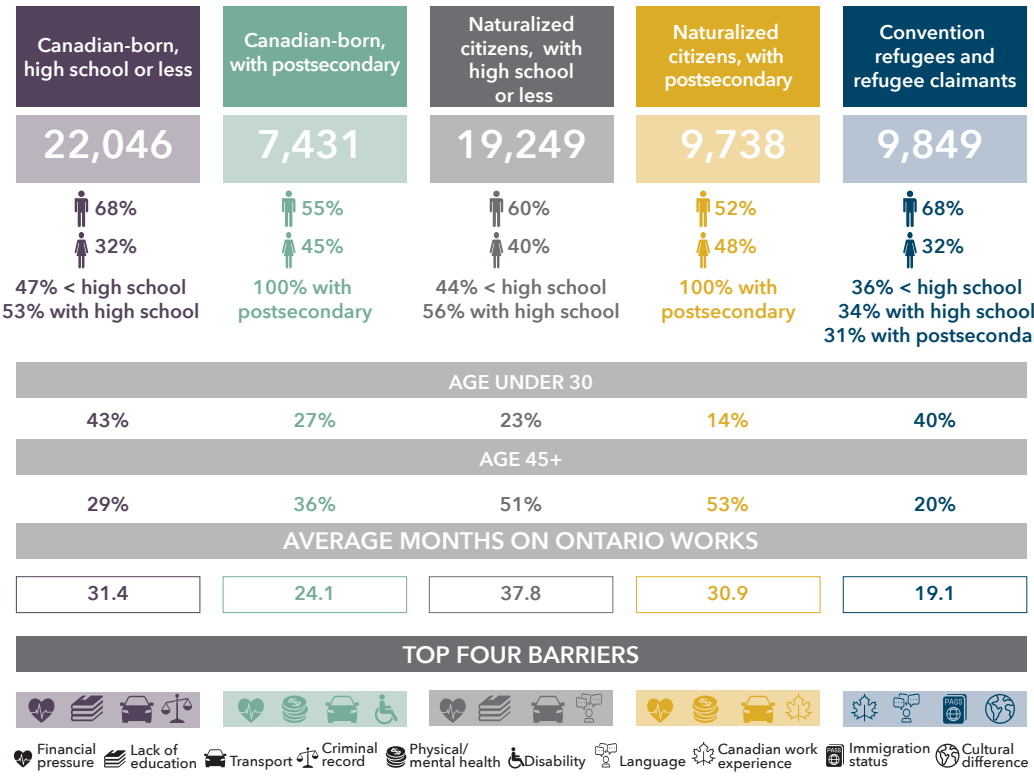
Variable	Percent
Barriers to employment[1]	
Financial pressure	16
Housing/Homeless	13
Poor health	35
Disability	13
Addiction	7
Transportation	21
Lack of technical skills	7
Literacy/Numeracy	7
Lack of education/skills	22
Loss of motivation	11
Cultural differences	7
Language barriers	15
Need for criminal pardon	11
Immigration status	7
Canadian work experience	19
N	66,340

Source: Toronto (2018).
Note: Data on barriers to employment are collected by caseworkers during their conversations with clients. The identification of a barrier is therefore subject to some degree of interpretation by the caseworker. As a result, the true prevalence of these barriers may be higher, as this information is likely underreported (especially if the barrier, such as mental health or disability, is invisible or stigmatized).
[1] Information on barriers to employment was missing for 2,568 individuals.

Interestingly, the research also identified certain groupings of singles who shared some characteristics that set them apart from other groups (see figure 3), and have important implications for service delivery, program design and policy-making. For instance, consider two groupings that emerged: Canadian-born singles and singles born abroad that have attended or completed high school. While both groups may require some upskilling, treating these two groups uniformly would overlook the fact that the Canadian-born singles were on average much younger than their counterparts who were born abroad (35.7 versus 43.3 years old, respectively).

Digging deeper, this analysis reveals that among Canadian-born singles receiving social assistance, 43 percent of those with high school credentials or less are under 30 years old (whereas only 23 percent of their internationally born counterparts are under the age of 30). In addition, for some singles, ignoring country of birth would be a lost opportunity to understand how their immigration journey and status could be tied to their labour market experience. These distinctions highlight the importance of understanding the diversity of singles who receive social assistance for governments to better tailor services to their needs.

Figure 3. Characteristics of singles on social assistance in Toronto, 2016

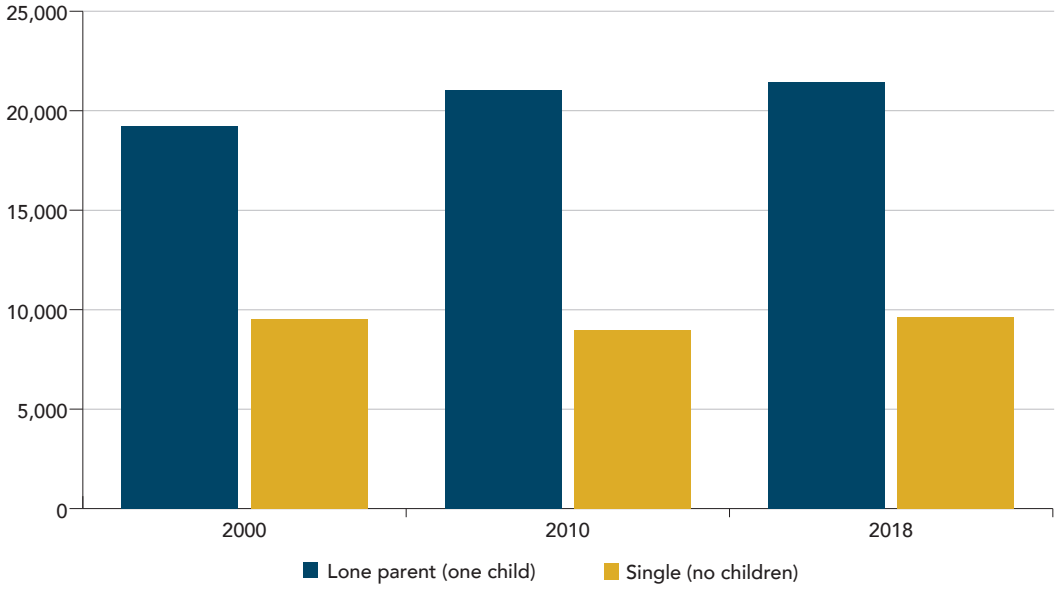


Source: Toronto (2018).

Although social assistance benefit levels no longer reflect even the basic cost of living for any family type, singles are further disadvantaged in two ways:

1. Monetary benefits for single people are significantly lower than those for other family types. When the interviews were conducted in summer 2017, singles were entitled to a maximum of $706 for basic needs ($330) and shelter ($376) and, depending on individual circumstances, some might qualify for additional discretionary benefits — for example, to meet health needs. With average monthly rent for a bachelor apartment in Toronto reaching more than $950, and the monthly cost of nutritious food for an individual costing $280, singles must struggle to make ends meet with incomes far below Canada's official poverty line (Toronto 2017a). Figure 4 illustrates research by the Maytree Foundation showing the change in total welfare income for those on social assistance over time for different family types. In Ontario, for example, the amounts, adjusted for inflation, confirm that the income for lone parents increased from $19,233 in 2000 to $21,043 in 2010 and to $21,463 in 2018. The corresponding amounts for singles were $9,542, $8,993 and $9,646 (Tweddle and Aldridge 2019).
2. Unlike lone parents who have been helped to move out of poverty with targeted programs and child benefits, singles have had minimal access to income supports outside of social assistance, such as tax credits and supplementary

Figure 4. Welfare income in Ontario, 2000 to 2018 (2018$)



Source: Author's calculations from Tweddle and Aldridge (2019).
Note: Welfare income for those on social assistance includes basic social assistance benefits, as well as child benefits (both federal and provincial) and any additional benefits and tax credits (such as the GST tax credit).

benefits, and have become mired in deep poverty. For example, in 2017, singles who filed tax returns qualified for a GST/HST credit of $23 a month and an Ontario Trillium Benefit of $65 a month, for a maximum of $794, including social assistance (Toronto 2017b). By comparison, a lone parent with two children on social assistance could have received more than $2,330 per month (including a GST/HST credit of $70, a Trillium Benefit of $119 and a Canada child benefit of $1,126). Some do not file returns, however, believing there is no reason to do so if they have little or no income, lack the appropriate identification or paperwork, or worry that they may end up owing taxes.

Given this context, the vast majority of interview participants in the study highlighted the small amount of benefits they receive and the struggle to make ends meet. Participants described a number of strategies to meet their most pressing needs, which included meticulous planning and budgeting, seeking out deals, making use of food banks, turning to family and friends and finding ways to earn additional income, albeit small amounts and episodic. Participants also explained the difficult trade-offs they were forced to make between meeting basic needs and other living expenses, and the malnourishment and deteriorating physical and mental health that resulted. For example, faced with a steady stream of impossible choices, Tony and Tracy described a daily reality of juggling priorities, uncertainty and loneliness:

They're giving me enough not to die ... I've got to stay home. Where am I going to go? If I go out, I've got to spend money ... I go out, I spend $2 to buy a coffee

> *... I stay there a couple of hours, home on the couch, laying down, all day long, every day. All day long. Come on, this is no life. It's worse than being in jail. At least in jail, you don't pay rent or food. It's a nightmare ... I live in a basement. How much lower can I go? I cannot go any lower except if I move into a sewer.* – Tony

> *It's actually physically impossible to survive off that amount of money ... Even some rooming houses now are going up to $600 a month. It's really getting ridiculous. My room is pretty shitty. Four other people live there. The whole time I've been there nothing got fixed. I have to leave the lights off all the time. I don't cook that often either, 'cause the stove takes up a lot of electricity ... it's too expensive ... After rent I would just have nothing. I'd go to the food bank. When I don't have much food to eat, I just feel lazy and weak all the time. I felt pretty depressed so I didn't want to leave the house.* – Tracy

As these accounts suggest, one consequence of this constant struggle to make ends meet was exclusion from normal aspects of daily life and a deep sense of isolation. Richard's reflection on his time on assistance provides insights into the intersections between being single, living in deep poverty and completely withdrawing from social activities:

> *Being single is really hard because you've got nobody else that you can depend on. You've got nobody. You've got to do it yourself or it doesn't get done. It's taxing, physically and mentally. It's draining ... I didn't go out, didn't socialize much ... It's really tough because everything costs money. When people aren't getting the money, they're not going out. They're staying inside and they're just hiding from society. That's what I did in a way. I just hid from everything ... There's a feeling that you must be a loser and if you hear that enough times you start to believe it. You need to find ways to give people a chance and get them out of the hole they are in.*

Recent years have seen policy-makers give much more attention to the notion of social isolation.[7] Expressed simply, social isolation refers to a lack of social contact, with individuals staying at home for lengthy periods of time, having no access to services or community involvement and rarely or never spending time with friends, colleagues or others in social groups (OECD 2005b). Such isolation can result from family breakdown, job loss, poor health or financial difficulties. Once isolated, individuals may face greater difficulties reintegrating into society and fulfilling personal aspirations with respect to work, family and friends. Social isolation makes the pathway into employment and out of poverty much more difficult to navigate.

Although growing awareness of social isolation is welcome, most research on this subject to date focuses on the experiences of retired individuals and older adults.

[7] Reflecting this growing interest, for example, the United Kingdom established a Minister for Loneliness in 2018 and developed a broad strategy to address loneliness and social isolation (United Kingdom 2018).

While working-age singles are by no means necessarily isolated, living alone can lessen meaningful interactions with friends or family, with isolation felt more acutely than by other family groups in poverty. The experiences of study participants suggest that much more work is necessary to understand and address the isolation faced by working-age singles living in poverty. Given the complete lack of support networks reported by many, one practical response is for service interactions to create more empathetic and supportive relationships. Such interactions can have an important and lasting positive impact for people who are struggling to maintain a positive sense of self. Efforts to help people increase their social and professional networks are also important. Research suggests the importance of a thoughtful approach, given that gradual withdrawal from social networks is one way of managing the stigma associated with poverty and receipt of social assistance.[8]

3.2 Additional challenges and concerns

In addition to financial hardship and isolation, a number of other overarching issues were evident throughout the interviews. Most often, participants expressed their concerns and experiences with housing instability, poor physical and mental health, food insecurity, debt and having a criminal record.

Given high rental costs in Toronto, participants complained of housing instability and poor housing conditions. Nearly half of participants identified housing as the major barrier they faced to leaving assistance. Many described living in basement apartments and rooms in shared houses. Furthermore, the limited options available to singles led participants to endure poor quality housing, noting problems with mould, infestations and the absence of repairs. As Marco put it, "*[Landlords] are giving you the lowest possible quality of place and taking the most amount of money because they know what you get.*"

Without exception, participants found it hard to believe what they were expected to pay for rent, given the poor quality of the accommodation that was available and the barriers and discrimination they faced looking for housing as singles receiving assistance. Participants explained that their limited income often meant that they could not even get a formal rental agreement in their names. And many others expressed deep frustration with the number of years they had to wait for social housing.

Compounding their struggle with housing, a large number of participants indicated that mental or physical health issues posed significant barriers to leaving assistance. They identified a wide range of conditions, many of which are strongly associated with or exacerbated by poverty, including diabetes, heart disease, high blood pressure, anxiety and depression. In addition, they described the impact of poor and deteriorating

[8] For example, Peterie et al. (2019) note that because "social withdrawal is often an attempt to save face and conserve energy in a stigmatising social environment ... [i]t is not enough for scholars to call on employment services to encourage their clients to network their way into employment. It is also vital that they address stigmatising policies, damaging social attitudes and vilifying discourses – all of which affect the well-being, behaviours and networks of those who are subject to them."

health on all aspects of their lives, including their search for employment, the limited availability of mental health supports and the challenges they experienced trying to access Ontario's disability program. Furthermore, a number of participants reflected on the impact on their health of having limited food choices. With basic food costs often being out of reach, many described having to choose less healthy and cheaper food, eating less or missing meals. Maria described it this way:

> *You get sicker because you're not eating properly. I just was eating one samosa, one soup a day. How could you not get sick? How could your mind function when you're not eating anything properly?*

In such circumstances, more than half of those interviewed noted that not consistently having access to nutritious food was a key barrier to progress.

Along with the major issues of housing instability, food insecurity and poor health, a significant number of participants also described the impact that large levels of debt, having a criminal record, stigma and discrimination had on their daily lives and plans to move forward. While the amount and nature of debt varied widely among participants, nearly all described chipping away at their debt but being unable to make progress because of accumulating interest, coupled with feelings of ongoing stress and anxiety. Similarly, some participants described the struggle to move forward without a criminal record suspension, and feeling particularly limited in their ability to find a job, pursue education and even seek volunteer opportunities.

Many of these personal challenges lowered the chances for singles to find employment and leave assistance. In 2016, 14 percent of singles left social assistance for employment. Beyond personal barriers, systemic factors also contribute to the difficulties in finding and securing stable employment. For example, though the exact mechanism was not fully explored in this study, higher neighbourhood unemployment rates were associated with significantly lowered probabilities of exiting social assistance through employment.[9] This factor may speak to the lack of employment opportunities in a given community; or it may provide a signal about an individual's social network. Living in an area where a higher proportion of residents are unemployed may affect a person's employment prospects, given the demonstrated importance of social networks on job-search success (Zizys 2011). In addition, the hurdles and processes associated with obtaining a criminal record suspension and lack of access to transportation also predict reduced chances of finding employment. The impact of these contextual factors reinforces the importance of policy-makers taking into account the broader policy and economic environment in which singles operate, in addition to personal challenges, when they are considering the appropriate suite of supports and services to help move an individual forward.

[9] Using survival analysis (i.e., competing risk analysis), the model estimated that the sub-distribution hazard ratio on neighbourhood unemployment was 0.94 and statistically significant with a 95 percent confidence interval. Subdistribution hazard ratios of less than 1 indicate a reduced probability of exiting OW; in this case, as neighbourhood unemployment rates increase, the probability of exiting OW for employment decreases (for further details, see Kim, Carrasco and Herd 2018).

3.3 Multiple layers of disadvantage

Underpinning all of these barriers are the issues of stigma and discrimination commonly faced by social assistance beneficiaries, as well as the perception that singles have fewer needs or are a less deserving population than other households. More subtly, some felt that they received less empathy as well as less information and guidance than others on social assistance because they were single. This contributed to a feeling of being overlooked and unsupported, creating multiple layers of disadvantage and making the path forward more challenging. Echoing this concern, Jennifer elaborated:

> *We don't really have anyone to turn to in the sense of [getting] help. People kind of look at us like we have it easy because we don't have anybody to support. But in reality, we have it just as hard as everybody else. You don't know what's in somebody's mind or what they're going through. You don't know anyone's situation until you walk a mile in their shoes.*

Taken as a whole, these experiences reflect a more complex interplay in the way social assistance and the broader income security system define, understand and respond to the needs of singles. The system can respond slowly and tentatively to those with multiple, complex health and substance abuse issues – often the most marginalized and vulnerable – who struggle to meet administrative criteria of public services and income support programs.

Yet despite facing significant life challenges and circumstances, and expressing sentiments of being forgotten, many participants spoke about the important role that social assistance played in helping them find stability or turn their lives around. In some cases, the experience of being referred to an effective training program or simply having a caring and knowledgeable caseworker going "the extra mile" helped at critical moments in their lives. Felicia, for example, was touched that her worker "treated me like a human being ... like I was her only client." And Karen explained:

> *I would never have thought I would have gone on social assistance. But at that point in time, I did need it because there was no way I would survive ... They were very helpful, very understanding. I expected it to just be, walk in, they help you and then nothing, but she talked to me. She asked all kinds of questions and gave me information on all these programs. She was the nicest person and very helpful ... Social assistance was there when I needed it.*

3.4 Summary of findings from the Singles Study

The increase in the number of singles on social assistance, the significant length of time during which many need financial support and the challenges they face represent important public policy issues. Yet, singles have limited options for support and are often left outside or on the margins of policy discussions – unlike lone parents, who have benefited from the introduction and subsequent indexation of the Ontario Child

Benefit as well as increases to the Canada child benefit, and newcomers and youth, who are more likely to be targeted by public services.

Certainly, many of the singles interviewed for this study – facing the daily realities of living in deep poverty – felt overlooked and left behind. Collectively, their experiences suggest a number of responses:

First, given the levels of poverty and isolation, as well as challenges with poor and deteriorating health observed among singles on social assistance, the research supports the need for more empathetic and supportive relationships with caseworkers, with the provision of wrap-around supports and enhanced services coordination.

Second, in confirming that singles are staying on assistance for longer than was previously thought to be the case, the research underlines a simple but significant point: that detailed assessment of need, rather than family type, should be the primary driver of services.

Third, the findings provide support for approaches that recognize that for those facing multiple and complex challenges, progress might involve many small steps over time and require supports for multiple facets of life, such as housing, health, and education and training.

Given its role in providing financial and employment benefits and making connections to community resources for thousands of residents, TESS has responded to the findings of the Singles Study in a number of important ways. These include more deliberately applying a "singles lens" to planning and programming decisions; using the more detailed understanding of singles characteristics to help shape the design of innovative case management pilot projects and placing greater emphasis on indicators that better capture client progress across multiple domains. More generally, actions taken as part of the City of Toronto's Poverty Reduction Strategy are also benefiting singles. For example, the introduction of a discount transit pass for people who receive social assistance has had a positive impact, with 60 percent of users reporting benefits such as reduced isolation. Moreover, informed by the Singles Study's findings, Toronto's current Poverty Reduction Strategy Term Action Plan identifies the need to expand service partnerships to increase access to mental health services for those facing social isolation (Toronto 2019).

Most important, by highlighting the multiple and interconnected impacts of deep poverty on all aspects of individuals' lives, the research also underscores the need to enhance the financial and professional support that singles can access – not only within the social assistance framework – to help them stabilize their lives and transition toward a more secure future.

To underline the task at hand, the final word here goes to the study participants. Reflecting on their own experiences of moving between short-term contracts and social assistance, Deon described the precarious situation that many people find themselves

in, while Mark alluded to the failings of the broader income security system with regard to singles:

> *Let's say you lose your job. How long do you think it will be before you have to turn to a system like this? It's not very long. The average person does not have seven to eight months of rent saved and that's just rent. Your savings get depleted. You got to tap into resources; you got to borrow; now you borrow and now you are in debt. Then you got to dig out of the hole. Getting back on your feet could take some time. Life can change very, very quickly.* — Deon

> *The cracks are so big now that they're not cracks, they're holes, and everybody is falling in these holes. It's one thing to say a few people are slipping through the cracks, but that's not what's happening. We're failing an entire group; we're failing a whole group of our population ... A single person could have a lot of valid reasons for why they're not looking for work besides just having a child, so we should be looking at those.* — Mark

As efforts to reform social assistance and income security continue, both policy directions and on-the-ground service delivery must be more responsive to the pressing and complex needs of singles.

4. THE CURRENT ECONOMIC CONTEXT: FINDING ENDURING SOLUTIONS FOR SINGLES LIVING IN POVERTY

The existing gaps in Canada's income security system and the specific challenges facing singles have been brought into focus by the COVID-19 crisis and its unprecedented impact on the labour market. Employment fell by more than 3 million between February and April 2020, and 2.2 million Canadians remained unemployed in July — twice as many as in February (Statistics Canada 2020). At the time of writing, job loss was concentrated among low-wage workers, with almost half the jobs lost from February to April 2020 occurring among the bottom 25 percent of earners (Lemieux et al. 2020). As of July, employment among low-wage employees remained at 85.7 percent of February levels (compared with 97.4 percent for all other paid employees).

While COVID-19 is challenging the financial and emotional resilience of many, those living in poverty prior to the outbreak, including singles on social assistance, are especially vulnerable. Many of those on social assistance who previously reported some earnings have either lost their jobs or have seen their hours reduced, leaving them with much less money to live on. At the same time, while middle- and upper-income households may have seen their costs of living reduced as they no longer commute or eat out, those living in deep poverty may be facing increased costs as community services that reduce out-of-pocket expenses, such as food banks and libraries with free Internet, are harder to access or may have closed completely. For many singles already vulnerable to social isolation, their situation is likely to have worsened (Thomson 2020). While the unifying mantra that "we're all in this together" remains true, it is also the case that some of us

are in this more than others. The deep poverty and isolation of singles receiving social assistance mean they face greater financial and mental health challenges compared to other household groups and risk further lasting damage as a result.

On the positive side, federal and provincial governments have moved quickly to provide emergency income supports. While provinces have each reacted differently, many have introduced small, supplementary benefits for those receiving social assistance and have sought to streamline application processes. Ontario, for example, has modified some social assistance program requirements on a temporary basis, including authorizing "risk-based" approaches to eligibility determination. These measures have simplified processes and reduced the administrative burden on the system and on beneficiaries.

Most notably, in response to the staggering need for income support and the rapidly growing application backlog for EI, on March 25, 2020, the Government of Canada announced the introduction of a new, temporary benefit – the Canada Emergency Response Benefit (CERB). Administered by the Canada Revenue Agency, the CERB provided $2,000 a month over seven four-week qualifying periods between March 15 and September 26, 2020, to Canadian residents aged 15 or older who had stopped working, or were working reduced hours, due to COVID-19.[10] As of August 23, 2020, 8.7 million people had applied for the CERB.

With the program set to expire in September 2020, eligible CERB recipients are being redirected to EI – with a reduced hours-worked qualification criterion (temporarily set at 120 hours in the last 52 weeks versus the prior minimum of 420 hours) and a new minimum benefit of $400 per week – whereas a new Canada Recovery Benefit (CRB) has been created for Canadians who have lost some or all of their income due to the pandemic and do not qualify for EI. Eligible individuals could receive as much as $400 per week for up to 26 weeks.[11] The CRB – like the CERB that preceded it – aims to adapt to current labour market realities by making eligible self-employed individuals and other workers in non-standard jobs, such as those working in the gig economy or on contract, who have not recently paid into EI.

While the CERB and the CRB were conceived as emergency temporary programs, there are precedents for temporary federal measures leading to permanent changes. The creation of these new programs and modifications to EI rules were intended to broaden access to income support and prevent the large proportion of workers ineligible for EI from falling through the cracks and onto social assistance. The possibility of and openness to longer-term structural reform with regard to income security was evident in the comments of Federal Minister of Employment Carla Qualtrough, who

[10] Eligibility conditions include having had an income of at least $5,000 in 2019 or in the 12 months prior to the date of their application. First-time claimants cannot earn more than $1,000 in employment and/or self-employment income for 14 or more consecutive days prior to application. Repeat claimants must state they don't expect to earn over $1,000 in employment or self-employment income during the entire four-week period.

[11] Eligibility criteria require that an applicant had at least $5,000 of employment or self-employment income in 2019 or in 2020 and that they have not quit their job voluntarily.

has indicated that the CERB (and the CRB) could serve as models for future programs and provide the impetus to "radically simplify how people access income support from the federal government" (Lewis 2020).

Looking forward, we may now have an unprecedented opportunity to implement fundamental changes to our income security system. The crisis has exposed important gaps in the current system, but it has also provided a conducive environment in which to test, under exacting conditions, elements of potential new income-support measures. As federal and provincial policy-makers evaluate the lessons learned in this process, they should reflect on the adequacy and effective delivery of the measures implemented and what this means for the future. In doing so, they should ensure that singles on social assistance – Canada's "forgotten poor" – are no longer overlooked.

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COMMENTARY

Sherri Torjman

Next Steps in Reformulating Social Assistance

The IRPP report on single people living on social assistance (also known as "welfare") in Toronto in 2016 presents empirical and qualitative data on 69,000 individuals, describing their characteristics and the many barriers they face. The focus on the "forgotten poor" is critical because, for too long, their needs have been ignored by all orders of government. These are the people who must be front and centre for policy-makers.

This report comes at just the right time. A deadly pandemic has made it starkly clear that the people who have been hit hardest in both health and financial terms are those whose needs have been overlooked for years. The report challenges the conventional wisdom and stereotypes about "typical" social assistance recipients, such as single individuals on social assistance being a homogenous group of young men. Turns out, there is nothing at all typical about these individuals – a powerful policy lesson in itself.

There are large and growing numbers of single social assistance recipients. Not surprisingly, they live in deep poverty, relying on a transfer program that provides staggeringly low levels of income support – regardless of the benchmark employed to assess adequacy.

It would be natural for many readers of the report to conclude that social assistance benefits for single individuals need to increase, immediately and substantially. Deep poverty in a wealthy country like Canada is both shocking and unacceptable.

In the past, I would have agreed that increasing social assistance benefits is a top policy priority. No longer. In what follows, I explain why my opinion changed.

THE TANGLED SAFETY NET

In 1986, I was asked by the National Council of Welfare to write the first Canadian report on social assistance. Because there was little public documentation about the rules that govern this program, it was essential to explain its structure and the many complex regulations that dictate eligibility, the amount and types of benefits, work expectations, monitoring of clients and reporting requirements.

One of the first tasks was to figure out how each jurisdiction calculated its respective benefit levels. This work evolved into the detailed methodology that is still used today.[1] The findings were presented in the 1987 report *Welfare in Canada: The Tangled Safety*

[1] Annual reports were published by the Caledon Institute of Social Policy and later by Maytree. For the most recent report, see A. Tweddle and H. Aldridge, "Welfare in Canada, 2018." (Toronto: Maytree, November 2019), https://maytree.com/wp-content/uploads/Welfare_in_Canada_2018.pdf.

Net.[2] It showed that welfare is a complicated system and is often inconsistent in its treatment of applicants. Because the system was designed as a last-resort safety net, it virtually guarantees a life of poverty. Even in provinces/territories that pay higher benefits, its archaic apparatus persists — requiring strict asset limits to qualify, carrying out frequent reviews of income and personal circumstances, and causing life-long stigma.

In response to the many problems embedded in the program, *The Tangled Safety Net* made 55 recommendations for reform. For years, the primary social policy agenda was to raise social assistance benefit levels by increasing the base amounts and indexing them to ensure their value kept pace with the cost of living. This was the preferred policy route, until new information became available to challenge this long-held policy prescription.

The Welfare Wall

In 1992, I joined colleague Ken Battle in launching the Caledon Institute of Social Policy. A study we undertook in 1993 made us realize that continuing to call for significant improvements to social assistance alone could not cure a fundamentally broken system. We did a policy-180. We went from promoting welfare reform to welfare reformulation, that is, a step-by-step dismantling of that program and its reconstruction into a renewed architecture of income security.

In 1993, the Caledon Institute was asked to carry out a study for the Ontario Fair Tax Commission. The task was to analyze the impact of the tax system on social assistance recipients who do some work for wages. There was no existing source of data, so we had to design the model. We examined 11 household types and tracked what happened to their total annual household income — social assistance benefits plus employment earnings minus taxes — with every additional $1,000 of employment earnings.

We found that social assistance recipients who supplemented their incomes by doing some casual work could keep only a fraction of their earnings. Single individuals were hit particularly hard. Those able to increase their earnings from $1,000 to $13,000 per year ended up with only a 25-percent gain in household income. What happened to their hard-earned money?

Social assistance recipients had to pay back most of their gains — mainly because employment earnings reduced social assistance benefits and refundable tax credits, as well as increased income taxes and payroll contributions. Recipients also lost hundreds and sometimes thousands of dollars of income-in-kind in the form of supplementary health benefits. We described this problem in the report, referring to it as the Welfare Wall.[3] The term is an apt image for the social assistance benefits clawbacks

[2] National Council of Welfare (Canada), *Welfare in Canada: The Tangled Safety Net* (Ottawa: Minister of Supply and Services Canada, 1987).
[3] K. Battle and S. Torjman, *The Welfare Wall: The Interaction of the Welfare and Taxation Systems, conducted for the Ontario Fair Tax Commission* (Ottawa: Caledon Institute of Social Policy, 1993).

and the higher tax burdens recipients face when they earn income from paid work. The graphic representation of the resulting effective tax rates looks like a wall with prison-like bars over which it would be impossible to climb.

For us, this new evidence was astounding. We realized that continuing to recommend only improvements to social assistance was not the most effective way to help people move off that program and it certainly was not the best way to tackle poverty in the long run. The Welfare Wall became the foundation for our policy work on the need to dismantle social assistance, piece by piece, and replace it with more adequate income support programs and services.

The National Child Benefit

The proposal for the National Child Benefit (now the Canada child benefit) became the first brick in a proposed new architecture of income security. The idea behind this initiative was the reformulation of welfare by first removing children's benefits from social assistance. Ottawa would substantially boost its child benefit payments to raise the income of all low-income families, whether they were on social assistance, other income programs, or in the workforce. The provinces/territories, in turn, would remove child benefits from social assistance and use the resulting savings to invest in a range of services and/or cash payments for low-income families with children.

The current Canada child benefit is the latest iteration in the evolution of this program, which has contributed to the reduction of poverty and the number of families on social assistance. Perhaps most important, the Canada child benefit provides an income guarantee that is paid to the majority of Canadian families but provides its greatest support to children in low- and modest-income households. Unfortunately, the fundamental reformulation of social assistance that we recommended never got to the next stage: tackling the long-standing needs of single recipients. The forgotten poor were truly forgotten. For these individuals, deep poverty and the associated insecurity are their only guarantees. They represent part of larger systemic issues in the architecture of income security programs in Canada.

Unfinished work

Through our analysis of the Welfare Wall, we envisaged a second stage of reconstruction that would involve a reconfiguration of income-support programs similar to that for child benefits. The federal government would assume responsibility for income security, and the provinces/territories would invest in employment-related supports, health benefits and social services.

Workers currently rely on two main federal programs if they become unemployed: the Canada workers benefit (CWB) and Employment Insurance (EI). The CWB supplements low earnings, while EI replaces lost earnings for workers who make payroll contributions to the program and meet eligibility criteria. Together, these programs are intended to ensure income security for Canadian workers.

But they don't.

As a supplement to low earnings, the CWB is supposed to act as a work incentive. However, many Canadians have not heard of this program and don't realize that they might qualify for it when they fill out their tax forms. The benefit is very modest – especially so for singles – and its design too narrow to significantly bolster low earnings.

The design of EI creates serious eligibility problems and regional imbalances. In order to qualify for regular benefits, applicants need between 420 and 700 hours of insurable earnings, depending on the unemployment rate in their area. There are bookshelves of studies on the wide-ranging problems with EI. Although many significant improvements to the program have been introduced over the years, a fundamental flaw remains: the coverage for unemployed Canadians is limited. In recognition of this, in August 2020, the federal government announced that it would reduce, for the next 12 months, the number of qualifying hours to a minimum 120 hours of insurable work over the previous year.

The shortcomings of EI became starkly clear at the onset of the COVID-19 pandemic, when there was a frantic rush to create a new program, the Canada Emergency Response Benefit (CERB), to assist the millions of workers without coverage. This includes individuals who have not worked enough hours to qualify for EI benefits; those who do not have a valid job separation to qualify for EI benefits (i.e. they quit or are fired); the self-employed, who don't contribute to the program; temporary foreign workers; and many others who are left out of the EI tent and otherwise have no choice but to turn to social assistance in times of need. This trio of income supports for working-age adults – EI, the CWB and social assistance – needs more than basic adjustments. It needs reformulation.

POLICY OPTIONS: INCOME GUARANTEE/GUARANTEED INCOME

Income security programs for working-age adults should be reformulated, so as to:

1. provide adequate support in both absolute and relative terms (its actual amount and its value relative to the cost of living); and
2. ensure a principled approach that is fair, respectful, transparent in its rules and conditions, and simple and efficient in its delivery.

Although there are many different ways to reformulate social assistance, their intent is the same: to keep people off the program in the first place. For illustrative purposes, the following are policy options to provide more adequate income guarantees to singles – much as the CCB does for parents on social assistance.

Option #1: Redesign of EI

One option is to provide an income guarantee, while leaving in place current programs like the Canada child benefit and Canada workers benefit. A fundamental

redesign of EI could, for example, modify the program's existing parameters and add missing elements. Important changes to EI would include dropping the regional variation element used in calculating eligibility for and the duration of benefits. For the many unemployed who do not qualify for the program, a new benefit could be introduced. It would pay income-tested benefits on a time-limited basis to unemployed Canadians who are not entitled to benefits from the contributory EI program, such as contractual workers, the self-employed and new entrants to the labour force. In August 2020, the Canada Recovery Benefit was created for non-EI-qualifying unemployed Canadians who have stopped working or have had a reduction in earnings as a result of COVID-19 public health measures.[4] Eligible individuals could receive as much as $400 per week for up to 26 weeks.

Adding an individually tailored employment preparation component, consisting of educational upgrading, skills training and job search assistance, could well serve working-age adults who are likely to remain unemployed for longer. It could include a wage-like benefit to replace social assistance. A federal income benefit could also replace provincial/territorial social assistance for those working-age persons with severe disabilities who cannot earn an income from work. Meanwhile, the CCB and CWB would be substantially redesigned to collectively ensure a decent level of income and standard of living.

Option #2: Redesign of the Canada workers benefit

Another route to reformulation is a federally delivered guaranteed income, which would involve dismantling several programs, including social assistance, and replacing them with a new program.

A redesigned Canada workers benefit, for example, could provide broader eligibility and more generous benefits. Current payments are too low to provide a meaningful incentive to work, let alone an adequate income. The program as designed is so restrictive that even minimum-wage workers in Ontario have had difficulty qualifying.

Option #3: "Big-bang" dismantling of all income programs

In another guaranteed income option, which is sometimes referred to as the "big-bang" approach, all existing income support programs, including social assistance, would be dismantled and replaced by a single income benefit. It should be noted that the Ontario government, in spring 2017, did launch the Ontario Basic Income pilot to test a form of guaranteed income that would replace social assistance. However, in 2017, the newly elected provincial government halted it, citing its high cost and work disincentives.

It is essential to acknowledge that even if such reforms were implemented, some form of social assistance-like financial aid would still be required as an emergency backstop.

[4] Further eligibility criteria require that an applicant had at least $5,000 of employment or self-employment income in 2019 or in 2020 and have not quit their job voluntarily.

While we can't do away with the program entirely, we can reduce its role as originally intended when it was first designed. Moreover, a reformulated income security architecture, whether in the form of an income guarantee or guaranteed income, cannot succeed without vital supports and services.

FUTURE RESEARCH

Even if we could achieve the daunting task of reformulating social assistance, there would still be many unknowns. The report's results are especially noteworthy in this regard. One of the most significant findings involves the diversity of social assistance recipients. While the rich aggregate caseload data presented in this report tell us a lot, they don't tell us enough. The findings are necessary but not sufficient.

The conclusion that there is no single "type" of social assistance recipient begs asking how these individuals ended up on social assistance and what factors keep them on it. Living on social assistance is by no means an easy life, but the alternatives are apparently even harder for these individuals. What are their stories?

Deeper analysis of the interviews carried out for this study could reveal important patterns. Unless we have a better idea of how these single recipients ended up relying on this program, and why they remain on it, it will be difficult to formulate effective policy responses that are appropriate to their needs.

The report found, for example, that 30 percent of single social assistance recipients had postsecondary education. This finding is perplexing and suggests a need for policy responses that focus on removing job-related barriers. This would generally involve employment-support interventions such as educational upgrading, language training, basic literacy and skills training. But with close to one-third of recipients holding postsecondary degrees, traditional efforts to bolster employability may not be appropriate. Who are these individuals and why are they on social assistance? Could they not find jobs in their fields or in related ones?

The increase in the number of singles on social assistance and the length of time they depend on it, including those with postsecondary education, may be due to difficulties finding stable jobs. Focusing on labour market policy may therefore be more pertinent, at least when it comes to these individuals. More effort may be required, for instance, to match potential workers with suitable employment. Working with local employers to highlight the benefits of offering stable employment that pays a living wage, instead of insecure contract positions, would also be beneficial.

Alternatively, the reasons individuals are on social assistance may have nothing to do with the labour market but rather with personal circumstances. Some may be facing personal challenges, such as a mental health condition like depression, which would make it difficult for them to find or maintain employment. In these cases, policy-makers may want to look at making improved access to mental health or addiction services a top priority.

Others may need help with health costs and have no choice but to go on social assistance because it's the only route to getting supplementary health benefits, a major brick in the welfare wall. Rather than individual counselling, provision of more publicly accessible and affordable health benefits and services may be the most appropriate policy response in these cases.

Another set of questions arises from seeing a sizable proportion of single recipients, 35 percent, reporting poor physical or mental health, and 13 percent reporting a disability of some kind. Again, who are these recipients and what are their stories? Is there an overlap between them and the 30 percent who have postsecondary education, or are they an entirely different group?

Housing-related issues and interventions are also important, especially in high-priced markets like Toronto. In that city, singles who are unable to share accommodations face a heavy financial burden. Subsidized housing is helpful, but is in limited supply. In 2017, Ottawa launched the National Housing Strategy, which was supposed to tackle housing affordability and expand community housing. It is not clear whether this new initiative has made any difference to singles on social assistance. Many would not need to rely on the program if the largest component of their household budget – accommodation – was covered or offset in some other way.

Finally, the personal stories of many survey participants reported by Herd and his colleagues suggest that more time and effort are required to tackle the isolation faced by single individuals living in poverty. Possible interventions, in addition to counselling and life skills support, could include having caseworkers link single recipients, with their permission of course, to community groups in which they may have an interest.

The point is, details matter. As the report correctly points out, if we are to provide tailored and appropriate supports, we will need to have a deeper understanding of the different needs of recipients.

CONCLUSION

The IRPP report, produced by TESS research staff, is a significant contribution to our knowledge. It helps dispel many myths and misconceptions about single recipients of social assistance. It rightly reminds us of the forgotten poor and the less-than-adequate (or lack of) policy measures, at all levels of government, available for these individuals.

The report points to two major policy tasks for the future. The first is to deconstruct stigmatizing, inadequate social assistance and reformulate it into a new system in which a decent income is available to all who need it. The second is to better assist single social assistance recipients by addressing their needs in an individualized manner, through employment, health and housing supports, and social networks.

Understanding both the "what" and the "why" of their personal stories would enable the design of individually tailored and respectful policy solutions.

Ideally, there will be an opportunity to continue the profound reformulation of social assistance that began with the reconfiguration of child benefits decades ago. The report could be a catalyst for this vital work.

Let's hope that this report on "the Forgotten Poor" will soon be followed by an equally significant document with the title, "Forgotten No More."

COMMENTARY

Alain Noël

The Blind Spot of Social Investment

Over the last 20 years, the social policy agenda in OECD countries has been driven by the social investment perspective. The idea was to reform the welfare state to better prepare individuals to face the new social risks associated with a post-industrial economy, such as an increasingly polarized labour market and less stable dual-earner family arrangements. Investing in people and *preparing* them to deal with new conditions seemed more promising than *repairing* and compensating for the unavoidable consequences of economic change. A consensus gradually emerged on flagship "active" measures such as income support for young families, earnings supplements for low-income workers (to "make work pay"), training programs for the unemployed and enhanced services for early childhood education and care.[1]

Scholars who made the case for social investment insisted that the new approach was not a substitute for social protection, deeming good minimum income programs necessary.[2] In a thorough analysis of active labour market and childcare expenditures in 18 OECD countries between 1990 and 2009, I found that indeed there was no trade-off between these new social investment programs and the evolution of social assistance incomes. On the contrary, the welfare states most engaged in social investment also proved to be more generous toward the poor.[3]

For some, however, the new reforms had relatively little to offer. Even though income security was often preserved, policy makers' attention in redesigning income support programs leaned toward children, work-family conciliation and labour market integration. For those living alone, or unable or unlikely to be preparing for a job, it was not clear what social investment could mean. These individuals were not necessarily penalized, but they remained in the blind spot of social investment.

Some people, notes Bea Cantillon, cannot or will not move on to a job because of disability, illness, old age or the experience of long-term unemployment and poverty.[4] This is probably the case for many of the single persons surveyed in the study produced by TESS research staff – that is, long-term recipients of social assistance who do not qualify for the Ontario Disability Support Program but nevertheless face significant obstacles to integrating into the labour market, be they lack of skills and recognized experience, poor physical or mental health, a criminal record or, more basically, the social isolation and stigma associated with a long period on social assistance. The solution to these issues

[1] A. Hemerijck, *Changing Welfare States* (Oxford: Oxford University Press, 2013), 36.
[2] *A. Hemerijck, Changing Welfare States.*
[3] A. Noël, "Is Social Investment Inimical to the Poor?" *Socio-Economic Review,* Advance article, October 11, 2018.
[4] B. Cantillon, "Beyond Social Investment. Which Concepts and Values for Social Policy-Making in Europe?" in *Reconciling Work and Poverty Reduction: How Successful Are European Welfare States?* ed. B. Cantillon and F. Vandenbroucke (Oxford: Oxford University Press, 2014) 286-318: 307.

must be multi-faceted. It involves providing better, more supportive employment and social services to help people who are facing multiple and complex challenges take small steps forward. It would require, as well, better recognition of the diversity of single persons receiving social assistance and adequate measures to deal with the difficulties facing various groups. More fundamentally, it calls for a serious effort to lift these people out of a deep and debilitating poverty. This is the solution I will focus on in this brief commentary once I have established how poorly Ontario and all the other Canadian provinces measure up in this regard. I will also address the ubiquitous issue of work incentives as a factor preventing improvements to income protection. I argue that in the post-COVID-19 environment there would be considerable political risks in betting on new large-scale, minimum-income support programs that build upon the federal government's temporary pandemic income support measures. Instead, there should be more focus on improving existing programs and poverty strategies.

THE SCALE OF MINIMUM INCOME PROTECTION

One person who had experienced living on social assistance in Quebec once told me, "If you are not sick when you get on social assistance, you'll become so after a while." This is exactly the message conveyed by respondents interviewed for the Toronto report. "How could you not get sick?" asked Maria, rhetorically. "They're giving me enough not to die," concurred Tony. Living in deep poverty, people lose not only their health and self-confidence, but also the social connections that make it possible to exit from social assistance. "I just hid from everything," explained Richard. "There's a feeling that you must be a loser."

In 2018, the total income of single, able-to-work persons receiving social assistance in Ontario amounted to $9,646, or $804 per month. If we compare this welfare income to the Market Basket Measure (MBM) of poverty for Toronto, a measure of the disposable income necessary to acquire basic necessities, it corresponds to 45 percent of the threshold.[5] This is the essence of deep poverty, as it means that single persons on social assistance could afford less than half the goods and services they need to get by. If we use instead the low-income measure (LIM) threshold, which is equivalent to 50 percent of the Canada-wide median income, this welfare income stands at 40 percent of the threshold.[6] Other Ontario households receiving social assistance fare better, but only in comparison with single employable persons. Single persons with a disability receive 71 percent of the MBM, single parents with one child 72 percent and couples with two children 73 percent.

Isn't this what living on social assistance means – being poor? To a point, yes. But, as the cases of other Ontario households suggest, the conditions imposed on single adults who are able to work constitute a particularly penalizing form of poverty. This need not be the case. Indeed, compared with other rich democracies, Ontario, like

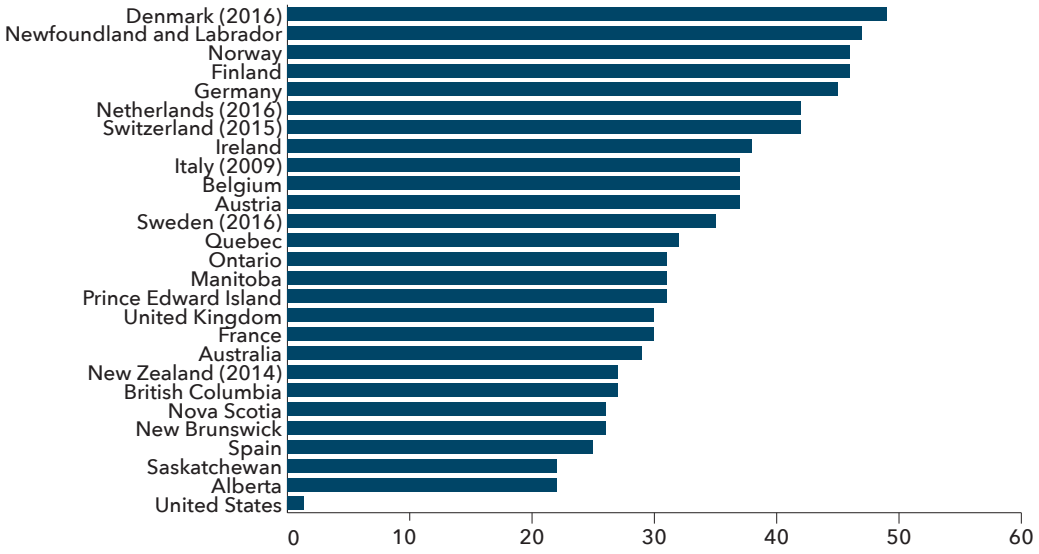
[5] In the federal government's poverty reduction strategy, released in 2018, the MBM is used as the official poverty line measure for Canada.
[6] A. Tweddle and H. Aldridge, "Welfare in Canada, 2018" (Toronto: Maytree, November 2019), 81.

other Canadian provinces, appears ungenerous. In a recent article, I used international and Canadian data sources to estimate, for 2010, the adequacy of welfare incomes in relationship to a country or a province's median income.[7] The results for single able-to-work adults, updated here for 2017, are presented in figure 1.

Note that the proportions in figure 1 are relative to the median income and not to the LIM.[8] What stands out in figure 1 is that Ontario and most other Canadian provinces rank in the lower half of the scale, along with Spain, France and other English-speaking countries such as Australia, New Zealand and the United Kingdom. Oil-rich Alberta is outdone only by the United States, where there is but limited access to the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps). In 2017 in Ontario, welfare incomes for single employable persons provided 31 percent of the provincial median income compared with 30 percent in the United Kingdom and France, 45 percent in Germany and 47 percent in Newfoundland and Labrador. Ontario, and the rest of Canada, can certainly do better.

In a recent blog post, John Stapleton estimates that with $40 billion, or 2 percent of the country's GDP, Canada could enhance welfare programs, better support the working poor and families with children, improve income security for the old and virtually

Figure 1. Social assistance income adequacy (employable single person), Canadian provinces and selected OECD countries, 2017



Sources: Social Assistance and Minimum Income Protection Dataset (SAMIP), provided as part of the Social Policy Indicators (SPIN) database (Nelson et al., 2020); Tweddle and Aldridge, 2018; Statistics Canada, Table 11-10-0190-01.
Note: Social assistance income adequacy is measured as a proportion of median income.

[7] For methodological considerations, see A. Noël, "The Politics of Minimum Income Protection in the Canadian Provinces," *Canadian Journal of Political Science*, 53 (2), June 2020, pp. 399-420.
[8] This explains why the score for Ontario in figure 1 is at 31 percent and not around 40 percent as in the numbers reported above.

eradicate poverty.[9] This is a rough estimate, but the results for the other jurisdictions presented in figure 1 suggest improvements are within reach. The much-discussed basic income — a hypothetical government program that would ensure all citizens receive a guaranteed, unconditional minimum level of income each year — does not exist anywhere, and its implementation seems unlikely. However, there do exist in other countries social assistance programs that are more generous than those in Ontario and in most other Canadian provinces. They seem affordable and they certainly help alleviate poverty.

THE QUESTION OF WORK INCENTIVES

Canada ranks as one of the OECD's least generous welfare states. In 2018, Canadian public social expenditures stood at 17.3 percent of GDP, compared with 18.7 percent for the United States, 25.1 percent for Germany and 31.2 percent for France.[10] There is certainly room for improvement of the scale suggested by Stapleton. We can do more.

If we don't, it is perhaps because Canadians maintain a high tolerance for inequality, rooted in the perception that income differences are anchored in hard work and are deserved, rather than being structural, related to luck or unjust.[11] There may also be a belief that income support does not work and may in fact hurt the poor by eroding their incentive to work. This is an old argument that goes back to the 18th century and continues to this day to shape the politics of social assistance.[12] Indeed, a preoccupation with work incentives is probably the main rationale for the harsh treatment of single adults deemed able to work. If income support becomes too generous, goes the argument, employable adults will work less or not at all, and we will all become poorer. How plausible is this idea?

Figure 2 shows the relationship between welfare income adequacy for employable single persons and the employment rate in the richest countries of the OECD. This relationship is slightly positive but does not appear to be statistically significant, which means that countries that are more generous toward single persons relying on social assistance do not have a lower rate of employment.

Figure 3 presents the same relationship but for Canadian provinces. In this case, there seems to be a connection between the level of social assistance incomes and the employment rate. This relationship, however, is largely driven by the contrast between

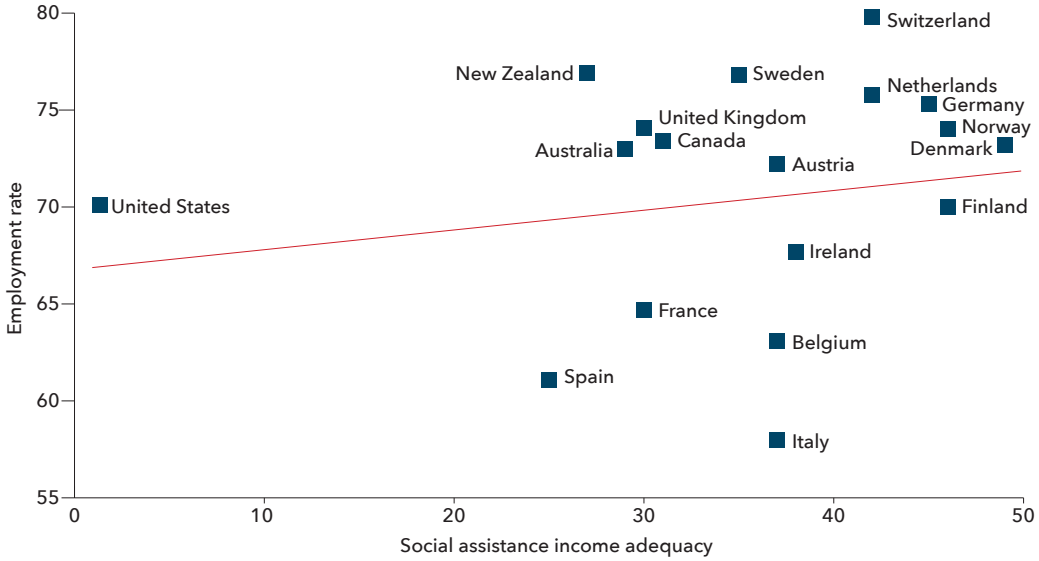
[9] J. Stapleton, "The Pandemic and a Basic Income: Why Talking About the CERB Paves the Way to a Conversation on Eradicating Poverty," Open Policy Ontario, May 31, 2020, https://openpolicyontario.com/the-pandemic-and-a-basic-income-why-talking-about-the-cerb-paves-the-way-to-a-conversation-on-eradicating-poverty/.

[10] Organisation for Economic Co-operation and Development, *Social Expenditures Update 2019: Public Social Spending Is High in Many OECD Countries* (Paris: OECD, January 2019); A. Noël, *Utopies provisoires: essais de politique sociale* (Montréal : Québec Amérique, 2019), 181-7.

[11] J.B. Mijs, "The Paradox of Inequality: Income Inequality and Belief in Meritocracy Go Hand in Hand," *Socio-Economic Review*, Advance article, January 23, 2019.

[12] P. Lindert, *Growing Public: Social Spending and Economic Growth Since the Eighteenth Century*, vol. 1: The Story (Cambridge: Cambridge University Press, 2004), 3.

Figure 2. Social assistance income adequacy (employable single person) and employment rate, selected OECD countries, 2017



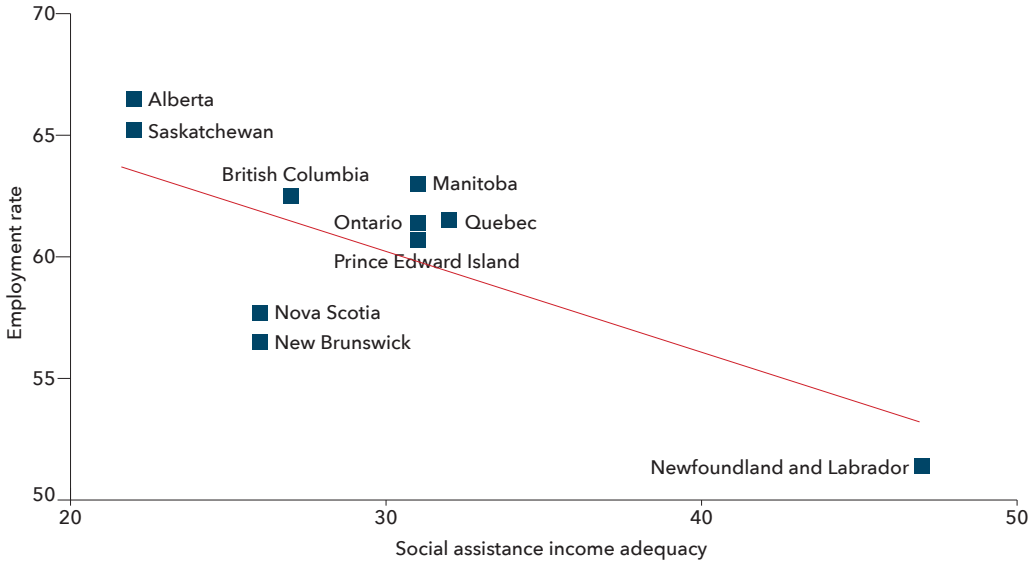
Sources: Social Assistance and Minimum Income Protection Dataset (SAMIP), provided as part of the Social Policy Indicator (SPIN) database, presented in K. Nelson, D. Fredriksson, T. Korpi, W. Korpi, J. Palme, and O. Sjöberg, "The Social Policy Indicators (SPIN) Database," International Journal of Social Welfare, 29(3), July 2020: 285-9; Organisation for Economic Co-operation and Development, Employment and Labour Market Statistics (Paris: OECD, 2020).
Note: The adequacy rate for Canada is that of Ontario.
R = 0.196

the employment rates of Newfoundland and Labrador and those of the oil-producing prairie provinces. We would need to control for other economic and social factors to ascertain the significance of this observation.

There is obviously a level at which generous social assistance incomes could affect work incentives, such as when the financial returns from working are only marginally superior to social assistance incomes. At 31 percent of the provincial median income and 45 percent of the MBM poverty line, however, as is the case for employable singles, Ontario (and other provinces) remains far from this level. The threat of deep poverty is not necessary to encourage people to take up work. In fact, it may do the opposite. Over the last 20 years in Canada, the households that left social assistance and entered the labour market in the greatest numbers were those whose welfare incomes increased the most – namely, one- and two-parent families with children.[13] A number of factors may explain this outcome, but the fact is that these families left social assistance as their benefits improved.

[13] A. Noël, "Quebec: The Ambivalent Politics of Social Solidarity," in *Welfare Reform in Canada: Provincial Social Assistance in Comparative Perspective*, ed. D. Béland and P-M. Daigneault (Toronto: University of Toronto Press, 2015), 127-141: 135-6.

Figure 3. Social assistance income adequacy (employable single person) and employment rate, Canadian provinces, 2017



Sources: Tweddle and Aldridge, 2018; Statistics Canada, Table 14-10-0327-02.
Note: Social assistance income adequacy is measured as a proportion of median income.
R = −0.745

THE POLITICS OF MINIMUM INCOME PROTECTION

In recent years, every Canadian government has made a formal commitment to reduce poverty.[14] If we leave aside the federal poverty reduction strategy, released in 2018 in the wake of a redesigned and very effective Canada child benefit, these commitments did not make a strong impact on poverty.[15] More significantly, in light of the Toronto study discussed here, these commitments had no statistically significant influence on welfare incomes.[16] This lack of impact may be attributable, in part, to the rather shallow nature of some provincial poverty reduction strategies.[17] More likely, however, this absence of influence on welfare incomes reflects a deep-seated understanding of poverty reduction, which emphasizes labour market integration over improved social transfers. To address poverty, governments prefer to bet on jobs rather than on enhanced income security. As a consequence, welfare incomes for single employable adults remain in the blind spot of those implementing both poverty reduction and social investment strategies.

An international comparative analysis suggests that the main determinant of the adequacy of welfare incomes for single employable adults is the generosity of the welfare state. As

[14] For provinces, see C. Plante, "Policy or Window Dressing? Exploring the Impact of Poverty Reduction Strategies on Poverty Among the Canadian Provinces," *Journal of International and Comparative Social Policy,* 35 (1), 2019: 112-36; for the federal government, see A. Noël, "Un pas en avant dans la lutte contre la pauvreté," *Policy Options,* August 29, 2018.
[15] C. Plante, "Policy or Window Dressing?"
[16] A. Noël, "The Politics of Minimum Income Protection in the Canadian Provinces."
[17] C. Plante, "Policy or Window Dressing?"

goes the welfare state, so goes social assistance.[18] In Canada, the generosity of each province's social assistance benefits can be explained mainly by its overall efforts to redistribute income, and the strength of trade unions and social assistance recipiency rates within the province.[19] In Canada, as in the OECD more broadly, the generosity of social assistance programs appears to be a result of institutional factors and political decisions. Single persons relying on social assistance in Toronto, and elsewhere in Canada, remain in deep poverty because this country does not have a strong, redistributive welfare state. Canadian governments can certainly do better, as is suggested by the comparative data presented above, and raising the income floor for the poorest would not reduce incentives to work significantly. Deep poverty stems from political choices.

The COVID-19 crisis has exposed vulnerabilities in the Canadian social fabric and limitations in our income security programs. This crisis has also demonstrated the power of strong government interventions, made easier in a context where all citizens feel at risk, together. As bold new programs unfolded, some surmised they could pave the way for some form of basic income. A guaranteed universal income, however, would use up huge financial resources without consolidating existing social services or preventing poverty. No country has ever gone this way. As John Stapleton argues, we would do better simply trying to abolish poverty.[20] For this, we would need substantially improved social services, better working conditions, new income transfers and supplements, and, yes, social assistance incomes that lift individuals out of deep poverty. No country has entirely succeeded in this respect, but some have come closer to the objective than others. Canada is not one of them.

CONCLUSION

The social investment vision that has informed public policy in OECD countries since the late 1990s has not helped lift the incomes of single adults relying on social assistance. This approach was not constructed at their expense, but it left these persons in a blind spot. In Canada, this oversight has contributed to maintaining very low levels of social assistance income for single adults, just as those for families with children have improved. As a result, Canadian provinces remain in the bottom half of OECD governments in terms of overall social assistance income adequacy. In a country with low levels of social expenditures and ungenerous social transfers, there is certainly room for improvement in this respect. Social assistance incomes are so low that there seems to be little risk of creating negative incentives to work. Indeed, the most generous countries do not have lower employment rates. In the end, the key determinant of social assistance incomes is the general quality of the welfare state. Countries committed to social justice better protect the income of their most vulnerable citizens. By taking up this commitment, Canadian provinces could dramatically reduce poverty – and the deepest forms of it – at a relatively low cost.

[18] A. Noël, "The Politics of Minimum Income Protection in OECD Countries," *Journal of Social Policy*, 48(2), 2019: 227-47.
[19] A. Noël, "The Politics of Minimum Income Protection in the Canadian Provinces."
[20] J. Stapleton, "The Pandemic and a Basic Income."

COMMENTARY

Ron Kneebone

Taking Action on Canada's Forgotten Poor

The report *Canada's Forgotten Poor? Putting the Deep Poverty of Singles on the Policy Radar* should be read by anyone interested in the design of income support programs in Canada. It contains essential information to help us obtain a more comprehensive picture of poverty. A crucial message in the report is that we need to reframe the discussion about poverty and focus on single adults. I underscore that message here by expanding on some of the policy implications of the findings and how certain costs that are closely tied to the risk of poverty, such as rental costs, should become the basis for making annual cost-of-living adjustments to social assistance benefits. Moreover, I argue that rather than narrowly focusing on lowering the overall poverty rate, policy-makers' should put greater emphasis on addressing the issues associated with deep poverty. This would require putting the needs of singles on social assistance at the heart of poverty-reduction efforts.

THE REPORT'S KEY FINDINGS FOR POLICY DEVELOPMENT

Perhaps the report's most important finding is that a large and growing percentage of Ontario Works cases in Toronto are single adults.[1] It will surprise many Canadians to learn that the stereotypical social assistance recipient – namely, the single parent – has long been a thing of the past. In April 2020, nearly two out of every three Ontario Works cases (62.6 percent) were singles without dependants, and only 27.3 percent were single parents.[2] The number of Ontario Works cases that do not involve children, when we add the cases of couples without children, rises to nearly three out of four (72 percent). Although Toronto is the focus of the report, the proportion of social assistance cases made up by singles is similar in other provinces. In Alberta, for example, 68 percent of the Alberta Works caseload in April 2020 was single adults, and only 27 percent of cases involved children.[3]

CHILD BENEFITS AND SOCIAL ASSISTANCE

It is important to correct the stereotype of social assistance clients being single parents because, as long as it remains, voters will continue to favour public policies that emphasize devoting additional resources to households with children. This would fur-

[1] Ontario Works is a social assistance program designed to assist people who are in financial need and deemed capable of securing employment. The Ontario government also manages the Disability Support Program (ODSP), which provides assistance to people deemed to have a disability that substantially restricts their ability to work. The IRPP report does not look at ODSP cases. In April 2020, there were 380,167 ODSP cases, 79 percent of which involved single people.

[2] In an average month in 1995-96, 42 percent of Ontario Works cases were single people and 42 percent were lone parents. See Ontario, Ministry of Children, Community and Social Services, "Social Assistance in Ontario: Reports – Ontario Works," https://www.mcss.gov.on.ca/en/mcss/open/sa/trends/ow_trends.aspx.

[3] The Alberta Works program has the same mandate as Ontario Works. Data on social assistance caseloads are available from Alberta, "Income Support Caseload," https://open.alberta.ca/opendata/income-support-caseload-alberta.

ther entrench an income support system that fails to serve the majority of people with the greatest need.

Delivering income support to people in need through child benefits is not only considered good politics, it also saves governments money.[4] In April 2020, the cost to the Ontario government of increasing benefits by $1 to all social assistance recipients would have been $253,248 per month; increasing child benefits by $1 for claims involving at least one child would have cost only $70,830 per month. Hence, it is far cheaper to claim to be supporting people who rely on Ontario Works by increasing child benefits than it is to increase the basic amount of social assistance payable to all beneficiaries.

In the past 25 years, Canada has seen an important reduction in the number of children living in families with incomes below the poverty line, and a dramatic decrease in the number of social assistance cases involving children. These reductions were the result of major changes to Canada's income support programs, and in particular, the federal government's decision to expand its role in the provision of income support through child benefits. Ottawa's financial contribution to parents through child benefits trended upward starting in the late 1990s and has steadily increased since then. Many provinces have also provided child benefits, albeit significantly smaller ones. Although Canadians should celebrate these results, they should also be aware that a large proportion of people living in poverty and relying on social assistance experience no improvement in their lives from further increases in child benefits.

HOW TO SHIFT THE POLICY FOCUS TOWARD SINGLE ADULTS

Provincial and federal governments should focus less on population-wide poverty rates – the percentage of Canadians with incomes below the poverty line – and instead turn their attention to the depth of their poverty. The federal government's poverty-reduction plan identifies someone as being in deep poverty if their income is less than 75 percent of its official measure of poverty (Statistics Canada's Market Basket Measure). The deep poverty indicator therefore identifies who is in greatest need of income support. And while it is listed on "Canada's Official Poverty Dashboard,"[5] it is not emphasized by either the federal or provincial governments, as they prefer to track the falling poverty rate. If we continue to allow governments to focus mainly on the proportion of people with incomes below poverty lines, they will have little incentive to develop more effective policies aimed at addressing deep poverty and its consequences – policies that would focus on single adults.

[4] A. Harell, S. Soroka, and A. Mahon, "Is Welfare a Dirty Word? Canadian Public Opinion on Social Assistance Policies," Policy Options 29 (8) 2008: 53-6, https://policyoptions.irpp.org/magazines/canadas-working-poor/is-welfare-a-dirty-word-canadian-public-opinion-on-social-assistance-policies/. The authors note that the way the message about social assistance is framed has a profound influence on how the problem is viewed and what policies are implemented.

[5] Statistics Canada, "Canada's Official Poverty Dashboard," https://www150.statcan.gc.ca/n1/en/pub/11-627-m/11-627-m2019053-eng.pdf?st=ltbflw9z.

The report's interviews highlight the consequences of failing to support those in deep poverty. One person described the benefits being provided as just enough to keep him from dying, but no more. This level of income support, combined with relatively high housing costs, forces people to make hard choices between housing and food, as well as other necessities. Kirkpatrick and Tarasuk show that, among low-income families in Toronto, food insecurity quickly rises with the percentage of the household budget allocated to housing, thus suggesting that absorbing rising housing costs takes priority over spending on food.[6] The stress of living in deep poverty also causes poor health. Despite Canada's universal medicare system, there are vast inequalities in health outcomes: the lower one's socio-economic position, the worse one's health.[7]

Deep poverty imposes additional costs on governments and the broader social safety net. These costs take the form of lost productivity and tax revenue, and increased demands on the health and justice systems.[8] It also puts more pressure on services provided by charities and nongovernmental organizations. For example, Food Banks Canada draws a direct link between the demand for its services and the low levels of income support provided to single adults, a demographic it describes as having been largely forgotten by federal and provincial governments.[9]

These outcomes give added weight to economists' argument that an extra dollar of income is more valuable to someone in deep poverty than it is to someone with a higher level of income. That extra dollar also yields higher society-wide benefits by reducing demands on the rest of the social safety net. Arguably, targeting income support to singles in deep poverty may yield a better social return than further increasing the incomes of parents.

HOMELESSNESS AND POVERTY

Although the IRPP report is presented as a discussion of poverty, it could also be framed in terms of housing and the problem of homelessness. The connection between poverty, housing and homelessness is straightforward: even if one can pay for the minimum quality of housing available in a city, when there is little income left over for life's other necessities (food, clothing, etc.), one might forgo conventional housing and resort to using a city's homeless shelter system. This is exactly the choice single people in Toronto are facing as a result of inadequate levels of social assistance. In 2019, the median rent on a bachelor apartment in Toronto was $1,100, while a single

[6] S. Kirkpatrick and V. Tarasuk, "Housing Circumstances Are Associated with Household Food Access Among Low-Income Urban Families," *Journal of Urban Health,* 88 (2), doi:10.1007/s11524-010-9535-4.

[7] M. Bégin, "Forward," in *Social Determinants of Health: The Canadian Facts,* by J. Mikkonen and D. Raphael (Toronto: York University School of Health Policy and Management, 2010), https://thecanadianfacts.org/The_Canadian_Facts.pdf.

[8] C.R. Lee and A. Briggs in "The Cost of Poverty in Ontario: 10 Years Later" (Toronto: Feed Ontario, October 2019), https://feedontario.ca/wp-content/uploads/2019/09/Feed-Ontario-Cost-of-Poverty-2019.pdf, provide estimates of these costs for Ontario.

[9] Food Banks Canada, HungerCount 2019 Report, https://hungercount.foodbankscanada.ca/?_ga=2.176102178.1430956562.1593900521-977338769.1593900521.

person relying on social assistance received less than $900 per month. Is it any wonder that the great majority of homeless shelter spaces in Toronto and in other cities in Canada are occupied by single people?[10]

Researchers and policy-makers are increasingly aware of the rising incidence of homelessness among young people. In Toronto, for instance, a growing number of young people are staying longer in emergency shelters, which is particularly worrisome.[11] Indications that young people are finding it increasingly difficult to escape deep poverty, forcing many into homelessness, are a sign that the canary in Toronto's poverty coal mine has stopped singing.

Studies from the United States consistently report that rates of homelessness are greatest in high-cost housing markets. Some research suggests that even modest efforts to increase the affordability of minimally adequate housing could have a significant impact on homelessness and reduce flows into emergency shelters.[12] My research with Margarita Wilkins shows results consistent with that conclusion.[13] Drawing on data that tracked the provision of emergency homeless shelter beds in 51 cities across Canada, we estimate that increasing income support by $100 per month would be sufficient to enable emergency shelter providers to close 15 percent of their beds. In other words, providing singles in deep poverty with sufficient income would enable at least some to maintain their housing. Increasing the use of housing subsidies to lower the rents paid by tenants most at risk of homelessness would have the same effect.

COST-OF-LIVING ADJUSTMENTS AND INFLATION INDICATORS

Any action taken to tackle deep poverty must address how income supports like social assistance are adjusted to increases in the cost of living over time. We cannot solve the problem of deep poverty with a one-time increase in income support. Indexing income support levels to inflation is a key part of the answer, but which indicator would be most appropriate? The consumer price index (CPI) measures changes in the prices of goods and services purchased by the average Canadian household. However, the average Canadian household does not spend 70 or 80 percent of its income on housing, as single people in deep poverty often do. The CPI a therefore a very poor indicator of the changes in prices that matter most to single people in deep poverty. Far more relevant to them is the rate of inflation in rents. Hence, not only should social assistance benefits for singles be increased,

[10] A. Jadidzadeh and R. Kneebone, in "Patterns and Intensity of Use of Homeless Shelters in Toronto," *Canadian Public Policy* 44 (4), December 2018, report that 89 percent of all people using emergency shelters in Toronto used those provided for single people.
[11] Jadidzadeh and Kneebone, ""Patterns and Intensity of Use of Homeless Shelters in Toronto."
[12] See, for example, J. Quigley, S. Raphael, and E. Smolensky, "Homeless in America, Homeless in California," *The Review of Economics and Statistics,* 83 (2), 2001, 37-51; and J. Khadduri, "Rental Subsidies: Reducing Homelessness," in *How to House the Homeless,* ed. I. Gould Ellen and B. O'Flaherty (New York: Russell Sage Foundation, 2010).
[13] R. Kneebone and M. Wilkins, *Shrinking the Need for Homeless Shelter Spaces,* SPP Research Papers, School of Public Policy, University of Calgary, vol. 9, issue 21, May 2016.

the rate of increase should also thereafter be adjusted annually to reflect changes in rental costs.

Comparing the experiences of single people on social assistance living in Toronto with those living in Montreal highlights the value of having annual changes to social assistance benefits align with annual changes in rents. From 1990 to 2014, the increase in rents on bachelor apartments in Toronto averaged 3 percent per year. Meanwhile, the average annual increase in social assistance benefits for singles was 0.6 percent. Hence, over 24 years, low-income renters in Toronto have fallen further and further behind. Contrast this with Montreal, which saw nearly equal annual rates of increase in rents on bachelor units (2 percent) and in social assistance benefits (1.9 percent).[14] As a result, single people on social assistance living in Montreal have been better able to keep their housing and avoid having to choose between paying rent and procuring other life necessities. According to the Canadian Observatory on Homelessness, in 2018, the number of homeless people (per capita) in Montreal was one-tenth of that in Toronto.[15]

CONCLUSION

The first step in solving a problem is to recognize you have one. *Canada's Forgotten Poor? Putting the Deep Poverty of Singles on the Policy Radar* invites us to take that first step. It draws attention to the fact that in Toronto it is single people who experience deep poverty. Dutton shows that this is also true in Alberta,[16] and it is reasonable to believe it is true elsewhere in Canada.

What should we do about it? The first step would be to refocus the attention of the public, and by extension policy-makers, away from tracking the overall poverty rate and toward better monitoring the depth of poverty and its consequences. If we re-orient our attention and poverty-reduction goals toward reducing the number of people experiencing deep poverty, public policies that improve the lives of people who are the most destitute will follow.

Second, we should think seriously about how we set annual increases in social assistance benefits. One approach would be to adjust them every year according to the annual changes in rents. The cost of housing is by far the largest expenditure for people living in deep poverty, and without housing one is destined to suffer poor health, lost opportunities and a shortened life span. Without adequate adjustments to social assistance benefits each year, any one-time increase in income support payments will be but a temporary solution.

[14] R. Kneebone and M. Wilkins, *The Very Poor and the Affordability of Housing,* SPP Research Papers, School of Public Policy, University of Calgary, vol. 9, issue 27, September 2016.
[15] Canadian Observatory on Homelessness, "Community Profiles," *Homeless Hub,* 2019, https://www.homelesshub.ca/CommunityProfiles.
[16] D. Dutton, "Marital Status of Those in Poverty," *Social Policy Trends,* School of Public Policy, University of Calgary, June 2019.

For decades, public policies to fight poverty in Canada have been driven by politically popular campaigns focused on certain well-defined groups – namely, seniors and families with children. High rates of poverty among seniors prompted the establishment and expansion of public pension plans and the Guaranteed Income Supplement since the 1960s. In the 1990s, concerns over child poverty shifted policy makers' attention toward improving child benefits. This approach of delivering income support on the basis of demographic characteristics – first on the basis of age and then on the basis of whether one has children – has left singles far behind. This group of forgotten Canadians needs more attention and support.

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THE REGIONAL MUNICIPALITY OF WATERLOO Applicants	and	**PERSONS UNKNOWN AND TO BE ASCERTAINED** Respondents

Court File No.: CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at KITCHENER

AFFIDAVIT OF DR. KAITLIN SCHWAN

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TAB 13

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

ACKNOWLEDGMENT OF EXPERT'S DUTY

1. My name is Dr. Kaitlin Schwan. I live at the City of Los Angeles in the State of California, United States of America.

2. I have been engaged by or on behalf of the Waterloo Region Community Legal Services to provide evidence in relation to the above-noted court proceeding.

3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:

   (a) to provide opinion evidence that is fair, objective and non-partisan;

   (b) to provide opinion evidence that is related only to matters that are within my area of expertise; and

(c) to provide such additional assistance as the court may reasonably require, to determine a matter in issue.

4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date August 15, 2025

Signature

TAB 14

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

AFFIDAVIT OF MARIE-JOSEE HOULE

I, Marie-Josee Houle, of the Municipality of Cantley, in the Province of Quebec, AFFIRM AND SAY:

1. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.

Mandate

2. Waterloo Region Community Legal Services has commissioned me to prepare an expert report in the litigation of *The Regional Municipality of Waterloo and Persons Unknown and to be Ascertained*.

3. I have been mandated to provide my opinion on the following topics:

a) The homelessness situation and the affordable housing crisis in Canada;

b) Homeless encampments and forced evictions;

c) The importance of directing homeless people to adequate and permanent housing;

d) The role of municipal governments in combating homelessness;

e) The measures I recommend municipal stakeholders adopt to meet the needs of people living in encampments; and

f) Whether the Region of Waterloo's Site Specific By-law is consistent with a human rights based approach

Expert Qualifications

4. I hold a Master's degree in Sociology and Social Anthropology and a Bachelor's degree in Environmental Science, as shown on my curriculum vitae, **Exhibit "A"**.

5. I currently hold the position of Federal Housing Advocate (the Advocate), an independent and non-partisan position under the ***National Housing Strategy Act*** (the NHSA), **Exhibit "B"**. I was appointed to this position by the Governor in Council on February 21, 2022, pursuant to section 14(1) of the NHSA.

6. Prior to being appointed to the position of Federal Housing Advocate, I worked on the front lines of housing loss prevention, in housing cooperatives, as well as in consulting and project management for affordable housing developments, as well as in regulatory reviews, housing

research projects, and educational program development for housing cooperatives and non-profit organizations. I have also held various senior management positions within such organizations.

7. The qualifications required for the Advocate position include, among others[1]:

(a) Knowledge of the human rights-based approach to housing, the Government of Canada's housing and homelessness policy, and the components of the National Housing Strategy outlined in the NHSA;

(b) Knowledge of systemic or emerging housing issues, including the barriers faced by vulnerable and equity-seeking groups and individuals with lived experience of homelessness or housing need;

(c) Knowledge of broader economic, institutional or sector conditions that influence the housing system and their links to housing and homelessness policies and the National Housing Strategy, as well as their implications;

(d) Knowledge of federal, provincial and municipal jurisdictions related to housing and homelessness.

[1] Accessed August 14, 2025: https://pcogic.njoyn.com/cl3/xweb/xweb.asp?NTKN=c&page=JobDetails&clid=52106&JobId=J1120-1187&BRID=65517&BPAC=78mw65i2iqxzs6iu84z46i&lang=1

8. As provided for in sections 4 and 13 of the NHSA, I am responsible for monitoring the right to housing and mandated to take concrete action to address housing and homelessness needs and issues in Canada. My mandate includes making recommendations to all levels of government to improve housing and homelessness laws, policies, and programs, including by advocating for the protection of human rights and advancing the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social, and Cultural Rights.

9. As the Advocate, I am empowered to receive submissions on systemic housing issues and to review systemic issues raised (section 13.1(1) of the NHSA). When I review a systemic issue, I must provide the federal Minister of Housing, Infrastructure and Communities and the person or group that made the representation, at the conclusion of the review, with a report outlining my views on the issue and any recommendations for action within Parliament's jurisdiction to advance housing policy, including the progressive realization of the right to adequate housing, or the National Housing Strategy.

10. As part of my duties, I am also responsible for undertaking studies on systemic housing issues and submitting an annual report to the Minister outlining my findings and any recommendations for action within Parliament's jurisdiction to advance Canada's housing policy. These publications include the following reports, which are attached as appendices:

a) Informing meaningful action – the Federal Housing Advocate's 2024-2025 Annual Report to the Minister, Canadian Human Rights Commission, Ottawa: June 12, 2025 (**2024-2025 Annual Report**), **Exhibit "C"**.

b) Putting people first, The Federal Housing Advocate's 2023-2024 Annual Report to the Minister (Canadian Human Rights Commission, Ottawa: May 30, 2024) (**2023-2024 Annual Report**), **Exhibit "D"**.

(c) Advocating for Change: The Housing Crisis in Canada, The Office of the Federal Housing Advocate's 2022-2023 Annual Report to the Minister. Submitted by (Canadian Human Rights Commission, Ottawa: 2023) (**2022–2023 Annual Report**), **Exhibit "E"**.

(d) Overview of Encampments Across Canada: A Right to Housing Approach (Canadian Human Rights Commission, Ottawa: 2022), **Exhibit "F"**.

(e) Guide to Meaningful Engagement and Integrating a Human Rights–based Approach into Encampment Responses (Canadian Human Rights Commission, Ottawa: 2025), **Exhibit "G"**

11. In my role as Advocate, I have been invited to share my expertise on housing and homelessness issues with several parliamentary committees and at forums on housing and homelessness organized by civil society organizations.

12. Since taking office as Advocate, I have met with many people directly affected by inadequate housing and homelessness in the course of my duties.

13. On February 23, 2023, I launched a systemic review of the human rights issues facing encampment residents in Canada pursuant to section 13.1(1) of the NHSA. For the purposes of my duties, I define encampments as: temporary open-air accommodations for unhoused and homeless individuals and groups that have been established, often without authorization, on public property or private land.[2]

14. As part of this review, I completed the following actions:

(a) I participated in several events across the country to hear firsthand the testimony of encampment residents, activists and human rights defenders working at the local level in Montreal, Saskatoon, Winnipeg, Vancouver, Toronto, and Calgary.

(b) Between April and June 2023, I launched an online portal inviting individuals and organizations to make submissions for this review. I worked with local organizations in Victoria, Vancouver, Hamilton, Peel, Ottawa, Gatineau, Montreal, Moncton, and Halifax to help encampment residents share their experiences and propose solutions. With the help of these and other local partners, 313 individuals with experience of encampments made submissions. I reviewed the executive summary of the 313 submissions prepared by my

[2] Exhibit I - Upholding dignity and human rights: The Federal Housing Advocate's Review of Homeless Encampments – Interim Report, p 2.

team. People experiencing homelessness bring a vital perspective and a unique understanding of the systems that impact their rights.

(c) I also engaged with Indigenous organizations and officials at all levels of government across the country to advance the discussion on the systemic issues raised by encampments that are specific to Indigenous individuals and communities.

15. My findings from this review of the encampments and my recommendations to governments were published by the Office of the Federal Housing Advocate in the following reports:

i) Upholding Dignity and Human Rights: The Federal Housing Advocate's Review of Homeless Encampments – Final Report (February 2024) (Final Report), **Exhibit "H"**.

ii) Upholding dignity and human rights: The Federal Housing Advocate's Review of Homeless Encampments – Interim Report (October 2023) (Interim Report), **Exhibit "I"**.

iii) Statement – Federal response to encampments is a step forward, and work must continue (October 2024), **Exhibit "J".**

16. I am the principal author of the Final Report and the Interim Report resulting from my review of the encampments, as well as from my annual reports. These reports were published under my direction and with my approval.

Responses to Questions

17. My responses to the questions posed are based on what I learned from visiting encampments across the country, on the information I received from individuals and organizations, on meetings with Indigenous leaders, activists and rights advocates, municipal governments, provincial human rights commissions, and federal officials as part of my review of encampments for people experiencing homelessness. They also draw on the research and meetings I have participated in since the beginning of my mandate, as well as on my many years of work in the housing sector before being appointed Federal Housing Advocate.

a) The Homelessness Situation and the Affordable Housing Crisis in Canada

18. My review revealed the historic increase in the number of people experiencing homelessness and the growing demand for support services. “Support services” include intervention services that meet basic needs, such as harm reduction services, sanitation services, health services, accompaniment and housing support services.

19. Homelessness-related problems have been increasing for many years and were exacerbated by the COVID-19 pandemic. Shelters and social services are overwhelmed, and homeless encampments have proliferated across the country.

20. During my review, I observed that a punitive approach to encampments has also become commonplace. This approach, which includes ticketing, arrest, forced eviction, and the destruction of tents and personal property, fails to address the underlying conditions that have led to the growth of encampments: primarily, the lack of affordable and accessible housing. Furthermore, it does not allow encampment residents to live with dignity and deprives them of access to adequate housing.[3]

21. The increase of homelessness in Canada is a corollary of the national housing shortage and the concomitant increase in the cost of rental housing. In particular, I note a shortage of 4.3 million affordable housing units (i.e., those costing less than 30% of total household income) for low- and very low-income households across Canada.[4] I have also learned that the supply of supportive housing[5] is not able to meet current demand.[6] Many of the government responses being put in place across the country, including shelters and motels, also fall short of the standards established for the right to adequate housing when it comes to security of tenure, habitability, location, accessibility, affordability, availability of services and cultural adequacy[7].

[3] Exhibit I - Interim Report, p 2.
[4] Exhibit H – Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments. Final Report, p 15.
[5] According to CMHC, Permanent supportive housing prioritizes people experiencing chronic homelessness and other vulnerable people who have the highest support needs. It provides long-term affordable housing and a diversity of customized support services. https://www.cmhc-schl.gc.ca/nhs/nhs-project-profiles/2022-nhs-projects/permanent-supportive-housing-vulnerable-populations
[6] Exhibit I - Interim Report, p 10.
[7] The Right to Adequate Housing, Fact Sheet 21, Office of the High Commissioner for Human Rights, Rev.1 https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf

22. During my review, through the more than 350 written submissions reviewed and during engagement sessions with encampment residents, I noted that certain groups have more difficulty accessing adequate housing.[8]

23. For example, I have observed that persons with disabilities, including those suffering from mental illness and addictions, face an extreme shortage of adequate, affordable, and accessible housing that allows them to live with dignity. People suffering from substance abuse are particularly affected by shelter restrictions. The Pan-Canadian Women's Housing and Homelessness Survey shows that people who use drugs are three times more often excluded from shelters than those who do not.[9] , During my review, encampment residents and advocates consistently reiterated the inadequate resources for people with mental health and addiction issues, and the difficulty of accessing existing support services.[10] Municipalities and front-line service providers emphasized the need for greater integration and coordination between housing and homelessness services, on the one hand, and mental health and addiction services, on the other.

24. In addition, the challenges that people experiencing homelessness face due to insufficient resources are even greater for Indigenous people. Indigenous representative organizations and municipal government officials all acknowledged that Indigenous people are overrepresented

[8] Exhibit I - Interim Report, p 11.
[9] Kaitlin Schwan et al, The Pan-Canadian Women's Housing and Homelessness Survey *(2021)* EN-Pan-Canadian-Womens-Housing-Homelessness-Survey-FINAL-28-Sept-2021.pdf *[Enquête pancanadienne sur le besoin en logement et l'itinérance chez les femmes, Observatoire canadien sur l'itinérance* (2021) en ligne (PDF): https://womenshomelessness.ca/wp-content/uploads/FR-Pan-Canadian-Womens-Housing-Homelessness-Survey-FINAL-21-Oct-2021.pdf]
[10] Exhibit H - Final Report, p 18.

among the unhoused population in Canada. Unhoused Indigenous people also face prejudice[11] and a lack of culturally appropriate services and care.[12]

25. I have also observed a growing trend among landlords refusing to accept tenants who rely on social assistance, and often the only housing options offered by caseworkers are uninhabitable. Finally, I have observed that being or appearing to be unhoused is a factor in social stigma.

26. The numerous bureaucratic hurdles make it very difficult to get off the streets, even with assistance. As such, when a person is homeless, it becomes increasingly difficult to access housing[13]. Indeed, there is a general shortage of available shelter spaces.[14] Frontline workers describe a crisis in which people are routinely turned away due to lack of space.

27. Emergency shelters are not available, safe, or suitable for everyone.[15] Emergency shelters often have rules that limit autonomy, freedom of movement, privacy, and access to friends and family. They may also set expectations that are difficult for people who have experienced street living to meet. For example, shelters may require sobriety, impose disruptive bed checks, prevent couples from staying or sleeping together (gender segregation), restrict the amount of personal belongings residents can bring, or not provide space for pets.

[11] Exhibit I - Interim Report, p 13.
[12] Exhibit I - Interim Report, p 14.
[13] Exhibit I - Interim Report, p 11.
[14] Exhibit H - Final Report, p 15.
[15] Exhibit H - Final Report, p 16.

28. I have also learned that front-line housing and homelessness services are underfunded, operating beyond capacity, and facing high rates of staff turnover and burnout.[16]

b) Homeless Encampments and Forced Evictions

29. As noted in my Final Report on Encampments, a growing number of people across Canada are living in tents or makeshift shelters to survive due to a lack of affordable housing, a lack of basic services, and the absence of safe places for people experiencing homelessness.[17] While there are indeed some dynamics and issues specific to each community, I found a remarkable similarity in the stories I heard across the country and the concerns raised by people living in encampments as well as municipal leaders.

30. In many communities that only allow overnight encampments in public spaces, people experiencing homelessness must pack up their belongings early each morning until they can re-establish their shelter in the evening. People who are already exhausted, and sometimes in poor health, are forced to carry all their belongings or risk losing them. Encampment residents describe how carrying large packs or bags means they are more likely to be denied access to spaces where they could rest or access toilets. Regulations establishing these rules/requirements ignore people's needs for rest and privacy during the day and also represent an attack on their dignity.[18]

[16] Exhibit I - Interim Report, p 13.
[17] Exhibit I - Interim Report, p 11-12.
[18] Exhibit H - Final Report, p 13.

31. Encampment residents have a wide range of health and well-being needs, the majority of which relate to the difficulties they face in finding and maintaining secure long-term housing.[19]

32. During my review, I noted, among other things, that encampments can reduce the risk of isolation and help outreach workers provide important services to the people who live there.

33. More generally, encampments can provide a safety net for people experiencing homelessness because they have informal systems through which residents look out for one another.[20]

34. Indeed, some encampment residents have reported that they prefer to live outdoors rather than try to live in the housing provided to them.[21] Such "housing" is often uninhabitable due to rodents, bedbugs, and the lack of running water.

35. While encampments can pose risks to residents,[22] evictions destabilize people, alienate them from their support systems, and cause them to lose the tools and equipment they need to survive. In this regard, forced evictions from encampments increase people's insecurity and expose them to greater risks of harm and violence.[23] This is especially acute for people who use drugs and live in encampments, given the ongoing national opioid crisis and the resulting supply of dangerous drugs.[24]

[19] Exhibit H - Final Report, p 15.
[20] Exhibit H - Final Report, p 13.
[21] Exhibit H - Final Report, p 12.
[22] Exhibit I - Interim Report, p. 24.
[23] Exhibit H - Final Report, p 12.
[24] Exhibit H - Final Report, p 13.

36. Actions designed to restrict or relocate encampments are often taken in the name of public safety and security.[25] However, failure to consult with encampment residents, protect their property, and provide them with adequate and acceptable alternative housing options directly increases risks to their health and safety.

37. I heard many times from former residents of encampments that they were unable to recover their seized personal belongings after an eviction, despite having taken the necessary steps.

38. Evictions carried out without protective measures cause disruption and trauma for encampment residents and encourage their reestablishment at a new location or in the same location.[26]

39. For certain groups of unhoused people, the trauma of encampment dismantling often compounds previous traumas, such as the forced removal of Indigenous children from their families and communities.[27]

40. It is for this reason that I recommended in my final report that all governments immediately end forced evictions from encampments, particularly on public land. Instead of carrying out forced evictions, governments should work with people living in encampments to find solutions that include access to permanent and adequate housing that meets their needs.

[25] Exhibit H - Final Report, p 14.
[26] Rebecca Cohen, Will Yetvin et Jill Khadduri, Understanding Encampments of People Experiencing Homelessness and Community Responses (U.S. Department of Housing and Urban Development's Office of Policy Development and Research : 2019), p 2, en ligne (PDF) : https://www.huduser.gov/portal/sites/default/files/pdf/Understanding-Encampments.pdf
[27] Exhibit H - Final Report, p 13.

c) The importance of directing people experiencing homelessness to adequate and permanent housing

41. Section 4(a) of the NHSA recognizes the right to adequate housing as a fundamental human right affirmed by international law.

42. Furthermore, according to the Canadian Public Health Association, housing is a social determinant of health.[28]

43. The increase in the number and size of encampments results from a lack of adequate housing. In my Final Report, "adequate housing" is defined as secure, affordable, habitable, accessible, culturally appropriate housing in an appropriate location that provides access to basic services.[29]

44. More than ever, many social services and organizations that provide emergency shelter are overburdened and under-resourced. "Emergency shelters," such as warming stations and temporary accommodation centers, are intended to serve as an emergency measure prior to rehousing.[30]

45. These shelters are often overcrowded and present challenges such as theft, violence, and the risk of contracting diseases.[31]

[28] Canadian Public Health Association https://www.cpha.ca/What are the social determinants of health? | Canadian Public Health Association [https://www.cpha.ca/fr/les-determinants-sociaux-de-la-sante]
[29] Exhibit H - Final Report, p 9.
[30] Exhibit H - Final Report, p. 15.
[31] Exhibit H - Final Report, p. 15.

46. Many people who find themselves in emergency shelters report the imposition of strict rules that limit personal autonomy, freedom of movement, and privacy, among other things. For example, some emergency shelter policies prevent couples from staying together, restrict the amount of personal belongings an individual can have in their possession, and prohibit pets.[32]

47. Emergency shelters can also pose increased risks for certain vulnerable groups. In particular, women who are victims of harassment or violence, people with disabilities, 2SLGBTQQIA+ people, people with mental health issues, members of Indigenous peoples, and others face disproportionate risks that can make emergency shelters inaccessible.[33]

48. As a result, some people experiencing homelessness choose to live in encampments rather than subject themselves to the conditions and risks that exist in shelters.

49. Clearly, investing public funds in the construction of non-market housing, including housing cooperatives, non-profit housing, and public housing, will facilitate the transition of people experiencing homelessness to adequate permanent housing, without increasing the market price of private housing.[34]

50. These permanent solutions are costly and time-consuming to implement. They cannot meet the urgent and immediate needs of people experiencing homelessness. In the short term,

[32] Exhibit H - Final Report, p. 16.
[33] Exhibit H - Final Report, p. 16.
[34] Exhibit D - Putting people first, The Federal Housing Advocate's 2023-2024 Annual Report to the Minister, p. 4.

encampment residents must be supported safely, including by providing them with basic services such as toilets, showers, drinking water, etc.

51. These immediate solutions are achievable at the municipal level within a very short timeframe. In the Interim Report, I identify many promising municipal practices.[35]

d) The Role of Municipal Governments in Combating Homelessness

52. While all levels of government are required to respect the human rights and dignity of people experiencing homelessness, municipalities are on the front lines of responding to their needs and supporting encampment residents. However, they have limited resources.

53. I note that municipal-level interventions based solely on the enforcement of municipal bylaws only add to the stigmatization of people living in encampments, their marginalization, and the precariousness of their situation.[36]

54. During 2023, I wrote open letters to several municipal governments, including Prince George, Vancouver, and Barrie, to express my concerns about their responses to the issues raised by the encampments.[37] Through these letters, I expressed my concern about the tendency to use law enforcement to forcibly dismantle encampments. In addition, I reported several shortcomings related to efforts to mobilize and consult encampment residents and the provision of basic services.

[35] Exhibit I - Interim Report, p. 24-25.
[36] Exhibit H - Final Report, p 18.
[37] Exhibit D - 2023-2024 Annual Report, p. 31-33.

55. In particular, incidents in which municipal officials dismantle tents and seize encampment residents' personal belongings, including identification documents, increase risks to their safety and physical and mental health.[38] These punitive measures only exacerbate the insecurity and precariousness of people living in encampments.[39]

56. Finally, my review also revealed that some municipalities were interfering with the delivery of basic services in a misguided attempt to force the dismantling of encampments.[40]

e) Measures to be adopted by municipal stakeholders to address the needs of homeless people living in encampments

57. In order to target the causes of the increase in encampments, I have made several recommendations to municipal stakeholders, as set out in the Final Report.

58. First, collaboration between municipal agencies and community service providers is essential to provide an integrated approach to supporting encampment residents in order to direct them to available services.[41]

59. Furthermore, I recommend that municipal governments end the practice of forced evictions from encampments and support people currently living in encampments. For example, I recommend the installation of essential services such as drinking water and sanitation, as well

[38] Exhibit H - Final Report, p 12.
[39] Exhibit H - Final Report, p 7.
[40] Exhibit H - Final Report, p 13.
[41] Exhibit H - Final Report, p 30.

as the adoption of measures to facilitate the provision of support services to encampment residents.[42]

60. I also asked municipalities to undertake the following actions:

a) Work with the federal government to develop a national human rights-based response plan for encampments, in cooperation and consultation with all provincial governments.[43]

b) Commit to adopting human rights-based solutions to address the needs of encampment residents.[44]

c) Respect the inherent rights of Indigenous peoples.[45]

d) Take immediate action to respect and protect the human rights and dignity of all people living in encampments and reduce the risks that they face.[46]

e) Eliminate any policies or practices that restrict access to encampments during daylight hours or require daytime tear down of tents and removal of personal belongings.[47]

f) Implement immediate measures to address the root causes of encampments and provide access to adequate housing.[48]

g) Ensure government accountability and that people experiencing homelessness have access to justice.[49]

h) Stop using language that stigmatizes or discriminates against people living in encampments or undermines the work of community organizations that support them.[50]

[42] Exhibit H - Final Report, p 29/30.
[43] Exhibit H - Final Report, p 24.
[44] Exhibit H - Final Report, p 26.
[45] Exhibit H - Final Report, p 27.
[46] Exhibit H - Final Report, p 29.
[47] Exhibit H - Final Report, p 30.
[48] Exhibit H - Final Report, p 33.
[49] Exhibit H - Final Report, p 33.
[50] Exhibit H - Final Report, p 26.

i) Ensure that the development of all relevant by-laws, policies, programs, and plans includes meaningful engagement of people with lived experience in encampments.[51]

j) Implement a meaningful engagement process with people living in encampments and those who support them, so that they can play a meaningful role in decision-making processes that affect them.[52]

k) In the absence of available adequate housing, work to address the structural barriers that result in existing emergency shelters not being accessible or appropriate for all people who might choose to use them.[53]

l) Provide direction to by-law enforcement and emergency services to halt all property confiscation and surveillance and harassment practices.[54]

m) Cease prohibiting or limiting access to public spaces for people experiencing homelessness.[55]

61. The Office of the Federal Housing Advocate published a fact sheet after the publication of the Final Report that addresses the implementation by municipalities of the recommendations set out in the Final Report. This fact sheet, entitled Implementing the Federal Housing Advocate's report on homeless encampments: Upholding dignity and human rights – Recommendations for municipalities, is attached to my affidavit as **Exhibit "K".**

62. In June 2025, the Office of the Federal Housing Advocate published a guide with new fact sheets entitled, Guide to Meaningful Engagement and Integrating a Human Rights-Based Approach in Encampment Responses.[56] This resource was developed to provide additional guidance to governments on how to adopt a human rights-based approach in encampments. This resource presents eight key principles essential to guide municipal decision-makers and

[51] Exhibit H - Final Report, p 26.
[52] Exhibit H - Final Report, p 22.
[53] Exhibit H - Final Report, p 23.
[54] Exhibit H - Final Report, p 30.
[55] Exhibit H - Final Report, p 30.
[56] Exhibit G - Guide to Meaningful Engagement in Encampment Responses.

staff in implementing meaningful engagement and a human rights-based approach in their response to encampments. Each principle is accompanied by a fact sheet detailing the actions needed to put it into practice. To fulfill the mandate, I highlight the following actions to be taken by municipal stakeholders to address the needs of people experiencing homelessness living in encampments:

a) Foster authentic and lasting relationships by centering interventions that support the well-being of people living in encampments, addressing their expressed and prioritized needs, and offering solutions tailored to their individual and collective situations.[57]

b) Take immediate measures to protect the right to life and the dignity of people living in encampments, including installing and making accessible essential facilities and services, such as clean drinking water, sanitation, showers, cooking facilities, recharging stations, secure storage and waste collection.[58]

c) Consider creating zones where encampments are tolerated, or even accepted without forcing people to occupy them and without criminalizing them for not doing so. If these zones are created, they should respect human rights principles and adhere as much as possible to the criteria outlined in the definition of adequate housing: security of tenure from the threat of forced evictions; habitability (e.g., protection from the elements, privacy); location (e.g., land free from hazards and pollution), availability of services (see the list of essential services), and cultural adequacy.[59]

d) Work with people living in encampments to find solutions to issues they raise about their site. Make sure you fully understand the concerns people have about their encampment, and explore options with them for improving their situation.[60]

e) Take steps to ensure emergency shelters and drop-in centers are barrier-free and accessible 24/7 and that there are enough resources available to meet the needs of thosesssssss wishing to use them.[61]

[57] Exhibit G - Fact Sheet 4, Action E.
[58] Exhibit G - Fact Sheet 5, Action A.
[59] Exhibit G - Fact Sheet 5, Action C.
[60] Exhibit G - Fact Sheet 5, Action D.
[61] Exhibit G - Fact Sheet 5, Action F.

f) Provide training to decision-makers, police, and intervention teams on human rights and Indigenous Rights, Gender-based Analysis Plus (GBA Plus), cultural safety, and trauma- and violence-informed approaches.[62]

g) Ensure people living in camps are able to protect themselves during difficult weather conditions.[63]

h) Consult and involve people living in camps from the beginning in the planning, implementation, and monitoring of services in the encampments (toilets, showers, food distribution, health services, etc.) and involve them in decisions regarding how funds are allocated and spent on encampment and homelessness services.[64]

i) Ensure that the voices of people living in encampments are considered with the same value as other stakeholders involved in decision-making.[65]

j) Implement specific measures to facilitate the participation of people living in camps with an addiction.[66]

k) Provide resources to allow people living in encampments to manage services on their own (e.g., garbage collection or meal preparation) and support them by offering flexible schedules and opportunities to undertake the work.[67]

l) Work with people living in encampments to reduce risks, and share the responsibility for their safety. Support them to establish procedures in case of incidents, and provide training to build their knowledge, skills, and empowerment.[68]

m) Facilitate the presence of independent, trained observers to encourage compliance with human rights standards in encampments by municipal authorities and private entities involved.[69]

n) Provide housing subsidies and programs adapted to the realities of people living in encampments to help them move into permanent housing solutions. Emergency shelter resources and supportive housing options are not enough, as they do not meet the definition of adequate housing set in the UN international standards, particularly security of tenure.[70]

[62] Exhibit G - Fact Sheet 5, Action M.
[63] Exhibit G - Fact Sheet 5, Action N.
[64] Exhibit G - Fact Sheet 6, Action B.
[65] Exhibit G - Fact Sheet 6, Action D.
[66] Exhibit G - Fact Sheet 6, Action H.
[67] Exhibit G - Fact Sheet 7, Action E.
[68] Exhibit G - Fact Sheet 7, Action F.
[69] Exhibit G - Fact Sheet 7, Action H.
[70] Exhibit G - Fact Sheet 8, Action H.

63. In addition, I recommend with support the guidance of the following two documents, published by The Shift, an organization with which the Office of the Federal Housing Advocate has partnered to help encampment residents share their experiences and propose solutions:

    (a) A National Protocol for Homeless Encampments in Canada: A Human Rights Approach, Leilani Farha and Kaitlin Schwan (The Shift: April 30, 2020), **Exhibit "L".**

    (b) Homeless Encampments: Municipal Engagement Guidance (The National Working Group on Homeless Encampments: 2023) ("The Shift" Guidelines), **Exhibit "M".**

64. The National Protocol for Homeless Encampments provides an analysis of Canada's international human rights obligations when it comes to homeless encampments drawing on General Comments No. 4 and 723 by the UN Committee on Economic, Social and Cultural Rights as well as other treaties Canada has ratified that codify the right to adequate housing, including:

- The Convention on the Rights of Persons with Disabilities;
- The Convention on the Rights of the Child;
- The Convention on the Elimination of Racial Discrimination; and
- The Convention on the Elimination of Discrimination against Women.

f) Whether the Region of Waterloo's Site Specific By-law is consistent with a human rights based approach?

65. The National Housing Strategy as well as the NHSA which established my mandate call for a human rights-based approach to housing. I understand a human rights-based approach to encampments to include the following key principles:

- **Participation** – People should be involved in decisions that affect their rights.
- **Accountability** – There should be monitoring of how people's rights are being affected, as well as remedies when things go wrong.
- **Non-Discrimination and Equality** – All forms of discrimination must be prohibited, prevented and eliminated. People who face the biggest barriers to realizing their rights should be prioritized.
- **Empowerment** – Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.
- **Legality** – Approaches should be grounded in the legal rights that are set out in domestic and international laws.[71]

66. In my recent guidance to municipalities[72], I have articulated the many ways that these principles of a human rights-based approach can be applied in practice in encampment responses.

67. As part of implementing a human rights-based approach to encampments, I recommended in my final report that: "All governments must implement ongoing and meaningful engagement with people living in encampments and those who support them." The use of a human rights-based approach includes people living in encampments in the design and delivery of durable solutions.

68. The Guidelines developed by the National Working Group on Homeless Encampments urge municipalities to explore all viable alternatives to encampment eviction or removal[73]. If an encampment is located in a dangerous or otherwise unsuitable location, the municipality should engage those in the encampment to relocate to a more suitable site, even if it is an alternate tenting site. I understand that the Region of Waterloo intends to use this encampment site as a

[71] Exhibit I - Interim Report, p. 9.
[72] Exhibit G.
[73] Exhibit M - The Shift Guidelines, p. 3.

future construction site. I also understand that the Region of Waterloo's position is that an alternative encampment site is not desirable or feasible. To be human rights compliant, the municipality must meaningfully engage with encampment residents to identify alternative places to live that are acceptable to the residents. If adequate and permanent housing options are not available, a municipality ought to explore an alternative tenting site as part of that meaningful engagement. Any such removal by the state of the residents from their homes or from the land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection, consistent with international human rights law is defined as a 'forced eviction' and is considered a gross violation of human rights[74].

69. Encampment responses must also recognize and integrate the rights found in the United Nations Declaration on the Right of Indigenous Peoples (UNDRIP). Métis, Inuit, and First Nations governments must be supported in managing and implementing housing solutions that reflect self-governance and community-specific needs.

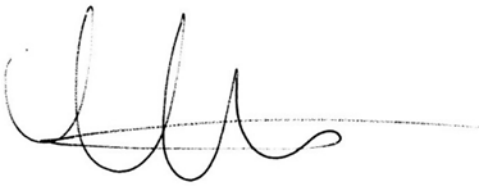
70. I understand that the Region of Waterloo recently passed a Site-Specific By-law, Bylaw 25-021, related to the encampment that requires the encampment to be cleared by December 1, 2025.

71. I am concerned that there was no consultation with the encampment residents in developing and passing Bylaw 25-021. While the Region has an unsheltered team dedicated to working with residents of the encampment, the fact that there is a pre-determined outcome (i.e. - the

[74] Exhibit L – A National Protocol, para 19.

encampment will be cleared by November 30, 2025) undermines trust and undermines the possibilities for meaningful engagement. Consultations are a mere formality when decisions have already been made, making it clear to encampment residents that their input is not important. It is not enough to claim to adopt a human rights-based approach; it is essential to take actions that lead to rights being protected and a real improvement in the lives of people living in encampments. This must not be limited to efforts to ensure access to adequate housing but must also include immediate measures to respect human dignity and protect lives until such time as adequate long-term housing solutions are available in sufficient quantities and adapted to meet people's needs.

AFFIRMED remotely by Marie-Joseé Houle
At the City of Cantley, in the Province of Quebec,
(Location of the Deponent), before me in the
City of Kitchener, in the Regional Municipality
of Waterloo (Location of Commissioner)
in accordance with O Reg 431/20.
This 15th day of August 2025



A Commissioner, etc.

Marie-Joseé Houle

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

THIS IS **EXHIBIT "A"** REFERRED TO
IN THE AFFIDAVIT OF MARIE JOSEE HOULE
SWORN REMOTELY AT THE
CITY OF CANTLEY BEFORE ME AT THE REGION OF WATERLOO
DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

Marie-Josée Houle

148 Chemin du Tour-de-la-montagne, Cantley, Québec J8V 3H4 • cel (613) 797-7819 • mariejoseefchoule@gmail.com

PROFESSIONNAL PROFILE

- Well-rounded individual with professional and leadership experience in human rights, housing advocacy and development, business, policy, legal analysis, governance, education, media, communications, environmental sciences, visual and performing arts
- Governance in council appointed non-partisan watchdog on the human right to housing for all in Canada as per the National Housing Strategy Act (2019)
- Politically savvy advocate in the affordable housing and homelessness sector with a wide-reaching media presence across the country in French and in English
- Amplifier of voices from disadvantaged groups to all levels of governments using structural mechanisms such as reports and meetings with federal and provincial ministers, premiers, mayors, parliamentary committees, senate committees and official convening tables
- Has strong relationships with National Indigenous Organizations and Indigenous partners based on trust and mutual respect
- Connector of people and weaver of ideas
- Dedicated community leader with strong initiative, interpersonal, networking and relationship-building skills, judgement, personal and professional ethics, diplomacy, mediation and problem-solving skills, who seeks win-win solutions and strives for maximum contribution and personal professional achievements for her entire team, stakeholders and community partnerships alike
- Excellent collaborative leadership, organization, financial, analytic, teaching and training experience, especially in the field of affordable housing and homelessness
- Creative, innovative and strategic thinker
- Fully bilingual Francophone native with excellent verbal and written communication skills in both official languages
- Experienced and excellent public speaker
- Manages multiple priorities and produces high quality deliverables under tight deadlines and intense scrutiny
- Exhibits sound judgment, ethical reasoning and discretion when dealing with highly sensitive matters

PROFESSIONAL ACHIEVEMENTS

Advocating for the Human Right to Housing in Canada

- As the independent and nonpartisan watchdog on human right to housing, holds governments at all levels to account and provided recommendations to improve laws, policies and programs
- Engages with and nurtured relationships with people with lived experience of housing need and homelessness, civil society groups, and governments, including UN bodies, National Indigenous Organizations and Indigenous serving organisations
- Receives submissions from the public and organizations about systemic housing issues
- Conducts research and studies on systemic housing issues
- Conducts Advocate-led reviews of systemic housing issues and provided reports to the Housing Minister to table in Parliament and the Senate
- Submits annual reports with recommendations to the Housing Minister to table in Parliament
- Advocates for the implementation of the recommendations in Advocate reports by governments at all levels through direct engagement with decision-makers and bureaucracies as well as formal political mechanisms such as Parliamentary and Senate Committee appearances

- Sits on the National Housing Council
- Refers systemic issues to the National Housing Council to form a Review Panel for close examination and recommendations
- Monitors the implementation of the goals, timelines and outcomes of the National Housing Strategy
- Develops a strong media presence across Canada in French and in English to normalize the human right to housing in Canada and educate the general public and elected officials

Leadership, Strategic Planning and Business Experience

- Set overall direction and provided support to a team to create and support the tools, relationships and administrative infrastructure to achieve all nine functions of a new accountability and access to justice mechanism as Canada's inaugural Federal Housing Advocate
- In partnership with the Canadian Human Rights Commission, developed a unique monitoring framework to measure outcomes of people with disabilities related to their human right to housing
- Provided leadership and strong vision for various organizations and development projects in the affordable housing sector
- Ensured sound operations and aligned activities while keeping with the organization's mission and allocated budgets
- Provided support and guidance for volunteer board of directors in affordable housing sector ensuring capacity building, training, succession planning, long- and short-term strategic planning, sound decision-making and best practices
- Managed multilingual and multicultural non-profit housing corporations and co-operative housing projects funded by different levels of government under housing policy guidelines and relevant legislation
- Developed and evaluated processes, procedures and reports for affordable housing providers and advocacy groups
- Managed the development of two housing co-operatives and two non-profit housing projects
- Developed business plans for housing co-operatives and non-profit corporations in development
- Wrote bylaws and policies for developing housing co-operatives and non-profit corporations in Ontario
- Revised outdated bylaws for existing housing co-operatives and non-profit housing corporations in Ontario
- Developed Performance Evaluation Tools to assess affordable housing property managers and management companies
- Developed Performance Evaluation Tools for volunteer Board of Directors in the affordable housing sector
- Facilitated planning sessions for co-operative and non-profit housing corporations in Ontario

General Advocacy and Media Relations, Community Building, Research, Education, and Communications in Affordable Housing and Homelessness Sector

- Liaises with elected officials at all three levels of government, print, radio and television news media in French and English
- Worked directly with elected officials on bill development related to affordable housing and homelessness issues
- Issued press releases for a variety of projects, events and organisations in French and English
- Writes and publishes Op-Eds related to the housing crisis
- Wrote and presented deputations related to housing issues at all levels of government including on proposed new legislation and legislative change
- Sat on the National Right to Housing Network, Ottawa Social Housing Network Steering Committee, Ottawa Alliance to End Homelessness Policy Committee, Ottawa Homelessness Community Advisory

Board, Ottawa Crime Prevention Home Takeover Steering Committee, Refugee 613 Stakeholder Committee
- Co-Chaired the Ottawa Housing Loss Prevention Committee, Ottawa Social Housing Network Advocacy Committee and Refugee 613 Housing Task Force
- Worked with researchers from universities and think tanks on projects related to affordable housing, homelessness and housing loss prevention
- Networked and liaised with community partners, affordable housing providers, supportive housing providers, government agencies, researchers, advocacy groups and political leaders at all three levels of government to build formal and informal partnerships with the aim of identifying community interests, increasing the capacity of the affordable housing sector, increase exposure, improve efficiencies, decrease duplication and address the housing crisis in Ottawa and across Canada
- Prepared speeches, Power Point presentations, and reports for industry-related conferences and business meetings
- Gave keynote speeches, Power Point presentations, information sessions and reviewed reports for business meetings and at industry-related education forums and academic conferences
- Designed and presented workshops on the impact on new and modified policies for the public, community stakeholders, decision-makers and the affordable housing and homelessness sector

EMPLOYMENT HISTORY

- *Governance In Council Appointment*
  Ottawa, February 2022 - present
  Federal Housing Advocate
- *Action-Logement*
  Ottawa, March 2017 – February 2022
  Executive Director
- *OCISO Non-Profit Housing Corporation*
  Ottawa, May 2015 – March 2017
  Executive Director
- *Agency for Co-operative Housing*
  Ottawa, March 2016 – March 2019
  Affordable Housing Consultant
- *Sound Advice Consulting Services, Inc.*
  Ottawa, Thunder Bay, Embrun, 2006 – 2015
  Affordable Housing Development Consultant / Project Manager
- *Co-operative Housing Association of Eastern Ontario (CHASEO)*
  Ottawa, September 2007 – February 2022
  Affordable Housing Consultant
  (chairperson, bylaw reviewer, planning session facilitator, hiring advisor, education program developer, workshop leader and mediator)
- *Freelance chairperson, bylaw reviewer, planning session facilitator, staff hiring advisor, education program developer, workshop leader and mediator in co-operative housing and non-profit housing sectors*
  Ottawa, September 2007 – February 2022
- *Freelance professional musician, ceramicist, painter and stained glass artist*
  Ottawa, 2003 – February 2022

FEDERAL HOUSING ADVOCATE REPORTS

- *Advocating for Change: The housing crisis in Canada. The Office of the Federal Housing Advocate's 2022-2023 Annual Report to the Minister*
- *Federal Housing Advocate's Observational Report: British Columbia (August 23 to September 2, 2022)*
- *Federal Housing Advocate's Observational Report: Inuit Housing*
- *The Advocate's review of homeless encampments – Interim Report*
- *What We Heard – Non-market housing as a solution to the housing crisis*
- *Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments – Final report*
- *Putting people first. The Federal Housing Advocate's 2023-2024 Annual Report to the Minister*
- *Claiming the right to housing: The Federal Housing Advocate's review of Métis housing conditions, in partnership with the government of Métis Nation – Saskatchewan*
- *Informing meaningful action – the Federal Housing Advocate's 2024-2025 Annual Report to the Minister*

EDUCATION AND PROFESSIONAL TRAINING

- *Media Training,* 2022
- *Parliamentary Committee Training,* 2022
- *Management Strategies for Creating Psychological Safety in the Workplace:* TalkTools Certification, 2021
- *Ontario Rent Smart:* Educator Certification, 2018
- *Green Roofs for Healthy Cities:* Green Roof Professional Certification, 2012
- *Co-operative Housing Federation of Canada:* Co-operative Housing Workshop Leadership Training, 2007
- *Co-operative Housing Federation of Canada:* Co-operative Housing Management Certification, 2006
- *Dalhousie University:* Master of Arts in Sociology and Social Anthropology, 2003
- *University of Alberta:* Special Student in Anthropology, 1999 – 2001
- *University of Alberta:* Bachelor of Environmental Sciences, Major in Wildlife and Range Management, 1995

COMMUNITY LEADERSHIP, VOLUNTEERISM AND PERSONAL MEMBERSHIPS

- *Director and Roads Person:* Gatineau Shores Private Owners Association (maintenance of neighbourhood roads not done so by the Municipality of Cantley) 2019 - 2024
- *President and Co-President:* CHUO (University of Ottawa) Radio for three years
- *Community Representative:* Cascades Paddling Club in Chelsea, Quebec for one year
- *General Member:* Cascades Paddling Club in Chelsea, Quebec for nine years
- *Vice-President:* Taiga Non-Profit Housing Corporation in Ottawa for two years
- *Vice-President:* OCISO Non-Profit Housing Corporation in Ottawa for three years
- *Radio show producer and host:* CKCU (Carleton University) Radio for three years
- *General Member:* Ottawa Potter's Guild for two years
- *General Member:* Green Roofs for Healthy Cities for five years

THIS IS **EXHIBIT "B"** REFERRED TO
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CITY OF CANTLEY BEFORE ME AT THE REGION OF WATERLOO
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ASHLEY SCHUITEMA
A Commissioner, etc.,
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While a Barrister and Solicitor.
LSO # 68257G

CANADA

CONSOLIDATION

CODIFICATION

National Housing Strategy Act

Loi sur la stratégie nationale sur le logement

S.C. 2019, c. 29, s. 313

L.C. 2019, ch. 29, art. 313

NOTE

[Enacted by section 313 of chapter 29 of the Statutes of Canada, 2019, in force July 9, 2019, *see* SI/2019-62.]

NOTE

[Édictée par l'article 313 du chapitre 29 des Lois du Canada (2019), en vigueur le 9 juillet 2019, *voir* TR/2019-62.]

Current to July 17, 2025

Last amended on July 9, 2019

À jour au 17 juillet 2025

Dernière modification le 9 juillet 2019

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OFFICIAL STATUS OF CONSOLIDATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Published consolidation is evidence

31 (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

Inconsistencies in Acts

(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1er juin 2009, prévoient ce qui suit :

Codifications comme élément de preuve

31 (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Incompatibilité — lois

(2) Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

LAYOUT

The notes that appeared in the left or right margins are now in boldface text directly above the provisions to which they relate. They form no part of the enactment, but are inserted for convenience of reference only.

MISE EN PAGE

Les notes apparaissant auparavant dans les marges de droite ou de gauche se retrouvent maintenant en caractères gras juste au-dessus de la disposition à laquelle elles se rattachent. Elles ne font pas partie du texte, n'y figurant qu'à titre de repère ou d'information.

NOTE

This consolidation is current to July 17, 2025. The last amendments came into force on July 9, 2019. Any amendments that were not in force as of July 17, 2025 are set out at the end of this document under the heading "Amendments Not in Force".

NOTE

Cette codification est à jour au 17 juillet 2025. Les dernières modifications sont entrées en vigueur le 9 juillet 2019. Toutes modifications qui n'étaient pas en vigueur au 17 juillet 2025 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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An Act respecting a national housing strategy

[*Assented to 21st June 2019*]

Preamble

Whereas housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities as well as a strong national economy in which the people of Canada can prosper and thrive;

Whereas access to affordable housing contributes to achieving beneficial social, economic, health and environmental outcomes;

Whereas improved housing outcomes are best achieved through cooperation between governments and civil society as well as the meaningful involvement of local communities;

Whereas national goals, timelines and initiatives relating to housing and homelessness are essential to improving the quality of life of the people of Canada, particularly persons in greatest need;

Whereas a national housing strategy would support a common vision, key principles and a coordinated approach to achieving improved housing outcomes;

Whereas a national housing strategy would contribute to meeting the Sustainable Development Goals of the United Nations;

And whereas a national housing strategy would support the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights, to which Canada is a party;

L.C. 2019, ch. 29, art. 313

Loi concernant la stratégie nationale sur le logement

[*Sanctionnée le 21 juin 2019*]

Préambule

Attendu :

que le logement revêt un caractère essentiel pour la dignité inhérente à la personne humaine et pour son bien-être, ainsi que pour l'établissement de collectivités viables et ouvertes et d'une économie nationale forte qui permettent à la population du Canada de prospérer et de s'épanouir;

que l'accès à un logement abordable a des effets positifs en matière de santé et en matière sociale, économique et environnementale;

que la meilleure façon d'améliorer la situation en matière de logement est de faire en sorte que les gouvernements et la société civile collaborent entre eux et d'assurer une participation significative des collectivités locales;

qu'il est essentiel de prévoir des objectifs, des échéanciers et des initiatives nationaux en matière de logement et de lutte contre l'itinérance pour améliorer la qualité de vie de la population du Canada, plus particulièrement celle des personnes dont les besoins sont les plus criants;

qu'une stratégie nationale sur le logement permettrait d'établir une vision commune, des principes clés et une démarche coordonnée pour améliorer la situation en matière de logement;

qu'une stratégie nationale sur le logement contribuerait à l'atteinte des objectifs de développement durable des Nations Unies;

qu'une stratégie nationale sur le logement appuierait la réalisation progressive du droit à un logement suffisant, lequel est reconnu par le Pacte international

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title

Short title

1 This Act may be cited as the *National Housing Strategy Act*.

Interpretation

Definition of *Minister*

2 In this Act, ***Minister*** means the Minister designated under section

Designation of Minister

Order

3 The Governor in Council may, by order, designate a member of the Queen's Privy Council for Canada as the Minister for the purposes of this Act.

Housing Policy Declaration

Declaration

4 It is declared to be the housing policy of the Government of Canada to

(a) recognize that the right to adequate housing is a fundamental human right affirmed in international law;

(b) recognize that housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities;

(c) support improved housing outcomes for the people of Canada; and

(d) further the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights.

relatif aux droits économiques, sociaux et culturels, auquel le Canada est partie,

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

Titre abrégé

Titre abrégé

1 *Loi sur la stratégie nationale sur le logement*.

Définition

Définition de *ministre*

2 Dans la présente loi, ***ministre*** s'entend du ministre désigné en vertu de l'article

Désignation du ministre

Décret

3 Le gouverneur en conseil peut, par décret, désigner le membre du Conseil privé de la Reine pour le Canada visé par le terme « ministre » figurant dans la présente loi.

Politique en matière de logement

Déclaration

4 Le gouvernement fédéral a pour politique en matière de logement :

a) de reconnaître que le droit à un logement suffisant est un droit fondamental de la personne confirmé par le droit international;

b) de reconnaître que le logement revêt un caractère essentiel pour la dignité inhérente à la personne humaine et pour son bien-être, ainsi que pour l'établissement de collectivités viables et ouvertes;

c) d'appuyer l'amélioration de la situation en matière de logement de la population du Canada;

d) de continuer à faire avancer la réalisation progressive du droit à un logement suffisant, lequel est reconnu par le Pacte international relatif aux droits économiques, sociaux et culturels.

National Housing Strategy

Development and maintenance

5 (1) The Minister must develop and maintain a national housing strategy to further the housing policy, taking into account key principles of a human rights-based approach to housing.

Content

(2) The National Housing Strategy is to, among other things,

(a) set out a long-term vision for housing in Canada that recognizes the importance of housing in achieving social, economic, health and environmental goals;

(b) establish national goals relating to housing and homelessness and identify related priorities, initiatives, timelines and desired outcomes;

(c) focus on improving housing outcomes for persons in greatest need; and

(d) provide for participatory processes to ensure the ongoing inclusion and engagement of civil society, stakeholders, vulnerable groups and persons with lived experience of housing need, as well as those with lived experience of homelessness.

Stratégie nationale sur le logement

Élaboration et maintien

5 (1) Pour faire avancer la politique en matière de logement, le ministre élabore et maintient une stratégie nationale sur le logement, et ce, à la lumière de principes clés d'une approche du logement fondée sur les droits de la personne.

Contenu

(2) La stratégie nationale sur le logement doit notamment :

a) énoncer une vision à long terme pour le logement au Canada qui reconnaît l'importance du logement dans l'atteinte d'objectifs en matière de santé et en matière sociale, économique et environnementale;

b) prévoir, à l'échelle nationale, des objectifs en matière de logement et de lutte contre l'itinérance ainsi que des priorités, des initiatives, des échéanciers et des résultats souhaités relativement à ces objectifs;

c) mettre l'accent sur l'amélioration de la situation en matière de logement pour les personnes dont les besoins sont les plus criants;

d) prévoir des processus participatifs visant à assurer l'inclusion et la participation continues de la société civile, des intéressés, des groupes vulnérables, des personnes ayant éprouvé des besoins en matière de logement et de celles ayant vécu dans l'itinérance.

National Housing Council

Duties and functions

6 (1) A council, to be known as the National Housing Council, is established for the purpose of furthering the housing policy and the National Housing Strategy by

(a) providing advice to the Minister, on its own initiative or at the request of the Minister, including, among other things, on the effectiveness of the National Housing Strategy; and

(b) undertaking any other activity that the Minister specifies.

Membership

(2) The Council is composed of two co-chairpersons and not fewer than , but not more than 15, other members.

Conseil national du logement

Fonctions

6 (1) Est constitué le Conseil national du logement qui est chargé de faire avancer la politique en matière de logement et la stratégie nationale sur le logement des façons suivantes :

a) en conseillant le ministre, de sa propre initiative ou à la demande de celui-ci, notamment sur l'efficacité de la stratégie nationale sur le logement;

b) en exerçant toute autre activité que le ministre précise.

Composition

(2) Le Conseil est formé de deux coprésidents et de neuf à quinze autres membres.

Ex officio members

7 The *ex officio* members of the National Housing Council are

(a) the Federal Housing Advocate, appointed under section 14;

(b) the Deputy Minister of the department for which the Minister is responsible;

(c) the Deputy Minister of Indigenous Services; and

(d) the President of the Canada Mortgage and Housing Corporation, appointed under subsection (1) of the *Canada Mortgage and Housing Corporation Act*.

Appointment of other members

8 (1) The other members of the National Housing Council are to be appointed by the Minister to hold office during pleasure for a term, not exceeding three years, that will ensure, as far as possible, the expiry in any one year of the terms of office of not more than one half of the members who are appointed by the Minister.

Further term

(2) The members of the Council who are appointed by the Minister are eligible to be reappointed for one further term.

Factors to consider

(3) In appointing members, the Minister is to take into consideration the importance of representation on the Council of

(a) persons who are members of vulnerable groups;

(b) persons with lived experience of housing need, as well as those with lived experience of homelessness;

(c) persons who reflect the diversity of Canadian society; and

(d) persons who have expertise in human rights.

Part-time

(4) The members of the Council who are appointed by the Minister perform their duties and functions on the Council on a part-time basis.

Remuneration and other expenses

(5) The members of the Council who are appointed by the Minister are to be paid the remuneration that may be

Membres d'office

7 Sont membres d'office du Conseil national du logement :

a) le défenseur fédéral du logement, nommé en application de l'article 14;

b) le sous-ministre du ministère dont le ministre est responsable;

c) le sous-ministre des Services aux Autochtones;

d) le président de la Société canadienne d'hypothèques et de logement, nommé en application du paragraphe (1) de la *Loi sur la Société canadienne d'hypothèques et de logement*.

Autres membres : nomination

8 (1) Les autres membres du Conseil national du logement sont nommés à titre amovible par le ministre pour des mandats respectifs de trois ans au maximum. Ces mandats sont, dans la mesure du possible, échelonnés de manière que leur expiration au cours d'une même année touche au plus la moitié des membres nommés par le ministre.

Nouveau mandat

(2) Le mandat des membres nommés par le ministre est renouvelable une seule fois.

Éléments à considérer

(3) Pour nommer des membres, le ministre tient compte de l'importance de la représentation au sein du Conseil :

a) de personnes appartenant à des groupes vulnérables;

b) de personnes ayant éprouvé des besoins en matière de logement ou ayant vécu dans l'itinérance;

c) de personnes reflétant la diversité de la société canadienne;

d) de personnes ayant de l'expertise en matière de droits de la personne.

Charge à temps partiel

(4) Les membres nommés par le ministre exercent leur charge à temps partiel.

Rémunération et frais

(5) Ils reçoivent la rémunération que peut fixer le ministre et sont indemnisés, conformément aux directives

fixed by the Minister and are entitled to be reimbursed, in accordance with Treasury Board directives, for the travel, living and other expenses incurred in connection with their work while absent from their ordinary place of residence.

du Conseil du Trésor, des frais de déplacement, de séjour et autres entraînés par l'exercice de leurs fonctions hors de leur lieu habituel de résidence.

Federal public administration

(6) The members of the Council who are appointed by the Minister are deemed to be employed in the federal public administration for the purposes of the *Government Employees Compensation Act* and for the purposes of any regulations made under section of the *Aeronautics Act*.

Assimilation

(6) Ils sont réputés être des agents de l'État pour l'application de la *Loi sur l'indemnisation des agents de l'État* et appartenir à l'administration publique fédérale pour l'application des règlements pris en vertu de l'article de la *Loi sur l'aéronautique*.

***Ex officio* co-chairperson**

9 (1) The President of the Canada Mortgage and Housing Corporation is the *ex officio* co-chairperson of the National Housing Council.

Coprésident d'office

9 (1) Le président de la Société canadienne d'hypothèques et de logement est d'office coprésident du Conseil national du logement.

Designation of other co-chairperson

(2) The Minister must designate the other co-chairperson from among the members of the Council who are appointed by the Minister.

Autre coprésident

(2) Le ministre désigne l'autre coprésident parmi les membres du Conseil qu'il a nommés.

Co-chairperson absent or unable to act

(3) If the co-chairperson designated under subsection (2) is absent or unable to act, the Minister may designate another person from among the members of the Council who are appointed by the Minister to act as that co-chairperson.

Intérim

(3) En cas d'absence ou d'empêchement du coprésident désigné en application du paragraphe (2), le ministre peut désigner un coprésident intérimaire parmi les membres du Conseil qu'il a nommés.

Duties of co-chairpersons

(4) The co-chairpersons have supervision over and direction of the work of the Council.

Fonctions des coprésidents

(4) Les coprésidents assurent la direction du Conseil.

Alternate *ex officio* co-chairperson

10 (1) The President of the Canada Mortgage and Housing Corporation may designate in writing an alternate to perform his or her duties and functions in respect of the National Housing Council and that alternate is considered to be a co-chairperson of the Council.

Substitut du coprésident d'office

10 (1) Le président de la Société canadienne d'hypothèques et de logement peut désigner par écrit un substitut pour exercer sa charge au sein du Conseil national du logement; ce substitut est considéré comme un coprésident du Conseil.

Alternate *ex officio* member

(2) Each *ex officio* member, other than the Federal Housing Advocate, may designate an alternate to perform his or her duties and functions in respect of the Council. That alternate is considered to be a member of the Council.

Substitut des autres membres d'office

(2) Tout autre membre d'office, exception faite du défenseur fédéral du logement, peut désigner un substitut pour exercer sa charge au sein du Conseil; ce substitut est considéré comme un membre du Conseil.

Meetings

11 (1) The National Housing Council must meet four times each year or as the Minister may specify.

Réunions

11 (1) Le Conseil national du logement se réunit quatre fois par année à moins que le ministre ne fixe une fréquence différente.

Means of telecommunication

(2) A meeting may be held by any means of telecommunication that allows the members to communicate with each other during the meeting.

Administrative support

12 The Canada Mortgage and Housing Corporation is to provide the National Housing Council with any administrative services and facilities that are necessary to assist the Council in performing its duties and functions.

Federal Housing Advocate

Duties and functions

13 There is to be a Federal Housing Advocate whose mandate is to

(a) monitor the implementation of the housing policy and assess its impact on persons who are members of vulnerable groups, persons with lived experience of housing need and persons with lived experience of homelessness;

(b) monitor progress in meeting the goals and timelines — and in achieving the desired outcomes — set out in the National Housing Strategy;

(c) analyze and conduct research, as the Advocate sees fit, on systemic housing issues, including barriers faced by persons referred to in paragraph (a);

(d) initiate studies, as the Advocate sees fit, into economic, institutional or industry conditions — respecting matters over which Parliament has jurisdiction — that affect the housing system;

(e) consult with persons referred to in paragraph (a) and civil society organizations with respect to systemic housing issues;

(f) receive submissions with respect to systemic housing issues;

(g) provide advice to the Minister;

(h) submit a report to the Minister on the Advocate's findings and any recommendations to take measures respecting matters over which Parliament has jurisdiction, to further the housing policy, including the progressive realization of the right to adequate housing, and the National Housing Strategy; and

(i) participate in the work of the National Housing Council as an *ex officio* member.

Moyens de télécommunication

(2) La réunion peut se tenir par tout moyen de télécommunication qui permet aux membres de communiquer entre eux durant celle-ci.

Soutien administratif

12 La Société canadienne d'hypothèques et de logement fournit au Conseil national du logement les services administratifs et installations dont il a besoin pour exercer ses fonctions.

Défenseur fédéral du logement

Fonctions

13 Est créé le poste de défenseur fédéral du logement dont le titulaire est chargé :

a) de surveiller la mise en œuvre de la politique en matière de logement et d'évaluer les effets de celle-ci sur les personnes appartenant à des groupes vulnérables, ayant éprouvé des besoins en matière de logement ou ayant vécu dans l'itinérance;

b) de surveiller les progrès réalisés dans l'atteinte des objectifs et des résultats souhaités, et dans le respect des échéanciers, prévus dans la stratégie nationale sur le logement;

c) d'effectuer les analyses et recherches qu'il estime indiquées sur les problèmes systémiques en matière de logement, notamment les obstacles auxquels se heurtent les personnes visées à l'alinéa a);

d) de lancer les études qu'il estime indiquées sur les conditions économiques, institutionnelles et industrielles qui relèvent de la compétence du Parlement et qui affectent le système de logement;

e) de consulter les personnes visées à l'alinéa a) et des organisations de la société civile au sujet des problèmes systémiques en matière de logement;

f) de recevoir des observations sur les problèmes systémiques en matière de logement;

g) de conseiller le ministre;

h) de présenter au ministre un rapport faisant état de ses conclusions et de toute recommandation visant la prise de mesures qui relèvent de la compétence du Parlement et qui visent à faire avancer la politique en matière de logement — y compris la réalisation progressive du droit à un logement suffisant — ou la stratégie nationale sur le logement;

i) de participer aux travaux du Conseil national du logement à titre de membre d'office de celui-ci.

Submissions – power to review issues

13.1 (1) The Federal Housing Advocate may conduct a review of any systemic housing issue that is raised in a submission received under paragraph 1 (f).

Observations — pouvoir d'examiner le problème

13.1 (1) Le défenseur fédéral du logement peut examiner tout problème systémique en matière de logement qui est soulevé par toute observation reçue au titre de l'alinéa 1 f).

Submissions – power to request establishment of review panel

(2) The Federal Housing Advocate may request that the National Housing Council establish a review panel to hold a hearing to review any systemic housing issue within the jurisdiction of Parliament that is raised in a submission received under paragraph 1 (f).

Observations — pouvoir de demander la constitution d'une commission d'examen

(2) Il peut également demander au Conseil national du logement de constituer une commission d'examen chargée de tenir une audience pour examiner tout problème systémique en matière de logement qui relève de la compétence du Parlement et qui est soulevé par toute observation reçue au titre de l'alinéa 1 f).

Notice

(3) The Federal Housing Advocate must inform the person or group that presented the submission whether or not any action will be taken under subsection (1) or (2).

Avis

(3) Il informe la personne ou le groupe ayant présenté l'observation du fait qu'il exerce ou non l'un des pouvoirs prévus aux paragraphes (1) ou (2).

Report

(4) If the Federal Housing Advocate conducts a review of the systemic housing issue, he or she must, at the conclusion of the review, provide the Minister and the person or group that presented the submission with a report setting out the Advocate's opinion on the issue and any recommendation to take measures — respecting matters over which Parliament has jurisdiction — to further the housing policy, including the progressive realization of the right to adequate housing, or the National Housing Strategy.

Rapport

(4) S'il examine le problème, le défenseur fédéral du logement fournit au ministre et à la personne ou au groupe ayant présenté l'observation, au terme de l'examen, un rapport faisant état de son avis sur le problème et de toute recommandation visant la prise de mesures qui relèvent de la compétence du Parlement et qui visent à faire avancer la politique en matière de logement — y compris la réalisation progressive du droit à un logement suffisant — ou la stratégie nationale sur le logement.

Power to request establishment of review panel

13.2 (1) If the Federal Housing Advocate, at any time, identifies a systemic housing issue that is within the jurisdiction of Parliament and that is not the subject of a submission, he or she may request that the National Housing Council establish a review panel to hold a hearing to review the issue.

Pouvoir de demander la constitution d'une commission d'examen

13.2 (1) Le défenseur fédéral du logement peut, s'il constate un problème systémique en matière de logement qui relève de la compétence du Parlement et qui n'a pas fait l'objet d'une observation, demander au Conseil national du logement de constituer une commission d'examen chargée de tenir une audience pour examiner le problème.

Summary of information

(2) The Federal Housing Advocate must provide a review panel with a summary of the information that formed the Advocate's basis for identifying the systemic housing issue.

Résumé des renseignements

(2) Il fournit à la commission d'examen un résumé des renseignements qui lui ont permis de constater le problème.

Appointment

14 (1) The Federal Housing Advocate is to be appointed by the Governor in Council to hold office during pleasure for a term of not more than three years.

Further term

(2) The term may be renewed for one further term.

Advocate absent or unable to act

(3) If the Federal Housing Advocate is absent or unable to act, the Minister may designate another person to act as the Federal Housing Advocate, but that person may act for a period of more than 0 days only with the approval of the Governor in Council.

Full-time

(4) The Federal Housing Advocate performs his or her duties and functions on a full-time basis.

Remuneration and other expenses

(5) The Federal Housing Advocate is to be paid the remuneration fixed by the Governor in Council and is entitled to be reimbursed in accordance with Treasury Board directives for the travel, living and other expenses incurred in connection with his or her work while absent from his or her ordinary place of work.

Federal public administration

(6) The Federal Housing Advocate is deemed to be employed in the public service for the purposes of the *Public Service Superannuation Act* and to be employed in the federal public administration for the purposes of the *Government Employees Compensation Act* and for the purposes of any regulations made under section of the *Aeronautics Act*.

Administrative support

15 (1) The Canadian Human Rights Commission is to provide the Federal Housing Advocate with any administrative services and facilities that are necessary to assist the Advocate in performing his or her duties and functions.

Contractual assistance

(2) The Commission may, for the purposes of subsection (1), enter into contracts for the services of persons to assist the Advocate in performing his or her duties and functions.

Annual report

16 (1) The Federal Housing Advocate must, within 0 days after the end of each fiscal year, submit a report to the Minister for that year that

Nomination

14 (1) Le défenseur fédéral du logement est nommé à titre amovible par le gouverneur en conseil pour un mandat maximal de trois ans.

Nouveau mandat

(2) Son mandat est renouvelable une seule fois.

Intérim

(3) En cas d'absence ou d'empêchement du défenseur fédéral du logement, le ministre peut désigner un intérimaire; cependant, l'intérim ne peut dépasser quatre-vingt-dix jours sans l'approbation du gouverneur en conseil.

Charge à temps plein

(4) La charge de défenseur fédéral du logement s'exerce à temps plein.

Rémunération et frais

(5) Le défenseur fédéral du logement reçoit la rémunération que fixe le gouverneur en conseil et est indemnisé, conformément aux directives du Conseil du Trésor, des frais de déplacement, de séjour et autres entraînés par l'exercice de sa charge hors de son lieu habituel de travail.

Assimilation

(6) Le défenseur fédéral du logement est réputé être employé dans la fonction publique pour l'application de la *Loi sur la pension de la fonction publique*, être un agent de l'État pour l'application de la *Loi sur l'indemnisation des agents de l'État* et appartenir à l'administration publique fédérale pour l'application des règlements pris en vertu de l'article de la *Loi sur l'aéronautique*.

Soutien administratif

15 (1) La Commission canadienne des droits de la personne fournit au défenseur fédéral du logement les services administratifs et installations dont il a besoin pour exercer ses fonctions.

Assistance contractuelle

(2) Elle peut conclure, pour l'application du paragraphe (1), des contrats visant à retenir les services de personnes qui seront chargées d'aider le défenseur fédéral du logement dans l'exercice de ses fonctions.

Rapport annuel

16 (1) Dans les trente jours suivant la fin de chaque exercice, le défenseur fédéral du logement présente au ministre, pour l'exercice en cause, un rapport qui :

(a) provides a summary of his or her activities, any submissions received, the results of the consultations and of any analysis, research and study; and

(b) contains recommended measures — respecting matters over which Parliament has jurisdiction and that take into account the housing policy — to address systemic housing issues.

Tabling in Parliament

(2) The Minister must cause the report to be laid before each House of Parliament on any of the first 0 days after the Minister receives the report or, if either House is not sitting on the last day of that period, on any of the first 15 days on which that House of Parliament is sitting.

Publication

(3) The Federal Housing Advocate may publish the report only after the report is laid before each House of Parliament.

Review Panels

Obligation to establish review panel

16.1 The National Housing Council must establish a review panel if requested to do so by the Federal Housing Advocate.

Membership

16.2 (1) A review panel is to consist of three members of the National Housing Council, other than *ex officio* members, to be appointed by the National Housing Council.

Factors to consider

(2) In appointing members to a review panel, the National Housing Council is to take into consideration the importance of representation on the review panel of

(a) persons who are members of vulnerable groups;

(b) persons with lived experience of housing need, as well as those with lived experience of homelessness; and

(c) persons who have expertise in human rights.

Duties

16.3 A review panel must

(a) hold a hearing to review the systemic housing issue in respect of which it was established;

a) résume ses activités, les observations reçues ainsi que les résultats des consultations et des analyses, recherches et études menées;

b) contient des recommandations de mesures qui relèvent de la compétence du Parlement, visent à régler les problèmes systémiques en matière de logement et tiennent compte de la politique en matière de logement.

Dépôt au Parlement

(2) Le ministre fait déposer le rapport devant chaque chambre du Parlement dans les trente jours suivant sa réception ou, si celle-ci ne siège pas le jour de l'expiration du délai imparti, dans les quinze premiers jours de séance ultérieurs.

Publication

(3) Le défenseur fédéral du logement ne peut publier le rapport qu'après le dépôt de celui-ci devant les deux chambres du Parlement.

Commissions d'examen

Obligation de constituer la commission d'examen

16.1 Le Conseil national du logement est tenu de constituer une commission d'examen lorsque le défenseur fédéral du logement lui en fait la demande.

Membres

16.2 (1) La commission d'examen est composée de trois membres du Conseil national du logement, autres que les membres d'office, qui sont nommés par celui-ci.

Éléments à considérer

(2) Pour nommer des membres, le Conseil national du logement tient compte de l'importance de la représentation au sein de la commission d'examen :

a) de personnes appartenant à des groupes vulnérables;

b) de personnes ayant éprouvé des besoins en matière de logement ou ayant vécu dans l'itinérance;

c) de personnes ayant de l'expertise en matière de droits de la personne.

Fonctions

16.3 La commission d'examen :

(b) hold the hearing in a manner that offers the public, particularly members of communities that are affected by the issue and groups that have expertise in human rights and housing, an opportunity to participate;

(c) prepare a report that sets out the panel's opinion on the issue and any recommendation to take measures — respecting matters over which Parliament has jurisdiction — to address the issue; and

(d) submit the report to the Minister.

a) tient une audience pour examiner le problème systémique en matière de logement à l'égard duquel elle a été constituée;

b) tient l'audience de manière à donner au public, notamment les membres des collectivités concernées par le problème et les groupes ayant de l'expertise en matière de droits de la personne et de logement, l'occasion de participer;

c) prépare un rapport faisant état de son avis sur le problème et de toute recommandation visant la prise de mesures qui relèvent de la compétence du Parlement et qui visent à régler le problème;

d) présente le rapport au ministre.

Representations

16.4 The Federal Housing Advocate is entitled to make representations and present proposals for recommendations to a review panel and may, for the purpose of doing so, work with communities that are affected by the issue that is before the review panel and with experts.

Observations

16.4 Le défenseur fédéral du logement a le droit de présenter à la commission d'examen des observations et des propositions de recommandations et peut, à cette fin, travailler avec les collectivités concernées par le problème dont la commission est saisie et avec des experts.

Accountability

Minister's response

17 (1) The Minister must respond to the annual report of the Federal Housing Advocate.

Tabling of response

(2) The Minister must cause the response to be tabled in each House of Parliament on any of the first 120 days after the Minister has caused the annual report to be tabled in both Houses of Parliament or, if either House is not sitting on the last day of that period, on any of the first 15 days on which that House of Parliament is sitting.

Minister's response to Advocate's reports

17.1 The Minister must respond to each report provided by the Federal Housing Advocate under paragraph 1 (h) and subsection 1 1(4) within 120 days after the day on which it is received.

Minister's response to review panel reports

17.2 (1) The Minister must respond to a report submitted by a review panel under paragraph 1 (d) within 120 days after the day on which it is received.

Obligation de rendre compte

Réponse du ministre

17 (1) Le ministre répond au rapport annuel qu'il reçoit du défenseur fédéral du logement.

Dépôt au Parlement

(2) Le ministre fait déposer sa réponse au rapport annuel devant chaque chambre du Parlement dans les cent vingt jours suivant le dépôt du rapport annuel devant les deux chambres du Parlement ou, si celle-ci ne siège pas le jour de l'expiration du délai imparti, dans les quinze premiers jours de séance ultérieurs.

Réponse du ministre aux rapports du défenseur fédéral du logement

17.1 Le ministre répond à tout rapport qu'il reçoit du défenseur fédéral du logement, au titre de l'alinéa 1 h) et du paragraphe 1 1(4), dans les cent vingt jours suivant la date de réception du rapport.

Réponse du ministre aux rapports de la commission d'examen

17.2 (1) Le ministre répond à tout rapport qu'il reçoit de la commission d'examen, au titre de l'alinéa 1 d), dans les cent vingt jours suivant la date de réception du rapport.

Tabling in Parliament

(2) The Minister must cause the response to be laid before each House of Parliament on any of the first 0 days after the day on which it is provided to the review panel or, if either House is not sitting on the last day of that period, on any of the first 15 days on which that House of Parliament is sitting.

Triennial report

18 (1) The Minister must, before March 1, 2021 and within every three years after that date, cause a report to be made on the effectiveness of the National Housing Strategy, with respect to the achievement of the desired outcomes, and the initiatives related to its implementation.

Tabling in Parliament

(2) The Minister must cause the report to be laid before each House of Parliament on any of the first 0 days on which that House is sitting after the report is made.

Dépôt au Parlement

(2) Le ministre fait déposer la réponse devant chaque chambre du Parlement dans les trente jours suivant la date où la réponse a été fournie à la commission d'examen ou, si celle-ci ne siège pas le jour de l'expiration du délai imparti, dans les quinze premiers jours de séance ultérieurs.

Rapport triennal

18 (1) Avant le 1 mars 2021, puis avant l'expiration de chaque période de trois ans suivant cette date, le ministre fait établir un rapport sur l'efficacité de la stratégie nationale sur le logement, en ce qui a trait à l'atteinte des résultats souhaités, et des initiatives visant la mise en œuvre de celle-ci.

Dépôt au Parlement

(2) Le ministre fait déposer le rapport devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant l'établissement du rapport.

AMENDMENTS NOT IN FORCE

— 2024, c. 15, s. 339

339 Section 12 of the *National Housing Strategy Act* is replaced by the following:

Administrative support

12 The Minister is to provide the National Housing Council with any administrative services and facilities that are necessary to assist the Council in performing its duties and functions.

MODIFICATIONS NON EN VIGUEUR

— 2024, ch. 15, art. 339

339 L'article 12 de la *Loi sur la stratégie nationale sur le logement* est remplacé par ce qui suit :

Soutien administratif

12 Le ministre fournit au Conseil national du logement les services administratifs et installations dont il a besoin pour exercer ses fonctions.

THIS IS **EXHIBIT "C"** REFERRED TO
IN THE AFFIDAVIT OF MARIE JOSEE HOULE
SWORN REMOTELY AT THE
CITY OF CANTLEY BEFORE ME AT THE REGION OF WATERLOO
DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

Informing meaningful action –

the Federal Housing Advocate's 2024–2025 Annual Report to the Minister

Office of the Federal Housing Advocate | Bureau du défenseur fédéral du logement

Canadian Human Rights Commission
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Advocate's message

As Canada's first Federal Housing Advocate, it is my privilege to present my 2024–2025 Annual Report to the Minister, which marks the final year of my first mandate. I was recently re-appointed for a second three-year term until 2028, and I am so excited to carry on this important work.

As a housing rights accountability mechanism, the Federal Housing Advocate is in the unique position of serving as a bridge between people with lived experience, organizations in the housing and homelessness sector, and lawmakers. My office and I carry out our work in an independent and non-partisan way, which is why we are based at the Canadian Human Rights Commission and not a federal department.

I am endlessly proud of the hard work we have accomplished this year. My report in partnership with Métis Nation – Saskatchewan is the first of its kind in Canada to comprehensively examine Métis housing conditions first-hand.

On the heels of releasing our report on homeless encampments in February 2024, we continued to engage with rights holders and duty bearers, monitor outcomes, advocate for and create tools to support governments at all levels in to address our recommendations. We were pleased to see the initial response from the federal government, which included a new investment of $250M in the 2024-2025 budget to be matched by the provinces and territories for human rights-based solutions to encampments.

Throughout the year, my team and I have continued to build relationships and trust with people across the country by engaging with rights holders, amplifying the voices of people with lived experience, and pushing for meaningful accountability mechanisms to ensure that governments uphold their human rights obligations. Hearing first-hand from people who are most disadvantaged is central to my role. I am here to make sure their voices reach decision-makers. Their experiences hold the key to understanding what inequities need to be addressed and what programs will work.

The housing crisis remains one of the most pressing social and economic challenges facing the country, requiring immediate and coordinated government action.

The affordability of housing is becoming increasingly uncertain, exacerbated by inflation and rising costs of living. In addition, ongoing trade tensions introduce further economic instability, making it harder for individuals and families to maintain housing security. These challenges underscore the need for future governments to take proactive interventions and long-term solutions that prioritize affordability, stability, and human rights in housing policies.

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The federal government, and future governments, must continue to prioritize a human rights-based approach to housing and homelessness. We must engage the people most affected by the housing and homelessness crisis, and put them at the centre of our policy-making. The path forward must not only address the immediate needs of those in housing precarity but also create a sustainable, long-term strategy to ensure that every person in Canada has access to adequate housing. The housing and homelessness crisis is solvable, but only if policy decisions reflect the urgency and scale of the challenge.

While progress has been made, systemic barriers persist. We know that more must be done to ensure sustainable funding, policy coordination, and accountability mechanisms that protect the rights of those most affected by housing insecurity.

The recommendations I make in this annual report are aimed at offering coordinated solutions the government can take to address these challenges and implement human rights-based responses. They include, among others, the need to reinforce the accountability mechanisms under the National Housing Strategy Act, implement an all-of-government action approach to housing as a human right, invest in First Nations, Inuit and Métis housing and infrastructure, strengthen the National Housing Strategy and Canada's Housing Plan, and lay the groundwork to begin shaping the next National Housing Strategy.

Making these recommendations is a key part of the Federal Housing Advocate's role – to act as an accountability mechanism so that governments adopt best practices and address longstanding calls for adequate housing for Indigenous and disadvantaged peoples in Canada.

I am also here as a resource for governments – to provide the research and recommendations they need to implement housing policy that works. Governments can draw on my work on the ground to understand their obligations and my tools to guide their policy-making. I am able to build trust where governments often cannot, and I can connect with and amplify input and recommendations from the grassroots to aid meaningful engagement so that housing laws, policies and programs are human rights compliant.

I am honoured to have been re-appointed for another three-year term until February 2028. I will continue my work on Indigenous housing, prioritize housing for youth, and advocate for accessible housing for seniors and people with disabilities. I will also continue to monitor the implementation of the recommendations I provided governments during my first term. I am excited to continue building relationships with people in disadvantaged circumstances and leaders alike to drive meaningful solutions for those impacted by the housing and homelessness crisis. Equally important will be to monitor and advance the progress of our work so far, and engage with rightsholders to explore key issues that matter to all Canadians.

However, my team and I cannot do this work without adequate resources. The funding allocated to my office in the 2024 federal budget was reduced by over 50%. Despite my mandate being extended until 2028, this reduced funding is set to expire in March 2026. While we have made progress on key issues, the past year has required us to make many difficult decisions.

The uncertainty and limited resources have compromised my ability to do the important work I was appointed to do: to serve people in Canada and help realize the human right to housing for all. In short, we will have difficulty fulfilling our role of amplifying the voices of those impacted by the housing crisis and urging the government to implement human rights-based solutions that create meaningful change. This not only weakens our ability to act but also compromises Canada's global leadership in advancing human rights at a time when it is needed most.

What is at risk here is bigger than me or my office. It is about people experiencing homelessness and living in encampments, for whom every day is a struggle for survival. It is about people living pay cheque to pay cheque, at risk of having their apartment building being bought by a financialized company and being evicted or unable to afford rent. It is about Indigenous families facing overcrowding or mold in their homes and battling chronic health issues as a result. It is about people with disabilities, who are overrepresented in all aspects of inadequate housing and homelessness.

In short, it is about our most basic human rights – the right of every person to live in a safe, secure, affordable home.

We want Canada to succeed. We want our work and our research to inform meaningful change and policies. Canada needs a Federal Housing Advocate that has the resources to hold governments to account, to offer guidance and real-time research from the field directly to policy-makers, and to ensure that housing outcomes benefit people and respect their human rights.

Canada has recognized that housing is a fundamental human right. This promise must be backed up with the resources to make this right a reality for everyone from coast to coast to coast.

Sincerely,
Marie-Josée Houle
Federal Housing Advocate
Canadian Human Rights Commission

Our work in the last year

Housing and homelessness continue to be top of mind issues for most people in Canada. In the last year, decision-makers took some steps forward with policies to address the seriousness of the housing crisis.

At the same time, people living in vulnerable housing circumstances have not yet seen the change that has been promised. There has been little relief for rising rent costs. People living in encampments continue to be denied their basic human rights and fundamental needs. Infrastructure gaps and poor living conditions for Indigenous communities continue to go unaddressed.

This is why, in the last year, we continued to push governments for swift action to tackle the housing and homelessness crisis. Our work at the Office of the Federal Housing Advocate continues to offer human rights-based guidance to decision-makers and inform meaningful policy change. The independent, expert work of the Advocate offers solutions to decision-makers that are evidence-based and that reflect the voices of those who are most disadvantaged.

Our focus in the past year was on advancing our recommendations with federal minister, premiers, housing ministers and regional housing corporation leaders to drive change on these systemic issues and guide them to implement effective, human rights-based housing policy.

Ensuring governments uphold the rights and dignity of encampment residents

In 2024–2025, we continued our advocacy to ensure all governments implement the recommendations that emerged from the Advocate's national, systemic review of homeless encampments.

The Advocate's final report on encampments, released on February 13, 2024, called for a national response to this human rights crisis and outlined the steps governments at all levels must take to meet their human rights obligations. The report urged the federal government to lead on this issue by developing a national encampments response plan that protects the lives, dignity and human rights of people living in encampments, while working towards permanent housing and long-term solutions. The Advocate recommended that governments end forced evictions, respect inherent Indigenous rights, act to save lives by providing basic necessities for life, and address the root causes of encampments.

Throughout the year, the Advocate continued to engage with Indigenous leadership, municipalities, local advocates, and the federal government to monitor and follow up on the recommendations.

Funding for community and human rights-based responses

We were pleased to see the initial response from the federal government, which included a new investment of $250 million in the 2024 budget for human rights-based community encampment response plans to be matched by the provinces and territories. This shift in recognition of the need for a human rights-based approach to encampments is a pivotal turning point. While welcoming the new federal funding, the Advocate also cautioned, in a statement and a letter to the Minister in October 2024, that there must be clear guidelines to ensure this funding is used for encampment community action plans that are consistent with a human rights-based approach. Prior to releasing the statement, the Advocate also heard from a number of stakeholders who had participated in the review, who underlined the need for a greater sense of urgency as well as government transparency and accountability as this funding is rolled out.

To mark the one-year anniversary of the release of the report in February 2025, and in light of the federal funding starting to be disbursed across the country, the Advocate wrote an open letter addressed to Canada's Premiers. She reiterated her call for a human rights-based approach to encampments. These new resources are an opportunity to meaningfully improve the lives of people living in encampments and provide them with adequate housing. However, more money does not guarantee success. A human rights-based approach is the most effective way to address encampments. It puts people experiencing homelessness at the centre of our efforts to find meaningful solutions.

Her calls to action urged Canada's Premiers to work with the targeted municipalities to ensure community action plans take a human rights-based approach. We must ensure that everyone has access to permanent, affordable, and adequate housing. While we work to make that a reality for all, there is an urgent need to protect the lives, dignity, and human rights of people living in encampments.

Resources to support governments

Also in the last year, we developed resources to support governments to take human rights-based approaches to encampments. We published a fact sheet for provinces and territories and a fact sheet for municipalities to highlight the Advocate's recommendations that are most applicable to them in order to meet their human rights obligations. We also worked with local stakeholders to document good practices that can inform how municipalities can meaningfully engage with encampment residents in finding solutions. We look forward to publishing these in 2025–2026.

Encampments jurisprudence

Finally, in 2024–2025, we worked with legal scholars to provide a summary of the legal obligations related to encampments and the most recent jurisprudence across the country. This report provides a legal evidence-base to understand how encampments should be treated by the law in Canada. It also suggests that more opportunities exist for novel legal avenues to pursue, such as arguments related to the potential of the National Housing Strategy Act to serve as a legal basis for claims on federal lands or federal obligations to unhoused peoples, the inherent rights of Indigenous Peoples who are acutely over-represented in encampments, and the application of other sections of the Canadian Charter of Rights and Freedoms.

Much work remains to be done to solidify a human rights-based approach to encampments across Canada. The ultimate goal must be to get people into adequate housing options as quickly as possible. In the meantime, we must take steps to respect the dignity and human rights of people experiencing homelessness and living in encampments.

Advocating for the right to housing for Métis in Saskatchewan

In 2024–2025, the Office of the Federal Housing Advocate launched a report in partnership with the Métis Nation – Saskatchewan that raises serious concerns about the high rate of housing precarity and homelessness in Métis communities across the province.

It is one of the only reports in Canada to comprehensively examine and document Métis housing conditions first-hand. It is the culmination of the Advocate's visit to eight communities throughout Saskatchewan, where it was clear that Métis are facing long-standing challenges to having their human right to housing upheld.

The needs are especially dire in rural, remote and Northern communities. The Advocate visited communities that did not have an emergency shelter, a women's shelter, nor a food bank. This lack of emergency support means that people in dangerous situations do not have a safe space to turn to. Many of the homes in Northern communities are aging and in need of expensive maintenance and repairs. Exorbitant utility costs and people living in poorly insulated buildings made heating homes difficult, if not impossible.

Across the province, in both large urban centres and in small communities, the Advocate met housing providers who are overwhelmed by the impacts of the drug toxicity crisis. Many people need housing with wrap-around social and health supports to be successfully housed, but there is simply not enough of it. Often, they are left with no other option than to sleep rough on the streets or in encampments.

The good news is that there are successful Métis-led approaches that address housing need in innovative ways. The Advocate met with many communities and provincial organizations that are working to address pressing housing needs. It is critical that decision-makers at all levels recognize and embrace unique Métis ways of knowing and doing in order to find culturally appropriate, responsive, and effective solutions to housing and homelessness.

This report provides the foundation for conversations around solutions and transformational change at all levels of government. It makes recommendations to all levels of government to remove barriers and recognize the right to housing for Métis in Saskatchewan. In particular, the recommendations call for the recognition of Métis self-government and the transfer of programs in Saskatchewan to Métis jurisdiction.

Following the launch of the report, the recommendations were discussed in meetings with federal ministers and senators, as well as with the Saskatchewan provincial government. They will continue to be an important advocacy tool for the Metis Nation – Saskatchewan with the province and at the federal treaty negotiation table. They will also push forward plans for future investments from all levels of government to ensure adequate housing for Métis in Saskatchewan. Finally, the report will continue to drive the Federal Housing Advocate's work on housing for rural, remote and Northern communities in general.

In February, the Minister of Housing, Infrastructure and Communities shared his response to the Federal Housing Advocate's report.

Monitoring the right to adequate housing for people with disabilities

In 2024–2025, the Office of the Federal Housing Advocate and the Canadian Human Rights Commission continued working on a joint monitoring framework on the right to adequate housing for people with disabilities. This framework is the first of its kind. It is an accountability tool that allows us to track and advocate to advance the human right to adequate housing.

Canada believes that everyone has the right to housing that is safe, affordable, and accessible. This right is reaffirmed in the National Housing Strategy Act, and one of the roles of the Federal Housing Advocate is to ensure Canada upholds this right. Canada has also ratified the United Nations Convention on the Rights of Persons with Disabilities, and the Commission is responsible for monitoring its implementation.

The Office of the Federal Housing Advocate and the Commission are monitoring human rights-based housing outcomes for people with disabilities in eleven key areas, such as homelessness, institutionalization, affordability, and accessibility. The monitoring framework was developed with the input of people with disabilities, their families, and caregivers, including people who have experienced inadequate housing and homelessness.

In the last year, we collected and analyzed Statistics Canada data for the outcome indicators in the framework. The results confirm that people with disabilities face countless barriers in accessing adequate housing. They have poorer housing outcomes in all eleven areas of the framework, and are overrepresented in nearly all aspects of inadequate housing and homelessness.

The data shows that many people with disabilities:

- don’t have the physical aids they need in their homes
- are more likely to live in housing with poor air quality, unsafe drinking water, mould and/ or pests
- wait longer for subsidized housing
- don’t get the supports they need to be able to live independently in the community.

The data also confirmed that people with disabilities are:

- four times more likely to experience homelessness, and more likely to become homeless due to violence
- more likely to live in unaffordable housing
- almost twice as likely to live in core housing need (live in housing that is unaffordable, in bad condition, and too small)

Through engagement with disability communities, we also learned that some people with disabilities are turning to medical assistance in dying (MAiD) because they can't access adequate housing and supports. This is unacceptable. Improvements are urgently needed to ensure that people with disabilities can fully realize their human right to adequate housing.

Canada must ensure that all people with disabilities have accessible, affordable, and safe housing, and the supports they need to live with dignity and independence. Our monitoring framework is an accountability tool that allows us to track and advocate for the fundamental human right to adequate housing.

We are using our results to help advance the right to adequate housing for people with disabilities. Our results should inform evidence-based policy-making. People with disabilities and advocates can use our results to advance housing issues. This monitoring framework could also be used as a model to monitor the right to adequate housing for other marginalized groups.

Driving human rights accountability at review panels

In 2024–2025, the Federal Housing Advocate continued to engage with the review panel process.

Review panels are one of the important human rights accountability mechanisms created by the National Housing Strategy Act. Instead of hearing individual complaints about human rights violations, review panels hold hearings on systemic housing issues. Review panels rely on the participation and meaningful engagement of people and communities affected by the systemic issues they are examining.

Upon a request from the Advocate, the National Housing Council must establish an independent review panel. The findings and recommendations of the review panel will be set out in a report to the Minister. The Minister must respond to the report within 120 days and table that response in the House of Commons and the Senate.

Here are some updates on review panels from the last year.

Financialization of purpose-built rental housing

The Federal Housing Advocate welcomed the final report by the review panel on the Financialization of Purpose-Built Rental Housing, which was released on May 29, 2024.

This conclusion of the first-ever human rights-based review panel hearing was a historic moment for the right to housing in Canada. The panel heard from over 200 witnesses from impacted communities, along with human rights and housing experts, who shared their expertise on the issue in the panel's written and oral hearings.

The report illustrates the harm that the financialization of housing is causing to people in Canada. It concluded that tenants in particular are severely impacted by financial practices in the rental housing sector, including those purchasing property solely for short-term financial gain. The panel also noted that the rapid loss of affordable rental housing and long-term underinvestment in non-market housing are most impacting disadvantaged groups and tenants in greatest need.

The Advocate applauded the work of the review panel, and joined its calls to action to better protect tenants and invest in non-market housing for all.

Human rights-based solutions to financialization are urgently needed. The federal government must take up the recommendations issued by the review panel, including measures to increase the supply of affordable, non-market rental housing as well as support the non-market sector, actively protect existing affordable rental supply, and support and protect tenants facing housing precarity.

The right to housing for women, Two-Spirit, trans, and gender-diverse people

In 2024–2025, the Advocate participated in the review panel examining the right to safe, adequate and affordable housing for women, Two-Spirit, trans, and gender diverse people, and the government's duty to uphold this right.

The National Housing Council announced the launch of the second review panel, called Neha, in November 2024 in response to a May 2023 request from the Advocate. Neha is a Kanien'kéha-Mohawk word meaning "our ways". It describes a way of life that is open, peaceful, supportive and healing. Neha will be a space where people can come together, share their experiences and work together towards solutions.

The Advocate provided her written representations during the written dialogue, and will propose recommendations to the review panel during the oral dialogue. Through submissions, engagements, and visits to communities across Canada, the Advocate has heard directly from hundreds of women, Two-Spirit, trans, non-binary, and gender diverse people about their experiences with homelessness and inadequate housing. These rights holders have courageously spoken out about the devastating impacts of homelessness on their dignity, well-being, and human rights – including grave and lasting harms to their physical and mental health, heightened exposure to violence and sexual exploitation, separation from their children, and discriminatory treatment by landlords, law enforcement, service providers, and the general public.

These impacts are most acute for Indigenous women, Two-Spirit, trans, non-binary, and gender diverse people, with fatal consequences. Housing insecurity and homelessness are among the most important drivers of the crisis of missing and murdered Indigenous women and girls.

The Advocate also provided the review panel with more than 120 submissions she has received about gendered homelessness as well as the human rights claims submitted by the National Indigenous Women's Housing Network (NIWHN) and the Women's National Housing and Homelessness Network (WNHHN) to the review panel to inform its findings.

The findings and recommendations of the review panel will be set out in a report to the Minister responsible for housing when the review panel has concluded.

The right to accessible housing

The Federal Housing Advocate is preparing to formally request that the National Housing Council form a review panel to examine the issue of inaccessible housing in Canada. This pervasive issue affects everyone in Canada, with the greatest impact on vulnerable groups, including people with disabilities and seniors.

The Advocate's request will be informed by submissions she received from people with disabilities, and by the data we collected for our monitoring framework on the right to adequate housing for people with disabilities. For example, the data shows that in 2021, only 38% of people with disabilities felt their homes were accessible to people with physical disabilities. In 2022, 16% of people with physical disabilities didn't have the physical aids they needed in their homes. The real numbers are likely significantly higher, since this data focuses on the needs of people with physical disabilities and it excludes people living in institutions.

We will report on the outcomes of this Review Panel request in our 2025–2026 Annual Report.

The right to housing on the national and international stage

In 2024–2025, the Federal Housing Advocate shared her knowledge on the national and international stage to highlight what the right to housing means and why it matters.

As the housing crisis continues to impact people in Canada and in countries across the globe, the right to housing is increasingly drawing interest as the way to tackle issues facing our communities.

A call to action – Canada must strengthen the human right to housing

As the Federal Housing Advocate embarked on a new three-year mandate, she reflected on the need to address the housing crisis as one of the most pressing social and economic challenges facing the country. Her message to the federal government, and future governments, is that they must continue to prioritize a human rights-based approach to housing and homelessness. The path forward must not only address the immediate needs of those in housing precarity but also create a sustainable, long-term strategy to ensure that every person in Canada has access to adequate housing.

While progress has been made, systemic barriers persist. In her recommendations, she urged the federal government to ensure sustainable funding, policy coordination, and accountability mechanisms that protect the rights of those most affected by housing insecurity. A government that embraces these principles will not only uphold human rights but will also build a more just, equitable, resilient and prosperous society for all.

Legislative Assembly of the Northwest Territories

The Advocate had the honour of appearing before the Legislative Assembly of the Northwest Territories as it studies how housing as a human right can be applied in the territory. The Advocate's message to decision-makers was that every government has a role to play to recognize and uphold the right to housing. She advocated for the provinces and territories to appoint their own housing advocates so that there are independent voices that can drive progress and hold governments of all political stripes accountable. The fact is, incorporating human rights-based approaches into housing policy is a smart decision for governments that makes projects more successful and produces better outcomes for people.

The House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

In June 2024, the Advocate appeared before the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities during its study on the impacts of federal investments in non-market housing. The Advocate's message to the committee was that federal investments must support non-market housing – it is fundamental to upholding the right to housing, it is the best use of public money, and it is the obligation of the federal government to lead the way. She urged them to prioritize the right kind of supply that meets people's needs. She highlighted that the way forward to a more affordable housing system is by investing in non-market housing – cooperative, non-profit, public, and Indigenous housing – that puts people and human rights first and remains affordable over the long-term. The Advocate shared our research, which shows that Canada needs to double its non-market housing stock from the current 3.5 percent to 7 percent in the short-term, with a long-term target of 20 percent of all units dedicated to non-market housing.

The World Urban Forum

Last year, the Advocate had the honour of presenting at the World Urban Forum in Cairo, Egypt. There, she participated in a panel discussion about the housing of the future and what steps we can take to ensure that people everywhere have access to housing that is dignified and adequate. This United Nations conference was an opportunity to engage and exchange ideas with government representatives, academics, community leaders, and civil society from across the globe. The Federal Housing Advocate's role is the only one in the world and is a unique model that demonstrates the power of advocacy to make change. The Advocate's remarks encouraged other countries to consider adopting similar human rights accountability mechanisms to help support the right to housing and ensure the voices of people who are facing homelessness and inadequate housing reach decision-makers.

Amplifying what we heard

Using the Federal Housing Advocate's online submission tool, anyone in Canada who has faced inadequate housing or homelessness can make a submission and tell the Advocate about their experience. Organizations can also use the online submission platform to submit relevant information to the Advocate.

While the Advocate does not provide remedies for individual cases, this tool is vital in gathering first-hand accounts of inadequate housing and homelessness, in identifying systemic issues across Canada, and in ensuring that the voices of those most affected are heard. The Advocate can also refer submissions to the National Housing Council's review panel process so that they are included in the public hearing examining a specific systemic issue.

What we heard in 2024–2025

In 2024–2025, the submissions we received highlight a troubling trend of systemic barriers in housing, where women, gender diverse individuals, and persons with disabilities face heightened risks of violence, discrimination, and inadequate living conditions, emphasizing the urgent need for safer, more inclusive, and accessible housing solutions.

Note: Since the Federal Housing Advocate has been reappointed until February 2028, all submissions provided during her first term (May 2022 – February 2025) will remain active for identifying systemic housing issues throughout her second mandate.

Women and gender diverse people

Submissions reveal that women and gender diverse individuals in encampments and shelters face heightened risks of violence, discrimination, and insecurity. Many reported experiencing sexual assault, harassment, and physical violence. A trans woman described her time in encampments as "hell," marked by beatings and theft. A common concern is the fear of being alone outside, leading some women to stay with men for protection. However, this often makes them ineligible for shelters and hotel programs. Many also reported law enforcement failing to intervene in violent situations and shelters being unsafe due to theft, assault, and neglect. While some noted that encampments provided a sense of community, others emphasized that larger encampments became increasingly dangerous, with rising crime and health risks. Many individuals also reported harassment by law enforcement and having their belongings discarded by city workers. These accounts highlight the urgent need for safer, more inclusive shelter and housing options.

People with disabilities

People with disabilities face significant barriers to accessing adequate housing. Many struggle to find accessible housing due to limited availability, long waitlists, and affordability challenges. Poor housing conditions negatively impact physical health, with inaccessible homes increasing the risk of falls and injuries. Housing instability further exacerbates stress and deteriorates overall well-being. Discrimination remains a persistent issue, with some respondents denied housing due to their disability status or financial situation. The high cost of home adaptations, such as ramps and accessible bathrooms, further limits independent living. Expanding accessible housing, financial assistance for adaptations, and stronger tenant protections are essential to ensuring housing stability for persons with disabilities.

Where we go from here – Recommendations

Over the last three years, governments across the country renewed their focus on tackling the housing crisis – and received a lot of advice from many competing voices on how to do it.

The Federal Housing Advocate is responsible for making recommendations to improve Canada's housing laws, policies and programs in order to realize adequate, affordable and safe housing for all.

The independent, expert work of the Advocate has offered meaningful policy recommendations and solutions to decision-makers that are evidence-based and that reflect the voices of those who are most disadvantaged.

Governments at all levels are obliged to commit to human rights-based approaches that uphold the right to housing. The federal government must lead the way on implementing effective measures that strengthen Canada's housing system and lift people out of homelessness.

It is clear that any approach must put people bearing the brunt of the housing crisis at the centre of solutions. As governments invest resources, they need to understand that a housing crisis is a human rights crisis.

The Federal Housing Advocate reports annually to the Minister responsible for housing and can also submit recommendations at any time to the Minister, who is required to respond within 120 days of receiving those reports.

The 2024–2025 Annual Report is also made available to Members of Parliament, stakeholders and the Canadian public to provide a better understanding of the right to housing, the Office's activities, and highlight the Advocate's recommendations to improve housing outcomes for everyone living in Canada.

The Federal Housing Advocate calls upon the Minister of Housing, Infrastructure and Communities of Canada, the Prime Minister, other members of Cabinet and the Government of Canada to recognize and implement the following recommendations.

1) Reinforce accountability mechanisms under the National Housing Strategy Act

The federal government must reinforce and strengthen its engagement with the accountability mechanisms established under the National Housing Strategy Act (NHSA) while ensuring that they have long-term, sustainable funding.

A) Implement the recommendations of the Federal Housing Advocate and review panels.

- Develop an action plan to implement recommendations of the review panel on the financialization of purpose-built rental housing.
- Put in place a ban on forced evictions of encampments on federal lands and develop a comprehensive National Encampments Response Plan with input from all governments, including Indigenous governments, as well as advocates and people with experience living in encampments as outlined in the Advocate's report, Upholding Dignity and Human Rights. For more details, see recommendation 4B.
- Work with Inuit leaders and the governments of Newfoundland and Labrador, Nunatsiavut and Nunavut to implement the recommendations of the Federal Housing Advocate's Observational Report on Inuit Housing. For more details, see recommendations 3C, 3D and 3E.
- Work with Métis Nation – Saskatchewan and the Saskatchewan government to implement the recommendations of the Federal Housing Advocate's review of Métis housing conditions and the Minister's response letter in February 2025. For more details, see recommendation 3G.

B) Engage proactively in processes established under the NHSA.

- Ensure quarterly meetings between the Federal Housing Advocate and the Minister responsible for housing take place to discuss emerging systemic housing issues and the implementation of the Advocate's recommendations.
- Ensure federal departments engage in review panels, including the Neha review on housing challenges for women, Two Spirit, trans, and gender-diverse people and the Advocate's forthcoming request to establish a review panel on accessible housing, as well as Advocate-led reviews.

C) Ensure adequate funding for the interdependent mechanisms created under the NHSA.

- Provide sustainable funding for the Federal Housing Advocate, the National Housing Council and review panels to carry out their legislated functions and duties.
- Extend the funding for the Federal Housing Advocate beyond 2026 to align with the current timeframe of the National Housing Strategy and funding for the National Housing Council, which are funded until 2028.

D) Strengthen participatory processes and ensure adequate funding for civil society and rights holders to actively engage with the mechanisms created under the NHSA, as set out in section 5(2)(d) of the Act.

E) Ensure sufficient funding and the timely roll-out of the Tenant Protection Fund to facilitate community-based education, organizing and engagement, as well as bring forward systemic tenant housing issues to the accountability mechanisms under the NHSA.

2) Implement an all-of-government action approach to housing as a human right

Strong federal leadership and an all-of-government approach is needed to implement the human right to adequate housing as set out in Canadian law under the National Housing Strategy Act.

A) Demonstrate federal leadership and deepen public understanding by ensuring that the federal government's public communications use human rights language when discussing housing.

- Elected and unelected federal representatives must avoid using language that stigmatizes people experiencing homelessness and housing precarity.
- Ensure human rights obligations are explicitly included in housing and homelessness agreements with provinces, territories and municipalities.
- Provide all officials working on housing and homelessness policy and programs with training that includes a human rights-based approach, Indigenous rights, gender-based analysis, cultural safety and trauma and violence-informed approaches.
- Expand public education about the right to adequate housing and leverage existing tools developed by the Office of the Federal Housing Advocate and civil society.

B) Support evidence-based policy-making in the housing and homelessness sector by identifying and monitoring human rights-based outcomes, and collecting disaggregated data on housing experiences, gaps and barriers, particularly for disadvantaged groups.

C) Integrate human rights obligations into renewed federal agreements with other orders of government – including the Federal-Provincial-Territorial Housing Partnership Framework and bilateral agreements – to strengthen accountability mechanisms for the right to adequate housing.

3) Invest in First Nations, Inuit and Métis housing and infrastructure

The federal government must invest in housing and infrastructure for First Nations, Inuit and Métis, no matter where they live, to address historic neglect and respect commitments to reconciliation and the United Nations Declaration on the Rights of Indigenous Peoples.

A) Uphold the inherent rights of First Nations, Inuit and Métis people with regards to housing, as articulated under the United Nations Declaration on the Rights of Indigenous People Act (UNDA).

B) Deliver on the government's commitment to support the development of, and provide long-term funding for, an urban, rural and northern (URN) Indigenous housing strategy that is Indigenous-led. This funding must be allocated and rolled out swiftly.

C) Establish collaborative governance and accountability mechanisms for Nunatsiavut housing.

- Canada, Newfoundland and Labrador, and Nunatsiavut should create a formal working group to discuss and implement housing recommendations, including those contained in the Federal Housing Advocate's review. This includes designating an accountability position—within Newfoundland and Labrador Housing Corporation or potentially the Auditor General's office—to ensure oversight, transparency, and progress tracking on commitments made to Inuit housing and infrastructure needs.

D) Ensure sustainable housing solutions and provincial, federal engagement.

- The Government of Newfoundland and Labrador should commit to addressing the housing crisis in Nunatsiavut by repairing housing stock and transferring its care and control to the Nunatsiavut Government, while securing ongoing operational funding to maintain deep affordability alongside financing housing and assisting low-income owners. Additionally, a tripartite table should be established within the broader treaty implementation framework to align federal, provincial, and Nunatsiavut housing priorities—ensuring that any advancements made for Inuit in Nunatsiavut set a precedent for other Inuit treaty tables across Canada, where appropriate.

E) Strengthen political dialogue on housing commitments.

- The Government of Nunavut should engage in a high-level political meeting with Nunavut Tunngavik Incorporated (NTI) and the Federal Housing Advocate to advance the implementation of housing recommendations, including those set out in the Advocate's review. Discussions should focus on fulfilling Canada's fiduciary responsibility for Inuit housing and upholding treaty-like commitments made when Inuit were forced into settlements.

F) Develop a coordinated, long-term Inuit housing strategy.

- The Government of Canada, Government of Nunavut, and NTI should collaborate on a strategic, long-term plan to realize the Inuit right to housing, ensuring full implementation of NTI's Angirratsaliulauqta – Nunavut Inuit Housing Action Plan through sustained investment and policy alignment.

G) Strengthen federal engagement with the government of Métis Nation – Saskatchewan.

- Ensure that federal departments—particularly the department responsible for housing—commit to aligning their programs with the Fiscal Funding Agreement that underpins Métis Nation – Saskatchewan's inherent right to self-government. This includes transitioning away from proposal-based funding mechanisms and towards long-term, strategic housing solutions.

4) Strengthen the National Housing Strategy and Canada's Housing Plan

The federal government must strengthen existing programs and initiatives of the National Housing Strategy (NHS) and Canada's Housing Plan to prioritize housing outcomes for persons in greatest need.

A) Prioritise non-market housing and meeting the needs of people experiencing homelessness and housing precarity to address the gaps identified in the report: A Human Rights-Based Calculation of Canada's Housing Shortages.

- Embed an intersectional Gender-based Analysis Plus approach to reach those who are most marginalized in the current housing system, particularly women and 2SLGBTQQIA+ people, as well as people who are Black, Indigenous, or racialized, people with disabilities, people with low-incomes, immigrants, refugees and refugee claimants, older adults and youth.
- Establish a goal of non-market housing reaching at least 20% of rental stock. A shorter-term benchmark should be set to meet 7% as quickly as possible.

B) Monitor Community Encampment Response Plans delivered under the Unsheltered Homelessness and Encampments Initiative to ensure they implement a human rights-based approach and incorporate meaningful engagement with people living in encampments and local Indigenous leadership.

C) Ensure income supports, including the Canada Housing Benefit and the Canada Disability Benefit are indexed to inflation and designed to ensure housing stability.

D) Extend the Federal Community Housing Initiative, as outlined in the 2024 Fall Economic Statement, to keep low-income renters in their homes. While the FES initially outlined $362.7 million dollars over five years starting in 2028-2029, more should be done to explore how much funding is truly needed to meet the need.

E) Implement the measures identified in the Blueprint for a Renters' Bill of Rights, particularly related to rental assistance programs, eviction protections, and strong enforcement mechanisms to hold landlords accountable.

F) Embed accessible and adaptable housing guidelines into all housing strategies, including the National Building Code, so that all future dwellings are built without barriers and are easily adaptable.

G) Coordinate a government-wide response at the Ministerial level to uphold youth security of tenure based on the report Preventing Youth Homelessness and Evictions in Canada, including by convening a roundtable between the implicated Ministers and the authors of the report.

5) Lay the groundwork to begin shaping the next National Housing Strategy

The federal government must launch an engagement process in 2025–2026 to begin to inform the development of the next National Housing Strategy after 2028.

A) Work with the Federal Housing Advocate and the National Housing Council to identify participatory processes to include civil society and people experiencing inadequate housing and homelessness in designing the next National Housing Strategy.

B) Document lessons learned and address shortcomings identified in the National Housing Strategy, Canada's Housing Plan, and related programs to:

- Ensure explicit recognition of obligations under the United Nations Declaration on the Rights of Indigenous Peoples and the UN Declaration Act (UNDA) in future housing strategies and plans.
- Recognize discrimination as a systemic barrier to housing.
- Establish a cycle of evaluation and continuous improvement aligned with triennial reporting obligations, ensuring meaningful involvement of the Federal Housing Advocate and the National Housing Council—an aspect lacking in past reports.

The Advocate's first mandate

Housing advocates tirelessly campaigned for years to have Canada recognize the human right to adequate housing in domestic legislation. Their work led to the passing of the National Housing Strategy Act in 2019. The Act recognizes and enshrines housing as a human right in Canada's federal law.

It also creates important accountability mechanisms to uphold the right to housing, including the National Housing Strategy, the National Housing Council, and the role of the Federal Housing Advocate.

In February 2022, Marie-Josée Houle was appointed as the first Federal Housing Advocate for a three-year term. In the time since, we at the Office of the Federal Housing Advocate have worked hard to establish a strong foundation for upholding the right to housing in Canada.

The Office of the Federal Housing Advocate was pleased to welcome the re-appointment of Marie-Josée Houle, by order in council, who will continue serving as the Federal Housing Advocate for a three-year term from 2025–2028.

In her first term as Federal Housing Advocate, Ms. Houle used her mandate to spotlight key issues of national concern and provide evidence-based recommendations to address the housing and homelessness crisis. The end of this first mandate is an opportunity to look back on the work we have accomplished and the important milestones for the human right to housing in Canada along the way.

Reflecting on how far we have come will also help chart the course forward. We will continue monitoring and advancing the progress of our work so far, and looking ahead to future areas of focus that matter to Canadians.

Building the human right to housing

Building the right to housing in Canada is going to take all of us working together, and this is where the Advocate has a critical role to play. The Advocate acts as a unique bridge between people with lived experience on the ground, organizations in the housing and homelessness sector, and decision-makers that influence laws and policies.

Given that the National Housing Strategy Act is new in Canada, it's important that everyone understands what it means to recognize housing as a fundamental human right, and what accountability mechanisms were created by the Act in 2019.

Over the past three years, we have worked to build awareness of the human right to housing for both the public and government stakeholders. We did this in a few ways – from establishing important partnerships with civil society, to producing educational content, to speaking at events and conferences, to providing media interviews, to hearing from people experiencing homelessness and inadequate housing from coast to coast to coast.

This work is fundamental to building a culture of human rights so that people in Canada can know their rights and call on their decision-makers for change. At government level, this means creating a culture where a housing laws, policies and programs centre the right to housing as a default.

Here are some of the resources we produced:

- The right to housing in Canada (video)
- Advancing the right to housing for government duty bearers (video)
- About the National Housing Strategy Act (video)
- Towards a stronger National Housing Strategy: Meeting Canada's human rights obligations (report)
- What we heard report - Reclaiming the National Housing Strategy (report)
- Office of the Federal Housing Advocate's Submission to the UN Universal Periodic Review (report)
- The Federal Housing Advocate's Keynote Address to the Canadian Alliance to End Homelessness Conference (speech)
- Reimagining housing policy in Canada: First Nations leadership, vision and voices (speech)

Conducting evidence-based research

Establishing a knowledge base and understanding what issues are impacting people most are a critical part of building the right to housing in Canada.

Over the past three years, the Office of the Federal Housing Advocate worked closely with housing experts to conduct leading research on the right to housing in Canada. Drawing from this knowledge and expertise is essential to informing our work so that it is evidence-based.

This research helped to form the foundation of many of the Advocate's systemic reviews, referrals to the National Housing Council to form a review panel, written and oral submissions to the review panel once it is formed, testimony to House of Commons and Senate committees, and advocacy to governments.

Here is some of the research we produced:

A human rights-based calculation of Canada's housing shortages

This report, produced by housing policy expert Dr. Carolyn Whitzman, applied a human rights-based approach to the analysis of housing supply needs in Canada. Its calculations take into account housing needs across the country by income category, household size and priority population.

This new analysis of Canada's housing supply shortage found that it is missing 4.4 million homes that are affordable to people in housing need.

The figures show a current deficit of 3 million homes for low and very low-income households in housing need who can only afford less than $1,050 per month, and a further 1.4 million missing homes for moderate and median income households in housing need.

In other words, the creation of 4.4 million homes that are permanently affordable and accessible represents what is currently needed to restore affordability to Canada's housing system.

For the first time, the report includes students, those who are homeless, and people living in congregate housing – such as long-term care or supportive housing for people with disabilities – to the census count of people in "core housing need".

The report is a new way of looking at housing supply in Canada. It focuses on the circumstances of people who are being most affected by inadequate housing and homelessness, and what type of housing supply will actually meet their needs.

- A Human Rights-Based Calculation of Canada's Housing Shortages

Security of tenure

Everyone has a right to feel stable in their home, to know they can stay there long-term without being displaced. This is known as security of tenure, and it is an essential part of the human right to adequate housing.

Yet in Canada, tenants face housing insecurity and evictions, which have catastrophic effects on their well-being, employment, and child development.

This series of reports, authored by legal experts, confirm that evictions in Canada contravene human rights law. For example, international law forbids eviction into homelessness, and says that tribunals must consider all possible alternatives before forcing a household out of their home. In contrast, in Canada, it is not uncommon for a family to be evicted for rent payment arrears equivalent to one month's rent or less, rather than be offered a repayment plan. Meanwhile, only a tiny minority of tenants facing eviction have access to legal representation, despite the seriousness of losing their homes.

The reports also confirm that people who are members of disadvantaged groups are disproportionately impacted by evictions. This suggests systemic discrimination, in contravention of national and provincial human rights legislation.

Submissions the Advocate received between May 2022 and April 2025 confirm the prevalence of this issue, as 37% of people who submitted said they had been evicted or lost their housing. For tenants, 41% said they were forced to move from a place they have rented – in more than half of cases (64%) these were "no-fault" evictions initiated by the landlord for their own use, renovation, or sale of the property.

- Security of Tenure in Canada: Summary Report
- The Right to Counsel for Tenants Facing Eviction
- International Jurisprudence
- Eviction and International Obligations
- Race and Security of Housing
- Systemic Barriers for First Nations People
- Issues for Persons with Disabilities
- Federal Obligations and Encampments: Security of Tenure in Canada

Spotlighting key issues

The driving focus at the heart of our mandate is to shine a spotlight on systemic issues that are denying people their human right to housing. The goal is to make recommendations to governments on how system-wide failures can be fixed. We also take a human rights-based approach that prioritizes those who are impacted by the housing and homelessness crisis the most. Theirs are voices that have too often been forgotten by the usual mechanisms and policies: the voices of people who are justice involved, who are struggling with addiction, who are racialized, Indigenous, gender diverse, women, 2SLGBTQQIA+, veterans, seniors, survivors of domestic violence, people with disabilities, youth, and newcomers to Canada.

Bringing these key issues into the spotlight and advocating for change is a critical function of the Advocate's role. The Advocate brings together researchers, civil society, and rights-holders to find solutions that get to the root of the housing and homelessness crisis.

In the last three years, we brought to light several key issues that are violating people's right to housing in Canada – from financialization, to homeless encampments, to housing for Inuit and Métis, and many others. Here are just a few examples.

The financialization of housing

Our work on financialization helped bring this issue into the national spotlight. We conducted research in partnership with some of Canada's top housing experts to understand how financialization is contributing to housing unaffordability and violating people's human rights.

Private equity firms, pension funds, and real estate investment trusts (REITs) are increasingly acquiring, operating, and developing housing as an investment strategy, with the aim of maximizing returns for shareholders. This phenomenon, known as the financialization of housing, is denying members of disadvantaged groups their fundamental human rights.

The Advocate worked with researchers to better understand financialization and how it is manifesting in Canada. The reports confirm this trend is having the greatest impact on disadvantaged groups, and is linked to unaffordable rents, evictions, and long-term care deaths. The research found that 20-30% of Canada's rental housing is financialized.

As a result of this research, the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) initiated a study into the practice of financialization in Canada. In May 2023, the Advocate and the researchers were invited to speak to the Committee on this important issue. The Advocate told the Committee that curbing financialization is a key way that governments can help address Canada's larger housing crisis, and recommended the Committee look into options like tax reforms that make financialization less profitable, tracking the ownership of financialized housing stock, and regulating the involvement of pension funds that invest in financialization. The Committee's final report included key recommendations that were informed by the Advocate's work.

At the same time, the Advocate also requested the National Housing Council examine the financialization of purpose-built rental housing in a public review panel. The Advocate provided a written submission as well as an oral presentation with her findings and recommendations on the issue during the review panel process. The review panel issued its final report in 2024 with recommended actions that the government of Canada should take to address the financialization of housing, which was submitted to the federal Minister of Housing, Infrastructure and Communities. In the 2024 budget, the federal government recognized the need to act on financialization and promised further action in the 2024 fall economic statement.

Research series

- The Financialization of Housing in Canada: Project Summary Report
- The Uneven Racialized Impacts of Financialization
- Housing Financialization: The International Landscape
- The Financialization of Seniors' Housing in Canada
- The Financialization of Multi-Family Rental Housing in Canada
- The Impact of Financialization on Tenants

A human rights-based approach to encampments

Homeless encampments constitute one of the most serious right-to-housing issues in Canada today. A different approach is needed to better respond to this humanitarian crisis and violation of people's human rights in Canada.

The Federal Housing Advocate continues to be one of the county's top voices advocating for the human rights of encampment residents. This stems from our work conducting a national systemic review of encampments in Canada, launched in 2023.

The Advocate spoke with encampment residents, local advocates, Indigenous leaders and municipal governments across the country to better understand their experiences and arrive at solutions. We also received written submissions online from 313 people with lived experience in encampments. Another 53 advocates, organizations and municipalities shared their perspectives and observations. These observations were summarized in an interim report published in October 2023.

What we heard is that encampment residents know what is required to meet their most pressing needs. Above all, it comes down to having adequate housing. What is lacking is sufficient resources and coordination amongst governments, as well as the commitment to meaningfully engage with encampment residents.

The recommendations in the Advocate's final report urged the federal government to lead on this issue by developing a national encampments response plan that upholds the dignity and rights of people living in encampments, as well as offers permanent housing and long-term solutions.

This resulted in the federal government allotting $250 million in the 2024 budget for human rights-based encampment responses, to be matched by the provinces and territories for up to $500 million in funding. Critically, the recognition of the need for a human rights-based approach to encampments is an important shift in direction. Our advocacy at all levels of government has moved the needle on ensuring that the human rights and dignity of people living in encampments are respected and upheld.

Upholding dignity and human rights: The Federal Housing Advocate's Review of Homeless Encampments

- Interim report
- Final report
- Fact sheets for provinces and territories
- Fact sheets for municipalities

To support her review, the Advocate worked with researchers to understand this issue by mobilizing case studies, media scans, and literature and policy reviews. This research illuminates the human rights dimensions of encampments across Canada. The studies prepared for the Office of the Federal Housing Advocate reinforce the conclusion that a human rights-based approach to encampments is long overdue.

- Overview of Encampments Across Canada: A Right to Housing Approach
- Encampments and Legal Obligations: Evolving Rights and Relationships
- Living on the Street: Rethinking our Response to Homelessness
- Case study – Hamilton, ON
- Case study – Montréal, Sherbrooke, and Gatineau, QC
- Case study – Prince George, BC
- Case study – Toronto, ON
- Case study – Vancouver, BC

The right to housing for Inuit, Métis and First Nations

The Advocate has also exposed the serious underfunding and lack of safe housing infrastructure for Indigenous communities. In October 2022, the Advocate travelled to Nunavut and Nunatsiavut in partnership with Nunavut Tunngavik Inc. and the Nunatsiavut Government to learn more about housing in Inuit communities, and visit people and organizations firsthand. The housing conditions there are dire, and the result of a failure by multiple levels of government to invest in and respect the human right to housing for Inuit.

The co-developed report documents these conditions, and at the same time, identifies long-term and sustainable solutions and a roadmap of recommendations to governments. We have met with federal ministers, members of Parliament, and senators to discuss the report. The Advocate also engaged with the Premier of Newfoundland and Labrador on the recommendations that can be implemented in the province. The report continues to be an advocacy tool that we are using to engage with the federal, provincial and territorial governments on these critical issues, and to push for action.

- Federal Housing Advocate's Observational Report: Inuit Housing

The Advocate worked with the Métis Nation – Saskatchewan to raise serious concerns about the high rate of housing precarity and homelessness in Métis communities across the province. The co-developed recommendations will continue to be an important advocacy tool for the Metis Nation – Saskatchewan in the province and at the federal treaty negotiation table. The report also spurred meetings with Parliamentarians and Senators to advance the recommendations. (see the section of this report "Advocating for the right to housing for Métis in Saskatchewan" for more details.)

- Claiming the right to housing: The Federal Housing Advocate's review of Métis housing conditions, in partnership with the government of Métis Nation – Saskatchewan

The need for governments to invest in non-market housing

The Advocate has called on the federal government to lead the way in creating permanently affordable, accessible non-market housing to meet the needs of a wide range of people.

On National (Right to) Housing Day on November 22, 2023, the Federal Housing Advocate co-hosted a webinar entitled “Making the best of public money for public good” with the National Right to Housing Network. The event brought together experts in the field to share their knowledge and advice on how to scale up non-market housing in Canada. It also gave participants the opportunity to share their ideas.

This event provided the foundation that enabled the Advocate to speak out and build recommendations to governments.

In September 2023, the Federal Housing Advocate published an opinion piece in the Toronto Star, calling on the federal government to take the lead on creating housing that prioritizes people’s human right to housing over profit. Investing in non-market housing is the way out of the housing crisis.

At her appearance before the House of Commons Standing Committee on Finance (FINA) in November 2023 and February 2024, the Advocate’s recommendations included prioritizing non-market housing investments for the National Housing Strategy’s $82-billion budget, creating an acquisition fund for non-market and Indigenous housing providers to buy, repair and operate existing buildings, and pushing for strong rent stabilization measures and tenant protections across Canada.

The Advocate’s advocacy on the need for governments to invest in non-market housing helped to spur the creation of an acquisition fund in the 2024 budget so that non-profit housing providers can buy new affordable buildings.

The Advocate’s message to decision-makers continues to be that investing in non-market housing is the way out of the housing crisis. Non-market housing creates permanently affordable, accessible housing to meet the needs of a wide range of people. It is the best use of taxpayer dollars for public good in housing, as it benefits everyone. Most importantly, non-market housing is not inflationary — it will not raise housing prices in the private housing market.

- What We Heard – Non-market housing as a solution to the housing crisis
- Op-ed – Prioritizing people over profit is the way forward on the housing crisis

Driving change from governments

Governments have an essential role to play in making sure every person can have their right to housing upheld. Canada has recognized housing as human right in federal law and in international treaties. As a housing rights watchdog, the Advocate's role is to hold all levels of government, in particular the federal government, to account for their human rights obligations.

Over the past three years, the Advocate's work has focused on amplifying the voices of people impacted by inadequate housing and homelessness and ensuring they reach decision-makers. The Advocate uses what she heard in combination with our research and reviews of key issues to push for change at all levels of government.

The Advocate is also an important resource for governments, who can draw on her research and recommendations to guide their decision-making. She has appeared before federal committees to offer recommendations to decision-makers and met with governments on their human rights obligations. As we continue to convey our research and recommendations, and to highlight concerns to decision-makers, we are seeing progress.

Letters of concern

When it comes to encampments, the Advocate's final report includes recommendations aimed at the federal government as well as provincial, territorial and municipal governments. She has been engaging with all levels of government as to how they can implement them in their jurisdictions. We have also sent letters of concern to a number of municipalities that are evicting encampments in order to highlight the harm these types of approaches cause and suggest effective solutions that are based on human rights. In some instances, these were published as Open letters.

- Open letter to Premiers: Respect the human rights of encampment residents
- Open letter – CRAB Park
- Open letter – Barrie
- Open letter – Vancouver
- Open letter – Prince George

The Advocate has also issued two open letters to urge decision-makers to adopt accessible, adaptable, and inclusive housing – particularly as new buildings are being built with federal funding. This is essential to ensure that all people in Canada have access to a range of housing options that meet their needs and that allow them to age in place. The lack of comprehensive accessibility requirements in Canada's building codes is not consistent with Canada's international and domestic human rights obligations, as embodied in the National Housing Strategy Act, the Charter of Rights and Freedoms, and the UN Convention on the Rights of Persons with Disabilities. It is also contrary to the spirit of the Canadian Human Rights Act and the Accessible Canada Act, which commits the federal government to creating a Canada without barriers by 2040. Accessibility Standards Canada, created by the Government of Canada to advance the Accessible Canada Act, has developed an Accessible Dwelling Standard and is developing an Accessible Ready Housing Standard to meet these needs.

- Open letter – universal design and accessible housing
- Open letter – accessible housing and the National Building Code

Budget 2024

The 2024 Federal Budget and the release of Canada's Housing Plan established a foundation to build on. They were a step forward towards recognizing and solving the housing and homelessness crisis we are in.

The budget and the housing plan include targeted programs and new money across the board on some key systemic issues and initiatives that we, and other advocates, had been recommending – like non-market housing, combatting financialization, and encampments.

Seeing these documents echo the recommendations made by the Advocate in the last three years demonstrates our effectiveness in driving important policy changes to uphold the human right to housing for all.

Non-market housing: Greater federal investment in non-market housing is a historic move in the right direction and echoes the recommendations we made to decision-makers. The budget includes quite new announcements for co-ops and innovative plans to build affordable housing on public lands. However, this work is not over. We need a short-term plan to double Canada's non-market housing supply from 3.5% to 7%, and cooperation over the long term to bring that number up to 20%.

Combatting financialization: The government created a Canada Rental Protection Fund to address long-standing calls to enable community housing providers to secure affordable rental units that are at-risk of being financialized though being sold to investors. A non-market acquisition fund is welcome news. Helping non-market groups buy, repair, and operate existing affordable properties will help to slow the financialization of housing. This echoes the recommendations we made to decision-makers.

Encampments: Funding for local and human rights-based approaches to support encampment residents is a positive step. This program, offering $250 million of new federal funding that can be matched by the provinces and territories, is the direct result of the Advocate's recommendations.

Renters' Bill of Rights: We need more protections for tenants against unreasonable rental increases, bad faith evictions, and legal aid for renters when their rights are threatened. There is currently a patchwork of legal protections for renters that vary widely across the country. The Renter's Bill of Rights proposes some of these measures. Acknowledging that there is a need for a national standard for renters is a positive sign. This echoes the recommendations we made to decision-makers.

Resourcing rights claimants: A fund called the Tenant Protection Fund was created following a feasibility study funded by the Advocate which assessed the costs of undertaking a systemic review submitted to the Federal Housing Advocate. This feasibility study informed the creation of the Tenant Protection Fund, which enables tenants' rights organizations to, among other things, claim their right to housing by researching systemic housing issues that can be brought to the Federal Housing Advocate. It also increases access to justice for tenants through resources, advice and information. This fund further reduces barriers to justice and supports tenants in navigating and overcoming tenant legal matters.

Connecting with people

Engaging with other organizations in the housing and homelessness sector helps the Federal Housing Advocate make real connections with people and combine our advocacy efforts. Whether she is giving speeches, engaging with stakeholders, or conducting site visits, these opportunities to collaborate and connect with people are invaluable.

Over the past three years, the Advocate attended over 300 events and engagements across Canada. Here are just a few examples of some of the people we've worked with and events we've attended:

- The National Right to Housing Network
- The Women's National Housing & Homelessness Network
- Housing on the Hill Day, an event on Parliament Hill that brings together people on the front lines of the housing crisis with members of Parliament and policy-makers
- John Humphrey Centre for Peace and Human Rights
- Canadian Housing Renewal Association Congress
- Assembly of First Nations Housing Forums 2022 & 2023
- Métis Nation – Saskatchewan Housing and Homelessness Conference
- Congress of Aboriginal Peoples National Housing Engagement, 2023
- Métis National Council Housing Gathering, 2023
- National Aboriginal Friendship Centre Gathering
- Federation of Canadian Municipalities, Big City Mayors Caucus
- Manitoba Non-Profit Housing Association Annual Conference
- Federal and Provincial Deputy Minister Housing Forum – Senior Officials – 2022
- Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA)
- Co-operative Housing Federation of Canada
- Institute of Global Homelessness and National Homelessness Policy Working Group
- The Progressive Senator Group 2023
- Pan-Canadian Women's Voice for Housing Annual Symposium 2023
- Canadian Network for Equity and Racial Justice

- United Way Canada
- Calgary Homelessness Foundation
- ACORN Canada
- Atira Women's Resource Society: Pan-Canadian Voice for Women's Housing symposium
- CAEH National Conference on Ending Homelessness
- British Columbia's Office of the Human Rights Commissioner – Behind the Headlines Commissioner Conversations
- Nova Scotia Human Rights Commission Panel on Human Rights and the Unhoused
- Canadian Association of Statutory Human Rights Agencies
- Homeless Hub
- Canada 211
- Canada's Chief Accessibility Officer
- Accessibility Standards Canada

The Advocate and her office speak out so that people in Canada, decision-makers, and advocates across the country can join us in making change to systemic housing issues across the country. Over the last three years, we raised awareness and amplified people's experiences by speaking out in the media, online, and in-person. This work often touched on key themes of advocacy, housing as a human right, and collaboration at all levels to develop solutions.

Over the last three years, the Federal Housing Advocate appeared in over 1,500 media pieces across television, radio and print. Here are just a few examples:

- Houle: Yes, you should be angry about homeless encampments – Ottawa Citizen, op-ed
- Encampments are a human rights crisis – Power and Politics
- Tent encampments prove 'exactly how broken' Canada's system is, federal housing advocate says – CBC News
- Ottawa pressed to develop national response to homeless encampments – The Globe and Mail
- Federal housing advocate pushes back against Quebec plans to dismantle homeless encampment – CBC News
- Federal housing advocate says Indigenous people grossly overrepresented in Canada's homeless population – APTN News

- ‘A staggering failure’: Report blasts governments over state of Inuit housing – Nunatsiaq News
- Abbott pledges support for Nunatsiavut housing after federal advocate calls it ‘abominable’ – CBC News
- Too much rental stock owned by investors, federal housing advocate tells MPs – Global News
- 3 million more Canadians in housing need than CMHC estimates suggest: report – Global News

Bringing marginalized voices forward

Since its launch in 2022, the Federal Housing Advocate has received over 750 submissions from the public and more than 60 from organizations from the online submission tool and her engagement processes. Of these, 400 were received from the online tool and 350 were received in person, mainly through a special collection of submissions on the topic of encampments.

These submissions have highlighted systemic issues such as unaffordable rents, unsafe living conditions, and housing discrimination. Many accounts reveal the struggles of marginalized groups, including women and gender diverse individuals, who face increased risks in shelters and encampments.

The submissions inform the Federal Housing Advocate's reports, policy recommendations, and referrals to the National Housing Council. By analyzing trends and engaging policy-makers, the tool helps push for legislative reforms, increased funding, and stronger housing protections. Ultimately, it strengthens accountability and reinforces the recognition of adequate housing as a fundamental human right in Canada.

Over the past three years, submissions consistently highlighted the critical lack of basic services for individuals experiencing homelessness, including inadequate access to showers, toilets, clean water, and food preparation spaces. The absence of such services is especially concerning during extreme weather conditions. Forced evictions and clearances were frequently reported, with personal belongings often seized or discarded, and interactions with police and city workers described as dehumanizing and violent.

Emergency shelters were widely criticized for being overburdened, underfunded, and lacking privacy and safety features. Indigenous peoples and vulnerable groups, including women, 2SLGBTQQIA+ individuals, and those with pets, often face exclusion and are forced into unsafe alternatives. While many residents view encampments as offering relative safety and community support, they also suffer from a severe lack of accessible health, mental health, and addiction services, further exacerbating physical and psychological harm.

Social stigma and discrimination are persistent challenges, with frequent harassment and criminalization of homelessness. Despite systemic neglect, encampments have become vital sites for grassroots mutual aid and community care.

There is a clear call for all levels of government to develop comprehensive, wrap-around services that integrate housing, mental health care, addiction support, and legal assistance, while respecting individuals' dignity and autonomy. Participants also demand significant investment in affordable housing, increased public education, and trauma-informed training to reduce stigma and foster empathy in the community. These solutions are seen as essential for addressing the housing crisis and supporting marginalized individuals in their struggle for dignity and inclusion.

- Housing submission tool – your voice matters! (video)

THIS IS **EXHIBIT "D"** REFERRED TO
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B-1-10113

Putting people first

The Federal Housing Advocate's
2023–2024 Annual Report to the Minister

Office of the Federal Housing Advocate
Bureau du défenseur fédéral du logement

B-1-10113

Canadian Human Rights Commission
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Federal Housing Advocate's message

As Canada's first Federal Housing Advocate, it is my pleasure to present my 2023-2024 Annual Report that details the work my office and I did last year.

Our most important role is to listen to people on the front lines of Canada's housing and homelessness crisis, and to amplify their voices to decision-makers. To advocate for systemic change so that every person in Canada has their right to housing respected. And to move us towards the goal of a safe, affordable, and adequate home for all.

It has been almost five years since the federal government passed the National Housing Strategy Act, which recognized housing as a human right in Canada. The Act also established accountability mechanisms, like the Federal Housing Advocate, to ensure that this right is upheld.

But it is clear the housing situation in Canada has reached a crisis point. While there has been some progress, we have much work ahead of us.

That is because the issues plaguing our housing system are systemic – they are complex, intersectional, and can seem overwhelming. Canada is a huge country, where people have many diverse housing needs.

People experiencing homelessness, and those living in inadequate housing, are often in these intolerable situations due to systemic issues. The financialization of housing, a serious lack of affordable housing, barriers to accessible housing, and systemic discrimination are contributing to the situation. For Indigenous peoples, there are often no options for adequate housing where they live. For people experiencing homelessness, shelters are limited and not always appropriate, and people have resorted to living in encampments because there is nowhere else safe to go.

It is heartening to see that the national conversation about housing has evolved to greater awareness of people who are in the most disadvantaged housing circumstances. As I talked to people across Canada this past year, I saw a shift in empathy. People are beginning to understand what a human rights-based approach to housing is, and especially the role of governments in making housing accessible for everyone in Canada, not just those who wish to buy a home.

Throughout the in-person engagement I've had this year, I saw that many people on the ground, including municipalities, do not have the resources they need to do the right thing for their communities or to enact the system-wide change that is so badly needed.

I also know that there is a gap in information about housing precarity and homelessness in rural, remote and Northern settings in Canada. There is a need for more research, direct engagement, and public discourse on the realities and solutions for these regions, where the needs are different.

There are ways we can create real and sustainable change, starting with the federal government. Today, Canada needs strong federal leadership to fulfil the promise of housing as a human right.

We need leadership and resources at the national level to end inadequate housing and homelessness across the entire country. We also need people on the ground in each place to take my recommendations, and the initiatives of the federal government, and implement them based on what each community needs.

The good news is that governments are starting to listen. Last year, I engaged with the federal, provincial, territorial and municipal governments to make progress on these systemic issues. This advocacy is not just mine – I am proud to stand alongside Indigenous peoples, people experiencing homelessness, and powerful community advocates to co-develop recommendations and push for governments to change.

Canada has the capacity to end the housing and homelessness crisis.

It is critical the federal government invests in non-market housing. Public money should be used for the public good. The federal government needs to support non-market housing — co-operative, nonprofit and public housing — that is permanently affordable and accessible.

This requires a human rights approach that puts people first. We must prioritize housing that is safe, healthy, and affordable for everyone — from students, to newcomers, to people with low incomes. We must prioritize housing for people with disabilities, seniors, and families. And this housing must remain affordable in perpetuity, so we don't find ourselves here again in another generation.

This is a complex problem that requires many solutions. All levels of government have a role to play in funding and building non-market housing. But the federal government has the responsibility to lead the way.

All of us, working together, can make the right to housing real for everyone, by making sure that it is a top priority for governments — especially for our federal leadership.

In 2019, with the passing of the National Housing Strategy Act, Canada committed itself to the "progressive realization" of the right to housing. It is my sincere hope that this report will help the federal government to accelerate that progress. We need everyone at the table to create lasting change.

Sincerely,
Marie-Josée Houle,
Federal Housing Advocate

Key issues and actions of 2023–2024

Housing markets have been discussed considerably in the past year by people in Canada, the media, Parliamentarians, and the Bank of Canada. However, housing affordability goes beyond just interest rates and private home ownership.

People in the most vulnerable circumstances in Canada face multiple, systemic barriers to their right to adequate housing. The federal government and decision-makers at all levels have a duty to address these systemic issues so that everyone has a safe, secure, affordable and dignified place to live.

The urgent need for non-market housing

While Canada needs more housing supply across the board, it must be the right type of supply that also responds to those in greatest need.

Disadvantaged groups are disproportionately affected by the housing crisis – like people who are low-income, racialized, veterans, Indigenous, 2SLGBTQQIA+, seniors, people with disabilities, and newcomers, to name a few. They are falling further behind.

Many are clinging to inadequate housing because they have no other choice. Others are one missed paycheque away from homelessness. People living in encampments have no other place to go.

Investing in non-market housing is the way out of the housing crisis. Public money should support non-market housing – cooperative, non-profit, and public housing – that is permanently affordable and accessible.

Non-market housing creates permanently affordable, accessible housing to meet the needs of a wide range of people. It is the best use of taxpayer dollars for public good in housing, as it benefits everyone. Most importantly, non-market housing is not inflationary — it will not raise housing prices in the private housing market.

In the last 30 years, Canada stopped investing in non-market housing. This change in priorities that has benefited the private housing market – with disadvantaged groups falling further behind into precarious and inadequate housing or homelessness.

After decades of federal neglect in social and affordable housing, recent years have seen renewed federal investments in housing with the National Housing Strategy and its $82+ billion commitment to fixing the housing crisis in Canada.

But more than half-way into the 10-year Strategy, evidence demonstrates that the vast majority of housing produced by National Housing Strategy programs is not affordable or suitable for households experiencing homelessness or in core housing need.

Now is the time to align the National Housing Strategy with the National Housing Strategy Act. The Strategy must embrace human rights-based approaches that put people first, including prioritizing the expansion of non-market housing.

For example, this can be done by attaching conditions to federal infrastructure funding that mandate the creation of non-market housing in new housing projects, and creating a fund for non-market and Indigenous housing providers to buy, repair and operate existing buildings.

It is clear that more non-market housing is the answer to restore the health of Canada’s housing system.

Using a human rights-based approach to estimate Canada's supply shortage

In November, a report released by the Federal Housing Advocate's office used a human rights-based approach to analyse Canada's housing supply and found there is a shortage of 4.4 million homes that are affordable for people in housing need.

Produced by housing policy expert Carolyn Whitzman, the report applied a human rights-based approach to the analysis of housing supply needs in Canada by income category, household size and priority population. It also, for the first time, included students, people experiencing homelessness, and people living in congregate housing – such as long-term care or supportive housing for people with disabilities – in the category of people in "core housing need."

The figures show a current deficit of 3 million homes for low- and very-low-income households in housing need who can only afford less than $1,050 per month, and a further 1.4 million missing homes for moderate- and median-income households in housing need.

In other words, the creation of 4.4 million homes that are permanently affordable and accessible represents what is currently needed to restore affordability to Canada's housing system.

Using a human rights framework to estimate future housing supply need for the next decade, the report also projects that Canadians will need an additional 9.6 million new homes in the next 10 years — with a third of this supply dedicated for very-low to moderate income households. Only non-market housing with significant government subsidies can achieve rents low enough to meet this need.

The report is a new way of looking at housing supply in Canada. It focuses on the circumstances of people who are being most affected by inadequate housing and homelessness, and what type of housing supply will actually meet their needs.

Making recommendations to decision-makers

In November 2023 and February 2024, the Federal Housing Advocate appeared before the House of Commons Standing Committee on Finance (FINA) to discuss how the government's finance policy can restore affordability to Canada's housing system.

The Advocate emphasized three key actions the government can take – chief among them that the federal government lead the way in creating permanently affordable, accessible non-market housing. She also recommended that the federal government implement tax reforms to make financialization less profitable and protect renters from cost increases.

To meet the needs of a wide-range of people, the Advocate made the following recommendations:

- Prioritizing non-market housing investments for the National Housing Strategy's $82-billion budget.
- Creating an acquisition fund for non-market and Indigenous housing providers to buy, repair and operate existing buildings.
- Attaching conditions to federal infrastructure funding that mandate the creation of non-market housing in new projects.
- Pushing for strong rent stabilization measures and tenant protections across Canada.
- Amending federal policies related to pension fund investments and taxation of real estate investment trusts.
- Collecting better data on financialization.
- Providing better accountability when taxpayer funds are spent on incentives to the private sector.

Financialization and the harm it is causing to people in Canada

The “financialization” of housing means that housing is treated as a commodity – a vehicle for wealth and investment – rather than a human right and a social good for people and communities.

Financialization refers to the growing dominance of financial actors in the housing sector. This started in the 1990s when Canada allowed the creation of real estate investment trusts and permitted pension funds to invest in financial markets and instruments.

Financialization treats housing like a financial asset and a tool for investor profits, instead of a fundamental human right for everyone. Our research estimates 20-30 % of Canada’s rental housing is financialized, with disadvantaged groups most impacted.

How financialization affects housing security

Often, financialization sees large investors buy up affordable apartment buildings.

Then, these entities turn them into a product for investors. Profit-making strategies for financial firms investing in housing involve extracting more from residents, and often involve displacement. These firms dramatically increase rents, cut maintenance services, and evict existing tenants to grow their profits.

It is not new these buildings are privately owned. What IS new, is they are owned by large institutional investors whose obligation is maximizing returns for shareholders.

Financialization is contributing to housing unaffordability and violating people’s human rights. The result of financialization is that disadvantaged groups are forced to spend disproportionate amounts of their income on housing and have less money for food, medicine, childcare and other needs. Many cannot afford adequate housing of any kind and are faced with the choice of living in precarious housing, temporary shelters, or informal encampments.

Making recommendations to decision-makers

In May 2023, the Federal Housing Advocate appeared before the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) to speak on the topic of financialization. The Committee's study was initiated in response to research commissioned by the Advocate's office on this issue, and the researchers also joined the committee's proceedings.

The Advocate emphasized the real harm that financialization is causing to people in Canada by denying them their right to housing and by harming affordable housing supply. She spoke about the issue of financialization being widespread and the way it has negatively shaped Canada's housing system. She emphasized that financialization is a serious human rights issue that has real world consequences. Finally, she told the Committee that curbing financialization is a key way that governments can help address Canada's larger housing crisis.

The Advocate's primary message to the committee was that all available federal resources must be mobilized towards the most disadvantaged groups as a matter of priority, with all appropriate means – including policies and legislation – taken to address adequate housing for these groups. She also called for a coordinated approach across all levels of government.

The Advocate invited the Committee to look at options such as:

- Tracking the ownership of financialized housing stock.
- Better monitoring of tenant rights before, during and after the acquisition of property to prevent evictions, human rights violations, and harassment.
- Expanding the supply of non-market housing.
- Tax reforms that make financialization less profitable, especially for real estate investment trusts (REITS).
- Regulating the involvement of pension funds that invest in financialization.

Review panel on financialization

In 2023–2024, the National Housing Council held its first review panel on the financialization of housing as a result of the Advocate's request in 2022.

The hearings, focused on the Financialization of purpose-built rental housing, examined topics such as:

- The impact of the financialization of purpose-built rental housing on the enjoyment of the human right to adequate housing and its progressive realization.
- The federal role on this issue, including laws, policies, programs, regulations, and other actions or inactions that may be exacerbating the financialization of purpose-built rental housing and the negative impacts associated with it.
- Solutions within the jurisdiction of Parliament to address the financialization of housing in order to protect the right to adequate housing and advance its progressive realization in Canada, which may include opportunities to work with provincial, territorial and municipal levels of government to take measures to achieve these ends.

The review panel is an opportunity for public participation, and the hearings included organizations with expertise in human rights, members of affected communities and the organizations that represent them, and representatives from the rental housing sector in Canada. The Federal Housing Advocate contributed written and oral presentations to the hearings.

The review panel – made up of three members of the National Housing Council – is expected issue a report in 2024 with its opinion and recommended actions that the government of Canada should take to address the financialization of housing. The report will be submitted to the federal Minister of Housing, Infrastructure and Communities.

Read more about the review panel.

Upholding the rights of people living in homeless encampments

One of the most visible and most serious failures of governments to protect the human right to adequate housing is a noticeable rise in encampments across Canada.

Encampments are temporary outdoor campsites on public property or privately owned land. People living in encampments experience some of the most vulnerable circumstances in our society. Many are dealing with the combined effects of the housing crisis, the health crisis brought on by the pandemic, and a severe economic downturn. They have often faced discrimination linked to the historical legacy of colonialism, racism, sexism, ableism, and other forms of marginalization.

The Advocate's report on encampments, published this year, affirms that First Nations, Inuit and Métis people are disproportionately overrepresented among those who experience homelessness and are living in encampments. The report calls for immediate solutions to support encampment residents, and for governments at all levels to respect Indigenous rights as affirmed by the United Nations Declaration on the Rights of Indigenous Peoples.

As well, many social services and shelters are at maximum capacity or are not appropriate for the individual needs or circumstances of individuals experiencing homelessness — including Two-Spirit, trans, and non-binary people.

Living in encampments, residents frequently experience harassment and violence from police, by-law officers, and the public. Most do not have access to basic services like clean water or heat. Many have suffered harm or have died as a result of exposure, fire, overdose, and other threats to life and safety.

The rise of encampments in Canada is a human rights issue that needs urgent action. All levels of government have a responsibility to find permanent, adequate housing solutions for everyone experiencing homelessness.

Listening to residents of encampments

In February 2023, the Federal Housing Advocate launched a review of homeless encampments — the first Advocate-led review of a systemic housing issue — to understand the experiences of encampment residents across the country and explore potential solutions.

The Advocate released an interim report in October 2023, and a final report in February 2024. The interim report summarized the experiences and information shared with the Advocate during in-person meetings with encampment residents across the country, and 366 submissions received from individuals and organizations between April and July 2023. The final report focused on the Advocate's recommendations to start to solve this crisis.

The interim report reflected the experiences and concerns shared by encampment residents, allies, and municipalities. The Advocate heard that there is an urgent need for solutions designed and implemented using a human rights-based approach that upholds the human rights and dignity of encampment residents while simultaneously addressing the systemic failures that are contributing to the situation. People also said many times that there is a need to change the conversation about encampments and to recognize that encampments are a symptom of systemic failures and not the fault of individuals.

One of the biggest challenges in addressing the issue of encampments is that governments have taken a top-down approach that does not include the perspectives, or respect the agency, of diverse encampment residents. To address this, the Advocate heard many potential solutions directly from the people who have experienced living in encampments. In considering these solutions, the complexity of the issues will require a whole-of-government approach. For example, municipalities are the first line of response to encampments, but are often not empowered and generally not adequately resourced to meet the complex housing and public health crises growing in their communities.

The interim report is the foundation for a deeper reflection and engagement with rights holders, allies, Indigenous governments and representative organizations as well as provincial, territorial, municipal and federal governments. These discussions helped to inform the findings and recommendations in the Advocate's final report.

Advocating for the rights of residents of encampments

In February 2024, The Advocate released her final report on encampments that called for a national response to the human rights crisis facing people living in encampments.

Encampments are not a safe or sustainable solution for housing. For people living in encampments, every day is a matter of life and death.

The report examined the factors leading to the rise in encampments across Canada, and most importantly, the concrete measures that must be taken by governments to fulfil their human rights responsibilities and reduce or eliminate the need for encampments. The report included recommendations aimed at the federal government as well as provincial, territorial and municipal governments.

The Advocate's final report issued an urgent call to action to governments at all levels to uphold the human rights and right to housing of encampment residents.

The Advocate recommended that the federal government establish a National Encampment Response Plan by August 31, 2024. The Plan must drive urgent action at all levels of government that will:

- **Act immediately to save lives**, including by ensuring that people living in encampments have access to the basic necessities they need to survive and live in dignity.

  This includes access to clean water, sanitation, food, heating and cooling, accessibility supports, healthcare, and harm reduction.

- **End forced evictions of encampments** and put in place alternatives that are designed following meaningful engagement with encampment residents.

  Forced encampment evictions make people more unsafe and expose them to a greater risk of harm and violence. The role of police and by-law officers should be de-emphasized in responses to encampments.

- **Work with all governments and provide support to municipalities.**

  Immediately convene meetings with provinces, territories, and municipalities to coordinate an all-of-government response. Include clear targets and timelines for the National Encampments Response Plan.

- **Respect the inherent rights of Indigenous Peoples**, including those affirmed in UNDRIP. Recognize the jurisdiction of Indigenous governments to determine, develop, and administer programs and services related to housing and homelessness. First Nations, Inuit and Métis governments and representative organizations must be fully supported to develop and provide self-determined, culturally appropriate housing and related services and supports, including supports in urban centers.

- **Respect and uphold human rights, including the right to adequate housing.**

  People living in encampments must play a leading role in decision-making processes that affect them. All governments must implement ongoing and meaningful engagement with people living in encampments and those who support them.

- **Offer people permanent housing options as rapidly as possible.**

  Immediately develop and fund adequate housing solutions and supports so that people living in encampments can be re-housed as rapidly as possible.

- **Address the root causes of encampments.**

Canada has the capacity to solve this crisis. Encampment residents know what is required to meet their most pressing needs. What is lacking is sufficient political will, resources and coordination amongst governments, as well as the commitment to meaningfully engage with encampment residents.

This national crisis calls for a national response.

The interim and final reports on encampments are the first Advocate-led review of a systemic housing issue – a historic moment for advancing the human right to housing in Canada.

The right to housing for Indigenous peoples

Across what is now Canada, Indigenous peoples including First Nations, Inuit, and Métis face long-standing challenges to accessing all elements of the human right to adequate housing. This is due to on-going colonial violence, racism, a lack of recognition and support for self-determined housing and other inherent rights, and a lack of long-term federal funding that is substantial enough to address housing need.

Indigenous peoples have an inherent right to self-government and the control of housing programs. The United Nations Declaration on the Rights of Indigenous Peoples Act (UNDRIPA) commits Canada's federal government to achieving full implementation by ensuring federal laws, regulations, and policies are consistent with the rights set out in the declaration.

Despite this commitment enshrined in UNDRIPA, Indigenous peoples are experiencing a housing crisis, which is by definition a violation of their human rights.

It is important to recognize the colonial policies and systems that perpetuate dispossession and violence for Indigenous peoples, leading to homelessness and inadequate housing. Indigenous peoples are not homogeneous, and First Nations, Inuit, and Métis communities and individuals face different housing challenges. What they have in common is that systemic issues of housing precarity — both on treaty lands and traditional territories and in other rural and urban areas — are affected by a history of colonialism, genocidal federal policies of the past, forced relocation, and on-going colonial violence and exclusion, like the child welfare system.

The Advocate and her office are working alongside First Nations, Inuit and Métis leadership to highlight the issues faced by Indigenous communities across the country, as well as monitor the implementation of the joint recommendations we make.

Advocating alongside Indigenous peoples

In 2023-2024, the Federal Housing Advocate worked with Indigenous leadership and communities to document their most urgent housing needs and to call for government action to address them.

Nunatsiavut and Nunavut

The housing crisis faced by Inuit is the direct result of colonialism and a staggering failure by successive federal, provincial, and territorial governments over many decades to invest in and respect the human right to adequate housing of Inuit.

In November 2023, the Federal Housing Advocate launched a report on Inuit housing conditions in partnership with the leadership of Nunatsiavut and Nunavut Tunngavik Inc. (NTI) to highlight the dire need for solutions to the housing crisis in Inuit communities.

The report followed the Advocate's visit to Nunatsiavut, an autonomous area claimed by the Labrador Inuit, and Nunavut in October 2022, where she heard directly from community members about the housing crisis. Many people told her how current housing conditions are directly tied to histories of forced displacement and colonial violence, as well as decades of government underfunding and neglect.

In launching the report, which contained co-developed recommendations to governments, the Advocate and Inuit leadership met with the federal government and the Newfoundland and Labrador provincial government to drive action on solutions. Discussions with the Nunavut territorial government are expected to take place later in 2024.

The Advocate told the federal government that a severe shortage of adequate housing means that many in Nunatsiavut and Nunavut have no access to housing at all. Some have been on housing waitlists for years. The extent of homelessness is masked by the high levels of overcrowding and in the number of Inuit who are forced to leave their home communities.

Inuit who do have housing are often denied security of tenure. According to the Nunatsiavut Executive Council, 78 percent of the population cannot access home insurance. Inuit in both regions face a lack of access to financial services in general, with high mortgage costs and predatory lending leading to debt, default, and loss of homes.

Initial responses to this work are encouraging, with the governments of Nunavut and Newfoundland and Labrador agreeing with the recommendations and agreeing to expand housing opportunities for Inuit.

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Métis Nation – Saskatchewan

Many Métis in Saskatchewan are disproportionately represented in the unhoused and precariously housed population.

In July 2023, the Federal Housing Advocate was invited by Métis Nation – Saskatchewan (MN-S) to focus on the local housing and homelessness systems. She visited communities and met with organizations working to address pressing housing needs in the homeland of the Saskatchewan Métis.

The Advocate met with many Métis in Saskatchewan experiencing extreme poverty and trauma – the result of systemic racism entrenched in public institutions, colonialism, and forcible displacement. She heard about the toll that severed cultural connections have had on communities due to residential schools, the 60s Scoop, and continued disproportionate numbers of child apprehensions. The high rates of addiction and violence people experience in these communities are a direct result of systemic racism deeply embedded in government institutions.

The housing in Métis settlements varies widely in quality and habitability. Many homes are older and are in need of expensive maintenance and capital repairs. For example, the exorbitant cost to heat these homes, compared to those in the province's large urban centres, is the result of two issues: the cost of electricity is much higher for people in the province's remote areas; and the homes themselves are in dire need of capital upgrades to minimize heat loss.

As a result, the Advocate and Métis Nation – Saskatchewan are collaborating on a systemic review of the Métis experience with housing conditions, housing precarity and homelessness in Métis settlements across the province of Saskatchewan. The report is expected to be delivered to the federal government next year.

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Barriers to housing for women and gender-diverse people

In Canada, women, Two-Spirit, trans and non-binary people face unique, gendered barriers to adequate housing. Often, these barriers force many to rely on dangerous survival strategies or remain in abusive situations to keep a roof over their heads.

Cisgender, transgender, and other diverse women share many specific housing challenges, including gender-based discrimination and misogyny, disproportionate experiences of sexual and intimate partner violence, the gendered wage gap, and an increased likelihood that they are heading a single-parent household.

Indigenous women, as well as Two-Spirit and gender diverse Indigenous people, experience the acute shortage of adequate housing on reserve as well as unique barriers to housing off-reserve.

Meanwhile, Two-Spirit, trans, non-binary, and other gender-diverse people are over-represented in almost all aspects of housing insecurity, homelessness, and poverty, as well as associated violence and trauma. Emergency shelters frequently exclude people who are who are gender-diverse because they are designed based on gender-binaries, and gender-diverse people often experience transphobia, homophobia, and discrimination in a shelter environment.

What these diverse groups of people have in common is the discrimination and lack of safety they experience in accessing affordable and suitable rental housing, and barriers to gender inclusive shelters and services in the homelessness or gender-based violence sectors.

Eliminating gendered homelessness will require targeted resources and self-determined solutions to address intersectional systemic housing issues for women and gender-diverse people.

Advocating for adequate housing for women and gender-diverse people

In May 2023, the Federal Housing Advocate requested that the National Housing Council establish a review panel to hold a hearing on the failure to prevent and eliminate homelessness amongst women and gender-diverse people, particularly Indigenous women, trans, gender-diverse, and Two-Spirit people. The Advocate's request was based on submissions to the Advocate by the National Indigenous Feminist Housing Working Group and the Women's National Housing and Homelessness Network. The National Housing Council is expected to launch the review panel in 2024.

This review panel will examine why homelessness among women and gender-diverse people continues to worsen. In keeping with the requirements of the National Housing Strategy Act, the review panel will involve public participation of rights holders most directly affected by systemic issues such as Indigenous women, Two-Spirit and gender diverse people, and others.

Made of up of three members of the National Housing Council, the review panel will issue a report to the government of Canada with recommendations to address the failure to eliminate homelessness amongst women and gender-diverse people.

The right to adequate housing for people with disabilities

Access to housing is a human right. It means more than just having somewhere to live. For people with disabilities, it also means getting to choose where to live. It means having a home that is safe and accessible. It means having access to supports to be able to live independently and with dignity.

People with disabilities in Canada face many barriers to housing. Many people with disabilities are forced to live in institutions. Others can't get the supports they need to live independently or can't find safe and accessible homes. Some are struggling to pay their rent. Often, people with disabilities can experience homelessness because of these barriers. There are even cases where people with disabilities are choosing Medical Assistance in Dying (MAiD) because they can't access housing that meets their needs. This needs to change.

The Convention on the Rights of Persons with Disabilities (CRPD) states that people with disabilities should have equal access to housing and that they have the right to live independently and be included in their communities. Canada has agreed to follow the CRPD. Meanwhile, Canada agrees that everyone has the right to housing that is safe, accessible, affordable and inclusive. This right is included in the National Housing Strategy Act.

The Canadian Human Rights Commission is responsible for monitoring how Canada is putting the CRPD into action, and identifying what barriers still remain for people with disabilities. The Federal Housing Advocate is responsible for ensuring Canada upholds and makes progress on the human right to housing for everyone in Canada.

Monitoring framework

In 2023–2024, the Federal Housing Advocate worked with the National Monitoring Mechanism for the CRPD at the Canadian Human Rights Commission to develop a framework to monitor the right to housing for people with disabilities in Canada.

The Commission and the Advocate's office have developed a comprehensive framework to track existing data, policy efforts, and government resources to get a clearer picture of this issue. The monitoring framework is the first of its kind in the world, and was developed with input from people with disabilities and people with lived experience of homelessness and inadequate housing.

The framework will help to better understand this problem and to help find solutions. The goal is to identify barriers that people with disabilities face while trying to get their housing needs met. It will also monitor what steps Canada is taking to improve this situation. This information will help to advocate for positive change.

Learn more about the monitoring framework and findings.

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Listening and learning

Listening to people is an important part of what we do at the Federal Housing Advocate's office. It helps us understand what problems are affecting people when it comes to housing and homelessness. It also helps to come up with solutions that meet people's needs.

Using the Federal Housing Advocate's online submission tool, anyone in Canada who has faced inadequate housing or homelessness can make a submission and tell the Advocate about their experience. Organizations can also use the online submission platform to submit relevant information to the Advocate.

While the Advocate does not provide remedies for individual cases, the submission process will help the Advocate to amplify the voices and experiences of people who have been impacted by inadequate housing and homelessness.

Since April 1, 2023, the Advocate received 37 submissions from individuals who have experienced inadequate housing and homelessness. In addition, 13 organizations also shared their experiences.

In addition to the general online submission process, last year, we created a new tool to invite submissions on the topic of encampments to help inform the Advocate's review of this issue. We received over 350 submissions from people and organizations in Canada with experience of encampments.

All of these submissions will help the Advocate better understand systemic housing issues in Canada and have been acknowledged here to amplify the voices of those impacted by inadequate housing and homelessness, as well as to inform our work on key issues.

B-1-10135

Submissions regarding homeless encampments

Since the launch of the encampment review in April 2023, 322 people who have lived in homeless encampments made a submission to the Federal Housing Advocate about their experiences. In addition, 53 organizations shared their experiences and observations. These include front line workers, city officials and workers, advocates, and community members. We received submissions from most provinces and territories, but the majority came from British Columbia (146), Ontario (120), Quebec (44), New Brunswick (19) and Alberta (11).

Here is a summary of the key issues we heard about:

- **A lack of basic services:** Numerous participants spoke about the fact they have no place to shower, use the bathroom, access clean water, or store their belongings.

  In addition, participants spoke of the lack of access to food, clothing, garbage removal, tents or tarps to protect themselves from the cold, blankets, first aid supplies, needle disposals, cooking equipment, places to do laundry, fire extinguishers and electricity.

- **Evictions and clearances:** We heard about the negative experiences of people living in encampments with evictions and clearances. This includes the routine seizure and disposal of people's possessions — including their identification, tents, photo albums, money, and clothing — and displacing people from their temporary shelters without providing adequate alternatives.

  In many of the encampment evictions and clearances, residents face cruel, inhumane, and degrading treatment from city workers, by-law officers, and police. Many participants reported negative experiences with violence, harassment, bullying, and constant incarceration threats from by-law officers and police. Many outreach workers and organizations mentioned how police invoke a trauma response in many people who are or have been experiencing homelessness.

- **Inadequate emergency shelters:** Many participants deplored the lack of capacity of shelters, as well as the barriers that make shelters inappropriate and inaccessible for many people experiencing homelessness. Many described shelters not maintaining dignified living conditions, such as personal privacy or ways of locking valuable belongings. Emergency shelters with strict rules also restrict freedom of movement and limit access to support such as friends and family. In addition, shelters are not pet friendly. Many of the participants claimed they face serious safety issues while living in shelters. Participants often compared shelters to prisons.

  Shelters provide a critical service, but they are underfunded, are operating over capacity, and staff turnover rates are high. Many also reported a lack of emergency resources for women and 2SLGBTQQAI+ people. Traditional resources require gendered classification according to the data on identity cards. Several interviews shed light on the fact that there are not enough safe places for women, gender diverse people and people fleeing violence.

- **Safety and security:** Participants shared stories and incidents in encampments where they experienced violence and threats to their safety. Many also spoke about their living conditions such as the harsh winter months and danger from fires.

  At the same time, these participants defined encampments as the safest place there is for them. They acknowledged the violence in encampments, but also recognized greater violence while being alone on the streets or in certain temporary housing, such as shelters and single-room occupancies. More importantly, they see encampments as a place that provides community, support, and safety.

- **Health, mental health, and addiction issues:** Some participants shared their stories of how they became homeless, including evictions by landlords, being thrown out of the family home, domestic violence, problems with addictions, abusive families, being discharged by correctional facilities or hospitals without support, poverty and depression, and more.

  Participants now living in encampments faced and are still facing trauma or mental illnesses without access to treatment or support. The lack of addiction, mental health and community services create barriers to these individuals.

  Many participants also talk about the level of stress and anxiety they face while living outside. An encampment under constant threat of eviction or faced with hostility puts its residents under a lot of pressure, which damages their physical and mental health.

- **Discrimination and harassment from the public:** Participants made 60 references to feeling constantly judged, discriminated against, and harassed on the street or in stores by the public and by the police or other authorities.

  Some participants who have lived experience in encampments say that they are constantly seen as criminals by the public for being poor or homeless and that the police are incriminating homeless people for living in poverty. Many spoke about being falsely accused of stealing in stores and restaurants for being homeless.

  The growing hatred towards encampment residents has also been reported to be more and more present on social media and in mainstream media. People are posting pictures of people experiencing homelessness in encampments without consent.

- **A sense of community and belonging:** Forty-one participants expressed that they see encampments as a place that provides community, support, and safety for most of the people living in them.

  Encampment residents establish a care network outside of traditional systems – they are able to share their resources, cook together and rely on each other to survive every day. People experiencing homelessness develop a deep sense of safety, community and freedom in encampments which cannot be found elsewhere while being homeless.

  A participant shared the following statement: “I was homeless for 8 years. Without the support of my peers, I would not be alive today, the encampment community gave me a sense of belonging. We would listen and take care of one another.”

- **Lack of assistance and wrap-around services:** There were more than 30 references made regarding the lack of assistance and wrap-around services in and around encampments. Participants who would like to find housing are struggling to find help or are on waiting lists for housing. Participants also mention the lack of social, health, mental and legal support they would need.

  Sometimes services are available, however, people living in encampments frequently become displaced from the services they need, including during encampment evictions. This makes services inaccessible by a walking distance, especially if they have to carry their belongings. Several interviews shed light on the fact that people do not know where or how to get the help they need.

Participants also suggested several solutions, including:

- **Meaningful engagement:** We found over 70 references of participants claiming they would like to see their rights upheld, and they want their opinions, their privacy and autonomy respected.

- **Access to land and basic services:** Over 160 references were made by participants regarding the need for basic services such as clean water, washrooms, showers, hygiene products, garbage removal, storage lockers, kitchen facilities, warm clothes – especially during winter – electricity, and access to land. These services should also be available 24 hours a day, 7 days a week, and especially throughout the night when residents most need it.

- **Ceasing evictions and clearances:** People living in encampments rely on each other and community outreach to survive from day to day. Police break up these life-saving connections when they dismantle their campsites, also often inflicting abuse and physical harm on the unhoused community.

  Some of the solutions include putting together urgent housing responses in cities and towns to support people out of unsheltered homelessness. Outreach workers and front-line workers should assist people living in encampments if a relocation of the encampment is necessary. The police should not be involved.

- **Health, mental health and addiction support and services:** Among the 330 participants, we found 109 references for more mental health support, access to health care, overdose management (like naloxone), trauma recovery, substance use support, or forms of protection from the extreme cold and extreme heat.

  This support would allow people to create a safe environment for themselves and others, and allow cities to actively work on the lack of clean and supportive housing, overdose crisis, and safety. Others expressed their desire to be connected to a mental health team and nurse practitioners.

- **More wrap-around services and front-line workers:** Ensuring an integrated response between health and housing systems to address encampments and homelessness overall is essential to successful housing stability. Social assistance rates need to be increased to meet people's basic needs. Social support and community are required each day to help people experiencing homelessness navigate barriers. Skilled community workers with access to appropriate supports are needed – and permanent housing is needed first and foremost.

- **Community building:** There is a desire from encampment residents and front-line workers to foster connection and conflict resolution with neighbours living around encampments. Municipalities can help address this by hosting community gatherings for people to come together, or resourcing community groups and organizations working with people who are unhoused to host such gatherings and invite neighbours to build connection, awareness and understanding.

- **More affordable and accessible housing options:** Participants shared that to have more affordable housing, we have to first recognize the political failure and duty to uphold the right to housing. People should not be punished for creating encampments as a way of coping with society's failure to uphold their right to housing.

  There were many calls to increase investment by all orders of government into comprehensive housing options for people who are living in encampments, including:

  Affordable housing

  Widely accessible supportive housing

  Appropriate, sustainable housing

  Affordable seniors' housing

- **More public education on homelessness and encampments:** The participants of the encampment review asked for more easily digestible national public awareness campaigns outlining housing as a human right. They believe this may help increase understanding and awareness. There is also a need to improve compassion and empathy amongst community members to stop targeted violence towards encampments and support staff.

  There is also a request to mandate that all levels of government, administration and those providing services participate in training that includes: Reconciliation, Indigenous history, harm reduction and trauma-informed care.

- **Mobilization of resources and funding:** Some participants expressed a desire for more funding to municipalities and community-based organizations from both provincial and federal governments. Others want significant investments into upstream prevention approaches so that people are less likely to find themselves experiencing the conditions that often lead to homelessness.

  Furthermore, many are demanding funding for building and renovation of all types of housing and support, including real affordable housing, non-profit housing, social housing, and emergency shelters, with the specific goal of getting people out of the cycle of homelessness.

Speaking out

The Advocate and her office speak out so that people in Canada, decision-makers, and advocates across the country can join us in making change to systemic housing issues across the country. The Advocate also amplifies the voices of people experiencing homelessness and inadequate housing so that their perspectives are heard.

This year, we raised awareness and amplified people's experiences by speaking out in the media, online, and in-person.

In the news

Last year, the Federal Housing Advocate appeared in over 400 media pieces across television, radio and print.

Yes, you should be angry about homeless encampments

In February 2024, the Federal Housing Advocate published an opinion piece in the Ottawa Citizen, urging respect and understanding when it comes to encampments in Canada. Homelessness is not new. But a human rights approach to it is. That is how Canada will make a lasting difference to solve homelessness.

The Advocate called for the federal government to implement an urgent, national response to encampments by August 31, 2024. The response must be based on upholding people's human rights. What we need to do is listen to the people in encampments to make sure we're meeting their needs and finding them permanent, adequate housing. What we need is coordination, new resources and political will. We need everyone at the table. The time for action is now.

Read the full article: Houle: Yes, you should be angry about homeless encampments.

Prioritizing people over profit is the way forward on the housing crisis

In September 2023, the Federal Housing Advocate published an opinion piece in the Toronto Star, calling on the federal government to take the lead on creating housing that prioritizes people's human right to housing over profit. Investing in non-market housing is the way out of the housing crisis.

The Advocate recommended that the National Housing Strategy's $82-billion-dollar suite of programs should prioritize the construction of non-market housing. Specifically, she advised the federal government to create a fund for non-market and Indigenous housing providers to buy, repair, and operate existing buildings. And lastly, the federal government must attach conditions to federal infrastructure funding that mandate the creation of non-market housing in new housing projects.

Read the full article: Prioritizing people over profit is the way forward on the housing crisis.

Federal Housing Advocate's final report calls for national response to the crisis of encampments

In February 2024, the Federal Housing Advocate launched a final report on encampments in Canada that called for a national response to the human rights crisis facing encampment residents.

The Advocate has recommended that the federal government establish a National Encampments Response Plan by August 31, 2024. The plan must drive urgent action at all levels of government that will act immediately to save lives, end forced evictions of encampments, work with all governments, respect human rights and Indigenous rights, offer people permanent housing options as rapidly as possible, and address the root causes of encampments.

This national crisis calls for a national response.

As a result, the report was featured in more than 50 news stories so far across the country by major news outlets. This high-visibility coverage of the report reached a significant number of people across Canada to raise awareness of human rights and encampments.

Read the full news release: [Federal Housing Advocate's final report calls for national response to the crisis of encampments](#).

Making connections

Last year, the Federal Housing Advocate attended 124 events across Canada, which included giving speeches, engaging with stakeholders, or conducting site visits.

Engaging with other organizations in the housing and homelessness sector helps the Federal Housing Advocate make real connections with people and combine our advocacy efforts. Last year, the Advocate spoke at more than 15 events, where she touched on key themes of advocacy, housing as a human right, and collaboration at all levels to develop solutions.

Here are just a few:

- The Pan-Canadian Voice for Women's Housing Symposium
- Housing on the Hill Day, an event on Parliament Hill that brings together people on the front lines of the housing crisis with MPs and policymakers.
- The Assembly of First Nations – British Columbia
- John Humphrey Centre for Peace and Human Rights
- The Progressive Senate Group
- A virtual panel on a National Encampment Response Plan with the National Right to Housing Network

National Housing Day

On National Housing Day, November 22, 2023, the Federal Housing Advocate held an online event, **How to Make the Best of Public Money for Public Good**, to provide an in-depth examination of human rights-based solutions to housing supply.

The Advocate was joined by a group of expert speakers:

- Dr. Carolyn Whitzman, housing rights advocate, researcher, and professor at University of Ottawa
- Margaret Pfoh, CEO of the Aboriginal Housing Management Association
- Stéphan Corriveau, Executive Director of the Community Housing Transformation Centre
- Olga Tasci, CEO of the Agency for Co-operative Housing

The virtual panel provided an important discussion about using human rights and Indigenous rights frameworks to illustrate why non-market housing is so important.

The panellists also provided concrete examples and solutions to bring to duty-bearers to develop non-market housing solutions – including ensuring we have the right kind of housing supply that is permanently affordable.

A report on what we heard from the panel was developed to provide advice in line with human rights standards to contribute to policy conversations on scaling up non-market housing.

It is hoped that this report can be used as a tool to engage directly with more non-market experts on how governments can support Canada's non-market sector for long-term success. That includes efforts to:

- scale up non-market housing to match the level of other OEDC countries and begin to meet the needs of people in Canada;
- maintain the physical assets as well as general capacity; and,
- open pathways through changes in legislation and policy to allow the sector to further scale up without always relying on government financial support to do so.

These efforts to scale-up non-market housing must be prioritized at all levels of government, with strong leadership provided by the federal Minister of Housing, Infrastructure, and Communities. This should include substantial federal funding for provinces and territories to urgently prioritize and develop non-market housing suitable for their jurisdictions.

Read the full report: What We Heard – Non-market housing as a solution to the housing crisis.

Holding decision-makers to account

Last year, the Advocate and her office monitored how governments across Canada are implementing and upholding the right to adequate housing. The Advocate wrote letters of concern and engaged with federal, provincial, territorial, and municipal governments across Canada to advocate for housing as a human right. Often, we engaged with decision-makers when people's human rights were at risk of being violated. The Advocate's message continues to be that governments at all levels are obligated to uphold the right to housing.

To Mayor Yu of Prince George regarding centralized homeless encampment at Moccasin Flats

In April 2023, the Federal Housing Advocate wrote an open letter to Prince George, British Columbia's Mayor Simon Yu, regarding a new by-law under consideration by City Council to establish a centralized homeless encampment at Moccasin Flats. She observed that the process and proposal did not conform to international human rights standards by ensuring meaningful engagement with encampment residents. As the majority of residents are Indigenous, she also called on the entire city council to uphold inherent Indigenous rights as per the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

In her letter, the Advocate called on the Mayor and Council to:

- Vote against the current by-law proposal and explore alternative solutions;
- Recognize the distinct rights of Indigenous peoples, particularly BC's First Nations and Métis peoples, and include them in the development of policy approaches to encampments;
- Undertake a meaningful process of engagement with the encampment residents, the BC Assembly of First Nations and other stakeholders before adopting any decisions that affect them;
- Provide encampment residents with access to basic services such as clean water, sanitation facilities, electricity and heat; and
- De-emphasize the use of law enforcement as the primary response to encampments.

Read the full open letter – Prince George.

To Mayor Sim of Vancouver regarding escalation of East Hastings Street decampment

In May 2023, the Federal Housing Advocate wrote an open letter to Mayor Ken Sim of Vancouver, British Columbia, regarding escalation of the East Hastings Street decampment. She pointed out that that international human rights law clearly states that forced evictions of encampments, including forcing people to move from an encampment to a shelter, SRO, or "supportive" housing which is not adequate, constitutes a violation of human rights, including Indigenous rights as per UNDRIP.

The Advocate called on Mayor Sim and Vancouver City Council to:

- Immediately cease the forced eviction of encampment residents;
- Adopt a human rights-based approach to dealing with encampments, guided by the former United Nations Special Rapporteur on the right to adequate housing's National Protocol;
- Undertake a meaningful process of engagement with the encampment residents, community organizations and stakeholders before adopting any decisions that affect them;
- Provide encampment residents with access to basic services such as clean water, sanitation facilities, electricity and heat; and
- Cease reliance on law enforcement as the primary response to encampments.

Read the full open letter – Vancouver.

To Mayor Nuttall of Barrie on requiring permits for encampments on public land

In June 2023, the Federal Housing Advocate wrote an open letter to Barrie, Ontario, Mayor Alex Nuttal regarding his direction (with city council approval) to use changes to the city's by-laws in order to prohibit the use or distribution of tents or tarps in public parks or on public lands without a permit and to prohibit the distribution of food and grocery products in public spaces without the use of a permit. These measures would severely restrict access to basic shelter and food for people living in local homeless encampments and, as such, are in direct contravention of international human rights standards. She reminded the Mayor and council that the National Housing Strategy Act recognizes that housing is a fundamental human right and that housing is essential to the inherent dignity and well-being of the person, and that all Canadian municipalities have a responsibility to uphold the human rights of people living in encampments.

The Advocate specifically called on Mayor Nuttall and Barrie City Council to:

- Immediately cease the move towards prohibitions of tents, tarps and food in parks and public spaces without a permit;
- Adopt a human rights-based approach to dealing with encampments, guided by the former United Nations Special Rapporteur on the right to adequate housing's National Protocol for Homeless Encampments in Canada;

- Undertake a meaningful process of engagement with the encampment residents, community organizations and stakeholders before adopting any decisions that affect them; and
- Provide encampment residents with access to basic services such as clean water, sanitation facilities, electricity and heat.

Read the full open letter – Barrie.

To Minister Sean Fraser and Minister Kamal Khera on universal design and accessible housing

In January 2024, the Federal Housing Advocate wrote an open letter to Minister Sean Fraser, Minister of Housing, Infrastructure and Communities, and Kamal Khera, Minister of Diversity, Inclusion and Persons with Disabilities, regarding the need for universal design to be incorporated into future building plans to address Canada's housing crisis.

The Advocate wrote this letter in light of the government's announcement on December 12, 2023, it would develop a catalogue of pre-approved blueprint designs for homebuilders to address Canada's housing crisis.

Canada does not currently have an adequate supply of accessible or easily adaptable housing. The Advocate urged the Government of Canada to:

- Ensure that all the options provided to builders in the catalogue of blueprints are based on universal design principles and are either accessible or adaptable; and
- Expand the accessibility and adaptability requirements in the National Building Code so that all future dwellings are built without barriers.

This is essential to ensure that all people in Canada have access to a range of housing options that meet their accessibility needs and that allow them to age in place.

Read the full open letter – universal design and accessible housing.

Emerging priorities

The housing landscape in Canada is always changing. The job of the Federal Housing Advocate is to ensure that change is moving in the right direction – upholding the human right to housing for every person in Canada.

While much progress has been made to address the most urgent housing issues facing people in Canada, there are many more systemic issues to address, such as:

- Homelessness of Canada's veterans
- Security of tenure for vulnerable groups
- Gaps in First Nations housing conditions
- Rural, remote and northern housing challenges
- The right to housing for resettled refugees and asylum claimants
- Ensuring accessible and inclusive housing for all
- Financialization of seniors housing and long-term care
- The link between our judicial system and homelessness

Assessing and evaluating these issues and others will be an ongoing process for the Advocate, with priorities determined by the most urgent needs. There is much more work to do. As long as there is housing injustice in Canada, our advocacy will continue.

Here is more on two areas that the Advocate and her office are already starting to explore as the topic of future work.

Homelessness experienced by Canada's veterans

Veterans are a distinct group of people with unique housing needs and challenges. Veterans Affairs Canada considers any former member of the Canadian Armed Forces who successfully underwent basic training and is honourably discharged to be a veteran.[1]

The estimated number of veterans experiencing homelessness across Canada varies from 2,400 to 10,000. The fact that no one has accurate information about the extent of this issue is part of the problem. Veterans Affairs Canada's 2018 report "Everyone Counts"[2] revealed that at that time, veterans account for approximately 4.4 per cent of individuals experiencing homelessness in Canada.

With fragmented and siloed support programs across the country, poor understanding of the scale of the issue, and the incredibly diverse nature of the causes and experiences of veteran homelessness, there is a need to better define the issue to be able to remedy it.

In 2023, the federal government released a $79.4 million Veteran Homelessness Program, establishing two funding streams to support civil society and subnational governments to provide rent supplements, deliver social services, and improve research. However, it is not clear that more money – without clear federal leadership and coordination – will bring about meaningful change.

Advocating for veterans experiencing homelessness

In July, a report prepared for the Federal Housing Advocate by the Max Bell School of Public Policy at McGill University in Montréal, Quebec, provided policy options that our office recommended to all the relevant federal departments.

The report, Addressing veteran homelessness in Canada, found that there remains a lack of federal departmental leadership on the issue of veteran homelessness, that there are significant discrepancies in the reported numbers and identities of veterans experiencing homelessness, that existing services do not meet the needs of women and gender-diverse veterans experiencing homelessness, and that there is inadequate support for veterans in their transition to civilian life and for veterans-serving organizations.

The report's recommendations included the following objectives:

- That Veterans Affairs Canada take primary leadership on veteran homelessness
- To achieve a shared and accurate understanding of homelessness among veterans in Canada
- To build pathways for veterans to access immediate housing supports
- To increase and support veteran-specific housing supply

[1] https://www.veterans.gc.ca/eng/about-vac/what-we-do/mandate

[2] https://www.veterans.gc.ca/eng/housing-and-home-life/at-risk-housing/homeless/activities

Security of tenure in Canada

Everyone has a right to a home, where they know they can stay long-term without being displaced. This is known as security of tenure, and it is an essential part of the human right to adequate housing.

Denying security of tenure to tenants, Indigenous Peoples, racialized communities, people with disabilities, and encampment residents undermines Canada's commitment to the progressive realization of the right to housing, as defined in Canada's National Housing Strategy.

To better understand the diverse issues around security of tenure, and hear from the groups of people most affected, in January 2024 the Office of the Federal Housing Advocate released a series of seven reports by legal experts.

The reports focus on:

- The Right to Counsel for Tenants Facing Eviction
- International Jurisprudence
- Eviction and International Obligations
- Race and Security of Housing
- Systemic Barriers for First Nations People
- Issues for Persons with Disabilities
- Federal Obligations and Encampments: Security of Tenure in Canada

The reports conclude that when it comes to eviction, Canada is not applying fundamental human rights principles nor fulfilling its legal obligations. For example, in Canada, it is not uncommon for a family to be evicted for being a month behind – or less – on rent, rather than be offered a fair repayment plan. Additionally, only a minority of tenants facing eviction have access to legal representation, despite the potentially unlawful and life-changing experience of losing their homes.

The reports also confirmed systemic discrimination causes disproportionate experiences of evictions for Indigenous people, Black and racialized people, people with disabilities, low-income households, and others. This contravenes existing national and provincial human rights legislation.

The Federal Housing Advocate will continue to commission research into this issue, intervene in hearings, and craft recommendations to the federal government to call for governments and others to respect everyone's right to security of tenure in Canada.

B-1-10152

Recommendations to Parliament – April 30, 2024

The Federal Housing Advocate is responsible for making recommendations to improve Canada's housing laws, policies and programs so that they enable people and families to access to adequate, affordable and safe housing that meets their needs.

Canada's housing and homelessness emergency will only be addressed when governments commit to meaningful, effective action that upholds the human right to adequate housing. The federal government must lead the way on implementing effective measures that strengthen Canada's housing system and lift people out of homelessness.

Canada needs political will, commitment, and coordination at all levels of government to create lasting change. It is going to take an all-of-government approach to implement the human right to housing, and the federal government must lead the way.

This 2023–2024 Annual Report is made available to other Members of Parliament, as well as stakeholders and the Canadian public at large to provide a better understanding of the right to housing, the office's activities, and specific recommendations.

The Federal Housing Advocate reports annually to the Minister responsible for housing and can also submit recommendations at any time to the Minister, who is required to respond within 120 days of receiving those reports.

The Federal Housing Advocate calls upon the Minister of Housing, Infrastructure and Communities of Canada, the Prime Minister, other members of Cabinet and the Government of Canada to recognize and implement the following recommendations.

B-1-10152

National Housing Strategy Act

Adequate housing for all

Under the 2019 National Housing Strategy Act, all levels of government are legally obligated to promote, protect and fulfill the human right to adequate housing for all people, and particularly those who are experiencing homelessness and housing precarity.

The Advocate calls on the Prime Minister, Minister of Housing, Infrastructure, and Communities, Finance Minister, other members of Cabinet, and all Parliamentarians to implement the human right to adequate housing, as legislated in the 2019 National Housing Strategy Act.

The Advocate calls on all levels of government to comprehensively integrate the human right to adequate housing in all government decisions relating to housing, including strategic policies and plans, briefing materials, Treasury Board submissions, and drafting instructions for new laws, building on lessons from the United Nations Declaration on the Rights of Indigenous Peoples Act and Gender-Based Analysis Plus (GBA+).

Uphold the inherent rights of First Nations, Inuit, and Métis people

The federal government must uphold the inherent rights of First Nations, Inuit and Métis people with regards to housing, as articulated under the United Nations Declaration on the Rights of Indigenous People Act.

In relation to housing, the federal government must respect key provisions, including rights to self-determination (Article 3); to develop and administer housing plans and programs (Article 23); rights to land, territories and resources Indigenous people have traditionally owned, occupied, used or acquired (Article 26); and the right to not be forcibly removed from lands or territories and no relocation without free, prior and informed consent (Article 10), among other provisions.

Dedicated meetings with the Minister

Under the National Housing Strategy Act (sec. 17(1) and 17.1), the Minister must respond to the Federal Housing Advocate's annual reports and reports related to reviews of systemic issues.

The Advocate recommends the creation of a dedicated meeting between the Federal Housing Advocate and the Minister responsible for housing in response to the Advocate's Inuit and Encampment reports from this year, as well as future reports, to ensure a meaningful response and to hear about government's efforts to:

1. engage relevant policy areas and Ministers responsible in intersecting areas of government responsibility (e.g. Crown-Indigenous Relations and Northern Affairs, Indigenous Services Canada, Immigration, Refugees and Citizenship Canada, Public Safety Canada, Treasury Board, Finance, Women and Gender Equality, and others);

2. implement the recommendations, or provide an evidence-based rationale for those that government rejects; and

3. establish timelines, milestones, and estimated resource allocations for implementation, including for the participation of rights holders.

Develop an all-of-government action plan

As per the Advocate's 2022–2023 annual report recommendation:[3] develop an all-of-government action plan with Ministerial oversight on implementing the human right to adequate housing in accordance with the National Housing Strategy Act.

Create a targeted funding program

As articulated by the National Right to Housing Network in their 2024 report commissioned by my office,[4] the federal government should create a targeted funding program to empower rights holders, civil society, and Indigenous organizations to engage with the human rights-claiming mechanisms established by the National Housing Strategy Act, such as making submissions to the Advocate and participating in Review Panels.

[3] https://housing.chrcreport.ca/recommendations-to-the-government-of-canada.html
[4] Raza, S. and Biss, M. (2024). Resourcing Rights Claimants: Closing the Gap to Exercising the National Housing Strategy Act. The Office of the Federal Housing Advocate and the National Right to Housing Network. https://housingrights.ca/resourcing-rights-claimants-report/

National Housing Strategy

As per the National Housing Strategy Act, the federal government must maintain a National Housing Strategy focused on:

- improving the housing outcomes for persons in greatest need (sec. 5(2) c); and
- providing for participatory processes to ensure the ongoing inclusion and engagement of civil society, stakeholders, vulnerable groups, and persons with lived experience of housing need, as well as those with lived experience of homelessness (sec. 5(2) d).

Improve the National Housing Strategy

As per the Advocate's 2022–2023 annual report recommendations:[5]

The federal government should align the National Housing Strategy with its legislated purpose under the National Housing Strategy Act to improve housing outcomes for those in greatest need.

The federal government should re-design National Housing Strategy programs so that they result in measurable progress towards the National Housing Strategy goals of reducing core housing need and homelessness.

The federal government should tie evidence-based, human rights targets, and systematic monitoring requirements to the National Housing Strategy's bilateral agreements, action plans, and programs.

Ensure the National Housing Strategy Act is consistent with the UNDRIPA

Consistent with the United Nations Declaration on the Rights of Indigenous Peoples Act and the review of laws process, the federal government should, in consultation and cooperation with First Nations, Inuit and Métis peoples and representative organizations, interpret the National Housing Strategy Act in a way that ensures its consistency with the UN Declaration.

Data and monitoring of outcomes for disadvantaged groups

The federal government should require provincial/territorial, municipal (where relevant), and Indigenous governments to gather and share disaggregated data on housing outcomes for disadvantaged groups, in particular regarding National Housing Strategy programs, and allocate resources to support this data collection.

[5] https://housing.chrcreport.ca/canada-needs-a-national-right-to-housing-strategy.html

Progressive realization

The National Housing Strategy Act recognizes housing as a human right for everyone in Canada and makes the progressive realization[6] of this right the basis for all housing policy.

As per the Advocate's 2022–2023 annual report recommendation,[7] all orders of government must act immediately to implement effective measures, using the maximum of available resources and employing all appropriate means, to realize the right to adequate housing in the shortest possible time, giving priority to those in greatest need.[8]

Increase non-market housing stock

Non-market housing offers an important opportunity for the progressive realization of the human right to adequate housing, including housing that is affordable, accessible, and culturally appropriate.

The federal government should develop and implement a short-term plan to double its non-market housing stock[9] from the current 3.5 per cent of the total housing stock to 8 percent, with a long-term target of 20 per cent, as per research commissioned by my office.[10] These plans must be developed in partnership with provinces, territories, municipal governments, Indigenous governments and organizations as well as the non-market housing sector. This should include support for sector capacity development.

At the next regularly scheduled meeting with the Advocate, the Minister should provide a detailed response to the Advocate's 2023 National Housing Day "What We Heard" report and call to expand Canada's non-market housing stock.

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[6] Progressive realization means that governments must:

- implement effective measures;
- dedicate the maximum available resources;
- use all appropriate means, including laws, policies, and regulations;
- prioritize those in greatest need, such as people experiencing homelessness and inadequate housing, particularly those who are Indigenous and members of disadvantaged groups;
- take immediate action to remedy discrimination and threats to life, liberty, and security of the person;
- prevent retrogression;
- ensure access to justice and accountability; and
- meaningfully engage with rights holders.

[7] https://housing.chrcreport.ca/annex-b-the-federal-housing-advocates-final-recommendations.html

[8] This includes: people experiencing homelessness; First Nations, Inuit and Métis people; women, adults and children fleeing domestic violence; seniors; people who identify as 2SLGBTQI+; people with disabilities; people with mental health or addiction disabilities; veterans; young adults; racialized groups; newcomers, especially refugees and asylum claimants; and other groups. The Advocate recognizes women within each of these groups are disproportionately affected by housing need.

[9] Including: non-profit housing, government-owned housing, co-op housing, community land trusts, and Indigenous-led non-market housing.

[10] Whitzman. November 2023. A Human Rights-Based Calculation of Canada's Housing Supply: https://www.homelesshub.ca/sites/default/files/attachments/Whitzman-Human_Rights_Based_Supply_Report-EN_1.pdf

Raise awareness about the human right to housing

Expand human rights education and tools

Due to increasing violations of the right to housing faced by disadvantaged groups, the federal government together with the Office of the Federal Housing Advocate, National Housing Council, the Canadian Human Rights Commission, and the Canadian Association of Statutory Human Rights Agencies, should build on existing educational tools developed by the OFHA[11] to expand human rights education for policy makers and program administrators to infuse human rights-based approaches and the human right to adequate housing within government processes and policy development, similar to Gender-Based Analysis Plus (GBA+) directives.[12]

Work with the provinces and territories

Adhere to 2018 Housing Partnership Framework commitments

Provincial and territorial governments must adhere to their own commitments made under the 2018 Housing Partnership Framework Agreement where they agreed that National Housing Strategy investments would prioritize those most in need and that housing policy is grounded in the principles of inclusion, participation, accountability, and non-discrimination.

Introduce provincial and territorial right to housing legislation

Provincial and territorial governments should introduce right to housing legislation to create a provincial/territorial housing advocate counterpart who can hold their governments directly to account for their human rights obligations, including the Indigenous right to housing. This legislation should build on the legal framework of the National Housing Strategy Act and the Federal Housing Advocate and be developed in consultation with Indigenous leaders, rights holders, municipalities, advocates and communities.

[11] For Government (federal) Duty Bearers: https://youtu.be/gAIYIWh8-Hc;
About the National Housing Strategy Act: https://youtu.be/uF8koytEXUk;

[12] https://nhc-cnl.ca/publications/post/co-creating-the-right-to-adequate-housing-in-canada and https://housing.chrcreport.ca/annex-b-the-federal-housing-advocates-final-recommendations.html

About us

Everyone in Canada has a human right to adequate housing, and is equally entitled to live in dignity in a safe and secure home. Everyone should be able to access housing that meets their needs without discrimination or harassment.

Having an affordable, suitable and safe place to live helps people and families succeed and thrive. Housing as a human right is an important precondition for several other human rights, including the rights to life, work, health, social security, vote, and education.

The human right to adequate housing is not a new concept. It is a fundamental human right that is recognized under international law, as early as the 1948 Universal Declaration of Human Rights. Canada committed to the progressive realization of the right to housing and an adequate standard of living in 1976 when its signature on the International Covenant on Economic, Social and Cultural Rights came into force.

Canada's commitment to housing as a human right was reaffirmed in 2019, when Parliament passed the **National Housing Strategy Act**. The Act commits the federal government to further the progressive realization of the human right to adequate housing.

The Act establishes accountability tools to help promote and monitor the right to housing in Canada, including:

- A National Housing Strategy
- A National Housing Council
- A Federal Housing Advocate
- Review Panels

The Federal Housing Advocate is an independent, nonpartisan watchdog empowered to drive meaningful action to address housing needs and homelessness in Canada.

The Advocate does not provide remedies for individual cases. Instead, the Advocate holds governments to account for their human rights obligations and makes recommendations to improve Canada's housing laws, policies and programs. The ultimate goal is a healthy housing system where people and families in Canada have access to adequate, affordable and safe housing that meets their needs.

Learn more:

- Video: About the National Housing Strategy Act
- Video: The right to housing in Canada
- Video: Advancing the right to housing for duty bearers
- Video: Housing submission tool—your voice matters!

About the Advocate

Marie-Josée Houle was appointed as Canada's first Federal Housing Advocate in 2022, marking a new chapter in a career defined by her work in the affordable housing and homelessness sector. Her role and mandate, and that of her office, is not just to be a witness, but to drive change on systemic housing issues. This mandate is guided by a human rights-based approach, which values participation, accountability, non-discrimination, equity, transparency, empowerment, and respect for human rights laws and obligations.

Ms. Houle is an experienced leader who is recognized for her community activism, expertise in human rights, and extensive knowledge of the housing and homelessness system.

Prior to her appointment as Canada's first Federal Housing Advocate, Ms. Houle has held a number of roles that inform her broad experience, including frontline work in housing co-ops, consulting and project management for affordable housing development, by-law review, housing-related research projects, developing educational programs for housing co-ops and non-profits, and senior leadership roles.

Ms. Houle has been actively involved in advocacy work at a national, provincial and community level. She has advocated for tenant rights and the non-profit housing sector at all three levels of government. She has worked with diverse partners in the sector to foster innovation and entrepreneurship, improve efficiencies, influence key opinion leaders, leverage strategic partnerships, and address gaps and human rights violations related to housing and access to housing. Building a sense of community among diverse partners is particularly important to her.

A supporter and amplifier of marginalized voices, Ms. Houle promotes respectful and inclusive dialogue, creating a space for disadvantaged people to be heard, and applies an intersectional and anti-racism lens to her advocacy work. She has liaised with Indigenous housing providers, developers and tenant support organizations to devise ways to be a better ally, support their work and amplify their voices.

Born in Val D'Or, Québec, and raised in Edmonton, Alberta, she holds a Master of Arts in Sociology and Social Anthropology from Dalhousie University and a Bachelor of Science in Environmental Sciences from the University of Alberta. Ms. Houle is fluently bilingual in English and French.

THIS IS **EXHIBIT "E"** REFERRED TO
IN THE AFFIDAVIT OF MARIE JOSEE HOULE
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DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

ADVOCATING FOR CHANGE: THE HOUSING CRISIS IN CANADA

The Office of the Federal Housing Advocate's
2022–2023 Annual Report to the Minister

Canadian Human Rights Commission

344 Slater Street, 8th Floor / Ottawa, Ontario / K1A 1E1

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The Federal Housing Advocate's message

It is my pleasure to present you this Annual Report from my first full year in the role as Canada's first Federal Housing Advocate. This report is a snapshot of the work my office and I have carried out together from April 2022 to March 2023. A big piece of the data included in this Annual Report comes from submissions we have received from the public on systemic housing issues and unmet housing needs across Canada. Our aim is to provide as much detail as possible to give your office an accurate reading of what individuals and housing advocates across Canada are telling us.

My most important role is to build the power of people on the front lines of Canada's housing and homelessness crisis, and to amplify their voice to your office, Minister.

Over the past year, I have learned the most from meeting directly with people from across Canada and hearing about how they are experiencing the housing and homelessness crisis in their communities.

In British Columbia, I heard from people who are falling through the safety net. Some are just one accident away from homelessness—including a man I met who sustained a workplace injury that ultimately resulted in him having to live in an encampment.

In Prince George, many of the conversations at the Moccasin Flats encampment centred around missing and murdered Indigenous women and girls, and how many people who are unhoused felt they had no safe place to go.

In Vancouver, the disparity was staggering: the tent encampment where people are living in Crab Park was silhouetted against a luxury cruise ship in the distance.

In Montreal, I visited a 24-hour shelter space that serves unhoused and precariously housed people each day, which is located not far from a sparkling new luxury condo building.

I visited with people in Nunavut and Nunatsiavut, in partnership with Nunavut Tunngavik and Nunatsiavut Kavamanga, and witnessed the long-standing housing crisis there that amounts to a human rights failure in need of urgent attention.

But for as long as there has been housing injustice in Canada, there have also been determined people pushing for change. The movement for the human right to housing in Canada has come a long way. From the 2017 launch of the National Housing Strategy, to the 2019 passing of the National Housing Strategy Act, finally enshrining the human right to adequate housing into domestic law for the first time.

But our advocacy still has a long way to go, particularly in the face of the 2023 Federal Budget which completely missed the mark on addressing the most pressing housing crisis this country has ever seen. There are no new ideas, and not nearly enough new money announced for housing. The homelessness crisis was not even mentioned. This is simply unacceptable.

The Budget's investments fall drastically far short of what is required to stem the tide of housing loss and homelessness that is sweeping across the country. It also fails to deliver on Canada's commitment to the human right to housing and does not even mention housing as a human right.

So, across Canada, people must continue asserting their rights, demanding to be heard, and advocating for themselves, their neighbours, and their communities.

We see this advocacy unfolding in cities and communities from coast to coast to coast. Front-line workers are protecting people from falling through our tattered safety net. Sector leaders are speaking out about the high costs of insufficient funding for housing, health, and social services—human costs, social costs, and economic costs. Activists and advocates are pushing for change at all levels of government.

Governments at all levels need to come to the table to meet their obligations when it comes to ending the housing crisis in Canada, and the federal government must lead the way.

My job is to keep the conversation focused on human rights. To amplify people's voices and advocate for and with them. And most importantly, I work directly with people affected by inadequate housing and homelessness to find solutions to the housing crisis, together.

When I met with people across Canada, I saw how much people want to be part of the solution.

I met with local advocates in Prince George who were pushing for community solutions for residents of encampments there. They worked together to provide clean water, bathrooms, a community garden, and housing solutions.

I met a man living in the encampment in Stadacona Park in Victoria who bought his own broom so that he could sweep the tennis courts there every day. He took such pride in this act of care for his neighbours so that they could share a clean space together.

These are the stories that resonated with me the most over the past year. They are the stories of people using the best tools they have to claim their human right to a space to call home.

It will take all of us, working together, to make the right to housing real. To make sure the right to housing is a top priority for governments.

We have come a long way, and we have a long way to go. I am hopeful that together, we can and we will realize the right to housing in Canada.

Sincerely,

Marie-Josée Houle,

Federal Housing Advocate

The right to housing from coast to coast to coast

Over the course of 2022–2023, the Federal Housing Advocate made it a priority to meet with people who are directly affected by inadequate housing and homelessness.

One of the Federal Housing Advocate's duties is to consult with rights holders and civil society groups on the right to housing across Canada. Meeting with people, right where they live, allows the Advocate to build relationships directly with First Nations, Métis and Inuit and to have personal conversations with people experiencing inadequate housing and homelessness who may not always have access to virtual meeting technology.

These visits are key to informing the Advocate about the unique realities faced by people in different parts of the country. They offer opportunities to work with partners across all sectors to find meaningful solutions. Importantly, the Advocate's engagement visits inform her reviews, research, reporting and recommendations to government duty bearers.

Last year, we heard from people across Canada about the systemic housing issues that are of serious concern in their cities, communities, and situations. The Advocate traveled to several communities to meet with people in person, including:

- British Columbia: Victoria, Prince George and Vancouver
- Nunavut and Nunatsiavut: Nain, Hopedale, Goose Bay, Pangnirtung, Rankin Inlet, Iqaluit
- Quebec: Montreal and Saint-Jérôme
- Winnipeg, Manitoba
- Saskatoon, Saskatchewan

Thousands of people across the country are having their human right to adequate housing violated. Affordability for those who need it most is being eroded. Housing insecurity is worsening. People are at risk of falling through the growing cracks of the safety net into homelessness. Encampments are more visible than they have ever been.

Canada has work to do.

As people in Canada continue to feel the effects of the housing and homelessness crisis, we will continue to amplify their voices and experiences and push for solutions.

In a busy year of cross-country visits, three key highlights stand out: the Advocate's visits in British Columbia, the North, and Quebec.

Core housing need Canada-wide

Almost 1.5 million, or 1 in 10, households were in core housing need in 2021. Core housing need is defined as living in an unsuitable, inadequate or unaffordable dwelling and not able to afford alternative housing in their community. (Statistics Canada)

The role of governments at all levels

The National Housing Strategy Act establishes housing as a human right for everyone in Canada. Governments at all levels have a responsibility to respect, protect and fulfil this right. The federal government has a responsibility to lead the way. Provincial, territorial and municipal governments have jurisdiction over many housing and homelessness policies, laws, and programs. Municipalities play an important role in community planning, approval processes and responses to encampments.

The Advocate encourages provincial and municipal policy makers to consider and take action on the observations and recommendations from her visits. Solving the housing crisis will mean mobilizing all available resources, prioritizing systemically disadvantaged groups, and fully implementing the human right to adequate housing.

British Columbia: Victoria, Prince George, and Vancouver

Between August 22 and September 2, 2022, the Federal Housing Advocate visited Victoria, Prince George and Vancouver in British Columbia to listen, observe and bear witness to the housing challenges that unhoused and precariously housed people are facing.

This was the Advocate’s first regional visit of her mandate and the first opportunity to meet rights holders in person since her appointment in February 2022.

Housing affordability, homelessness and encampments, and Indigenous housing were frequent subjects of discussion for the people the Advocate met with.

Governments and duty-bearers need to move forward with active collaboration that includes lived experts and other advocates who are developing important solutions.

Unaffordable housing in British Columbia

Census data shows that British Columbia has the highest rates of unaffordable housing in Canada at 25.5% in 2021. The province also has the highest number of renter households. (Statistics Canada)

Areas for action

Listening, learning and giving voice to people's experiences is a key priority for the Advocate, and much of the visit focused on this goal. It is our job to amplify the opinions, concerns, and proposed remedies of the people we met with and heard from, including rights holders, legal advocates, non-profit sector organizations, and academics.

The opinions and solutions provided to the Advocate serve as testimonies from people with lived experience and contribute to a body of evidence that will support and inform our ongoing work.

So far, the areas for action identified by the Advocate for advancing the human right to adequate housing in British Columbia include measures at all levels of government, such as:

- Improve security of tenure in the province and prevent evictions, including by making improvements to provincial tenancy laws and decision-making processes at the Residential Tenancy Branch.
- Recognize the distinct rights of Indigenous peoples when it comes to housing policies and programs, and include them in the development of new approaches.
- Stop the use of policing and law enforcement to forcibly remove encampments.
- Provide encampment residents access to basic services such as clean water, sanitation facilities, electricity, and heat.
- Improve housing affordability by building the capacity of the non-market housing sector and increasing the percentages of affordable housing in new developments.
- Strengthen tax and anti-speculation measures to combat the financialization of housing.
- Address the intersecting crises of poverty, homelessness, and poisoned drugs by adopting anti-poverty measures and by continuing to target resources and policy measures to evidence-based solutions, such as safe injection sites and safe drug supply.
- Expand housing-related settlement supports for newcomers.
- Allocate funds and other resources to urgently address inadequate habitability conditions in single-room occupancy units (SROs), supportive housing, and on-reserve housing to target immediate health and safety concerns related to ventilation, mold, lack of fire safety, and inadequate cooling.

There is an opportunity for British Columbia's newly established, standalone housing ministry to take a leadership role in tackling the housing crisis in the province. During the Advocate's visit, she spoke with Acting Minister of Housing, the Hon. Murray Rankin. Following the Advocate's visit, she met with the Minister of Housing, the Hon. Ravi Kahlon, in February 2023 in Ottawa, to follow up and discuss observations from the trip and how the province can better uphold the right to adequate housing for all.

Snapshot: Victoria

It was clear that people are falling through the cracks of our tattered safety net. Some are just one accident away from homelessness—including a man we met in Victoria who sustained a workplace injury that ultimately resulted in him living in the encampment in Stadacona Park.

But people also want to be part of the solution. The Advocate met a man in Stadacona Park who bought his own broom so that he could sweep the tennis courts there every day. He took such pride in this act of care for his neighbours so that they could share a clean space together.

Snapshot: Prince George

The Advocate met with residents of the Moccasin Flats encampment in Prince George to hear about their experiences.

Many of the conversations here were around the lack of promised amenities for the encampment, missing and murdered Indigenous women and girls, and how many people who are unhoused felt they had no safe place to go.

The residents here have created a shared timeline of their history, from before the encampment, during the height of the pandemic, to today. The poster is interactive, with residents and guests able to add their own messages.

The Advocate also met with strong local advocates who pushed for community-led solutions, efforts to provide clean drinking water, bathrooms, washing machines, additional community garden space, and innovative and adequate housing solutions for residents.

Encampment residents must have their human rights and their right to housing respected, including to basic services and to be treated with human dignity, and to be meaningfully involved in decisions that affect their lives.

Snapshot: Vancouver

The disparity in Vancouver was obvious: the tent encampment where people are living in Crab Park was silhouetted against a luxury cruise ship in the distance. The Advocate met with residents of the encampment, as well as the residents and advocates of the Downtown Eastside.

We heard from people who are unhoused and precariously housed that are demanding their human right to adequate housing. We also frequently heard about the need for governments to stop the rapid erosion of existing affordable housing from financialization.

We often heard that housing is more than just four walls and a roof. The right to safe, affordable and dignified housing links to so many other aspects of life—to privacy, to have pets, to see family members, to be supported when you need it, to maintain links with one’s Indigenous culture. This is not asking for too much. These are fundamental rights everyone should enjoy.

Nunavut and Nunatsiavut: Nain, Hopedale, Goose Bay, Pangnirtung, Rankin Inlet, Iqaluit

The Federal Housing Advocate visited Nain, Hopedale, and Goose Bay in Nunatsiavut as well as Pangnirtung, Rankin Inlet, and Iqaluit in Nunavut from October 17 to 29, 2022, in partnership with the Nunatsiavut Kavamanga and Nunavut Tunngavik, to learn more about housing in the North, particularly for Inuit communities.

We know that there has long been a housing crisis for these communities. The Federal Housing Advocate witnessed first hand and heard directly from Inuit community members about the dire housing realities they face as a direct result of colonialism and a staggering failure by multiple levels of government over many decades to invest in and respect the human rights of Inuit. Despite repeated promises by multiple levels of governments, families continue to live in deplorable conditions. This is an ongoing human rights failure that needs urgent attention.

The Advocate heard the exhaustion and the urgent need for change both from people who are unhoused and those who are stressed and living in precarious housing circumstances. The level of distress cannot be underestimated, nor can the toll that being unhoused or precariously housed has on one's physical, mental and emotional health. Throughout these communities, the host Inuit leadership organizations made it possible for the Advocate to visit several forms of public and private housing, including housing that serves people with disabilities, people experiencing homelessness, women and children fleeing violence, and Elders.

Inuit must be able to exercise the right to control and manage their own housing. This right to self-determination is in line with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Long-term, sustainable and adequate funding is needed at all levels to address the housing crisis for Inuit.

Housing need in Nunavut

In Nunavut, the core housing need rate in 2021 was 32.9%—this is compared to the national average of 10.1%. (Statistics Canada) Core housing need is defined as living in an unsuitable, inadequate or unaffordable dwelling and not able to afford alternative housing in their community.

Areas for action

The Advocate will work with the Inuit leadership organizations to co-develop recommendations for government duty bearers to address long-standing inequalities and violations of the right to adequate housing. The recommendations will include measures to:

- Dedicate funding to meet the housing needs of Inuit and their communities, especially to maintain and renovate existing community housing supply.
- Support by all levels of government the Inuit Housing Action Plan.
- Recognition of the direct role of Inuit organizations and governments as primary partners in addressing housing needs in their communities.
- Direct and sustained federal investments, including respecting the government-to-government fiscal relationship as opposed to the creation of a myriad of federal housing and homelessness programming.
- Improved, flexible, and, where possible, direct access to programs designed to reduce housing need, and related infrastructure investments.
- Reduction in overcrowding and the numbers of dwellings requiring major repair.
- Expansion of housing options within the housing continuum in Inuit communities.
- Culturally appropriate understandings of home and household.
- Explore and remediate discrimination in banking practices and provision of insurance.

Snapshot: Pangnirtung

Consider the example of a home we visited in Pangnirtung with seal skins drying outside. The two families who live in the home, eight people in total, are facing eviction and an uncertain future.

In the media

The Advocate's visit garnered media coverage that helped to spread the word about the systemic housing issues in the North. Here are a few stories:

- November 2, 2022: Federal advocate explores systemic housing issues in Northern visit | Nunatsiaq News
- December 3, 2022: Investments in Inuit housing inadequate to address human rights violations: watchdog | The Star
- December 12, 2022: Le besoin d'investissements « durables » pour contrer la crise du logement au Nunavut | Radio-Canada (The need for 'sustainable' investments to address Nunavut's housing crisis | Radio-Canada)
- December 21, 2022: Housing conditions in Nunatsiavut a 'human rights failure,' says federal housing advocate | CBC News
- January 11, 2023: Abbott pledges support for Nunatsiavut housing after federal advocate calls it 'abominable' | CBC News

Quebec: Montreal and Saint-Jérôme

The Federal Housing Advocate visited Montreal and Saint-Jérôme from February 20 to 24, 2023, to learn more about the housing and homelessness situation, including encampments in both communities.

The Advocate met with people experiencing homelessness, including people living in encampments, outreach workers, housing rights advocates and shelter providers. She also met with residents who are living in the encampment under the Ville-Marie expressway.

On February 23, the Advocate publicly launched a national review on homeless encampments in Canada during a reception and art exhibition, which followed a workshop entitled Habiter la rue : repenser notre réponse à l'itinérance at the Archives nationales du Québec à Montréal.

What we heard

During her meetings in Quebec, the Advocate heard about the urgent need for more investments in social housing and to enhance protections for tenants. Advocates and shelter providers spoke about an increase in the number of people experiencing homelessness for the first time, a growing demand for homelessness services and the challenge of ensuring that psycho-social supports were in place to ensure people experiencing trauma, mental health and addiction issues were successful in getting off the streets when housing was found.

She also heard frustration from some people about the lack of meaningful progress in addressing the housing crisis for Indigenous peoples. There is an urgent need for significant steps to be taken to implement the recommendations of the National Inquiry into Missing and Murdered Indigenous Women and Girls, the calls to action of the Truth and Reconciliation Commission as well as the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec (Viens Commission).

In Montreal, she also heard about the fear and insecurity encampment residents experience when they are under constant threat that their homes will be dismantled and their belongings damaged or lost. While encampments cannot be seen as a solution to homelessness, the Advocate heard about how they can offer people living in them an important sense of community, can reduce the risk of being isolated and can help outreach workers provide access to important services, including health and food.

The Advocate heard that much of the burden for responding to the human cost of this crisis is falling on community organizations. While these organizations remain committed and have tremendous experience, they are over-worked and under-resourced. In Quebec, as elsewhere, it seems the system is fractured. Governments are reacting to the crisis, but there is no broad vision or a clear strategy to address the housing emergency.

There is a need for a paradigm shift that puts people first. A system that upholds human dignity. A system that builds community solidarity and puts human rights first.

Holding government to account on the right to housing

Last year, the Federal Housing Advocate developed evidence-based recommendations that respond to issues in Canada's housing system and shortcomings in the National Housing Strategy. The recommendations the Advocate made during the course of 2022–2023 are included throughout this report, and compiled in Annex A.

This report is also an opportunity for the Advocate to make new recommendations. In the first year of the Advocate's mandate, it has become clear that it is not enough to identify barriers to the right to housing and recommend solutions. Canada's housing and homelessness emergency will only be effectively addressed when governments commit to meaningful, effective action.

The final recommendations contained in the sections below are focused on the mechanisms through which governments can demonstrate accountability and implement effective measures to address the many other recommendations in this report that the Advocate made throughout the 2022–2023 year. Detailed recommendations are available in Annex B.

The National Housing Strategy Act recognized the right to adequate housing in domestic law for the first time. To make this right real, governments must be accountable for its implementation. Implementing the right to housing in Canada is going to take all of us, working together. It is going to take sustained government action and resources. It will require commitment and coordination at all levels.

Recommendations to the Government of Canada

The Advocate calls on the Prime Minister, Minister of Housing and Diversity and Inclusion, Finance Minister, other members of Cabinet, and all Parliamentarians to recognize and implement the human right to adequate housing, as legislated in the National Housing Strategy Act.

In 2023, the Government of Canada should:

1. Establish a Cabinet working table to develop an all-of-government action plan on implementing the human right to adequate housing in accordance with the National Housing Strategy Act. The table should include the Ministers whose portfolios interact with housing, such as Health, Mental Health and Addictions, Justice, Indigenous Services, Crown-Indigenous Relations, Veterans' Affairs, Intergovernmental Affairs, Employment and Disability Inclusion, Families and Social Development, Immigration, Women and Gender Equality, and Seniors.

   Key elements of the action plan should include:

   A. Taking an all-of-government approach in responding to the housing and homelessness crisis, recognizing the crucial links between access to adequate housing and all key areas of Canada's economic and social policy, including health, justice, and immigration.

   B. Developing a mechanism similar to Gender-based Analysis Plus (GBA+) to apply the requirements of progressive realization of the right to housing in all budgets, laws, policy and program development that affect housing and homelessness, such as through Treasury Board Submissions and Memoranda to Cabinet.

   C. Making a commitment by Cabinet officials to acknowledge, and raise awareness about, the human right to housing.

Recommendations to the Minister of Housing and Diversity and Inclusion

The National Housing Strategy Act sets out the Minister's accountability to respond to recommendations from the Federal Housing Advocate, National Housing Council, and Review Panels. As Canada's Minister for Housing and Diversity and Inclusion, he must take a leadership role in the recognition and implementation of the human right to adequate housing.

The Advocate calls on the Minister to take the following specific, concrete steps in 2023 to respond to the Advocate's recommendations on the National Housing Strategy, encampments, financialization and housing supply.

1. By June 2023, provide a detailed response to the Advocate's calls to action on the National Housing Strategy, issued on National Housing Day 2022.
2. In 2023, establish and lead a working table to re-design the National Housing Strategy in alignment with the human rights obligations of the National Housing Strategy Act. Membership should include the Federal Housing Advocate along with the Deputy Ministers of the Canada Mortgage and Housing Corporation (CMHC) and Infrastructure Canada.
3. In 2023, direct the Deputy Minister of Infrastructure to work with other implicated Deputy Ministers (such as Health, Public Health, Indigenous Services Canada, Women and Gender Equality, and Employment and Social Development Canada) to establish and lead a working table to implement Canada's commitment to end homelessness by 2030, with an immediate focus on addressing encampments using a human rights-based approach.
4. In 2023, direct the CEO of CMHC to work with the Deputy Minister of Finance to develop and implement measures to address the financialization of housing in Canada, and implement a human rights-based approach to Canada's housing supply plan. This working table would initially receive and implement the recommendations from the upcoming National Housing Council's Review Panel and the study by the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) the on financialization of housing, and monitor the effectiveness of those measures. It would also expand and refine CMHC's Housing Supply model, using a human rights-based approach focused on housing supply for those in greatest need.

These three working tables should take an all-of government approach, bringing together implicated federal departments, along with Provincial, Territorial and Municipal counterparts, National Indigenous Organizations, and representatives of communities directly affected by inadequate housing and homelessness. They should operate with rapid timelines to implement urgent changes and use the National Housing Strategy to its greatest potential to address the housing and homelessness crisis.

Recommendations to provinces, territories, and municipalities

The National Housing Strategy Act recognizes housing as a human right for everyone in Canada, and makes the progressive realization of this right the basis for all housing policy.

All orders of government, including provinces, territories, and municipalities, have an obligation to protect, respect, and fulfill the human right to housing within their areas of jurisdiction. They must implement effective measures, using the maximum of available resources and employing all appropriate means, to realize the right to adequate housing in the shortest possible time, giving priority to those in greatest need.

For provinces and territories, this means:

- Providing the housing, health, and social services people require to transition out of homelessness into permanent, accessible housing;
- Protecting tenants' rights and preserve the affordability of rental housing by regulating rent increases; and
- Ensuring that income security programs provide sufficient benefits to enable people with disabilities, lone-parent families, and other low-income households to afford adequate housing and to live in peace, security, and dignity.

For municipalities, this means:

- Respecting the rights and dignity of people experiencing homelessness, including those in informal dwellings, unsheltered homelessness, and encampments, and ensuring that they have the services they require as a basic precondition to life and health, such as water, sanitation, and fire prevention;
- Reallocating investments away from policing as a means of responding to homelessness, mental health crises, and intimate partner violence, and instead funding community-based crisis response services and social infrastructure that foster community safety;
- Using planning and zoning powers to prioritize the development and preservation of housing that is affordable and accessible for those in greatest need.

In the coming year, the Federal Housing Advocate will continue to work with provinces, territories, and municipalities to support them in advancing the right to housing, and to ensure that the federal government is providing the resources and powers sub-national governments need in order to uphold their human rights obligations.

Canada needs a national right to housing strategy

In 2022, the National Housing Strategy passed its five year mark since the federal government released the 10-year, $72 billion National Housing Strategy in 2017 to reverse Canada's housing and homelessness crisis. That figure has now jumped to $82+ billion.

At its halfway point, the Auditor General's report adds to the growing evidence that the Strategy is far behind on its goals of halving core housing need and eliminating homelessness by 2030, and it is not meeting the needs of Indigenous peoples and disadvantaged groups.

The world is a very different place than it was when the Strategy was introduced. We have experienced an unprecedented pandemic and resulting economic crisis that have exposed the fragility of Canada's housing system. The number of people falling through the tattered safety net has grown. Those facing disadvantage are falling further behind. The number of people experiencing homelessness who are First Nations, Inuit and Métis remains disproportionate.

Housing is a fundamental human right for every person in Canada. The National Housing Strategy Act recognized this right in Canadian law for the first time in 2019, after the Strategy was released. The Act requires the government of Canada to develop and maintain a National Housing Strategy to advance this right.

It is time to update the Strategy to reflect these realities, correct its failings, and prioritize the human right to housing for those in greatest need.

The National Housing Strategy belongs to every person in Canada who is experiencing homelessness, facing eviction, living in sub-standard conditions, confronting discrimination, or struggling to afford housing costs.

It is our best chance to address persistent failings in our housing system and uphold the human right to housing for people facing housing insecurity and homelessness.

It is our housing strategy—let's make it work for us.

Recommendations I – National Housing Strategy

The Federal Housing Advocate calls on the Federal Government to make the following changes to the National Housing Strategy (NHS):

1. Provide better housing for Indigenous peoples, no matter where they live. The Strategy must address Canada's legacy of colonialism that results in systemic housing inequality for Indigenous people.
2. Make programs purpose-built to address the needs of people experiencing inadequate housing and homelessness, and ensure that they show measurable results for people most in need, including the Strategy's priority groups.
3. Prioritize the development and acquisition of housing supply that is permanently affordable and provides community value. Research shows that less than five percent of housing units produced by the largest NHS capital programs are affordable to households experiencing core housing need and homelessness. Instead of unnecessarily financing what the market is already producing, NHS investments must return community value through housing that is affordable, accessible, and suitable for people excluded from the housing system.
4. Demonstrate the leadership role of the federal government and a coordinated approach to involve all levels of government in solving the housing crisis. The Strategy requires concerted action and leadership from the federal government as well as other orders of government to end the housing crisis.

Detailed recommendations are available in Annex A.

Budget 2023 fails to address Canada's housing emergency

Following the release of the 2023 Federal Budget on March 28, the Federal Housing Advocate issued a statement condemning it as a sorry disappointment. Budget 2023 completely misses the mark on addressing the most pressing housing crisis this country has ever seen. There are no new ideas, and not nearly enough new money announced for housing. The homelessness crisis was not even mentioned. This is simply unacceptable.

The Budget's investments drastically fall short of what is required to stem the tide of housing loss and homelessness that is sweeping across the country. It also fails to deliver on Canada's commitment to the human right to housing and does not even mention housing as a human right.

In recent years, Canada has recognized in law this human right to adequate housing. But those are not mere words. They impart responsibilities. They require the federal government to devote tangible financial resources to make sure this human right is upheld for everyone. But this Federal budget did not do that.

By failing to properly invest in housing, Budget 2023 fails Indigenous peoples, as well as women, people who are Black and racialized, people with disabilities, people who are 2SLGBTQ+, and other disadvantaged groups, who are bearing the brunt of the housing and homelessness crisis.

There is no health without adequate housing. There is no reconciliation without adequate housing. There is no safety for Indigenous women, girls, and Two-Spirit people without adequate housing. There is no mental health or addiction recovery without adequate housing. There is no gender equity, racial justice, or inclusion without adequate housing.

Yet the only new money for housing in this budget is $4B over seven years, beginning in 2024–25, to implement a co-developed Urban, Rural and Northern Indigenous Housing Strategy. Granted, this is a welcome investment that comes after years of advocacy by Indigenous-led organizations. But when compared with the National Housing Council's call for $6.3B over two years beginning in 2022–23, this budget provides too little, too late.

The challenges facing people in Canada have gotten worse over the past year: with inflation and increasing interest rates, the loss of affordable housing at rapid rates, and with newcomers to Canada facing disproportionate barriers to their right to adequate housing.

Yet Budget 2023 includes no measures to improve the National Housing Strategy, despite the Auditor General's finding that the Strategy is not resulting in measurable decreases in chronic homelessness. As it stands, the Strategy is not meeting its goals of halving core housing need and eliminating homelessness by 2030, and it is not meeting the needs of Indigenous peoples and disadvantaged groups.

Missing from this Federal Budget are desperately-needed investments in the Strategy's programs such as:

- Expanded and long-term funding for the Rapid Housing Initiative, the most effective program in the Strategy for creating new homes that are affordable and accessible to those in deepest need;
- A new acquisition fund to enable municipalities, non-profits, and co-ops to purchase housing stock and make renovations to aging buildings, which will protect affordable housing, increase non-market housing options, and counter the financialization of housing;
- Increases to the Canada Housing Benefit, to help people weather inflation and keep a roof over their heads;
- New funds for the Reaching Home program, to help municipalities provide shelter and services for people experiencing homelessness.

Budget 2023 also fails to address major systemic issues that are affecting the human right to housing in Canada. There is no mention of homelessness, nor any promise of relief for people enduring deplorable conditions in encampments. Though it expresses concern about the financialization of housing across Canada, the budget stops short of introducing new measures to address it.

Each of these failures of Budget 2023 point to the urgent need to re-design the National Housing Strategy, so that the $82B already invested in the Strategy can make a real difference in the lives of people in Canada.

The Advocate's job in the coming year will be to keep the conversation focused on housing as a human right, and to highlight the connections between housing and other key issues. Issues such as: mental health, the poisoned drug supply, the lack of a GBA+ approach to housing, and gender-based violence and inequity.

The Advocate will also continue to amplify the voices of Indigenous partners about Missing and Murdered Indigenous Women and Girls, Indigenous Child Welfare, and to push for significant investments in the larger ticket items next year, so Canada can see this year's Budget as a runway to appropriately addressing housing as a human right, rather than a race to fall off the cliff.

The Government of Canada must put its money where its mouth and uphold its human rights obligations, end homelessness, and put the human right to adequate housing at the centre of economic and social policy.

Recommendations II – 2023 Federal Budget

Prior to the release of the 2023 Federal Budget, the Federal Housing Advocate issued the following recommendations:

1. That the Government ensure housing related budget initiatives are focused on fulfilling Canada's commitments legislated in the National Housing Strategy Act to advance the progressive realization of the right to adequate housing.

2. That the Government move expeditiously to address the housing crisis for Indigenous peoples from coast to coast to coast. Budget 2023 must deliver on the Government's commitment to support the development and provide long-term funding for an urban, rural and northern Indigenous housing strategy that is for Indigenous and by Indigenous.

3. That the Government undertake a thorough revision of the National Housing Strategy to strengthen the overall Strategy and ensure programs are delivering on human rights commitments, particularly when it comes to targeting those in greatest need.

4. That the Government demonstrate the leadership role of the federal government and a coordinated approach to involve all levels of government in solving the housing crisis.

Detailed recommendations are available in Annex A.

Engaging Parliamentarians

Housing Accelerator Fund

In June 2022, the Federal Housing Advocate submitted evidence to the Standing Committee on Human Resources, Skills and Social Development and the Status of People with Disabilities (HUMA) on the topic of the Housing Accelerator Fund.

The Housing Accelerator Fund was announced in the 2021 Federal Budget, and earmarked $4-billion to help municipalities accelerate the supply of additional housing units across the country.

Her submission underlined the need for the fund to be designed, implemented and monitored using a human rights-based approach. People experiencing inadequate housing and homelessness must be at the centre of all considerations. It must improve housing outcomes for Indigenous Peoples as well as rural, remote and northern communities.

At the same time, the Advocate's written statement emphasized that the Fund should "do no harm," and careful consideration must be given to ensure it does not exacerbate the financialization of housing or contribute to the erosion of existing affordable housing stock.

The Advocate spoke about the importance of applying a human rights lens in implementing the fund, which includes affordability. The Committee echoed this emphasis, as several members spoke of the necessity that the fund be made more accessible, affordable and green.

Recommendations III – Housing Accelerator Fund

In order to align the Housing Accelerator Fund with the human rights obligations imposed by the National Housing Strategy Act, the Federal Housing Advocate recommends that the Fund:

1. Prioritize the needs of people experiencing inadequate housing and homelessness, members of disadvantaged groups, and Indigenous peoples;
2. Dedicate the maximum available resources to increasing the supply of adequate and affordable housing for these groups over the long term and to preventing the loss of affordable housing and neighbourhoods;
3. Meaningfully involve affected communities, those most in need and Indigenous Peoples in the design, implementation and monitoring of the Fund;
4. Adopt a human rights-based approach, with clear human rights-informed targets, timelines and indicators;
5. Collect disaggregated data to understand the challenges and monitor results; and
6. Ensure collaboration and coordinated action between federal, provincial, territorial, municipal and Indigenous governments on implementing a human rights-based approach to the Fund.

Study on financialization

Last year, the Standing Committee on Human Resources, Skills and Social Development and the Status of People with Disabilities (HUMA) announced it would review the impacts of financialization on Canada's housing system.

Financialization, otherwise described as corporate investment in housing, is one of the major causes of the housing crisis and lack of affordable housing in Canada. The HUMA committee announced its intention to study financialization in October 2022. The adopted motion declared that it would examine "corporate ownership of single family homes, rent gouging and renovictions, and the impact of 'real estate investment trusts' (REITs) on the rental housing market."

In particular, the Committee indicated that it would dedicate a panel to discussing the financialization of housing with the Federal Housing Advocate. It also called on the authors of six research reports commissioned by the Advocate's office to provide expert testimony and present key findings contained in their research.

The Advocate looks forward to appearing before the Committee to share more information about the devastating, ongoing impact of the financialization of housing. The Advocate will also share her conclusions about how decision-makers and federal regulation can mitigate the harmful impacts of financialization.

Recommendations IV – Financialization

The expert research commissioned by the Office of the Federal Housing Advocate identifies multiple measures to address financialization under five key areas:

1. Tracking ownership and measuring the impacts of financialization;
2. Developing mechanisms to definancialize ownership;
3. Suspending state subsidies and support to financialized landlords;
4. Ensuring public pension funds promote social good through legislation; and,
5. Developing enduring rent controls and tenant protections.

The Federal Housing Advocate urges decision makers to consider these options when examining solutions. At the HUMA Committee panel, the Advocate invites members to seek the views of the researchers and other witnesses about the specifics of their recommendations.

The Advocate recognizes this is a complex and technical area. The Advocate's role is not to make specific policy prescriptions. Parliamentarians need to rely on the expertise of the public service to design policy solutions that will fulfill human rights obligations.

When determining policy responses, governments must put human rights at the centre.

The directives on financialization recommended by the international housing rights monitor The Shift also provide useful guidance for Parliamentarians.

Engaging other levels of government

In 2022–2023, the Federal Housing Advocate highlighted the human rights obligations of provinces, territories and municipalities when it comes to housing and homelessness in Canada.

In particular, last year the Advocate highlighted the human rights responsibilities of all levels of government when it comes to encampments and encampment residents across Canada.

Encampments are an issue of growing concern. Responses to encampments have been largely left to municipal governments, which have limited resources to appropriately support encampment residents. However, all levels of government share obligations to respect and protect the rights and dignity of encampment residents and people experiencing homelessness.

Last year, the Advocate reached out to municipal leaders in several cities across the country to express concern over the dismantling of encampments. This led to productive dialogue and engagement, and better awareness of the human rights responsibilities that municipalities must consider in their decision-making.

The conditions that lead to people living in encampments are systemic and complex. It will take all levels of government to address them. Solutions will need to be filtered through a human rights based lens, and will require concerted effort from multiple levels of government.

The Advocate strives to work with all levels of government to eliminate housing need and homelessness in the shortest timeframe possible. While provincial and municipal governments do not have a statutory obligation to respond to the Advocate's recommendations, it will take all of us to make progress on the right to housing in Canada. The National Housing Strategy Act establishes housing as a human right for everyone in Canada. Governments at all levels have a responsibility to respect, protect and fulfil this right. In this light, the Advocate encourages provinces and territories to:

- Fully adopt the human right to adequate housing into provincial or territorial legislation, policies and programs.
- Adopt and abide by the National Protocol for Homeless Encampments in Canada, which sets out a human rights approach to realizing the right to adequate housing for encampment residents.
- Work with all levels of government to fully align the National Housing Strategy with the human right to adequate housing, including through its multilateral and bilateral agreements and sharing provincial or territorial disaggregated data on how disadvantaged groups are having their right to housing recognized or not by the Strategy's programs.

Monitoring Canada's international obligations

The Federal Housing Advocate has an important monitoring role to ensure that Canada is living up to its international obligations to advance the human right to adequate housing for all.

The human right to adequate housing is recognized under international law, as early as the 1948 Universal Declaration of Human Rights. Canada committed to the progressive realization of the right to housing and an adequate standard of living in 1976 when its signature on the International Covenant on Economic, Social and Cultural Rights came into force.

Canada's commitment to the human right to adequate housing was reaffirmed in 2019 when Parliament passed the National Housing Strategy Act (the Act), which recognizes housing as a human right. The Act makes specific reference to the International Covenant on Economic, Social and Cultural Rights, but there are many United Nations treaty bodies and mechanisms which contribute to monitoring the right to housing in Canada.

It is critical that governments at all levels take their international human rights obligations seriously. International human rights bodies and mechanisms provide important guidance for developing human rights-based solutions to Canada's housing crisis.

The Committee on the Rights of the Child

Last year, the Office of the Federal Housing Advocate provided input into the Canadian Human Rights Commission's submission to the United Nations Committee on the Rights of the Child.

In order to monitor how well Canada is implementing the rights set out in the United Nations Convention on the Rights of the Child, the Committee conducts a periodic review. During this process, human rights monitoring bodies in Canada submit information for the Committee to consider in its final report.

In its concluding observations for Canada's combined fifth and sixth periodic reviews released in June 2022, the Committee highlighted that women and children are particularly vulnerable to housing insecurity and that First Nations, Inuit and Métis children as well as children of African descent and belonging to minority groups continue to face disproportionate levels of poverty.

Recommendations V – United Nations Committee on the Rights of the Child

The Advocate urges the federal, provincial and territorial governments to take urgent action to follow up the Committee's concluding observations and these two housing-related recommendations in particular:

- **Clear measures and timelines needed to end homelessness among children**
  The Committee recommended that Canada address these gaps by strengthening its timelines and priorities to end child homelessness and guarantee all children from low-income families have stable access to adequate and affordable long-term housing.

- **Revising eviction laws to protect the rights of children**
  The Committee recommended Canada revise provincial and territorial eviction laws to ensure that they prioritize the best interests of the child, and that all avenues to prevent evictions are pursued.

Hearing directly from people across Canada

A wave of new data: The first year of the Advocate's submission tool

An important duty of the Federal Housing Advocate is to listen to and amplify the voices of those impacted by inadequate housing and homelessness. One of the ways we do this is by receiving submissions from people across Canada on systemic housing issues.

In May 2022, we launched our public submission tool and process so that individuals as well as organizations can submit relevant information directly to the Advocate.

The following snapshot is the first comprehensive look at what we gathered over the course of the first year of the submission tool.

How it works

Submissions can be made using an online tool that we built and tested with feedback from over 30 different community organizations, stakeholders and people with lived experience. Their input was invaluable in ensuring the form is responsive to a variety of needs, situations, and experiences.

People and organizations can also make a submission by email or mail, including by using a downloadable form in English and French.

Submissions are a critical way for the Advocate to hear directly about systemic housing issues in Canada. The Advocate does not intervene in individual cases. Instead, the Advocate will use these submissions to raise awareness on the most common and critical housing issues people are facing, make recommendations to improve Canada's housing laws, policies and programs, and drive change on systemic housing issues.

Submissions are a key part of how the Advocate identifies systemic housing issues to review or refer to a review panel.

Helping people find help

We consulted with 30 community organizations across the country to help us develop the tool and provide support to people in their communities who need help making a submission to the Advocate.

The submission tool is also supported by toll-free phone assistance offered to people who need help using the tool.

We provided a series of online seminars on how to use the tool to front-line service providers that work with people experiencing housing inadequacy and homelessness. These service providers are an important advocacy link for people with lived experience to have their voices heard and effect meaningful change.

People requiring immediate assistance are referred to 2-1-1 so they can be connected to local support services. 2-1-1 is a national source of information for health and social services, including assistance for people experiencing homelessness and housing insecurity. They provide people in crisis with personalized help navigating the complex network of programs and organizations quickly and easily. This collaboration will help ensure that people experiencing inadequate housing and homelessness get the immediate help they need.

Who we heard from

Since the launch in May 2022, 220 people who have experienced inadequate housing and homelessness made a submission to the Federal Housing Advocate about their situation. In addition, 36 organizations shared their experiences and observations.

We received submissions from most provinces and territories, but the majority came from Ontario (52 percent), British Columbia (20 percent) and Quebec (13 percent).

We acknowledge that access to technology and the scope of the Advocate’s office can be a challenge in remote regions and across Canada. This year, we built the foundation of an outreach strategy to grow our reach and engage with more people, both in person and using the submission tool.

What we heard through our new submission tool

The submissions we receive help us identify emerging housing issues in Canada. They help to paint a clear picture of the priority systemic issues the Advocate can push for action on, and where Canada must do better.

The data in this section is based only on the submissions we received. The numbers do not represent a complete statistical picture of all housing or homelessness issues in Canada. These figures are also not representative of the total occurrences of these experiences in the general population.

Here are the highlights for 2022–2023.

What we heard about unaffordable housing and problems with finding housing

We learned that 77 percent of submissions described current or past issues with unaffordable housing, and 61 percent spoke of problems with finding housing.

Many submissions in these categories described having to make significant sacrifices and forgo basic needs in order to afford rent. Many also described living in unsuitable housing, and how housing choice and mobility are limited due to a lack of affordable rental stock and rapidly rising rents.

Such constraints are only further exacerbated by stagnant income assistance and disability rates, forcing people to stay in inadequate and, at times, unsafe housing. Some respondents mentioned that the scarcity of affordable housing enables discrimination of renters in their housing search by landlords.

Of the respondents who answered income and housing cost questions in the submission tool, 72 percent report spending above 30 percent of their income on housing, which is above Canada’s benchmark for affordability.

What we heard about the lack of justice for tenants facing evictions

We heard that 30 percent of submissions describe currently or previously facing eviction, foreclosure, or otherwise losing housing.

Of those who had experienced foreclosure, this was often related to a loss of income during the height of the COVID-19 pandemic, and resulted in the respondents entering the rental market again.

Some of the respondents who had been evicted shared that their landlords refused to sign leases or denied them tenancy rights. While formal eviction notices either fell under the auspices of landlord use or renoviction or demoviction, a subset of these notices were given in bad faith. For example, in British Columbia where recent legislation makes renovictions administratively cumbersome, respondents reported being evicted so the landlord’s family could occupy the unit, when in fact the landlord intended to renovate and increase the rent.

Many submissions described the period leading up to eviction as involving conflict or harassment from the landlord.

For those who have attempted to access legal remedies through provincial residential tenancy boards, the proceedings were reported to be burdensome and drawn out.

What we heard about housing being unsuitable for people with disabilities

We found that 57 percent of submissions were from households that include a member who identifies as a person with a disability under the Accessible Canada Act.

The Act defines disability as “any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment—or a functional limitation—whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person’s full and equal participation in society.”

These households face increased barriers to finding suitable housing for their disabilities and face increased discrimination when looking for housing.

We received six submissions from organizations who focus on this issue, including one from the Accessible Housing Network. The Network is advocating for mandatory universal design principles to be incorporated into every unit of new multi-unit residential buildings. They are urging that the National Building Code be updated so that all Canadians have access to the housing they need.

Another submission from Alberta Health Services identified the issue of accessible housing being mainly available for people willing to live on their own, primarily in one-bedroom accommodations. This results in families having to live separately in different households in order to have accessible housing.

British Columbia Complex Kids also made a submission on the struggle of parents to support children with disabilities. They noted the limited provincial programs and tax credit that support home adaptations. On a similar note, Decoding Dyslexia Ontario speaks to the lack of public services to identify dyslexia at an early stage. The struggle is not only strictly educational—it is closely linked to children’s future ability to access and afford housing.

Finally, a submission received from the Environmental Health Association of Québec highlighted that the vast majority of accommodations are not adapted for people who suffer from environmental sensitivities or multiple chemical sensitivities (ES/MCS).

What we heard about insecure housing, particularly for women and gender diverse people

We learned that 37 percent of individual submitters have been experiencing issues with their landlord, building manager, roommates, or neighbours.

Women and gender diverse people are particularly affected by abusive property owners and building managers.

Some of the issues they encountered included: landlords not making needed repairs or maintenance; threatening eviction; entering the apartment without permission; treating tenants badly on the basis of race, gender, sexual orientation, and disability; charging illegal fees and rent increases; harassment and sexual harassment of tenants; or demands for sex in exchange for housing.

We received nine submissions from women-led organizations for women's rights to housing. We initiated engagement work with the Women's National Housing and Homelessness Network (WNHHN) and the National Indigenous Housing Network (NIHN, formerly the National Indigenous Feminist Housing Working Group) who highlighted the systemic housing issues facing women, Two-Spirit and gender-diverse people, with a particular focus on Indigenous women.

- **Submission — The Crisis Ends With Us: Request for a Review into the Systemic Denial of the Equal Right to Housing of Women and Gender-Diverse People in Canada (WNHHN)**

  In their submission, the WNHHN explains that across Canada, many women, girls, and gender-diverse people live in insecure or unsafe housing—or are made homeless—due to deliberate policy choices. They disproportionately live in core housing need, head single-parent households, and bear the burden of childcare, putting them at risk of eviction when faced with the impossible choice of paying the rent or feeding their children. There is a severe lack of affordable and appropriate housing that meets their diverse needs.

  This affordable housing crisis is exacerbated by systemic issues that keep women trapped in poverty and struggling to access housing in overheated rental markets. In their submission, the WNHHN argues that the Canadian Government's failure to adequately address housing need and homelessness has manufactured a national human rights crisis for marginalized women and gender-diverse people. With few housing options and overwhelmed emergency shelters, many women rely on informal networks or dangerous survival strategies to meet their basic needs. The need to remain in situations of hidden homelessness not only places them at risk of exploitation and abuse, it also renders their needs invisible within mainstream systems and policy development.

- **Submission — Homeless on Homelands: Upholding Housing as a Human Right for Indigenous Women, Girls, Two-Spirit and Gender-Diverse People (NIHN)**

  In its submission, the NIHN declares that Indigenous women, girls, Two-Spirit, and gender-diverse people are experiencing some of the most egregious right to housing violations across Canada. They are over-represented in almost all aspects of housing insecurity, homelessness, and poverty, and are disproportionately impacted by violence and trauma linked to precarious living situations. Indigenous peoples – First Nations, Inuit, and Métis – continue to navigate and survive violent systems of institutionalization and exclusion, practicing their cultures through land and water stewardship and utilizing mechanisms like international and national human rights covenants and declarations to assert their rights.

A submission from la Table des Groupes de Femmes de Montréal reports how the current housing crisis severely impacts women, whose housing needs and problems have grown. The pandemic trapped many women in abusive situations, disrupted the strategies of organizations who support people experiencing or at risk of homelessness, and hindered access to support resources.
The shortage of shelter spaces for women has intensified. Many must now turn to resources that do not meet their needs, or remain in unsafe environments.

The context of the pandemic makes it even more difficult for community workers to reach women. The sector itself was also hard hit by the pandemic, and many non-profit groups struggled to maintain their existing services and working conditions.

The groups report barriers to access and many sources of exclusion in social, transitional and emergency housing resources. These include women's lack of knowledge of existing and available housing, cumbersome eligibility criteria and regulations, bureaucratic processes, and a lack of resources for women with complex life situations.

Recommendations VI – Women and gender diverse people

1. Take urgent action to implement the Calls for Justice made by the National Inquiry into Missing and Murdered Indigenous Women and Girls, and the Truth and Reconciliation Commission's Calls to Action as they relate to access to safe, affordable and adequate housing for First Nations, Inuit and Métis women, girls, Two-Spirit and gender-diverse people.

2. Ensure that definitions of homelessness for the purposes of defining federal, provincial, territorial and policies and programs reflect the distinct experiences of homelessness among women, girls, Two-Spirit and gender-diverse people, particularly those who are Indigenous.

What we heard about homelessness or people not having their own place

Endless waiting lists are a testament to the lack of affordable housing. This shortage fuels the overcrowding of transitional housing and accommodation resources.

One in three individual submitters shared they have been experiencing issues with waiting lists for housing or shelters. We heard that the inaccessibility of shelter spaces is driving many people to live in tents or other forms of shelter for places to stay and to sleep. The Advocate's review of homeless encampments is based on a submission from Montreal highlighting how people living in encampments face significantly greater insecurity and threats to their health and human rights.

We also learned that half of the individuals who made a submission experienced homelessness at some point in their lives.

One in ten individual submitters were involved in the child welfare system or residential school system as a child or youth. Of these, the vast majority had experienced homelessness at one point in their lives. Some were not even 16 years old when they became homeless for the first time, and half became homeless for the first between 16 and 29 years old.

Some of the causes for experiencing homelessness at a noticeably young age include parents forcing children out of the household, fleeing abusive households, unplanned pregnancies, and guardians or parents being evicted for not paying their rent.

What we heard from tenants' rights associations

We received several submissions from tenant's associations and organizations advocating for tenants' rights who echo the concerns raised in individuals' submissions. They made important recommendations, including that the National Housing Strategy needs to be reviewed to be clearly oriented towards social housing, and that it be broadened to facilitate legal recourse.

One of the national leaders for social housing advocacy is the Front d'Action Populaire en Réaménagement Urbain (FRAPRU). They are a coalition of 145 organizations active in different regions of Québec, who intervene in every facet of the housing system. Their main priority is the "development and protection of social housing, in the form of public housing, cooperatives and non-profit housing." In their submission, they denounce the systemic impact of the massive shortage of affordable rental stock on the right to housing, as well as its effects on other related areas of human rights, such as health, food, security, equality, and life.

What we heard about violations of the right to housing for Indigenous peoples

The submission from the National Indigenous Housing Network (NIHN) declares that Indigenous women, girls, Two-Spirit, and gender-diverse people are experiencing some of the most egregious right to housing violations across Canada. They are over-represented in almost all aspects of housing insecurity, homelessness, and poverty, and are disproportionately impacted by violence and trauma linked to precarious living situations.

These violations are a result of historic and ongoing attempts by the Canadian state to colonize Indigenous peoples, their cultures, and their ways of living, doing, and being. In the face of these attempts, Indigenous peoples—First Nations, Inuit, and Métis—have resisted and mobilized, continuing to uphold their ways. They continue to navigate and survive violent systems of institutionalization and exclusion, practicing their cultures through land and water stewardship and using mechanisms like international and national human rights covenants and declarations to assert their rights.

Amplifying experiences of systemic housing issues in Canada

Over the course of the past year, based on research and the submissions we have received, we delved deep and worked to shine a light on key systemic housing issues in Canada and the lived experience of the people these issues are impacting every single day.

We focussed on our work on five issue areas in particular:

1. Financialization
2. Encampments
3. The right to housing for Indigenous peoples
4. The right to housing for Two-Spirit, trans and gender-diverse people
5. Homelessness of Canada's veterans

Systemic issue 1: Financialization

Last year, we continued to highlight the issue of the financialization of housing and the harm is it causing to people and communities in Canada.

Canada is seeing a growing trend of financial firms using housing as a commodity to grow wealth for their investors. Private equity firms, pension funds, and real estate investment trusts (REITs) are increasingly acquiring, operating, and developing housing as an investment strategy, with the aim of maximizing returns for shareholders.

This phenomenon, known as the financialization of housing, often sees these firms acquiring rental buildings and increasing rents or decreasing services to maximize profits. This trend is not only contributing to unaffordability across the country—it is also denying people their fundamental human right to affordable, dignified, and safe housing.

Research and engagement

A series of reports on this issue commissioned by the Office of the Federal Housing Advocate were published on September 8, 2022. The research reports have drawn wide attention and will be the focus of a study of the financialization of housing by the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA). The adopted motion in October 2022 declared that it would examine “corporate ownership of single family homes, rent gouging and renovictions, and the impact of ‘real estate investment trusts’ (REITs) on the rental housing market.”

The research findings confirm that financialization affects disadvantaged groups most, such as seniors, low-income tenants, people with disabilities, members of Black communities, and many others. It is linked to unaffordable rent increases, worsening conditions and a rise in evictions and renovictions.

Financialization is not only affecting the rights of individuals and households—it is reshaping Canada’s housing system in dangerous ways. The research estimates that about one third of all seniors’ housing in Canada has been financialized, along with 20-30 percent of purpose-built rental buildings.

The Advocate looks forward to appearing before the HUMA Committee to discuss the harmful effects of financialization and share options that policy makers can take to curb this issue.

Review panel

On September 23, 2022, the Advocate issued a formal request to the National Housing Council to launch a review panel on the human rights impacts of the financialization of purpose-built rental housing. This is the first time the Federal Housing Advocate has referred a systemic housing issue to the National Housing Council for further examination by a review panel.

In March 2023, the National Housing Council announced plans to launch the review panel. The review panel—made of up of three members of the National Housing Council—will collect written and oral hearings from members of the public, human rights organizations, and experts. Finally, it will issue a report with recommendations for action that the government of Canada should take to address the financialization of purpose-built rental housing and advance the right to housing in Canada.

Review panel hearings centre around public participation, particularly for communities directly affected by systemic issues. The hearing will provide an opportunity for tenants and others to share their experiences with financialization and the solutions they want to see.

Systemic issue 2: Encampments

Since the start of the pandemic, there has been a visible rise in encampments across Canada. Housing is becoming increasingly unaffordable and inaccessible. People are losing their livelihoods and their homes. Many social services and shelters are at maximum capacity. More people than ever before are having to live in tents or informal shelters to survive. Many have nowhere else to go.

Last year, we continued to speak out and drive action on this issue to ensure that the rights and dignity of encampment residents are respected and upheld by decision-makers at all levels.

Advocate-led review

On February 23, 2023, the Federal Housing Advocate launched a formal review of encampments in Canada, which have become a human rights crisis in cities across the country.

Although courts and human rights bodies are increasingly recognizing unsheltered homelessness as a human rights issue, people living in encampments are in some of the most vulnerable circumstances in our society. Their dignity and rights are frequently ignored. They face harassment and violence from police, bylaw officers, and the public. Most do not have access to basic services like clean water or heat. Some have suffered harm or have died as a result of exposure, fire, overdose, and other threats to life and safety.

As a result, the Advocate is very concerned that some governments are not taking the necessary steps to protect people experiencing homelessness, particularly during severe weather. Dismantling encampments during the winter puts people's health and their lives at stake. This is a serious violation of human rights.

All levels of government have an obligation to end this crisis. The conditions in encampments, coupled with the underlying failure of governments at all levels to ensure people can access adequate housing, are a violation of fundamental human rights, including the human right to housing.

With this in mind, the Advocate has launched a formal review into this systemic housing issue. The Advocate's review will focus on systemic solutions to address the factors that lead to encampments, as well as the daily struggles of the people who live there. At the conclusion of the review, the Advocate will submit her findings and recommendations to the federal Minister responsible for housing.

The Advocate's review will include testimony from people with lived experience. Anyone who has lived in an encampment can contribute to the review by making a submission to the Advocate.

This review will provide opportunities to engage with rights-holders, duty-bearers and other stakeholders to better understand the systemic issues and identify practical human rights-based solutions. The review will take place over six to nine months, and the final report will document the Advocate’s finding and recommendations to the Minister responsible for housing.

The recommendations will include measures to:

- Protect the fundamental right to adequate housing and other human rights for encampment residents and those at risk of homelessness, particularly those who are Indigenous and those who are members of disadvantaged groups; and
- Provide sufficient supports to allow those living in homeless encampments to transition successfully into long-term and appropriate housing situations that respect their dignity, autonomy and privacy.

Canada must do better at meeting people's vital needs for shelter and safety. Responses to encampments must centre on people's dignity and their human rights, including their right to adequate housing.

Research and engagement

The Advocate's review builds on a series of research reports on homeless encampments released on December 8, 2022, that confirm a human rights crisis is unfolding in cities across Canada.

These reports provide critical information on the emerging issue of encampments in five regions of Canada. They also confirm that a punitive approach to encampments is failing. Tearing down encampments is unsafe and can amount to forced eviction, which is a serious violation of human rights. The researchers note that this approach does not address the underlying conditions that have led to the growth of encampments in the first place, and it does not respect the rights or increase the safety or housing security of encampment residents. Critically, a punitive approach also removes choice from encampment residents and destroys the mutual aid and community connections they have built to care for one another within a broken system.

Alongside this in-depth research, the Advocate engaged with a variety of organizations and stakeholders on the topic of encampments, including:

- A partnership with The SHIFT to engage encampment residents to raise awareness about their human rights and the role of the Federal Housing Advocate;
- A webinar organized with the Université de Montréal with the researchers on December 2nd to share the research findings;
- Expressions of concern and meetings with municipal leaders to highlight their human rights obligations when it comes to encampments;
- Engagement with the Reaching Home program at Infrastructure Canada to learn more about current federal measures to address the human rights dimension of homeless
- Encampments; and
- Participation in a workshop entitled Habiter la rue : repenser notre réponse à l'itinérance at the Archives nationales du Québec à Montréal.

This engagement and research will help decision-makers take action to better support encampment residents and uphold their fundamental human rights and human right to housing.

Recommendations VII – Encampments

Governments and decision-makers at all levels must centre human rights and the right to housing in their approaches to encampments. The reports recommend five key areas where Canada must do better to uphold the rights of encampment residents:

1. Stop the use of policing and law enforcement as a response to encampments.
2. Provide funding and services at all levels of government—to support municipalities that are facing the disproportionate impact of addressing the existence of encampments, and to invest in short and long-term housing options and supports for encampment residents.
3. Ensure the meaningful participation of encampment residents in decisions that affect them.
4. Recognize the distinct rights of Indigenous Peoples and include them in the development of policy approaches to encampments.
5. Address the conditions within encampments and provide access to basic

Systemic issue 3: The right to housing for Indigenous peoples

Across Canada, Indigenous people face long-standing challenges to accessing safe and affordable housing. Indigenous people are experiencing a housing crisis, which is in effect a human rights crisis. It is important to recognize the colonial policies and systems that perpetuate dispossession and violence, leading to homelessness and inadequate housing.

Since the Federal Housing Advocate's appointment in February 2022, she has made it her priority to engage with Indigenous peoples directly in order to respect self-determination and deepen collaboration and partnership. One of the key components of a human rights-based approach and of the mandate of the Federal Housing Advocate is meaningful engagement with Indigenous peoples in all aspects of policy and advocacy.

A year of meaningful engagement

Over the course of the past year, the Advocate's engagement with Indigenous people and groups has allowed her the honour to bear witness and hear first-hand about the housing experiences of First Nations, Inuit and Métis peoples, including those in remote, urban and rural areas.

The Advocate made it her priority to meet with leaders from National Indigenous Organizations, Indigenous-led organizations and Indigenous communities to identify long-term and sustainable housing solutions. Throughout the year, the Federal Housing Advocate met with more than 25 First Nations, Metis and Inuit organizations to build relationships and discuss ways that we can work together.

Throughout this year of close talks and meaningful dialogues, the Advocate endeavoured to create an impartial and balanced approach to engagement, which is focused on promoting and ensuring participation of Indigenous peoples and their expertise and recognizing people with lived experience of housing need and homelessness as experts. Engaging with Indigenous peoples and communities must follow the standards enshrined in the UN Declaration on the Rights of Indigenous Peoples, including free, prior and informed consent. Any recommendations that may affect Indigenous peoples must be developed in collaboration with those communities and reflect their express consent and leadership.

Key takeaways

The right to housing for Indigenous peoples includes rights related to lands, resources and territories, social and economic rights, rights related to non-discrimination and the importance of Indigenous peoples' right to determine their own housing institutions, programs and policies. Throughout the Federal Housing Advocate's yearlong engagement, she learned, she listened and she identified key items that will be integral to the way forward on this issue. Here are just a few:

- Dedicated funding to meet the housing needs of First Nations, Inuit and Métis people, regardless of their residency.
- A revised National Housing Strategy that is more reflective of human rights and Indigenous rights.
- Full representation of Indigenous peoples at decision-making tables.
- Direct and sustained federal investments, including respecting the government-to-government fiscal relationship as opposed to the creation of a myriad of federal housing and homelessness programming.
- Effective inter-governmental collaboration, research and innovation, and statistics gathering.
- Meaningful input on how Advocate-led reviews and referrals to the National Housing Council for hearing panel can respect Indigenous self-government rights.

The Advocate recognizes that Indigenous governments and communities are showing great leadership in the area of housing and homelessness, however, the legacies of colonialism and systemic disadvantage mean that Indigenous peoples are disproportionately represented in people who experience homelessness and housing precarity.

The Federal Housing Advocate would like to see greater cooperation between governments and a stronger leadership role for the federal government. All levels of government have a role to play to address the housing crisis.

Systemic issue 4: Barriers to adequate housing for Two-Spirit, trans and non-binary people

Since the start of her mandate, the Federal Housing Advocate has committed to focusing her work on those with greatest housing need, including Two-Spirit, trans and non-binary people who are disproportionately affected by housing need. It is essential when considering this priority group to do so with a keen intersectional lens. This is because for gender-diverse people who face intersectional forms of discrimination—such as racialized trans people, or non-binary people with disabilities—the barriers to housing are even greater.

Learning more about barriers to housing

In 2022–2023, the Office of the Federal Housing Advocate commissioned the Women's National Housing and Homelessness Network to prepare a research brief entitled Housing Need and Homelessness amongst Gender-Diverse People in Canada — A Preliminary Portrait. Drawing on a scoping literature review on homelessness among gender-diverse people in Canada, as well as quantitative and qualitative data from the Pan-Canadian Women's Housing and Homelessness Survey, the brief examines significant, intersecting human rights violations in the area of housing, including:

- gender-based discrimination in the rental housing market,
- disproportionate housing accessibility and adequacy issues,
- unique barriers to security of tenure, and
- socio-economic marginalization that erodes access to affordable, safe, and permanent housing for gender diverse people.

This research contributes to a body of evidence to support the Advocate's systemic reviews and also to help academics and government duty bearers to understand where to focus their efforts and future research. Some key areas for future research range from collecting better national data on housing need and homelessness experienced by Two-Spirit, trans, non-binary, and gender diverse people, to the impact of financialization on gender-diverse households, to experiences of hidden homelessness among this community.

Gaps in housing data for trans and gender diverse people

Historically, 2SLGBTQ+ people have accounted for a disproportionately large percentage of Canadians who are homeless, at risk of becoming homeless, or in core housing need. The 2SLGBTQ+ population is much more likely to be renters than the general population (53% vs. 31%), more likely to be in core housing need (17% vs 12%), and less likely to report being satisfied with their dwelling (74% vs 83%), according to Statistics Canada. Recent research from Statistics Canada reveals that 2SLGBTQ+ individuals may also be at greater risk of losing access to safe and secure housing during the COVID-19 pandemic.

However, data remains limited regarding the housing and homelessness experiences of low income Two-Spirit, trans, and non-binary people living in Canada, particularly with attention to differences within the Two-Spirit, trans, and non-binary community related to household income, Indigenous identity, racialization, and disability.

In 2022–2023, we set out to provide some new disaggregated data to help fill this gap. Together, the Office of the Federal Advocate and the Policy, Research and International Relations Division of the Canadian Human Rights Commission funded and commissioned a report from Trans PULSE Canada. The report is based on housing data from the organization's national survey, a large community-based study of the health of trans and non-binary people in Canada, funded by the Canadian Institute of Health Research.

Key findings included:

- Half of participants anticipated discrimination in obtaining housing because of who they are.
- 9.8% of participants had avoided accessing a shelter when they needed one because of gender identity/expression.
- 9.3% of participants were homeless or living in precarious housing, most often living temporarily with partners, friends, or family (8.6%).
- Indigenous participants reported the highest rates of having ever lost housing (20.3%) or having to move (35.8%) because of who they are, as well as food insecurity (27.1%).
- Black participants reported the highest rates of having been denied banking (19.1%) because of who they are. Many Black participants anticipated discrimination in banking access (45.3%) and in obtaining housing (69.9%) because of who they are. Other racialized participants reported the highest rate of current homelessness (2.7%).
- Half of participants with disabilities received public social assistance or disability support in the past year. Participants with mobility disabilities had the highest reported level of avoiding using shelter (18.7%) and being denied shelter access (3.8%).

Trans PULSE Canada used multiple approaches to make the survey accessible, however, it was not possible to conduct a random sample of the trans and non-binary population. Therefore, results cannot be assumed to represent true population demographics. For instance, that 9.3% of participants were homeless or living in precarious housing, does not mean exactly 9.3% of all trans and non-binary people in Canada are homeless or living in precarious housing.

Systemic issue 5: Homelessness of Canada’s veterans

In 2022–2023, the Office of the Federal Housing Advocate launched a new partnership with McGill University’s Max Bell School of Public Policy to gain a deeper understanding of the challenges and opportunities for ending veteran homelessness. The Max Bell Policy Lab will review existing literature, interview key informants and craft recommendations to guide the Advocate’s future work in this area. The final report and recommendations will be presented in 2023.

Last year, the Advocate also had the pleasure of engaging with the Multifaith Housing Initiative (MHI), which exists to build affordable housing that helps fix Ottawa's housing crisis and gets at-risk people into secure, safe homes. One of their projects includes an affordable housing community for veterans, which the Advocate visited on November 11, 2022.

Promoting the right to housing

Keeping the conversation focused on human rights

Achieving the human right to adequate housing for all is one of the key pillars of the Federal Housing Advocate's role. Keeping the conversation focused on human rights is her job.

Throughout the month of November and in line with National Housing Day on November 22, the Advocate used this opportunity to call for changes to the National Housing Strategy so that it better addresses persistent failings in our housing system and upholds the human right to housing for people facing housing insecurity and homelessness.

November marked five years since Canada released its 10-year, now $82 billion National Housing Strategy in 2017 to reverse Canada's housing and homelessness crisis. As we pass its halfway point, there is growing evidence that the Strategy is far behind on its goals of halving core housing need and eliminating homelessness by 2030, and it is not meeting the needs of Indigenous peoples and disadvantaged groups.

On November 17, 2022, the Office of the Federal Housing Advocate worked in partnership with the National Right to Housing Network to host a virtual panel discussion to highlight the urgent need to revise Canada's National Housing Strategy to include a stronger human rights-based approach by putting human dignity and lived experience at the centre of all its policies.

The event, moderated by the Advocate, consisted of a diverse panel of experts who offered insights and rights-based solutions to address Canada's deepening housing crisis. The panel's solutions touched on issues of affordability, evictions and security of tenure, and housing inadequacy in northern Indigenous communities.

On November 22, 2022, the Advocate held a live video broadcast event open to the public where she highlighted the importance of advocating for housing as a human right, and outlined the current gaps in the National Housing Strategy while encouraging Canadians to voice their own views on improving the Strategy.

The National Housing Strategy is our best hope of solving the housing and homelessness crisis. It belongs to everyone in Canada—let's make it work for us.

Making connections

Engaging with other organizations in the housing and homelessness sector helps the Federal Housing Advocate make real connections with people and combine our advocacy efforts. Last year, the Advocate spoke at more than 15 events, where she touched on key themes of advocacy, housing as a human right, and collaboration at all levels to develop solutions. Here are just a few:

- A keynote speech at the Manitoba Non-Profit Housing Association's 10th annual conference, where she highlighted the importance of the non-profit sector in solving the housing crisis in Canada.
- A keynote speech at the Assembly of First Nations' 5th National Housing Forum, where she touched on the importance of First Nations leadership and vision in reimagining housing policy in Canada.
- Housing on the Hill Day, an event on Parliament Hill coordinated by the Canadian Housing and Renewal Association (CHRA). The Advocate participated in a fireside chat with CHRA Interim Executive Director Ray Sullivan, and underlined the importance of bringing together people on the front lines of the housing crisis with MPs and policy-makers.
- A keynote fireside chat in Saskatoon on the second day of the Building Community — Saskatchewan Housing and Homelessness Conference hosted by the Métis Nation-Saskatchewan (MN-S).

Canadian Alliance to End Homelessness conference

The Advocate was a keynote speaker at the November 2022 Canadian Alliance to End Homelessness (CAEH) conference. Her speech touched on the advocacy journey to achieving the right to housing in Canada, and the work ahead. Above all, she highlighted that her most important role is to support the power of the people in claiming their rights and demanding change.

"It took decades to win the recognition of the right to housing in law—but this is only the beginning. These rights belong to all of us and it will take all of us working together to make the right to housing real."

—Federal Housing Advocate, Marie-Josée Houle

The CAEH conference was also an opportunity to engage in workshops and symposiums with lived experts, front line workers, policy professionals, elders, leaders, survivors, funders, researchers, and activists. During the conference, the Advocate participated in the National Symposium on the Right to Housing for Women and Gender-Diverse People. The Advocate was honoured to hear their stories and strategize with these powerful lived experts and allies. In the wise words of one speaker, "Lived experts are great policy-makers."

Meanwhile, staff from the Office of the Federal Housing Advocate, along with partners at the National Right to Housing Network, delivered an interactive workshop entitled “Claiming the Right to Housing.” Staff shared about how the Advocate engages with the public through the housing submission tool. Using an interactive poll, participants shared the systemic housing issues most important to them, what they needed to put forward a systemic submission to the Advocate, and offered possible solutions to Canada’s housing crisis.

The Office’s research on financialization and encampments was also presented in two workshops led by the researchers Sue-Ann MacDonald and Caroline Leblanc (encampments) and Martine August, Nemoy Lewis, Jackie Brown and ACORN Canada (financialization).

Working together

Building partnerships with organizations across Canada is essential to our work. Collaborations with these stakeholders help to strengthen our research, our knowledge of systemic housing issues in Canada, and broaden our reach.

Trans PULSE

In 2022, the Office of the Federal Housing Advocate leveraged the work of Trans PULSE Canada and the Women’s National Housing and Homelessness Network to convene two expert engagement meetings. The meetings were held with Two-Spirit, trans and non-binary people (and allies) with lived or living experience of homelessness and housing precarity, and Two-Spirit, trans and non-binary academic and community leaders, to further inform future research and engagement efforts of the Office and the Canadian Human Rights Commission.

Federal and Indigenous partners

Last year, the Advocate also built strong relationships with government partners, primarily at the federal level, as well as with national Indigenous organizations. The Advocate held introductory bilateral meetings with all federal Ministers overseeing key housing programs, as well as appeared before the Federal, Provincial-Territorial Housing Forum of Deputy Ministers. The Advocate also met with the executive leadership of the national Indigenous organizations to establish strong relationships and to plan regional engagements. Through regional visits, the Advocate was also able to begin engaging with some municipal governments in British Columbia, as well as the Indigenous leadership organizations in Nunavut and Nunatsiavut.

Working together on accessibility

Last year, the Federal Housing Advocate developed partnerships to advance our shared goals with the people and organizations who have mandates under the Accessible Canada Act, including the Accessibility Commissioner at the Canadian Human Rights Commission, the Chief Accessibility Officer, and Accessibility Standards Canada.

Canada does not currently have an adequate supply of accessible housing for people with disabilities. As our population ages in the next few decades and the average life expectancy increases, the need for accessible housing will increase dramatically. Seniors are twice as likely to have a disability as younger people; it is estimated that in the next two decades, one in four people will have a disability.

Canada's current supply of housing stock specifically for seniors is in short supply. There are predicted shortages of purpose-built seniors housing and long-term care facilities. Already, because of the lack of accessible housing options and choices, some seniors and people with disabilities who could live independently are forced to take up long-term care beds, which are in high demand, costly, and should be reserved for people with complex care needs.

In our work together, we are highlighting the need for Canada to build accessibility into its housing policies and programs so that seniors and people with disabilities have a full range of housing choices that suit their needs. New housing must be designed to ensure equity for all Canadians, including seniors and people with disabilities.

One of the Advocate's priorities is to highlight the urgent need for accessible housing in the face of Canada's rapidly aging population, and ensure that new housing is designed to allow people to age in place.

The reality is that many seniors will need to age in place — that is, stay in their own homes as they grow older. Seniors who are aging at home will need to be in housing that meets their accessibility needs and accommodates future disabilities. Many homes will require renovations — some of which are extensive, expensive, disruptive and time consuming, if they are even possible at all. This situation is expected to create additional burdens for Canada's aging population, regardless of people's socio-economic position, with those most disadvantaged being most deeply affected.

With the goal of ensuring equity and accessibility for all, Accessibility Standards Canada has published a technical standard on Accessible Dwellings in partnership with Canadian Standards Association (CSA/ASC – B652 – Accessible Dwellings). This standard can be adopted into regulations to ensure accessibility is incorporated into newly built homes. This would allow new homes to meet the evolving needs of seniors, people with disabilities, families, and others.

The Federal Housing Advocate is calling on the federal government to rapidly incorporate accessibility standards for housing into the National Building Code alongside provinces and territories to make these standards legally enforceable.

The National Housing Strategy — Canada's $82 billion strategy to address the many housing crises that rage across this country — will result in waves of construction booms from coast to coast to coast. We have an opportunity to build in accessibility from the start. Now is the time to enact changes to make a real difference for people in the future.

The government must ensure that all new housing achieves the Accessible Canada Act's goal of creating a barrier-free Canada, and the human right to adequate housing enshrined in the National Housing Strategy Act.

Recommendations VIII – Accessibility

1. The Federal Housing Advocate recommends that all new housing units that receive government funding or incentives meet the minimum criteria of visitability (having a level entrance, and having wider doorways and hallways and a wheelchair accessible washroom on the entry-level floor).

2. The Federal Housing Advocate calls for all new residential units built in Canada to meet the criteria of Universal Design as well as the minimal Building Code requirements for housing related to accessibility conversion, allowing for easy, less structurally complex, expensive and disruptive future accessibly renovations.

3. The Federal Housing Advocate calls for the adoption of the Accessible Dwellings Standard by provinces and territories, ensuring the accessibility standards are legally enforceable with the aim of removing and preventing barriers in the built environment for persons with disabilities, and all people who use it.

National Housing Council

The National Housing Council is an important partner that shares our goal of advancing the right to housing for all.

Like the Federal Housing Advocate, the National Housing Council was established by the National Housing Strategy Act to promote participation and inclusion in the development of housing policy, provide advice to the Minister responsible for housing on advancing the right to housing, and to offer advice on the effectiveness of the National Housing Strategy to the Minister. The Council also plays a key role in conducting review panel hearings at the request of the Advocate.

The Council includes 12 diverse appointed members from across the country, who bring lived and professional expertise on the issues of housing and homelessness facing their communities. In addition to the Advocate, ex-officio members of the Council include the CEO of the Canada Mortgage and Housing Corporation (CMHC), Deputy Ministers of Infrastructure Canada, Indigenous Services Canada, and Women and Gender Equality Canada, and the chair of the Provincial-Territorial Housing Ministers' Forum.

Last year, the Advocate joined the Council's online meetings in April, June, and December 2022 and February 2023, as well as their first in-person meeting in September 2022. She has also held regular meetings with the Appointed Co-Chair of the Council to foster collaboration on advancing the right to housing.

Throughout the year, we worked with the Council to align and strengthen our research and engagement. In particular, the Council's reports on the National Housing Strategy have helped to inform the Advocate's recommendations to the Minister on changes required to the National Housing Strategy. We also provided input into the Council's research and engagement work.

The area of most intensive collaboration with the Council has been in the development of guidelines for review panels. Review Panels are a new, made-in-Canada, participatory human rights mechanism established by the National Housing Strategy Act. Review panels are mandated to hold public hearings on major systemic housing issues identified by the Advocate, and to deliver a report to the Minister with their opinion and recommendations on what needs to be done to address the issue and advance the right to housing.

Speaking out

The housing crisis in Canada continued to weigh heavily on people this year. Homelessness is on the rise, housing is increasingly unaffordable and unavailable, and disadvantaged groups are falling further behind.

This year, the Federal Housing Advocate raised awareness on these systemic issues and amplified people's experiences by speaking out in the media, online, and in-person.

Dignity and safety for people experiencing homelessness

Following attacks on people experiencing homelessness in August 2022, the Federal Housing Advocate issued a joint statement with the Canadian Human Rights Commission to condemn this violence as a hate crime and demand dignity, safety, and protection for people experiencing homelessness. Upholding their human right to housing and protecting them from violence is a matter of life or death.

In February 2023, the Advocate spoke out online about a planned eviction of people living in an encampment under the Ville-Marie expressway in Montreal. This news came on the heels of her visit to the encampment the week before, where she met and spoke with the residents. In her post, the Advocate urged the city and the provincial transport ministry to stop the eviction, and above all, to respect the rights of encampment residents. This issue also gained traction in the media, with community organizations and encampment residents alike highlighting the harm that an eviction would cause. The Advocate also spoke to several media outlets and highlighted that all levels of government must do more to provide adequate housing for people experiencing homelessness.

The Advocate also released a series of Tweets in February 2023 urging a halt to proposed changes by Prince George city council to create a centralized, police-monitored homeless encampment in the city at Moccasin Flats. The proposed plan would violate Indigenous rights and the human rights of people experiencing homelessness. The Advocate called on the city to explore alternative options that are in line with their human rights obligations. The Advocate visited the encampment in August during her time in British Columbia, and as a result, she also urged the city to take action to ensure that the basic needs of people experiencing homelessness are being met, including sanitation, drinking water, heat, cooling, electricity, harm reduction, health and community services, safety, and more. Finally, she highlighted that any solutions must be the result of meaningful engagement and consultation with residents.

Op-ed: We must fix Canada's National Housing Strategy. Here's how to start

On National Housing Day, November 22, 2022, a version of this story appeared in the Ottawa Citizen

If you have been downtown in any Canadian city recently, you have probably noticed the same thing I have: there are far more people living on the streets.

While this is the starkest indicator of Canada's housing crisis, there are many thousands more people who are facing the grim reality of housing insecurity. With rising rent costs, few protections against eviction, and an unforgiving housing market, the number of people in this dire situation is growing.

This month marks five years since the federal government released its 10-year, $72 billion National Housing Strategy to reverse Canada's housing and homelessness crisis. The Strategy promised to reduce core housing need and end homelessness by 2030.

Clearly, it is not working. The Auditor General's report last week adds to the growing evidence that the Strategy is far behind on its goals.

No strategy could have predicted the challenges the world has faced in the past few years. The crushing combination of the pandemic and the economic crisis has exposed the fragility of Canada's housing system. It's made rent even more unaffordable. It's pushed shelters to the breaking point. Record numbers of people are dying on our streets.

With inflation and a looming recession, things are getting worse. Many are just one accident, one illness, or one missed paycheque away from losing their home.

The number of people falling through the tattered safety net has grown in the last five years. Those facing disadvantage are falling further behind. The number of people experiencing homelessness who are First Nations, Inuit and Métis remains disproportionate.

The Strategy names priority populations, including Indigenous people, seniors, and people with disabilities—but it offers no way of measuring whether its programs are reaching the people who need it. Research shows that of the new housing units built by the two major programs of the Strategy, fewer than five percent are affordable to people in deepest need.

We need a new plan. It is time to overhaul the Strategy to correct its failings and to reflect the realities of today's world.

The National Housing Strategy belongs to everyone in Canada. We must demand that it work for us. Here is where we should start.

We must tailor the Strategy to help low-income people stay housed and cope with inflation. This means retooling the Strategy's programs to meet the specific needs of disadvantaged groups, particularly people experiencing homelessness and housing insecurity.

We must provide better housing for Indigenous people, no matter where they live. The Strategy must support a for-Indigenous, by-Indigenous approach. It must give Indigenous governments the resources to respond to the housing crises in their communities.

We need to take a new approach to providing adequate housing supply. This means funding the development, repair, and acquisition of housing supply that is not-for-profit, permanently affordable, and provides community value in exchange for government investment.

And finally, the Strategy must prioritize a federal leadership role and a coordinated, all-of-government approach to involve all levels of government in solving the housing crisis.

The status quo is failing people. People who are low-income and precariously housed need solutions that keep them in their homes. More people will be forced into the cold if we do not act. More people will die on the streets this winter.

We have to do better. Housing is a fundamental human right. A revised strategy is our best chance to improve life for people facing housing insecurity and homelessness. It must keep pace with the current reality and properly address persistent failings in our housing system.

The people living on our streets do not need charity—they need their government to deliver on its commitments and human rights obligations to end homelessness.

The time is now.

Marie-Josée Houle is the Federal Housing Advocate, Canada's first housing and homelessness watchdog

In 2022–2023, the Advocate was quoted in more than 50 media stories, including radio, print and television.

Monitoring the right to housing

One of the Federal Housing Advocate's roles is to keep track of how Canada is doing on the progressive realization of the right to adequate housing. Having comprehensive data, monitoring tools and frameworks that are grounded in human rights will help us to see what progress Canada is making and where we still need to improve.

The intersection of the right to housing and the rights of people with disabilities

This year, the Federal Housing Advocate worked closely with the Canadian Human Rights Commission to engage with people with disabilities and monitor how well their human rights are being respected in Canada, including their right to adequate housing.

The Commission is designated as Canada's National Monitoring Mechanism (NMM), with a mandate to monitor the implementation of the United Nations Convention on the Rights of People with Disabilities (CRPD).

The NMM has consistently received feedback from rights holders to prioritize issues of housing and disability. So, we are working together to coordinate efforts to create a consistent human rights-based approach to our respective monitoring duties.

In June 2022, the Advocate participated in a panel discussion hosted by the Commission as part of a side-event at the United Nations meeting of countries who have signed on to the CRPD. The virtual panel discussion highlighted the intersection of housing rights and disability rights in Canada. This accessible virtual event was attended by more than 100 participants and included panelists with diverse lived expertise. The discussion also raised awareness on the work between the Federal Housing Advocate and the NMM to jointly monitor this intersection of rights.

In December 2022, the Advocate joined the NMM at its Learning Circles event, with the goal of listening to the views of people with disabilities to help shape our joint monitoring work. It was an opportunity for people with disabilities to be heard on this issue. The discussions at the event allowed us to engage with people directly to develop a set of indicators to help measure the intersection of the right to adequate housing and disability rights.

During this event, we asked everyone:

- What do you think needs to be better understood— by governments, service providers and the public—about the right to adequate housing for people with disabilities?
- To help us track progress on the right to housing for people with disabilities, we need to know: who is not being listened to, and what stories, experiences, and information need to be added to the picture?

The discussions and perspectives we heard from this event will be critical in helping to shape our joint monitoring efforts moving forward.

Recommendations IX – People with disabilities

1. As a matter of priority, broaden dedicated social and financial supports for people with disabilities as well as supportive housing in recognition of their unique needs and to ensure that they are able to maintain their dignity and independence. These supports must be inclusive and empower people to maintain a quality of life on par with people without disabilities. They should be more accessible geographically, including in remote and northern communities. Supports must also be reflective of inflation and interest rates.
2. Take urgent steps to ensure adequate housing for people with disabilities. Adequate housing is defined as housing that is visitable, safe, accessible, habitable, culturally adequate, and affordable. Steps should include developing public policy to address the increasing cost of housing, including but not limited to the implementation of rent caps and the introduction of more non-market housing. Any new policies should be developed in collaboration with people with disabilities of diverse intersectional lived experiences and their advocates.
3. Increase the percentage of fully accessible units required for new builds to receive federal funding to 100%.
4. Develop a coordinated housing strategy between federal, provincial and municipal governments to clearly determine who is and is not responsible for providing housing solutions for people with disabilities. The goals of the National Housing Strategy and the National Housing Strategy Act require a collaborative effort across departments and jurisdictions to respond adequately to the needs of vulnerable populations, including people with disabilities. Jurisdictional confusion should never result in housing precarity for people with disabilities.
5. Implement a clear strategy and committed timeline toward the deinstitutionalization of people with disabilities, including people with disabilities who are criminalized and institutionalized in inappropriate facilities such as hospitals, nursing or seniors' homes and other long-term care facilities due to a lack of adequate community-based supports and services. The deinstitutionalization strategy should include a framework led by people with disabilities to ensure safe, accessible and affordable housing in the community, through public housing or rental subsidies, for persons leaving institutions.

The need for better data

Working with Statistics Canada

In 2022–2023, the Office of the Federal Housing Advocate continued to work with Statistics Canada to obtain data and statistical interpretation to inform the Advocate's research and review of systemic housing issues. During the year, this collaboration produced 13 fact sheets to complete the series, Housing Experiences in Canada.

Last year was significant as well because it saw Statistics Canada's release of the 2021 Census data, including the Housing Data release on September 21, 2022.

The fact sheets and Census data continue to paint a picture of disproportionate levels of housing need across disadvantaged groups. While the collection of housing data has improved, our work with Statistics Canada has highlighted significant ongoing data gaps to be able to accurately assess progress, or the lack thereof, towards implementing the right to adequate housing in Canada.

To begin to address these gaps, the Office has proposed improvements to inform the design of the 2026 Census questionnaire. In January 2023, the Office and Statistics Canada also launched the Right to Adequate Housing Data, Concepts and Indicators Working Group. This new entity will:

- Propose solutions to address the gaps in the current Canadian data landscape related to the right to adequate housing;
- Identify indicators for measuring the progressive realization of the right to adequate housing; and
- Promote the widespread adoption of a human rights-based approach to housing data, in line with the legislative requirements of the National Housing Strategy Act.

Data sharing with 211

Last year, we also continued to develop a data-sharing project with 211 to help build a more complete picture of systemic housing issues in Canada. 211 helps people navigate community services, including assistance with housing or homelessness related issues.

We are working with 211 to capture the data from calls they receive that touch on the systemic issues we ask people about when they make a submission. This gives us an even broader picture of housing and homelessness needs across Canada.

- 211 reported that last year, they noticed a shift in the help that people needed. They identified they saw an increase in people calling for help with eviction, foreclosure or loss of their housing, and for not having a place to live or being homeless.
- This spike in people losing their housing or becoming homeless was met with a spike in unmet needs. Frequently, 211 reported it was not possible to refer people for help with these issues because of a lack of community resources, shelter spaces, or other forms of assistance.

About us

A brief history of right to housing in Canada

The right to adequate housing is a human right for everyone in Canada. The human right to adequate housing means that all people are equally entitled to live in dignity in a safe and secure home. Everyone should be able to access housing that meets their needs without discrimination or harassment.

Having an affordable, suitable and safe place to live helps people and families succeed and thrive. Housing as a human right is an important precondition for several other human rights, including the rights to life, work, health, social security, vote, and education.

The human right to adequate housing is not a new concept. It is a fundamental human right that is recognized under international law, as early as the 1948 Universal Declaration of Human Rights. Canada committed to the progressive realization of the right to housing and an adequate standard of living in 1976 when its signature on the International Covenant on Economic, Social and Cultural Rights came into force.

Canada's commitment to the human right to adequate housing was reaffirmed in 2019 when Parliament passed the National Housing Strategy Act. The Act recognizes housing as a human right and commits the federal government to further the progressive realization of the human right to adequate housing.

The Act establishes accountability tools to help promote and monitor the right to housing in Canada, including:

- A National Housing Strategy, to advance the progressive realization of the human right to adequate housing;
- A National Housing Council, of which the Federal Housing Advocate is an ex-officio member, to oversee the implementation of the strategy; and
- A Federal Housing Advocate, to promote and protect the right to housing in Canada.

Learn more:

- Video: About the National Housing Strategy Act
- Video: Advancing the right to housing for duty bearers

About the Office of the Federal Housing Advocate

The Federal Housing Advocate is an independent, nonpartisan watchdog, empowered to drive meaningful action to address inadequate housing and homelessness in Canada.

The Office of the Federal Housing Advocate, housed at the Canadian Human Rights Commission, supports the Advocate in carrying out their mandate.

Together, we promote and protect the human right to housing in Canada, including the progressive realization of the right to adequate housing.

The goal of the Advocate's work is to drive change on key systemic housing issues and advance the right to housing for all in Canada. The Advocate does this by receiving public submissions, by amplifying the voices of affected communities, by making recommendations to improve Canada's housing laws, policies and programs, and by holding government to account on its human rights obligations related to housing and homelessness.

The Advocate's mandate is guided by a human rights-based approach, which values participation, accountability, non-discrimination, equity, transparency, empowerment, accessibility, respectful relationships with Indigenous peoples, and respect for human rights laws and obligations.

Learn more:

- Video: The right to housing in Canada
- Video: Housing submission tool—your voice matters!

About the Advocate

Marie-Josée Houle (she/her) was appointed as Canada's first Federal Housing Advocate in February 2022, marking a new chapter in a career defined by her work in the affordable housing and homelessness sector.

Ms. Houle is an experienced leader who is recognized for her community activism, expertise in human rights, and extensive knowledge of the housing and homelessness system.

Prior to her appointment as Canada's first Federal Housing Advocate, Ms. Houle has held a number of roles that inform her broad experience, including frontline work in housing co-ops, consulting and project management for affordable housing development, by-law review, housing-related research projects, developing educational programs for housing co-ops and non-profits, and senior leadership roles.

Ms. Houle has been actively involved in advocacy work at a national, provincial and community level. She has advocated for tenant rights and the non-profit housing sector at all three levels of government. She has worked with diverse partners in the sector to foster innovation and entrepreneurship, improve efficiencies, influence key opinion leaders, leverage strategic partnerships, and address gaps and human rights violations related to housing and access to housing. Building a sense of community among diverse partners is particularly important to her.

A supporter and amplifier of marginalized voices, Ms. Houle promotes respectful and inclusive dialogue, creating a space for disadvantaged people to be heard, and applies an intersectional and anti-racism lens to her advocacy work. She has liaised with Indigenous housing providers, developers and tenant support organizations to devise ways to be a better ally, support their work and amplify their voices.

Born in Val D'Or, Québec, and raised in Edmonton, Alberta, she holds a Master of Arts in Sociology and Social Anthropology from Dalhousie University and a Bachelor of Science in Environmental Sciences from the University of Alberta. Ms. Houle is fluently bilingual in English and French.

Annex A – The Federal Housing Advocate's recommendations in 2022–2023

The recommendations the Federal Housing Advocate made over the course of 2022–2023 are included throughout this report. They are compiled here and include the following:

Recommendations I – National Housing Strategy

The Federal Housing Advocate calls on the Federal Government to make the following changes to the National Housing Strategy:

1. Provide better housing for Indigenous peoples, no matter where they live. The Strategy must address Canada's legacy of colonialism that results in systemic housing inequality for Indigenous people. This includes:

- Most urgently, it must support the rapid development and delivery of an adequately funded for-Indigenous, by-Indigenous Urban, Rural and Northern Indigenous Housing strategy.
- It must ensure that distinctions-based strategies adequately equip Indigenous governments to respond to the housing crises in their communities.
- It must uphold Canada's international human rights obligations to Indigenous Peoples, in particular the United Nations Declaration on the Rights of Indigenous Peoples, and it must respond to the Calls to Action of the Truth and Reconciliation Commission and the Calls to Justice of the Missing and Murdered Indigenous Women and Girls Inquiry.

2. Make programs purpose-built to address the needs of people experiencing inadequate housing and homelessness, and ensure that they show measurable results for people most in need, including the Strategy's priority groups. For example:

- The Strategy must expand the Canada Housing Benefit to reach everyone in core housing need, to help them cope with rising inflation and stay housed.
- The Strategy must establish clear targets, timelines and measurement frameworks for reducing core housing need and ending homelessness for all priority populations, and provide regular, public progress reports, using disaggregated data.
- Its programs must embed an intersectional Gender-based Analysis Plus approach to reach those who are most marginalized in the current housing system, particularly women and 2SLGBTQIA+ persons as well as people who are Black, Indigenous, racialized, disabled, low-income immigrants, refugees and refugee claimants, older adults and youth. Programs must also provide equal benefit these groups; for example, correcting the shortfall in gender-specific shelter spaces for women and gender-diverse people.

- It must apply a standard definition of affordable housing based on the incomes of households experiencing core housing need and homelessness—not average market rents or average incomes of the whole population—with a goal that low-income households should not be spending more than 30% of total income on shelter costs.
- It must build on the success of the Rapid Housing Initiative and pandemic income replacement programs—these prove that it is possible to house people experiencing homelessness and reduce core housing need.

3. Prioritize the development and acquisition of housing supply that is permanently affordable and provides community value. Research shows that less than five percent of housing units produced by the largest NHS capital programs are affordable to households experiencing core housing need and homelessness. Instead of unnecessarily financing what the market is already producing, NHS investments must return community value through housing that is affordable, accessible, and suitable for people excluded from the housing system. For example:

- It must take immediate action to stop the loss of affordable housing, including an acquisition fund for the non-profit and co-op sector to preserve affordable supply and counter financialization.
- It must expand support for deeply affordable, non-market housing options to better target the needs of people experiencing inadequate housing or homelessness.
- It must streamline programs to make them more accessible for housing providers serving disadvantaged groups.

4. Demonstrate the leadership role of the federal government and a coordinated approach to involve all levels of government in solving the housing crisis. The Strategy requires concerted action and leadership from the federal government as well as other orders of government to end the housing crisis. This includes:

- It must integrate a whole-of-government approach at the federal level, with all departments working alongside CMHC and Reaching Home.
- It must integrate principles of the right to housing in all government decisions including Memoranda to Cabinet, Treasury Board submissions, and drafting instructions for new laws, building on lessons from the federal government's leadership in the areas of Gender-based Analysis Plus and anti-racism.
- It must maintain the Community Based Tenant Initiative and take other measures to support the meaningful engagement of rights-holders in the design, monitoring, and evaluation of housing programs and policies.
- It must recognize the federal government's leadership role in working with other orders of government to deliver on obligations to progressively realize the right to adequate housing.
- It must amend the Federal-Provincial-Territorial Housing Partnership Framework and bilateral agreements to require that provinces and territories take a human rights-based approach to housing, and support them in meeting their human rights obligations.

- Programs such as Reaching Home and Rapid Housing Initiative must include human rights conditionalities and provide the resources municipalities need to respond to homelessness and encampments in compliance with human rights.
- It must establish a cycle of evaluation and continuous improvement in line with its triennial reporting obligations.

Recommendations II – 2023 Federal Budget

Prior to the release of the 2023 Federal Budget, the Federal Housing Advocate issued the following recommendations:

1. That the Government ensure housing related budget initiatives are focused on fulfilling Canada's commitments legislated in the National Housing Strategy Act (NHSA) to advance the progressive realization of the right to adequate housing.
2. That the Government move expeditiously to address the housing crisis for Indigenous peoples from coast to coast to coast. Budget 2023 must deliver on the Government's commitment to support the development and provide long-term funding for an urban, rural and northern (URN) Indigenous housing strategy that is for Indigenous and by Indigenous.
3. That the Government undertake a thorough revision of the National Housing Strategy (NHS) to strengthen the overall Strategy and ensure programs are delivering on human rights commitments, particularly when it comes to targeting those in greatest need.
4. That the Government demonstrate the leadership role of the federal government and a coordinated approach to involve all levels of government in solving the housing crisis.

Recommendations III – Housing Accelerator Fund

In order to align the Housing Accelerator Fund with the human rights obligations imposed by the National Housing Strategy Act, the Federal Housing Advocate recommends that the Fund:

1. Prioritize the needs of people experiencing inadequate housing and homelessness, members of disadvantaged groups, and Indigenous peoples;
2. Dedicate the maximum available resources to increasing the supply of adequate and affordable housing for these groups over the long term and to preventing the loss of affordable housing and neighbourhoods;
3. Meaningfully involve affected communities, those most in need and Indigenous Peoples in the design, implementation and monitoring of the Fund;
4. Adopt a human rights-based approach, with clear human rights-informed targets, timelines and indicators;
5. Collect disaggregated data to understand the challenges and monitor results; and Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities; and
6. Ensure collaboration and coordinated action between federal, provincial, territorial, municipal and Indigenous governments on implementing a human rights-based approach to the Fund.

Recommendations IV – Financialization

The expert research commissioned by the Office of the Federal Housing Advocate identifies multiple measures to address financialization under five key areas:

1. Tracking ownership and measure the impacts of financialization;
2. Developing mechanisms to definancialize ownership;
3. Suspending state subsidies and support to financialized landlords;
4. Ensuring public pension funds promote social good through legislation; and,
5. Developing enduring rent controls and tenant protections.

The Federal Housing Advocate urges decision makers to consider these options when examining solutions. At the HUMA Committee panel, the Advocate invites members to seek the views of the researchers and other witnesses about the specifics of their recommendations.

The Advocate recognizes this is a complex and technical area. The Advocate's role is not to make specific policy prescriptions. Parliamentarians need to rely on the expertise of the public service to design policy solutions that will fulfill human rights obligations.

When determining policy responses, governments must put human rights at the centre.

The directives on financialization recommended by the international housing rights monitor The Shift also provide useful guidance for Parliamentarians.

Recommendations V – United Nations Committee on the Rights of the Child

The Advocate urges the federal, provincial and territorial governments to take urgent action to follow up the Committee's concluding observations and these two housing-related recommendations in particular:

- **Clear measures and timelines needed to end homelessness among children**
  The Committee recommended that Canada address these gaps by strengthening its timelines and priorities to end child homelessness and guarantee all children from low-income families have stable access to adequate and affordable long-term housing.
- **Revising eviction laws to protect the rights of children**
  The Committee recommended Canada revise provincial and territorial eviction laws to ensure that they prioritize the best interests of the child, and that all avenues to prevent evictions are pursued.

Recommendations VI – Women and gender diverse people

1. Take urgent action to implement the Calls for Justice made by the National Inquiry into Missing and Murdered Indigenous Women and Girls, and the Truth and Reconciliation Commission's Calls to Action as they relate to access to safe, affordable and adequate housing for First Nations, Inuit and Métis women, girls, Two-Spirit and gender-diverse people.
2. Ensure that definitions of homelessness for the purposes of defining federal, provincial, territorial and policies and programs reflect the distinct experiences of homelessness among women, girls, Two-Spirit and gender-diverse people, particularly those who are Indigenous.

Recommendations VII – Encampments

Governments and decision-makers at all levels must centre human rights and the right to housing in their approaches to encampments. The reports recommend five key areas where Canada must do better to uphold the rights of encampment residents:

1. Stop the use of policing and law enforcement as a response to encampments.
2. Provide funding and services at all levels of government—to support municipalities that are facing the disproportionate impact of addressing the existence of encampments, and to invest in short and long-term housing options and supports for encampment residents.
3. Ensure the meaningful participation of encampment residents in decisions that affect them.
4. Recognize the distinct rights of Indigenous Peoples and include them in the development of policy approaches to encampments.
5. Address the conditions within encampments and provide access to basic services such as clean water, sanitation facilities, electricity and heat.

Recommendations VIII – Accessibility

1. The Federal Housing Advocate recommends that all new housing units that receive government funding or incentives meet the minimum criteria of visitability (having a level entrance, and having wider doorways and hallways and a wheelchair accessible washroom on the entry-level floor).
2. The Federal Housing Advocate calls for all new residential units built in Canada to meet the criteria of Universal Design as well as the minimal Building Code requirements for housing related to accessibility conversion, allowing for easy, less structurally complex, expensive and disruptive future accessibly renovations.
3. The Federal Housing Advocate calls for the adoption of the Accessible Dwellings Standard by provinces and territories, ensuring the accessibility standards are legally enforceable with the aim of removing and preventing barriers in the built environment for persons with disabilities, and all people who use it.

Recommendations IX – People with disabilities

1. As a matter of priority, broaden dedicated social and financial supports for people with disabilities as well as supportive housing in recognition of their unique needs and to ensure that they are able to maintain their dignity and independence. These supports must be inclusive and empower people to maintain a quality of life on par with people without disabilities. They should be more accessible geographically, including in remote and northern communities. Supports must also be reflective of inflation and interest rates.

2. Take urgent steps to ensure adequate housing for people with disabilities. Adequate housing is defined as housing that is visitable, safe, accessible, habitable, culturally adequate, and affordable. Steps should include developing public policy to address the increasing cost of housing, including but not limited to the implementation of rent caps and the introduction of more non-market housing. Any new policies should be developed in collaboration with people with disabilities of diverse intersectional lived experiences and their advocates.

3. Increase the percentage of fully accessible units required for new builds to receive federal funding to 100%.

4. Develop a coordinated housing strategy between federal, provincial and municipal governments to clearly determine who is and is not responsible for providing housing solutions for people with disabilities. The goals of the National Housing Strategy and the National Housing Strategy Act require a collaborative effort across departments and jurisdictions to respond adequately to the needs of vulnerable populations, including people with disabilities. Jurisdictional confusion should never result in housing precarity for people with disabilities.

5. Implement a clear strategy and committed timeline toward the deinstitutionalization of people with disabilities, including people with disabilities who are criminalized and institutionalized in inappropriate facilities such as hospitals, nursing or seniors' homes and other long-term care facilities due to a lack of adequate community-based supports and services. The deinstitutionalization strategy should include a framework led by people with disabilities to ensure safe, accessible and affordable housing in the community, through public housing or rental subsidies, for persons leaving institutions.

Annex B – The Federal Housing Advocate's final recommendations

This report provides an overview of many violations of the right to housing in Canada, and recommends a number of solutions. In the first year of the Advocate's mandate, it has become clear that it is not enough to identify barriers to the right to housing and recommend solutions. Canada's housing and homelessness emergency will only be effectively addressed when governments commit to meaningful, effective action.

The final recommendations contained in the sections below are focused on the mechanisms through which governments can demonstrate accountability and implement effective measures to address the many other recommendations in this report that the Advocate made throughout the 2022–2023 year.

The National Housing Strategy Act recognized the right to adequate housing in domestic law for the first time. To make this right real, governments must be accountable for its implementation. The Advocate's final set of recommendations are focused on the mechanisms through which governments can demonstrate accountability and implement effective measures to address the many other recommendations in this report.

Recommendations to the Government of Canada

The Advocate calls on the Prime Minister, Minister of Housing and Diversity and Inclusion, Finance Minister, other members of Cabinet, and all Parliamentarians to recognize and implement the human right to adequate housing, as legislated in the National Housing Strategy Act.

In 2023, the Government of Canada should:

1. Establish a Cabinet working table to develop an all-of-government action plan on implementing the human right to adequate housing in accordance with the National Housing Strategy Act. The table should include the Ministers whose portfolios interact with housing, such as Health, Mental Health and Addictions, Justice, Indigenous Services, Crown-Indigenous Relations, Veterans' Affairs, Intergovernmental Affairs, Employment and Disability Inclusion, Families and Social Development, Immigration, Women and Gender Equality, and Seniors.

Key elements of the action plan should include:

A. Taking an all-of-government approach in responding to the housing and homelessness crisis, recognizing the crucial links between access to adequate housing and all key areas of Canada's economic and social policy, include health, justice, and immigration.

B. Developing a mechanism similar to Gender-based Analysis Plus (GBA+) to apply the requirements of progressive realization of the right to housing in all budgets, laws, policy and program development that affect housing and homelessness, such as through Treasury Board Submissions and Memoranda to Cabinet. These requirements include:

- Taking effective, concrete measures;
- Using all available resources;
- Employing all appropriate means, including regulation;
- Moving towards full realization of the right to housing as quickly as possible;
- Giving priority to those in greatest need; and
- Fulfilling human rights obligations of immediate effect, such as non-discrimination and avoiding retrogression.

C. Making a commitment by Cabinet officials to acknowledge, and raise awareness about, the human right to housing.

- Center the right in speaking lines. For example, replace "everyone in Canada deserves a safe and affordable place to call home" with "everyone in Canada has a right to a safe and affordable place to call home" in communications about housing and homelessness.
- Launch a communications campaign across traditional and social media to inform people in Canada about their human right to adequate housing.

Recommendations to the Minister of Housing and Diversity and Inclusion

The National Housing Strategy Act sets out the Minister's accountability to respond to recommendations from the Federal Housing Advocate, National Housing Council, and Review Panels. As Canada's Minister for Housing and Diversity and Inclusion, he must take a leadership role in the recognition and implementation of the human right to adequate housing.

The Advocate calls on the Minister to take the following specific, concrete steps in 2023 to respond to the Advocate's recommendations on the National Housing Strategy, encampments, financialization and housing supply.

1. By June 2023, provide a detailed response to the Advocate's calls to action on the National Housing Strategy, issued on National Housing Day 2022.
2. In 2023, establish and lead a working table to re-design the National Housing Strategy in alignment with the human rights obligations of the National Housing Strategy Act. Membership should include the Federal Housing Advocate along with the Deputy Ministers of the Canada Mortgage and Housing Corporation (CMHC) and Infrastructure Canada.
3. In 2023, direct the Deputy Minister of Infrastructure to work with other implicated Deputy Ministers (such as Health, Public Health, Indigenous Services Canada, Women and Gender Equality, and Employment and Social Development Canada) to establish and lead a working table to implement Canada's commitment to end homelessness by 2030, with an immediate focus on addressing encampments using a human rights-based approach.
4. In 2023, direct the CEO of CMHC to work with the Deputy Minister of Finance to develop and implement measures to address the financialization of housing in Canada, and implement a human rights-based approach to Canada's housing supply plan. This working table would initially receive and implement the recommendations from the upcoming National Housing Council's Review Panel and the study by the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) the on financialization of housing, and monitor the effectiveness of those measures. It would also expand and refine CMHC's Housing Supply model, using a human rights-based approach focused on housing supply for those in greatest need.

Potential objectives for this work could include:

A. Work with Statistics Canada and use administrative data from provinces, territories and municipalities to create detailed model of housing supply, housing need, and housing margins, and to collect and analyze disaggregated data on homelessness and the right to adequate housing;

B. To expand Canada's Housing Supply plan in alignment with a human rights-based approach, prioritizing the housing needs of households in core housing need, those experiencing homelessness, and members of National Housing Strategy priority groups;

C. To expand the definition of Core Housing Need to better reflect all components of the right to housing; and

D. To develop and implement a single, rights-based definition of "affordable housing" to be applied to all National Housing Strategy programs and other CMHC programs such as the MLI Select mortgage insurance program.

These three working tables should take an all-of government approach, bringing together implicated federal departments, along with Provincial, Territorial and Municipal counterparts, National Indigenous Organizations, and representatives of communities directly affected by inadequate housing and homelessness. In keeping with a human rights-based approach, they should conduct meaningful engagement with communities directly affected, members of disadvantaged groups, civil society, the community housing sector, and industry stakeholders. Finally, they should operate with rapid timelines to implement urgent changes and use the National Housing Strategy to its greatest potential to address the housing and homelessness crisis.

Recommendations to provinces, territories, and municipalities

The National Housing Strategy Act recognizes housing as a human right for everyone in Canada, and makes the progressive realization of this right the basis for all housing policy.

All orders of government, including provinces, territories, and municipalities, have an obligation to protect, respect, and fulfill the human right to housing within their areas of jurisdiction. They must implement effective measures, using the maximum of available resources and employing all appropriate means, to realize the right to adequate housing in the shortest possible time, giving priority to those in greatest need.

For provinces and territories, this means:

- Providing the housing, health, and social services people require to transition out of homelessness into permanent, accessible housing;
- Protecting tenants' rights and preserve the affordability of rental housing by regulating rent increases; and
- Ensuring that income security programs provide sufficient benefits to enable people with disabilities, lone-parent families, and other low-income households to afford adequate housing and to live in peace, security, and dignity.

For municipalities, this means:

- Respecting the rights and dignity of people experiencing homelessness, including those in informal dwellings, unsheltered homelessness, and encampments, and ensuring that they have the services they require as a basic precondition to life and health, such as water, sanitation, and fire prevention;

- Reallocating investments away from policing as a means of responding to homelessness, mental health crises, and intimate partner violence, and instead fund community-based crisis response services and social infrastructure that foster community safety;

- Using planning and zoning powers to prioritize the development and preservation of housing that is affordable and accessible for those in greatest need.

In the coming year, the Federal Housing Advocate will continue to work with provinces, territories, and municipalities to support them in advancing the right to housing, and to ensure that the federal government is providing the resources and powers sub-national governments need in order to uphold their human rights obligations.

THIS IS **EXHIBIT "F"** REFERRED TO
IN THE AFFIDAVIT OF MARIE JOSEE HOULE
SWORN REMOTELY AT THE
CITY OF CANTLEY BEFORE ME AT THE REGION OF WATERLOO
DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

Overview of Encampments Across Canada

A RIGHT TO HOUSING APPROACH

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This report is part of a series of reports on encampments commissioned by the Office of the Federal Housing Advocate (OFHA). The other reports in the series can be found on the OFHA website and on the Homeless Hub at homelesshub.ca/OFHA.

The opinions, findings, and conclusions or recommendations expressed in this document are those of the author and do not necessarily reflect the views of the Canadian Human Rights Commission or the Federal Housing Advocate.

Le présent document existe également en version française sous le titre, Rapport de synthèse sur les campements au Canada : Une approche axée sur le droit au logement. *Elle est disponible sur le site du Bureau de la défenseure fédérale du logement et sur le Rond-point de l'itinérance.*

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Acknowledgements

This report was authored by a group of settler researchers living and working on the territories of many Indigenous nations across what some call Turtle Island, in what is now known as Canada. We acknowledge that the laws and policies discussed in this report are grounded in the colonial legal and political structures forcibly overlaid on the pre-existing Indigenous systems of law and governance of these places. These structures have been, and continue to be, instruments of dispossession, violence, and disconnection from territory, place, culture, community, and family. The existence of housing precarity and homelessness is intertwined with this colonial reality. Further, the negative impact of the overlap of federal, provincial, and municipal jurisdictions, and the attempted erasure of Indigenous jurisdiction, is starkly evident in some of our findings. In our view, Indigenous systems of law and governance must be central to any meaningful attempt to address homelessness and realize the right to housing. As settler researchers, we discuss the specific obligations on Canadian governments with respect to this work.

We came together as researchers and allies concerned about homelessness as the pandemic was in full swing, initially through movements of academics and citizens focused on the dismantling of encampments across Canada. We bore witness to the injustices created by the intertwined housing and health crisis provoking punitive responses, particularly for encampment residents. In the midst of one of the worst economic and social crises in recent history, we believed it was critical to document and highlight the experiences of encampment residents during the COVID-19 pandemic. In so doing, we acknowledge the tens of thousands of unhoused people and their advocates who endured—and continue to experience—immense hardship, oppression, and displacement. We are grateful to those who shared their knowledge and validated and deepened our findings. We hope that this report will provide concrete levers for action in supporting and protecting the human rights of people and communities that are currently being denied in numerous encampment contexts.

We acknowledge the invaluable contributions of researchers, Laury Bacro, Sydney Chapados, Sam Freeman, Pedram Gholipour, Lauren Graham, Palmira Lutoto, Neil MacIsaac, Delaney McCartan, Julieta Perucca, Isabelle Raffestin, Emilie Roberge, Emma Smyth, and Lo Stevenson without whom this report and case studies could not have been written. As you will note, some of these contributors drafted part or all of specific chapters and case studies in this report, including Neil MacIsaac (Chapter 1 and Appendix A), Sydney Chapados (Chapter 3), and Palmira Lutoto and Sam Freeman (Chapter 4). We also thank peer and other organizations that provided feedback.

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Introduction

Homeless encampments constitute one of the most serious right-to-housing issues in Canada today. During the COVID-19 pandemic, the number of shelter spaces decreased, indoor congregate settings became increasingly unsafe, and individuals lost their livelihoods. This has led to a rise in homeless encampments across the country. The lack of comprehensive data on this urgent crisis is distressing. Even so, we know that many individuals had little choice but to turn to living in tents or informal shelters to survive the confluence of historic crises in health, housing, climate change, colonial violence, and unemployment. As articulated by the UN Special Rapporteur on the Right to Adequate Housing, encampments represent, "instances of both human rights violations of those who are forced to rely on them for their homes, as well as human rights claims, advanced in response to violations of the right to housing."[1]

In 2019, the federal government enshrined the right to adequate housing in federal law in the *National Housing Strategy Act*. Section 4 of the Act states:

> It is declared to be the housing policy of the Government of Canada to
>
> a) recognize that the right to adequate housing is a fundamental human right affirmed in international law;
>
> b) recognize that housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities;
>
> c) support improved housing outcomes for the people of Canada; and
>
> d) further the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights.

Other governments, including municipalities, have been reluctant to adopt similar rights-based approaches to homeless encampments. Given that many elements of housing policy fall under provincial jurisdiction and are often then delegated to municipal governments, this lack of corresponding legal and policy frameworks to implement the right to housing is significant. In practice, other levels of government have also failed to secure access to permanent, adequate housing for encampment residents. Even while officials acknowledge the lack of available housing, enforcement measures such as ticketing, arrest, forced eviction, and the destruction of tents and personal property are widespread responses to encampments in Canada. The complexity of the problem of homelessness, the polarization of views among stakeholders, the cross-departmental and interjurisdictional issues raised by encampments, and the absence of intergovernmental coordination on this issue has fortified a largely punitive response to encampments across the country. These responses violate the right to housing articulated under the *National Housing Strategy Act*. While our report brings attention to governmental regulation

[1] Leilani Farha & Kaitlin Schwan, "A National Protocol for Homeless Encampments in Canada" (30 April 2020), online (PDF): *The Shift* <make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf> [Farha & Schwan — The Shift].

of encampments generally, we also raise awareness of the federal government's role specifically.

The Growth of Encampments

Encampments are not a new phenomenon in Canada. In their efforts to meet their needs for shelter and safety while exercising autonomy and self-determination, persons facing homelessness have long established informal settlements, here referred to as "encampments," in urban and rural sites across Canada. Though some grey and scientific literature exist on encampments, most is American;[2] little Canadian scholarship and empirical evidence has yet to surface.[3] However, due to the increased proliferation of encampments during the COVID-19 pandemic and the exacerbation of Canada's affordable housing crisis, encampments have been in the media spotlight, making headlines across the country.[4] Stories of dismantlement, displacement and evictions in the face of "stay-at-home" orders have highlighted gross human rights violations by all levels of government. Little progress has been made during the pandemic with respect to the unprecedented housing crisis. Rather, most Canadian cities continued to reply on outdated emergency warehousing approaches, notably short-term shelters and in some case shelter hotels.[5]

Since the beginning of the COVID-19 pandemic, encampments have become more numerous, more densely populated, and more visible across the country. In the winter of 2020-21, thousands of people were living outside, in tents and makeshift shelters, without access to adequate heat, water, sanitation, and safety equipment. In many municipalities, encampments have been subject to a range of enforcement measures including ticketing, eviction and trespass notices, and removal or destruction of belongings, by municipal officials, including bylaw officers, fire departments, and police. Residents also faced harassment and violence from state and non-state actors. Encampment residents and their advocates have spoken out against these measures and called for the provision of safe, appropriate, and secure housing. The proliferation of encampments, residents' lack of access to fundamental necessities, and enforcement

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[2] See e.g., Chris Herring, "The New Logics of Homeless Seclusion: Homeless Encampments in America's West Coast Cities" (2014) 13:4 City & Community 285; Tony Sparks, "Neutralizing homelessness, 2015: Tent cities and ten-year plans" (2017) 38:3 Urban Geography 348; Jessie Speer, "The Rise of the tent ward: Homeless camps in the era of mass incarceration" (2018) 62:1 Political Geographer 160 [Speer—mass incarceration].

[3] But see "CAEH 2020–2021: Annual Report" (2021), online (pdf): *Canadian Alliance to End Homelessness* <caeh.ca/wp-content/uploads/CAEH_2020-Annual-Report.pdf>.

[4] See e.g., Natasha Riebe, "Edmonton to revamp encampment strategy amid criticism of current approach" (11 October 2022), online: *CBC* <cbc.ca/news/canada/edmonton/edmonton-city-council-1.6613276>; Renaud Philippe, "Tolérance zéro pour des campements d'itinérants à Montréal" (2020), online: *Le Devoir* <ledevoir.com/societe/580289/montreal-tolerance-zero-pour-des-campements-d-itinerants>.

[5] See Farha & Schwan — The Shift, *supra* note 1 at 5–6.

measures, harassment, and violence by state and non-state actors, are all serious and urgent human rights concerns.[6]

The response to homeless encampments has been overwhelmingly punitive. Residents have been denied vital services within encampments, including water and sanitation, and have faced violent forced evictions and destruction of property. Residents have been arrested and criminalized under bylaws outlawing behaviours such as camping, bathing, or defecating in public—activities which are unavoidable when sheltering in place. Far from causing a decline in homelessness, these responses have simply driven people experiencing homelessness into the shadows, away from areas of relative safety and beyond the reach of service providers. However, as encampment residents and advocates have been asserting throughout the pandemic, encampments can also be understood as rights claims—a way for citizens to build shelter and safety while exercising autonomy and self-determination.

Research Objectives

The objective of this project was to provide the Office of the Federal Housing Advocate (OFHA) with relevant knowledge to examine the human rights dimensions of encampments across Canada. The project's aim was to respond to the following questions by supporting team members to mobilize current knowledge from research on encampments and informal settlements:

- What are the different forms of encampments and informal settlements?
- What are the experiences, perspectives, and needs of encampment residents? In particular, what are their reasons for establishing encampments, what are their experiences while residing there, what have been their interactions with state and non-state actors?
- What are the conditions in encampments, particularly dimensions relating to the human rights to life, adequate housing, human dignity, and other human rights?
- What is the range of laws, policies and programs that directly and indirectly apply to encampments across Canada? What are the relevant federal considerations that should be brought to the attention of the Federal Housing Advocate?
- How are encampments, their residents, and local enforcement measures portrayed in news and social media? What is the range of public attitudes towards encampments, their residents, and local enforcement measures? What human rights dimensions should be brought to the attention of the Federal Housing Advocate?
- How have local, provincial, territorial, and federal governments responded to the increasing visibility and scale of encampments in the context of COVID-19? What measures have protected or contravened the rights of residents?

[6] We want to acknowledge that the dominant language of "encampment" does not reflect the depth of community and belonging experienced by those living outdoors together, nor does it reflect that tents are homes for many people, and "encampments" are communities or villages. This is particularly evident with respect to Indigenous people, who have distinct rights and relationships in relation to land and housing. We ask that the reader understand encampments as homes and that our use of the term "encampment" reflects that understanding.

- What federal considerations relate to encampments and what federal interventions are recommended?
- How are the rights of Indigenous Peoples engaged in relation to encampments?

In this report and in the attached case studies, we have tried to address these research questions using a mixed methodological approach, drawing on a media scan, legal cases, academic articles, participant observation, and some quantitative data. We note with particular concern the challenges in writing this report without adequate and reliable data on housing precarity.

Organization of the Report

Mobilizing case studies, media scans, and literature and policy reviews, this report illuminates the inherent tensions of the human rights dimensions of encampments across Canada. The report is organized as follows:

- Chapter 1 provides a background on the regulation of encampments before and after the pandemic.
- Chapter 2 focuses on the specific role of municipal bylaws in encampments. Summaries of the five case studies are included in this chapter. This chapter shows how municipalities are the main governments that regulate encampments, largely through restrictive bylaws.
- Chapter 3 sets out a media scan of op-eds and news articles related to encampments from March 2020 to December 2021. This chapter explains the themes raised by popular media, including concerns about the visibility of encampments during the pandemic.
- Chapter 4 explains *A National Protocol on Homeless Encampments in Canada* in the context of this report, situating encampments within a right to housing framework with eight key principles.
- Chapter 5 provides five recommendations for the implementation of a rights-based approach to encampments, with specific recommendations aimed at the federal government.

We also note the case studies published alongside this report. The studies from British Columbia, Ontario and Quebec provide in-depth analysis of the policies, laws, and practices adopted and used by officials during the pandemic in response to encampments. These case studies spotlight the ways in which encampment residents' human rights are violated and the localized effects of municipal, provincial, and federal government laws, rules, and actions.

Chapter 1: Background on the Regulation of Encampments *

> "That's when I decided: I'm staying in Moss Park. I'm going to make it my home, and I'm going to make it hard for them. If you burn my home, that's wrong—because it's my home. I toiled to make it safe. Not for me, for us."[7]
>
> —Derrick Black, resident of Moss Park encampment in Toronto

Homeless encampments in Canada exist at the nexus of multiple overlapping crises, all of which were compounded by COVID-19. Despite increased visibility during COVID-19, encampments are not new to Canadian cities.[8] Encampments are a symptom of the lack of adequate affordable housing and the shortcomings of housing and other policies at all levels of government across Canada. The lack of affordable housing, the opioid crisis, racial injustice, police misconduct, and ongoing colonization all converge at these sites. Government responses to encampments—both prior to and during the pandemic—pose significant jurisdictional complexities. Here we attempt to provide a brief overview of existing commentary on the legal frameworks engaged by encampments in order to contextualize our findings and recommendations.

We use the term "encampments" to refer to temporary outdoor campsites on public property or privately owned land. These informal settlements result from a lack of accessible affordable housing. This distinguishes them from efforts to assert a claim to the property as a whole (as in squatting or adverse possession) or to the occupation of public space as a form of expression (as in protest occupations), which are likely to engage different rights and obligations.[9]

We also acknowledge that the rise of homelessness and encampments are grounded in the historical dispossession of Indigenous peoples' land. As Jesse Thistle states, "The observable manifestations of intergenerational trauma in Indigenous peoples, such as intemperance, addiction and street-engaged poverty, are incorrectly assumed to be causes of homelessness in popular and worldwide blame-the-victim discourses. Obscured behind these discourses are the historical processes and narrative prejudices practised by the Canadian state and settler society that have produced Indigenous homelessness."[10]

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* This chapter was drafted by Neil MacIsaac, JD student at Osgoode Hall Law School.

[7] Derrick Black & Anupa Mistry, "A Year of Resistance in the Moss Park Encampment" (12 March 2021), online: *The Local* <thelocal.to/a-year-of-resistance-in-the-moss-park-encampment/>.

[8] Governments, the law, scholarship, and frontline groups tend to focus attention and resources on urban homelessness. However, we acknowledge that rural homelessness and rural homeless encampments are a significant issue in Canada. For a useful primer on the difficulties of responding to rural homelessness, see Sue-Ann MacDonald & Dominique Gaulin, "The invisibility of rural homelessness in a Canadian context" (2020) 29:2 J Social Distress & Homelessness 169.

[9] For example, courts have distinguished between homeless encampments where section 7 Charter rights to life, liberty and security of the person are engaged and protest encampments where section 2 rights related to freedom of expression are most relevant.

[10] Jesse Thistle, "Definition of Indigenous Homelessness in Canada" (2017) at 7, online (pdf): *Homeless Hub* <homelesshub.ca/sites/default/files/attachments/COHIndigenousHomelessnessDefinition.pdf>.

1. Canadian Homelessness and Encampments Pre-Pandemic

The rise in rates of homelessness in Canada since the 1980s is generally attributed to three broad trends: nationwide disinvestment in affordable housing, shifts in employment away from permanent positions and towards precarious labour, and the broad defunding of social welfare programs.[11] Up to the late 2000s, municipalities (by then the primary social housing providers) largely focused on crisis responses, such as shelters and drop-in programs, and policing unhoused populations through anti-panhandling laws.[12] Federal and provincial plans to reduce homelessness began proliferating, often focusing on "chronic homelessness" and Housing First strategies, culminating in calls for a new National Housing Strategy.[13] In 2017, the federal government published its Strategy with legislation arriving the following year enshrining the right to housing in federal law.[14] No provincial frameworks have yet expressly adopted the right to housing.

The COVID-19 pandemic halted this potential momentum and affected the services available to unhoused people. There is very poor data on the number of precariously housed people, including those living in encampments. As of December 2020, at least 25,000 people experienced homelessness in a shelter or outdoors on any given night across 61 measured communities; this marked a 14% increase over the 2016 count.[15] However, homeless counts have been criticized for not capturing adequately the actual number of people experiencing homelessness nor its different forms of expression (e.g., hidden homelessness).[16] Within this context, encampments have become a regular facet of homelessness in Canada. During COVID-19, they became increasingly visible and, as a result, attracted increasing attention from the media and governments.

Given their high incidence in public parks, encampment regulation tends to involve municipal bylaws, particularly prohibitions or restrictions on erecting shelters in parks or camping in parks. In other instances, encampments on private property may engage other specific legislation regulating use and access. In either case, violations of underlying regulations are often enforced through trespass laws which facilitate police involvement.

However, as detailed in our case studies, encampment residents have long cited personal safety and privacy, health issues, a lack of shelter space, conditions within shelters or shelter rules,

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[11] See Stephen Gaetz et al., *The State of Homelessness in Canada 2016* (Toronto: Canadian Observatory on Homelessness Press, 2016) at 12.
[12] See *ibid. at* 13. See e.g., *Safe Streets Act*, 1999, S.O. 1999, c. 8.
[13] See Gaetz et al., *supra* note 11 at 13–14.
[14] See Canada, Employment and Social Development Canada, *Canada's National Housing Strategy — A place to call home* (Gatineau: Employment and Social Development Canada, 2018); *National Housing Strategy Act*, SC 2019, c 29, s 313.
[15] See *Ibid*.
[16] See e.g., Sue-Ann MacDonald et al., "Démarche qualitative du Deuxième portrait de l'itinérance au Québec: Regards croisés et approfondissement des connaissances" (May 2022) at 7, online (pdf): *CREMIS* <https://api.cremis.ca/wp-content/uploads/2021/12/Rapport-final_2020-05-26_Version-finale_murale.pdf>.

proximity to partners, family, community and service providers, and relative independence as important factors. The reasons any unhoused individuals may be living in an encampment rather than residing in a city shelter or other temporary housing are highly variable and contextual. Encampments are both a last resort when people cannot access indoor shelter and a response to concerns about shelters, sites of safety and stability with access to supports.[17] Other factors include substance abuse, mental health issues, unemployment, and domestic turmoil.[18] Some residents also speak positively about the sense of community the encampment offered through internal rules and obligations to help each other.[19]

2. Canadian Homeless Encampments in the Pandemic Era

Most of Canada's 25 most populous municipalities have experienced at least one encampment since March 2020, when the World Health Organization officially declared the COVID-19 pandemic.[20] On top of the factors listed above, the pandemic quickly resulted in a reduction in capacity at many shelters to properly implement distancing and isolation measures. Encampments proliferated in the spring and summer of 2020.[21] Initial concerns over encampments involved residents not being properly distanced and not having hygiene stations to wash hands, while infections inside shelters prompted cities like Toronto to declare moratoriums on clearing encampments.[22] As the first wave subsided, these moratoriums were withdrawn.

Two months into the pandemic, former UN Special Rapporteur on the Right to Housing Leilani Farha and Dr. Kaitlin Schwan published *A National Protocol on Homeless Encampments in Canada* (the *Protocol*), advocating for cities to adopt a human rights-based approach and respect the dignity of encampment residents when working with them to secure adequate affordable housing.[23] The extent to which cities have undertaken outreach and provided meaningful support to encampment residents versus enforcing bylaws and property rights is varied and difficult to track. Indeed, encampment residents and advocacy groups have disputed the efficacy of many outreach efforts and the effectiveness of supports. Disputes have arisen over the conditions of emergency shelter spaces, the availability of shelters spaces or housing opportunities, and the rights of encampment residents to continue residing where they are.

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[17] See Herring, *supra* note 2 at 296–297, 306.
[18] See Michael G. Young, Nicole Abbott, & Emily Goebel, "Telling their story of homelessness: voices of Victoria's Tent City" (2017) 26:2 J Social Distress & Homelessness 79 at 83–84.
[19] See *ibid.* at 85–86
[20] Research returned reports of homeless encampments in the following cities: Toronto, Montréal, Calgary, Ottawa, Edmonton, Mississauga, Winnipeg, Vancouver, Brampton, Hamilton, Surrey, Halifax, London, Kitchener, Windsor.
[21] See Kelly Egan, "Egan: Not yet in from the cold—the year of shifting homeless encampments" (29 December 2020), online: *Ottawa Citizen* <ottawacitizen.com/news/local-news/egan-not-yet-in-from-the-cold-the-year-of-shifting-homeless-encampments>.
[22] See Chris Fox, "City opens Covid-19 recovery site for homeless amid news of 30 cases in shelter system" (14 April 2020), online: *CP24* <cp24.com/news/city-opens-covid-19-recovery-site-for-homeless-amid-news-of-30-cases-in-shelter-system-1.4895234>.
[23] See Farha & Schwan — The Shift, *supra* note 1.

Despite acknowledgements by governments that COVID-19 disproportionately affects already-marginalized communities, legal responses have failed to account for this and have in fact contributed to poorer encampment conditions.[24] Government policy responses tend to fall within the following four strategies: abandonment, emergency relief, heightened law enforcement, and housing-led responses.[25] Rarely do these policies produce permanent housing outcomes for people experiencing homelessness and living in encampments, as even the housing-led responses tend to focus on temporary measures like hotels or shelters.

All levels of government across Canada have enacted punitive laws, ranging from criminal offences to fines for violating statutes and bylaws.[26] Municipal and public transportation bylaw offences already disproportionately target people experiencing homelessness, and COVID-19 fines and distancing requirements had the same effect.[27] Unhoused people are subject to increased police surveillance and punishment by virtue of lacking private property rights and depending on public spaces, pressuring many into shelters to escape persecution and harassment.[28]

Deaths from fire, exposure, and overdoses have tragically occurred in multiple encampments across the country. Encampment residents and unhoused persons have also been the target of violence and threats. On March 2, 2021, nearly a year after the beginning of the pandemic, the Chief Commissioner of the Canadian Human Rights Commission, Marie-Claude Landry, issued a statement that "urge [d] governments at all levels to mount a coordinated and swift response to ensure the right to safe, dignified housing for everyone facing homelessness across Canada."[29] The statement endorsed the Protocol and noted that such deaths could be prevented by upholding the rights of people experiencing homelessness and providing adequate housing. In August 2022, the British Columbia Human Rights Commissioner, Kasari Govender, released a statement in response to multiple attacks on homeless people in the province, renewing her call to add "social condition" as a protected class in the provincial Human Rights Code. This would include social or economic disadvantage, including homelessness.[30]

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[24] See Leilani Farha & Kaitlin Schwan, "The Front Line Defence: Housing and Human Rights in the Time of COVID-19" in Flood et al., eds, *Vulnerable: The Law, Policy, and Ethics of COVID-19* (Ottawa: University of Ottawa, 2020) at 358.

[25] See *ibid.* at 359–361.

[26] See Terry Skolnik, "The Punitive Impact of Physical Distancing Laws on Homeless People" in Flood et al., eds, *Vulnerable: The Law, Policy, and Ethics of COVID-19* (Ottawa: University of Ottawa, 2020) at 288–289, 293–295.

[27] See *ibid.* at 291. Skolnik only references anecdotal cases of fines being issued to people experiencing homelessness and notes that many courts closed or reduced capacity during the pandemic, so the extent of the impact is as yet unclear and may take years to be fully revealed.

[28] See *ibid.* at 295–296.

[29] "Statement—Canada must uphold the rights of persons experiencing homelessness" (2 March 2021), online: *CHRC* <chrc-ccdp.gc.ca/en/resources/statement-canada-must-uphold-the-rights-persons-experiencing-homelessness>.

[30] See "Commissioner's statement on recent assaults on homeless people" (3 August 2022), online: *BC Office of the Human Rights Commissioner* <bchumanrights.ca/news/https-bchumanrights-ca-wp-content-uploads-homeless-violence-statement-pdf/>.

In an effort to arrive at more long-term and equitable solutions to encampments, scholars have argued that public health measures should adopt a human rights approach to housing and homeless encampments.[31] This human rights approach would be centred on advocating for adequate housing and other resources rooted in the self-determination of encampment residents.[32] It would also require a prohibition on evictions until adequate housing is available.[33]

3. Homelessness and Human Rights

Human rights can be used to both shield against punitive government action and to force positive government action. In the context of encampments, the rights most often invoked as a shield against eviction are section 7 Charter rights to "life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."[34] As detailed in the Appendix, which sets out the encampment cases that have been decided by the courts, section 7 rights have been relied on to prevent governments from obtaining injunctions to clear encampments in certain limited circumstances. Equality rights protected under section 15 have also been raised by encampment residents in recent cases, though courts have not expressly adopted an equality-based analysis to prevent encampment evictions.

Canada has adopted the right to adequate housing, as outlined in article 11 of the United Nations *International Covenant on Economic, Social and Cultural Rights* and now enshrined in the *National Housing Strategy Act*.[35] However, the content of a right to adequate housing is not yet defined in Canadian law. Efforts to establish a positive right to adequate housing with obligations on governments have been unsuccessful.[36] However, a recent court decision allowed a hearing to go ahead on human rights grounds after the United Nations Human Rights Committee found that Canada had violated its international commitments.[37]

The federal government has also introduced the *National Housing Strategy Act* which "recognize[s] the right to adequate housing as a fundamental human right affirmed in international law."[38] The Act establishes structures for accountability and established the Housing Advocate's office. Notably, the federal government's housing commitments were based on the previously identified need to "implement housing rights progressively (i.e., over time and to the maximum of its available resources)", though acknowledges that future cases could clarify

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[31] See Nicholas Olson & Bernadette Pauly, "Homeless encampments: connecting public health and human rights" (2021) 112 Can J Public Health 988 at 988.
[32] See *ibid.* at 993.
[33] See *ibid.* at 988.
[34] *Canadian Charter of Rights and Freedoms*, s 7, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
[35] SC 2019, c 29 s 313, Preamble [*National Housing Strategy Act*].
[36] See *Tanudjaja v Canada (AG)*, 2014 ONCA 852 at paras 30–32 [*Tanudjaja ONCA*]. Leave to appeal to the SCC denied: *Tanudjaja v Canada (AG)*, [2015] SCCA No. 39 (SCC).
[37] See *Toussaint v Canada (Attorney General)*, 2022 ONSC 4747. See also *Views adopted by the Committee under article 5 (4) of the Optional Protocol concerning communication No. 2348/2014*, HRC Dec 2348/2014, UNHRC, 2018, 123rd Sess, UN Doc CCPR/C/123/D/2348/2014.
[38] *National Housing Strategy Act*, *supra* note 35, s 313, s 4(a).

the “minimum core obligations” owed by governments.[39] To date, neither the courts nor governments have explained what a “right to housing” means for those in encampments. The right to housing included in the Government of Canada’s *National Housing Strategy Act* has also not been considered alongside municipal bylaws and the specific obligations of governments.

To better understand how governments respond to encampments, the next chapter sets out the specific role of municipal bylaws. While municipalities regulate encampments through the use of bylaws that regulate parks and other public spaces, other governments play roles as well, including the federal government. The chapter also includes summaries of case studies attached to this report that document the ways in which officials responded to encampments in five jurisdictions across Canada during the pandemic.

[39] Canada, Library of Parliament, Parliamentary Information and Research Service, “A Primer on Housing Rights in Canada” by Ryan van den Berg, Publication No 2019-16-E (Ottawa: Library of Parliament, 21 June 2019) at 11–12.

Chapter 2: The Role of Municipal Bylaws in Encampments

> "It was safer in the park. It wasn't crowded. More breeze, more everything! It was a nice set-up. I had my bike in there, an air bed. It was quiet and it wasn't too cold because it was springtime. There was three tents first, and then more people came. Soon Moss Park was the biggest encampment in the city."[40]
>
> —Derrick Black, describing the growth of the Moss Park Encampment

This section provides an analysis of how municipal bylaws are used in relation to encampments. While many different laws at different levels of government impact how encampment residents are treated, municipal bylaws are unique in the degree to which they regulate public space and those in it.

Attached to this report are five in-depth case studies, summarized in this chapter, that reveal a wide range of actors involved in encampment policing that has eroded human rights: police officers, special constables, bylaw officers, park ambassadors, park wardens, parks and recreation staff, private security, private construction crews, provincial offences officers, and fire department personnel.

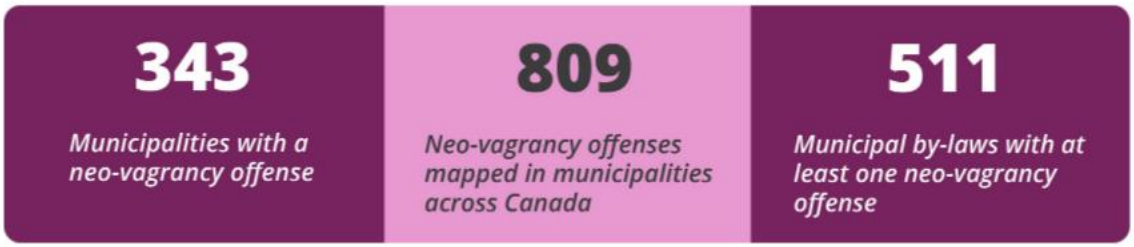
1. Municipal bylaws and the Regulation of Public Space

The policing of encampments challenges a straightforward view of "law enforcement" or "policing" that is simply carried out by "police officers." Instead, what one observes is a network of actors who are empowered with varying degrees of legal or administrative authority. Indeed, encampment policing and regulation are often characterized by legal informality and agents with attenuated policing powers. At first glance, this network of actors presents a particular challenge to human rights researchers. However, because encampments often (but not always) are situated on public space, one specific area of law does emerge as a central focus of human rights violations: municipal bylaws.

Municipal bylaws have become a powerful instrument used against encampment residents and street-involved people. Indeed, while considered a "low-level" law as compared to provincial or criminal statutes, they nonetheless seem custom-made to be used against those who shelter in public space. There are two reasons for this. By their very nature, bylaws are designed to regulate the mundane minutiae of public space, which includes prescribing the presence and conduct of people and the use of objects. This micro character of bylaws often extends specific prescriptions having to do with place and time. Secondly, while bylaw officers usually have limited legal powers, the bylaws themselves can be enforced by almost every type of policing actor, from fully sworn police officers, to private security and civilians enforcing private property rights on behalf of municipalities under provincial trespass laws.

[40] Black & Mistry, *supra* note 7.

The powerful character of bylaws in Canada became more apparent during the pandemic—and quite specifically when it came to unhoused people taking shelter is public spaces. Recent research has shown how widespread municipal bylaws are that target the survival activities of unhoused people, including simply being present in public space or attempting to shelter overnight.



A national study carried out in 2021 mapped the extent to which these anti-homeless or "neo-vagrancy" bylaws now represent a concerning threat to the human rights of unhoused people.[41] Drawing on the history of English vagrancy law offences, seven different anti-homeless offences were identified and mapped in current municipal bylaws: panhandling, loitering, obstructing, salvaging, resting or sleeping, sheltering, and disorder. [42] Like archaic vagrancy law, these bylaws can be used to punish people who are visibly poor and have no choice but to spend their time in public spaces.

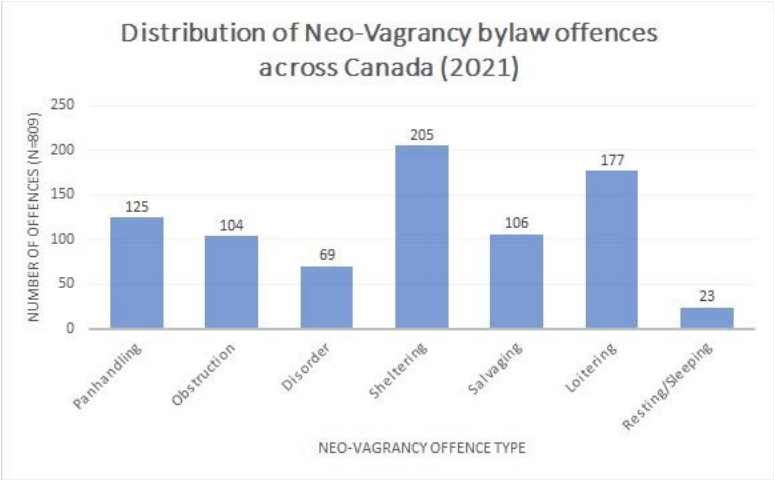


Figure 1: Breakdown of neo-vagrancy offences on a provincial basis[43]

[41] See policinghomelessness.ca

[42] Vagrancy offences were designed to target anyone whose simple presence was perceived as a threat to the prevailing social and economic order. See Joe Hermer, "The Mapping of Vagrancy Type Offences in Municipal By-Laws," Homeless Hub (22 July 2020), online: <https://www.homelesshub.ca/blog/mapping-vagrancy-type-offences-municipal-laws>.

[43] See http://policinghomelessness.ca/mapOne.html.

The results are disturbing. When one includes provincial Safe Streets legislation in Ontario and British Columbia, 77% of Canadians live in a jurisdiction with an anti-homeless offence. While one might think that these are old offences that have been "on the books" for some time, the exact opposite true. More than half (52%) of the offences have been enacted or revised in the last 10 years, and 75% of them within the last 20 years.[44] This suggests that over the last two decades, there has been an organized and systematic effort using municipal bylaws to target unsheltered and street-involved people in public spaces across Canada. And while this type of policing is often associated with large urban areas, the fact is many small cities and towns have anti-homeless bylaw offences that have been recently enacted.

2. Municipal bylaws and Encampments in the Pandemic Era

For the first months of the pandemic, many cities suspended their policies of clearing encampments, including Toronto, Edmonton, and Victoria.[45] These suspensions were largely temporary and most cities resumed or continued clearings in the summer and fall; Calgary and other cities claimed to be limiting clearings to encampments considered health and safety risks.[46] This selective enforcement approach—with certain encampments being tolerated for months while outreach efforts proceeded—often depends on complaints being at a minimum. The Cut encampment in Windsor (which lasted from March to November 2020) is a prime example: despite being situated on private land, the owner raised no issues with the municipality for months, and its seclusion limited interactions with the surrounding community.[47]

Though most cities claim that outreach is conducted at encampments, these claims are often countered by residents and encampment groups. Victoria and Oshawa are rare cases where encampments have been organized by governments. The Topaz Park encampment was coordinated by several Victoria and British Columbia agencies to provide distanced tents, meals, hygiene stations, harm reduction services, security, and outreach; the camp was in operation from late March or early April to late May, when all residents were rehoused.[48] Durham Region

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[44] This includes offences of new bylaws that have been enacted, the revision of current bylaw sections, or the inclusion of bylaw offences into consolidated versions.

[45] See *Clinique juridique itinérante c Procureur général du Québec*, [2021] QCCS 182 at paras 11-15 [*Clinique*].

[46] See Bill Kaufmann, "City eases crackdown on homeless camps amid COVID-19 despite increasing complaints" (15 November 2020), online: *Calgary Herald* <calgaryherald.com/news/local-news/city-eases-crackdown-on-homeless-camps-amid-covid-19-despite-increasing-complaints>.

[47] See e.g., Trevor Wilhelm, "Tent city: homeless encampments have sprung up around Windsor" (28 August 2020), online: *Windsor Star* <windsorstar.com/news/local-news/tent-city-homeless-encampments-have-sprung-up-around-windsor>; Trevor Wilhelm, "Tent City 2: 'I wish I wasn't homeless.' Taking homelessness fight to the streets" (3 September 2020), online: *Windsor Star* <windsorstar.com/news/local-news/i-wish-i-wasnt-homeless-taking-homelessness-fight-to-the-streets>; Dalson Chen, "Windsor's Tent City evicted; Advocacy groups help homeless find new accommodations" (4 November 2020), online: *Windsor Star* <windsorstar.com/news/local-news/windsors-tent-city-evicted-advocacy-groups-help-homeless-find-new-accommodations>.

[48] See Louise Dickson & Lindsay Kines, "In Victoria, a tale of two very different homeless camps" (15 April 2020), online: *Times Colonist* <vicnews.com/news/b-c-enacts-provincial-order-to-move-homeless-at-victoria-encampments-into-hotels/>; Lindsay Kines, "Deadline for moving homeless out of Victoria camps

organized an encampment at Camp Samac (6 km north of the city centre) on May 1, allowing 109 people experiencing homelessness who tested negative for COVID-19 to reside on-site in tents with mental and physical health support, outreach, hygiene, and meals; the program concluded on September 14, 2020.[49]

Exceptional circumstances aside, government responses have overwhelmingly been evictions on the basis of local bylaws, provincial trespassing acts, other legislation, or private property rights, depending on the circumstances. Threats of legal action by cities against encampments or their supporters, or by private actors against cities, may also prompt clearings even if they do not go to trial.[50] Several cities including Toronto, Calgary, Edmonton, Hamilton, Victoria, and Halifax have webpages describing their encampment response.[51] Vancouver, Hamilton, and Halifax claim to have adopted rights-based approaches, using the page to describe their overall approach and principles, although it is unclear whether these rights-based approaches are actually used.[52]

Outside of the broad categories of clearing, not clearing, and supporting encampments, certain cities have used the pandemic to prepare reports on encampments. Winnipeg's Standing Policy Committee on Protection, Community Services, and Parks produced a report on the city's encampments in October 2020, which drew inspiration from the Protocol but still intends to enforce clearings over safety concerns.[53] The report frankly identifies shortcomings of the city's own shelter system, particularly the lack of Indigenous, women's, or 2SLGBTQ+ shelters; however, it also critiqued the provincial and federal governments' "limited" direct services and

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extended to May 20" (8 May 2020), online: *Times Colonist* <timescolonist.com/news/local/deadline-for-moving-homeless-out-of-victoria-camps-extended-to-may-20-1.24132161>.

[49] See Brittany Rosen, "Camp Samac housing homeless people in Durham during coronavirus pandemic" (14 May 2020), online: *Global News* <globalnews.ca/news/6940366/camp-samac-durham-homeless-coronavirus-covid-19/>.

[50] See Austin Grabish, "Residents of homeless encampment gear up for city takedown" (9 June 2020), online: *CBC* <cbc.ca/news/canada/manitoba/homeless-camp-take-down-mmf-winnipeg-1.5516957>; Muriel Draaisma, "Toronto carpenter who builds tiny shelters for unhoused people calls on city to drop legal fight" (22 February 2021), online: *CBC* <cbc.ca/news/canada/toronto/toronto-carpenter-khaleel-seivwright-response-city-application-injunction-1.5923854>.

[51] See "Encampment Outreach & Response" (last accessed 28 October 2022), online: *City of Toronto* <toronto.ca/community-people/housing-shelter/homeless-help/encampment-outreach-response/>; "Encampments: Calgary's approach to illegal encampments" (last accessed 28 October 2022), online: *City of Calgary* <calgary.ca/csps/abs/illegal-encampments.html>; "Responding to Homelessness in our Communities" (last accessed 28 October 2022), online: *City of Edmonton* <edmonton.ca/city_government/initiatives_innovation/homeless-on-public-lands.aspx>; "City of Hamilton Encampment Response" (last accessed 28 October 2022), online: *City of Hamilton* <hamilton.ca/social-services/housing/city-hamilton-encampment-response>; "Sheltering in Parks" (last accessed 28 October 2022), online: *City of Victoria* <victoria.ca/EN/main/city/bylaw-enforcement/sheltering-in-parks.html>; "Public Safety" (last accessed 28 October 2022), online: *City of Halifax* <halifax.ca/about-halifax/regional-community-planning/public-safety#encampments>.

[52] See e.g. "Agreement signed to end encampments in Vancouver" (6 April 2021), online*: City of* Vancouver <news.gov.bc.ca/releases/2021AG0043-000637>.

[53] City of Winnipeg, An Overview of the Current State of Residents Living in Encampments (20 Steptember 2020), online: City of Winnipeg <https://clkapps.winnipeg.ca/dmis/ViewDoc.asp?DocId=20319&SectionId=&InitUrl> at 7–8.

funding support.[54] Statements made by other cities support the sense that they feel overwhelmed by the severity of the homelessness crisis and believe more could be done by the federal and provincial governments. Montréal Mayor Valerie Plante published an open letter highlighting the years-long negotiations between Quebec and Ottawa on funding under the National Housing Strategy.[55] This suggests that some cities would provide more outreach and support to encampments if greater, directed funding allowed. The British Columbia government did reach an agreement to work with the City of Victoria to find indoor shelter for encampment residents in 2021 once Victoria resumed regular bylaw enforcement; however, a lack of housing options persists to date.[56]

3. How Bylaws are Used in Encampments: Summaries of the Case Studies

a) Prince George, British Columbia (Joe Hermer)

This case study begins by exploring the City of Prince George's long history of displacing Indigenous peoples, such as the forcible removal of the Lheidli T'enneh in 1913 through the burning down of their village. The City has also acutely felt the housing and drug overdose crises, given its comparably high rates of homelessness and overdose deaths compared to those of other British Columbia cities.

During the COVID-19 pandemic, two encampments—one called "The Splits" and the other "Moccasin Flats"—drew the attention of the City. An application to evict residents from these encampments resulted in two court decisions from the Supreme Court of British Columbia: *Prince George v Stewart* and *Prince George v Johnny*. In the former, Chief Justice Hinkson ordered the closure of The Splits on the expectation that residents would move to Moccasin Flats, which had in fact already begun. Moccasin Flats, meanwhile, was not closed, as Justice Hinkson found that the City had failed to provide sufficiently low-barrier and accessible housing options to encampment residents.

A few weeks following the *Stewart* decision, Moccasin Flats was effectively destroyed by heavy equipment operated by City of Prince George workers. The City then made another application to close Moccasin Flats, in the case known as *Johnny*, which was again denied. In denying their application, Justice Coval determined that the City had violated Justice Hinkson's order in *Stewart*, which protected the existence of Moccasin Flats given the City's continuing lack of suitable housing and daytime facilities.

In March 2022, the City of Prince George withdrew their appeal of *Stewart*, acknowledged the court's decision in *Johnny*, and apologized for their actions at Moccasin Flats. Reasons for this turnabout are unclear, although the author speculates it may have been connected to the

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[54] *Ibid.* at 9–12, 14–15.

[55] See Simon Nakonechny & Benjamin Shingler, "Montreal's homeless camp emerges as symbol of housing crisis while governments bicker over funds" (5 September 2020), online: *CBC* <cbc.ca/news/canada/montreal/tent-city-montreal-housing-crisis-1.5713069>.

[56] See "Province, City of Victoria sign agreement to end encampments" (22 March 2021), online: *Government of BC* <news.gov.bc.ca/releases/2021AG0022-000521>; Mary Griffin, "Homeless in Victoria say they need help to find permanent homes" (10 August 2022), online: *Chek News* <cheknews.ca/homeless-in-victoria-say-they-need-help-to-find-permanent-homes-1073904/>.

severe public criticism the city faced about their treatment of unhoused people, including the release of research reports from the British Columbia Assembly of First Nations.

b) Vancouver, British Columbia (Alexandra Flynn)

Create a Real Available Beach (CRAB) Park has hosted encampments since at least 2003 and is noted in this case study to have a curious existence. It is unceded Indigenous territory, yet it is still owned—as well as lands adjacent to it—under Canadian law by the federal government. Furthermore, CRAB Park and its encampments engage two distinct yet related pieces of legislation. Given the federal government's claim it is federal land, this implies the application of the *National Housing Strategy Act*, in which the right to housing is acknowledged. And considering the disproportionate rate of Indigenous people among Vancouver's unhoused population, the *United Nations Declaration of the Rights of Indigenous Peoples* is also implicated. Indeed, UNDRIP has been domestically implemented at the federal and provincial levels in British Columbia.

Municipal bylaws, however, have failed to adequately resolve the homelessness crisis, and encampment residents primarily rely on volunteers and community initiatives for support. The City of Vancouver's most recent response to encampments located at or near CRAB Park has resulted in two Supreme Court of British Columbia cases: *Vancouver Port Authority v Brett*, and *Bamberger v Vancouver*. Both occurred during the COVID-19 pandemic.

In *Brett*, an application was brought by the Vancouver Fraser Port Authority, a federal government agency, to remove an encampment from Port Authority land. The court determined that the land was not like a public park, but rather more akin to private property, and so the encampment residents were trespassers. Despite the seminal case of *Victoria (City) v Adams*, the court also rejected the application of section 7 from the *Charter* in *Brett*.

Eighteen months later, encampment residents brought a judicial review of two orders made by the general manager of the Vancouver Parks Board. In *Bamberger*, the court quashed two orders which were effectively attempts to evict residents from an encampment at CRAB Park, located on federal lands. Finding the orders unreasonable, the court pointed to the Parks Board general manager's failure to properly consider whether available shelter adequately met the needs of those sheltering at CRAB Park in making their decision. Unlike in *Brett*, the court considered the Charter rights of those residing in the encampment, noting that since they were impacted by the General Manager's decision, and more data and oversight were needed, beyond verbal assurances from a third party that accessible and suitable housing was available for encampment residents. However, the author notes that although *Bamberger* recognizes the importance of consultation within the right to housing, it failed to outline the process, nor did it meaningfully engage with the *National Housing Strategy Act*.

c) Hamilton, Ontario (Estair Van Wagner)

Just as elsewhere across Canada, the COVID-19 pandemic exacerbated the homelessness crisis in the City of Hamilton. At the beginning of the pandemic, the City of Hamilton lessened the spread of the virus among those experiencing homelessness, but more recent waves have severely impacted the unhoused. This case study reviews the City's response to the increase in

encampments, specifically from March 2020 to May 2022, which the author argues worsened health and safety conditions for encampment residents during the pandemic.

Methods by which the City approached encampments included bylaw enforcement, a task force, evictions, the temporary use of a protocol that implemented a rights-based approach when engaging with encampment residents, and a six-step enforcement plan triggered by a complaint to Hamilton's Municipal Law Enforcement. Bylaw enforcement stigmatized and criminalized encampment residents, while also treating their personal property as waste. It also prevented the erection of shelters and interfered with the residents' ability to meet their basic needs. Evictions and displacement were common throughout the pandemic, despite variations in the process (ex., the Bylaw Enforcement Protocol, six-step plan). Following the repeal of the Bylaw Enforcement Protocol in August 2021, an eviction of encampment residents also resulted in the arrest of advocates who were protesting on site.

On the other hand, three civil society organizations have supported encampment residents throughout the pandemic: Keeping Six, Hamilton Social Medicine Response Team, and the Hamilton Encampment Support Network. These organizations formed a coalition in 2020 and worked to mitigate both COVID-19 and the homelessness crisis.

Additionally, two legal cases relating to encampment evictions in the City of Hamilton were brought during the period of March 2020 to May 2022. The first, *Bailey et al. v City of Hamilton* resulted in an order against the City that prevented them from forcibly removing encampment residents from public spaces who were unable to accept housing options provided. The second, *Poff v City of Hamilton*, was a challenge against the enforcement of city bylaws. But in application of the three-step injunction test (serious issue, harm, balancing), the case failed at the second.

d) *Toronto, Ontario (Kaitlin Schwan, Palmira Lutoto, Sam Freeman, Estair Van Wagner, Alexandra Flynn, Delaney McCartan, & Lauren Graham)*

Encampments established in Toronto between the summers of 2020 and 2021 drew a two-pronged response from the City. One prong is described by the author of this case study as the exercise of "legal powers" and the other as the use of "soft powers." While legal powers consist of municipal bylaws, soft powers are persuasive strategies often employed by politicians, such as characterizing encampments as criminogenic.

During the pandemic, the City of Toronto increasingly enforced parks bylaws against residents of encampments, serving them with notices of trespass, which often cited health, safety, and fire concerns. Bylaw enforcement also undermined grassroots organizations' attempts to provide necessities to encampment residents, such as water, waste removal, food, and hygiene systems. For instance, a local carpenter was issued warnings to stop constructing small shelters for residents that helped keep them out of the cold. The City subsequently demolished these shelters, citing concerns over health and fire safety.

Encampment residents were also frequently described by the City of Toronto as "trespassers," and encampment evictions often involved the police or private security. Evictions at Alexandra

Park and Lamport Stadium Park were particularly notable for their law enforcement presence and the numerous assaults committed by police against residents and their allies. Despite the City's response to encampments, there was also an increase in organizing, activism, and the provision of aid.

e) *Quebec Case Studies (Caroline Leblanc, Sue-Ann MacDonald, Isabelle Raffestin, Émilie Roberge and Laury Bacro)*

Several examples of encampment evictions are set out in these Quebec case studies, including seven in Montreal, and one each in Gatineau and Sherbrooke, between March 2020 and January 2022. The authors detail the specific bylaws used to evict residents, the manner in which residents resisted, and the effects of the evictions on residents. Using a combination of media analysis, and engagement with advocates and those with lived experience, the case study documents the actions taken by officials under the authority of municipal bylaws in particular.

The report concludes that encampments provide protection, stability, and support for vulnerable residents. Municipal responses are focused on the interests of officials rather than the needs of encampment residents, with one example being that once encampments increase to a particular size, authorities quickly dismantle them. The result is immediate precarity and stress for residents who must struggle to find new locations to reside, with full awareness that they are not welcome.

The case study offers several recommendations, including: that different forms of social and affordable housing be made available for encampment residents; while housing is not available, that encampment residents receive supports; that particular attention be placed on the unique needs on unhoused populations who identify as LGBTQ+ and youth; that the dignity and autonomy of encampment residents and unhoused populations be understood and respected; and that municipal officials cease approaching the issue of encampments through a lens of criminalization and policing.

The next chapter sets out a media scan of op-eds and news articles related to encampments from March 2020 to December 2021. This chapter explains the themes raised by popular media, including concerns about the visibility of encampments during the pandemic.

Chapter 3: Media Scan *

"I applied to TCHC housing 40 years ago. But they never, ever called me until I said I'm not leaving the park. Until I was too hard to ignore."[57]

—Derrick Black, on his difficulties in securing affordable housing

Given the limited academic resources on encampments during the pandemic and the importance of media reporting in this area, this chapter sets out a scan of the media on encampments in Canada from March 2020 to December 2021. The objective of the media scan is to capture helpful data, insights into the issues raised by reporters, and information on the views of unhoused people, community members, and officials. This media scan of English media also provides insight into how public opinion can be influenced by reporting, what issues are deemed newsworthy, and how information about encampments is disseminated to the public outside of encampments.

Methodology

For manageability, duplicate articles and articles pertaining to other countries were removed. The articles were further condensed to only include those that directly mentioned "Encampments," "Camps," "Tents," and "Tenters" in the title, for relevance purposes. After this was complete, researchers analyzed 213 articles.[58] Of these articles, 116 were from March 2020-December 2020, and 96 articles were from 2021. Themes were repeated throughout many of the articles and are relevant to broader understandings and representations of encampments in Canada. Almost every article pertained to a major city, with the majority of the articles coming from Ontario.

Provincial Breakdown:

Province	# of Articles	% of Total
Ontario	134	62.9
British Columbia	40	18.8
Alberta	15	7
Manitoba	10	4.7
Quebec	9	4.2
Nova Scotia	2	0.9
Saskatchewan	2	0.9
New Brunswick	1	0.4

Due to the heavy focus on Ontario and British Columbia in the initial media scan, researchers conducted an additional search to explore media representations of encampments in the territories. The media scan was guided by the following descriptive research questions:

* This chapter was drafted by Sydney Chapados, Sociology PhD Student, Carleton University.

[57] Black & Mistry, *supra* note 7.

[58] A database of the articles referenced in this chapter has been published alongside the report.

1) How are encampments, their residents, and local enforcement measures portrayed in news and social media?
2) What is the range of public attitudes towards encampments, their residents, and local enforcement measures?
3) What human rights dimensions should be brought to the attention of the Federal Housing Advocate?

Articles were coded descriptively based on these three questions to explore how the media represents and frames the presence of encampments in Canada.

Findings

Media on encampments presented a wide range of perspectives including from those living in encampments, advocates and protesters, outreach workers, community members who did not reside in encampments, previous encampment residents, police officers and other emergency response workers, as well as politicians. In some cases, these viewpoints were presented in the form of an op-ed or editorial, a "debate" held by the news outlet, or a standard report where actors provided quotes. The breadth of actors involved in sharing knowledge provided a significant and well-rounded analysis of media representation and perspectives on encampments in Canada. Findings are organized into three broad themes, with subsequent subthemes displayed here in brackets: life in the encampments (rationale and reasons, day-to-day experiences, needs of campers), issues facing encampments (cohabitation, sanitation, safety and security), and responses to encampments (bylaw, police, and security; community and neighbours; and political).

1. Life in the Encampments

Rationale and Reasons

Many of the media representations of encampments seek to prescribe what should be done to or with those residing in encampments. In rare cases, this looks like advocating for permanent housing, whereas in most others, it takes the form of moving people into shelters, rooming houses, hotels, jails, or other institutions. However, these prescriptions often overlook what drives people to take up residence in an encampment in the first place. Arguably, there are two main reasons identified in the media that contributed to people living in encampments throughout the pandemic. The first of these is people who have chosen to live outside for many years because they enjoy being outside, living with others away from scrutiny and authority, and feel safer doing so[59]. The second is those who have moved outside since the onset of COVID-19 due to various factors impacting their well-being. Discussing these factors, residents expressed concerns about violence and chaos, the spread of COVID-19, a lack of available shelter space,

[59] Johnston & Vincent, 2021; Casey, 2021; Rodrigues & Westoll, 2021; Tamminga, 2021

cleanliness, and increased substance use in the shelter and hotel system.[60] Put simply, media coverage that considered rationale for residing in encampments demonstrated that COVID-19 had created, exacerbated, and sustained a myriad of issues related to accessing shelter comfortably and safely, causing people to seek shelter elsewhere where they feel more in control of their own health and safety.

Day-to-Day Life

Although some encampment residents interviewed in media sources express that staying in an encampment is the best choice for them, this choice is often one made in a limited context created by the housing shortage.[61] Encampments may be the safest option that residents can access; however, there are also factors identified by the media within encampments that create challenges on a day-to-day basis. Residents express that accessing hygiene facilities, such as showers, washrooms, and sinks, has become exponentially more difficult since the onset of COVID-19 and the subsequent lockdowns.[62] In some cases, cities and organizations have responded to these concerns by providing showers in trailers or porta-potties, but many encampment residents are left without.[63]

Encampment residents have also identified that they find it difficult to really put down roots in any place because they are aware that they could be moved at any moment or have some of their personal items stolen.[64] Life in encampments for these residents is therefore presented as being precarious, but not any more precarious than accessing shelter or other short-term, temporary services. In any case, there is some representation of residents who do settle into encampments with many belongings, including musical instruments and art supplies.[65] These residents state that they feel safe in encampments and do not hesitate to call their space "home." One resident interviewed by CBC News mentioned that his space in a Toronto encampment is the first home he has had in years, and he would be "crushed" if he were to lose this place where he is able to engage in leisure activities like making art and to have access to all of his belongings.[66] Others have also identified that encampment residents try their best to take care of one another, as well as the physical space, leading to a deepened sense of community within the encampments.[67]

In many cases identified by the media, there is fairly consistent contact with city officials, outreach workers, religious organizations, and police and emergency services who enter camps

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[60] Mackie, 2021; Johnston & Vincent, 2021; Casey, 2021; Gibson, 2021; DiManno, 2021; Casey, 2021b; Rodrigues & Westoll, 2021; Salhia, 2021; Moro, 2021; Thompson, 2021; Yuen, 2020; Canadian Press, 2020; Bernhardt, 2020; DiManno, 2020

[61] Johnston & Vincent, 2021; Dunlevy, 2021; DiManno, 2021; Levy, 2021e; Rodrigues & Westoll, 2021; McNally & Dosani, 2021; Lorinc, 2020; Hernandez, 2020; Scace, 2020; Braun 2020; Moro, 2020; Nakonechny & Shingler, 2020

[62] Mackie, 2021; Eadland, 2020; Eagland, 2020c; Casey, 2020; Krause, 2020; Hamilton Spectator, 2020;

[63] Mackie, 2021; McIntyre & Chan, 2021

[64] Mackie, 2021; Dickson & Bell, 2021; Casey, 2021b; Snowdon, 2020

[65] Casey, 2021b; CBC News, 2020

[66] Casey, 2021b

[67] Mackie, 2021a; Smith, 2021; Eagland, 2020c; Craggs, 2020

to administer different services to residents.[68] In Vancouver, nurses would visit the encampments to administer COVID-19 testing and facilitate isolation for those who tested positive or were experiencing symptoms.[69] This was not without problems, as isolating in a tent is quite difficult for residents when there are no washrooms or hygiene services nearby.

Needs of Residents

Most campers and advocates interviewed in media reports identified that the number one thing that encampment members needed was permanent housing and long-term solutions, rather than short-term stays in shelters and hotels.[70] Short-term stays in shelters and hotels would often only remove people from encampments for a brief period of time, and they would then return after being discharged. Others identified needs such as hygiene, food, relief from the elements, pieces of identification that are vital for accessing supports, substance use and mental health supports, and dignity and respect.[71]

2. Issues Facing Encampments

The issues facing encampments that are highlighted by media are deep, with some pertaining to life inside the encampments, and others pertaining to external threats to encampments. These are separated into two themes: security and safety, and sanitation.

Sanitation

As mentioned above, encampment residents found it quite difficult to maintain their hygiene during the pandemic due to the closure of public facilities and a lack of access to showers, washrooms, and sinks. This created barriers for encampment residents to follow public health guidelines such as handwashing. Similarly, campers found it difficult to socially distance within encampments, and there were also concerns about accessing potable water for drinking and cooking.[72]

Campers and community members outside of the encampments identified concerns about garbage build-up and garbage removal within the encampments.[73] If garbage removal was not arranged externally, it was often not done, leading to a large build-up of garbage within the encampments that could lead to health and morale issues. The issue of garbage removal seemed to draw significant attention from external community members who were displeased at how parks were being treated and how garbage was left to build up.[74] Many community members identified that they no longer enjoyed being in parks due to the lack of cleanliness they witnessed.

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[68] Casey, 2021; Wilhelm, 2020; Mackie, 2021; DiManno, 2021; Quan, 2021; Cragg, 2020; Last-Kolb, 2020
[69] Culbert, 2021
[70] Berger, 2021; Dunlevy, 2021; Tsang, 2021; Rodrigues & Westoll, 2021; Sterritt, 2020
[71] Mackie, 2021; Johnston & Vincent, 2021; Smith, 2021; Sterritt, 2020
[72] Culbert, 2021
[73] Mackie, 2021; Levy, 2021; Michelin, 2021; Levy, 2021e; Tamimga, 2021; Wakefield, 2020
[74] Mackie, 2021

Safety and Security

In regard to safety and security, a number of concerns have been identified in the media by campers, their family members, external community members, emergency services, and politicians. Throughout the past two years, there have been a number of media articles identifying issues with fires and gas explosions within encampments, in some cases causing death.[75] This coverage highlights that soft-sided and temporary shelters can be set on fire very easily, causing fires to spread quickly throughout encampments and damaging people's belongings and living spaces. People rely on propane and fire for warmth and cooking meals. This concern is often cited by politicians and emergency services as a main reason why encampments should be shut down.[76] Residents have also expressed that their personal items have been stolen in encampments[77] and there is also concern about overdoses that have occurred within encampments.[78]

Outsiders such as police officers and external community members repeatedly state that encampments harbour criminal behaviour, substance use, weapons, and violence,[79] but this is not corroborated in the media by encampment residents. While there have been reported instances of violence at the encampments, details are scarce and, in some cases, involve people who live outside of encampments.[80] As a result, in some situations encampments are patrolled regularly by private security companies, bylaw officers, or police, and in other situations encampments may be fenced to delineate which space is encampment space, which has the effect of separating campers from the general public.[81]

3. Responses to Encampments

Police, Bylaw, and Private Security

Despite restrictions and delays on dismantling encampments early in the pandemic due to safety concerns,[82] police, bylaw officers, and private security firms were called upon often throughout the pandemic to enforce rules within encampments, as well as to facilitate the dismantling and destruction of encampments when they were ruled to be illegal by municipal councils or city park boards.[83] Police highlight in the media that they have been treated poorly when entering encampments, including being threatened, chased, and protested.[84] However,

[75] Snell, 2021; Connor, 2021; Salem, 2021; Dickson & Bell, 2021; McIntyre & Chan (2021); Levy, 2021d; Michael, 2021; Bron, 2021b; Lorinc, 2020; Wakefield, 2020; Connor, 2020; Passifaume, 2020; Connor, 2020

[76] Snell, 2021; Connor, 2021; Salem, 2021; McIntyre & Chan (2021)

[77] Mackie, 2021;

[78] Dickson & Kines, 2020; Gibson, 2020

[79] Levy, 2021; Zivo, 2021; Pazzano, 2020; Little, 2020; Ferguson, 2020; Stueck, 2020

[80] Little, 2020; Ferguson, 2020; Craggs, 2020

[81] Mackie, 2021

[82] Kines, 2020; CBC News, 2020; McIntyre, 2020

[83] Berger, 2021; Gibson, 2021a; Gibson, 2021b; Gibson, 2021c; Moro, 2021; Chan, 2021; Van Dongen, 2020b; Draaisma, 2020; Stueck, 2020; Lorinc, 2020; Michelin, 2020; Wakefield, 2020; Canadian Press, 2020; Kives, 2020; Ferguson, 2020b; Boothby & Cook, 2020; Deachman, 2020

[84] Gibson, 2021c; Luymes, 2021

advocates and encampment residents have responded that they have concerns about police entering encampments without declaring themselves, having warrants, or providing a reason, as police are associated with evictions and residents are afraid they will lose the sense of security they have if they are moved elsewhere.

When police have been called to dismantle encampments due to trespass orders, it has been done using methods that are quite violent and harmful to residents and advocates.[85] One encampment resident mentioned that the eviction at Trinity Bellwoods Park in June 2021 was the most aggressive situation she had ever experienced or witnessed at the hands of the police.[86] In this case, there were police drones, helicopters, officers wearing military uniforms, and officers using crowd control weapons to intimidate residents and protesters.[87] Residents and protesters were physically barricaded and trapped by hundreds of metres of fences that were put up around them, a crowd containment tactic known as kettling.[88] While the Trinity Bellwoods clearing was a brutal display of force, it is unfortunately not unique, as many other encampment evictions involved an intimidating police and security presence, as well as arrests, barricades, and standoffs.[89] Still, some continue to defend police and argue that the use of force is necessary to deal with encampments.[90]

While police often claim to be evicting encampment members for health and safety purposes, these evictions directly put encampment residents in harm's way. Police, often working with bylaw officers, generally offer some form of alternative sheltering option (if it exists) when evicting encampments.[91] However, these alternative arrangements such as hotels and shelters do not offer residents much safety or security and ignore the very reason why many have chosen to reside in encampments throughout the pandemic. Residents are therefore left to make impossible choices that could put them at risk of COVID-19, violence, arrest, and health challenges from sleeping unsheltered.[92]

General Public

The public is often presented in the media as being quite divided on the issue of encampments, with some members of the public advocating for housing solutions and help, while others are outright hostile towards encampments and residents. Supporters and advocates recognize that the existence of encampments is often due to some policy or housing failure, and thus express sympathy for those in encampments and look for ways to help, such as cleaning up garbage, providing hygiene options, donating sleeping bags or blankets, protesting evictions, and

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[85] Gibson, 2021c; Levy, 2021c; Quan, 2021; Rodrigues & Westoll, 2021; Bholla, 2021; Robertson, 2021; Micallef, 2021; Gibson & Pagliaro, 2021; Canadian Press, 2021; Passifiume, 2021; Sachdeva, 2021; Laurie, 2021; Ila, 2021; Casey, 2020

[86] Rodrigues & Westoll, 2021

[87] Rodrigues & Westoll, 2021; Robertson, 2021; Micallef, 2021

[88] Rodrigues & Westoll, 2021;

[89] Wilson, 2021; De Luigi, 2021; Ryan, 2021; Bholla 2021b; Canadian Press, 2020

[90] DiManno, 2021b; Toronto Star, 2021

[91] McIntyre & Chan, 2021, Moro, 2021d; Van Dongen, 2020;

[92] Gibson, 2021b; Rodrigues & Westoll, 2021; Bernard, 2021; Crawford, 2020

coordinating with support workers.[93] Advocates have also suggested policy-level solutions, such as the creation of designated tent cities, the creation of tiny homes and small shelters (such as Kitchener-Waterloo's "A Better Tent City")[94] and purchasing hotels for transitional housing.[95]

However, those who are against encampments and their residents often draw on very stigmatizing images of those who are experiencing homelessness. When discussing what they are witnessing in encampments and surrounding neighbourhoods, these voices suggest that encampment residents are incapable of caring for themselves or their surroundings, are rife with mental health and substance use issues, and are overall dangerous and violent.[96] Some have expressed outrage that parks are being overrun by "criminals" and "thugs" who are taking away the park from people who "deserve" to be in it, namely children and seniors.[97] Others have expressed that the presence of encampments has also been harmful to business, in a climate where business has already been impacted by lockdown measures.[98] One community member who was interviewed mentioned that he had outright protested some campers putting up tents by screaming at them until they moved.[99] People experiencing homelessness in encampments are thus placed at further risk for violence and harm by community members attempting to enforce who is allowed to occupy public space, and in some cases, there is mutual hostility between encampment residents and outsiders.[100] While there is a tendency in the media to blame encampment residents for the issues surrounding encampments, it is important to consider the context in which encampments arise.

Politicians

Similar to community residents, politicians, municipal governments, and councils are also presented as being divided on the issue of encampments. The most common political response to encampments in the media is the opening of other spaces for people to move into.[101] As mentioned above, some encampment residents are quite hesitant to move because of the health and safety risks in alternative spaces such as shelters, hotels, or rooming houses, as well as a lack of privacy and concern about not being able to bring all of their belongings.[102] Still,

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[93] Urquhart, 2021; Maddison, 2021; Dunlevy, 2021; Gibson, 2021e; McNally & Dosani, 2021; Lee, 2021; Canadian Press, 2021b; Peddle, 2021; Wells, 2020; Casey, 2020; Last-Kolb, 2020; Sterritt, 2020; Moro, 2020; Canadian Press, 2020; McIntyre, 2020; Cook, 2020; Balogh, 2020; Monteiro, 2020; Wilhelm, 2020b

[94] Villella, 2021

[95] Urquhart, 2021; Maddison, 2021; Tsang, 2021; Thompson, 2021; Moro 2021d; Seto, 2021

[96] Levy, 2021a; Levy 2021e; Levy 2021f; Bron, 2021; Warmington, 2020; Warmington, 2020b; Braun, 2020; Mason, 2020

[97] Wells, 2021; Gibson, 2021d; Levy, 2021f; Zivo, 2021b; Warmington, 2020c

[98] Snell, 2020

[99] Mackie, 2021

[100] Wong, 2020; Crawford, 2020

[101] Johnston & Vincent, 2021; Kines, 2021; Casey, 2021; Berger, 2021, McIntyre & Chan, 2021; Wells, 2021; Dunlevy, 2021; Gray & Moore, 2021; Moro, 2021b; Salloum, 2021; Eagland, 2020a; Eadland, 2020b; Eagland, 2020c; Crawford, 2020; Kines, 2020; Free Press, 2020

[102] Berger, 2021; Gibson, 2021; McIntyre & Chan, 2021; Casey, 2021b; Rodrigues & Westoll, 2021; Moro, 2021c; Bernhardt, 2020; Scace, 2020

others express hope and excitement at the prospect of moving into housing, even if it is temporary.[103]

Politicians generally take the stance that encampments are not conducive to health and safety and should be removed—but there is division on where encampment members should be moved to and what types of solutions are viable. In one controversial case, the City of Winnipeg undertook a pilot project where they would play a high-pitched, continuous noise to deter people from setting up camp.[104] The City discontinued this practice after it was heavily criticized for being "cruel and pointless."[105] Politicians have also expressed concern that simply removing encampment residents and placing them in other locales is an insufficient response due to the multi-faceted issues that they experience.[106] Politicians expressed in the media that many residents needed mental health and substance use support in addition to housing support.

Summary of Media Scan Alongside Encampment Enforcement

The increased visibility and attention to encampments throughout the COVID-19 pandemic have provoked significant public debate about homelessness and housing solutions. The general public, alongside politicians and community organizations, are quite divided about the issues of encampments, often disagreeing about what the solutions should entail. Although divided on the issue of encampments, the general public, politicians, and community organizations express that encampments do need to be addressed in some way. However, some encampment residents disagree and call these spaces home—expressing that they feel more comfortable and in control in encampments than they have felt for a long time.

While there is much discussion in the media surrounding what to do about encampments, such as taking a criminalization approach or displacing people to hotels and short-term shelters, there is not as much understanding about why people move into encampments in the first place. Indeed, the root of the issue—housing shortages and a lack of affordable housing and support—is rarely addressed politically. Solutions are often short-term, leaving residents to fend for themselves and blaming them when issues arise.

Health and safety are the most common and important reasons evoked to end encampments. However, removing encampment residents does not ensure their safety. Violently evicting, dismantling, and displacing encampment residents in the name of wellness is a massive contradiction, as residents are often placed into increasingly insecure and unsafe situations. These encampment evictions raise important questions about the violation of people's human rights, notions of citizenship, tenure and private versus public property, and the occupation of public space. Moreover, several levels of government are involved in these different situations, raising questions about who is ultimately responsible for people's and communities' well-being, social inclusion, and the protection of their human rights. Provocatively, this raises questions

[103] Eagland, 2020; Casey, 2020; Wells, 2020
[104] Froese, 2020
[105] Froese, 2020
[106] Kines, 2021; Casey, 2021; Berger, 2021; Snell, 2021b; Smith, 2021; Grochowski, 2021; Crawford, 2020; Wilhelm, 2020

about cohabitation and the occupation of public space. Removing encampment residents with violent, coercive means, trampling their dignity, and ignoring their self-determination and human rights so that other citizens can use space freely sends a clear message about whose rights are more important and worth protecting.

Chapter 4: A National Protocol on Homeless Encampments in Canada *

> "I wanted to be a leader because I have a strong voice. I wanted to speak for people who cannot speak. The second I leave, look what's happening: they cleared my stuff, and they're clearing all the little houses. I'm not there to get in the way anymore."[107]
>
> —Derrick Black, on the struggles of advocating for encampments

In recent years, homeless encampments have become a prominent symptom of Canada's housing crisis. In a housing arena marked by unaffordability, insecurity, and financialization, a lack of adequate accommodation options has driven people into informality—forcing them to live in self-made structures in public and private outdoor spaces. This reality has been further exacerbated by the COVID-19 pandemic, which caused many temporary and emergency accommodation providers to close or severely limit their capacities, leaving people with little choice but to find alternatives.

In light of the governmental inaction which has led to the rise of homeless encampments in Canada, encampments must be regarded as having a dual nature—they are, of course, a violation of the right to housing and a representation of a failure of governments in Canada meet their obligations to realize the right for all. Yet they also represent an important claim of the right—a clear statement that housing is vital to human well-being and that being forced to live without shelter is a severe threat to dignity and security.

All levels of government must ensure that their obligations relating to the right to housing and other human rights are upheld. To properly understand and address encampments, all governments in Canada must recognize those living in them as holders of human rights who are entitled by law to have their human right to housing realized in full through the progressive provision of secure, affordable, and habitable housing which provides them with dignity. All jurisdictions within Canada must respond to existing encampments in a way that complies with international human right laws, including ensuring proper consultation with encampment residents when developing initiatives to assist them.

Despite their human rights character, in a great number of cities across Canada, the response to homeless encampments has been punitive. Encampments residents have been met with a lack of vital services (including water and sanitation), violent forced evictions, and destruction of property. Residents have been arrested and criminalized under bylaws outlawing behaviours such as camping, bathing, or defecating in public—activities which are unavoidable when living in homelessness. Far from causing a decline in homelessness, these responses have simply driven people experiencing homelessness into the shadows, away from areas of relative safety,

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* Sam Freeman and Palmira Lutoto drafted this chapter.

[107] Black & Mistry, *supra* note 7.

and beyond the reach of vital service providers. This approach is not compliant with human rights and is not sustainable.

This chapter sets out key national and international discourses related to homeless encampments and human rights. The chapter is organized based on the eight principles outlined in *A National Protocol on Homeless Encampments in Canada* (the Protocol). The Protocol was created to provide governments with a framework on how use a right-based approach when dealing with encampments.[108] The literature review integrates relevant international human rights laws, Canadian laws, such as the *Canadian Charter of Rights and Freedoms* and the *National Housing Strategy Act*, and research papers and reports on homeless encampments in Canada and the United States**.** The literature review also provides recommendations on measures governments can adopt to respond to encampments and indicates the possible impacts if obligations are not upheld.

Principle 1: Recognize residents of homeless encampments as rights holders

The principle of recognizing residents of homeless encampments as rights holders is inherently linked to an understanding of the dual nature of homeless encampments.[109] In particular, it means that those who are forced to rely on encampments as their home are not only experiencing human rights violations as a result of failed state actions and policies, but are also claiming their right to housing.[110] When the state fails to implement and meet its obligation to realize the human right to adequate housing for all, those who are financially disadvantaged and those whose identities intersect with multiple forms of oppression (e.g., historically excluded on the basis of race, gender, sexual orientation, disability, age, Indigenous identity, and ethnicity), tend to be more at risk of being excluded from the formal housing systems. The lack of affordable housing and adequate housing solutions can lead individuals to adapt survival strategies, such as creating an informal housing system that involves sleeping outdoors.[111] In essence, homeless encampment residents are rights holders who are advancing their basic claims to home and community, and thereby claiming their legitimate place within cities.[112]

Rather than addressing the issue of shortages in affordable housing and rectifying the policies that lead to the creation of homeless encampments, state actions tend to be centred on the criminalization of homeless encampments.[113] The criminalization of homelessness occurs when governments pass and choose to enforce laws making it a criminal offence to camp, sleep, rest,

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[108] See Farha & Schwan — The Shift, *supra* note 1 at para 7.
[109] See Leilani Farha, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context,* UNGAOR, 73rd Sess, UN Doc A/73/310/Rev.1 (2018) at para 11.
[110] See *ibid.*
[111] See Tony Sparks, "Citizens without property: Informality and political agency in a Seattle, Washington homeless encampment" (2016) 49:1 Environment & Planning A: Economy and Space 86 at 87.
[112] See Farha & Schwan — The Shift, *supra* note 1 at para 39.
[113] See generally Marybeth Shinn & Jill Khadduri, *In the Midst of Plenty: How to Prevent and End Homelessness in the United States* (Hoboken, New Jersey; Wiley-Blackwell, 2020.

or engage in other activities necessary for life in public areas. State actions to criminalize, penalize, and obstruct homeless encampments through the demolition of property and the eviction and arrest of residents are a violation of the human rights and dignity of those residing in them.[114]

The criminalization of homeless encampments creates two main issues. On the one hand, those experiencing homelessness are marginalized in the denial of their human right to housing.[115] On the other hand, when these already marginalized groups attempt to remedy their situation and reclaim their right, they are subject to eviction and displacement, or they are criminalized and punished through fines or imprisonment.[116] The latter naturally makes it even harder to exit homelessness.[117] The criminalization of homelessness is not a proper response to state failures. These punitive actions do not meaningfully decrease homelessness or lead to any real beneficial outcomes.[118] Rather, the criminalization of homelessness has several serious consequences on unhoused people, including[119]:

1. breaching several human rights laws;
2. inhibiting their ability to exit homelessness and transition into permanent housing;
3. denying access to an income, given the risk of being excluded from employment opportunities;
4. subjecting them to discrimination by landlords;
5. reducing their quality of life;
6. affecting mental and physical health;
7. creating social marginalization and isolation;
8. increasing their likelihood of developing illnesses due to severe weather conditions and limited access to healthcare and spaces to recover;
9. producing negative impacts on dignity and potentially causing harm;
10. interfering with Charter rights, including the right to life, liberty, security, housing, health, and a reasonable expectation of privacy:
11. depriving them of autonomy and responsibility through the state's interventions in self-managed homeless encampment; and
12. making it challenging to claim the right to housing.

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[114] See Julie Hunter, Paul Linden-Retek, Sirine Shebaya, Samuel Halpert, "Welcome Home: The Rise of Tent Cities in the United States" (2014) at 58, online (pdf): *Canadian observatory on homelessness* <homelesslaw.org/wp-content/uploads/2018/10/WelcomeHome_TentCities.pdf>.

[115] See *Report of the Special Rapporteur on extreme poverty and human rights on his mission to the United States of America*, UNHRCOR, 38th Sess, UN Doc A/HRC/38/33 (2018) at para 45 [*Special Rapporteur—USA*].

[116] See *ibid*.

[117] See *ibid*.

[118] See Eric S Tars, "Criminalization of Homelessness" (2021), online (pdf): *National Low Income Housing* <nlihc.org/sites/default/files/AG-2021/06-08_Criminalization-of-Homelessness.pdf>.

[119] See Tony Robinson, "No Right to Rest: Police Enforcement Patterns and Quality of Life Consequences of the Criminalization of Homelessness" (2019) 51:1 Urban Affairs Rev 41 at 60; Leilani Farha, "Communication by the Special Rapporteur on the Right to Housing to Hungary" (2018), online (pdf): *OHCHR* <spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=2391>; *Special Rapporteur—USA*, *supra* note 115 at para 45; *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

Although state orders tend to be politically and financially motivated, the criminalization of homeless encampments is often justified by the need for public order, health, and safety. As a result, factors such as city beautification, tourism and business promotion, increased property values, and the appeasement of housed residents are very often taken into consideration when passing bylaws criminalizing homeless encampments.[120] Evidently, this type of response shifts the blame from the state's failure to implement strategies and policies that follow human rights guidelines, as well as from structural poverty, inequality, and systemic discrimination towards individual failures that need to be controlled and punished by the state.[121]

Rather than criminalizing encampment residents, states need to recognize those experiencing homelessness as human beings claiming their rights within failed systems, and fulfill their obligations to respect human dignity, as set out in the *National Housing Strategy Act.*[122] States should assist them in finding adequate affordable housing, adopt policies to end homelessness, and improve residents' living conditions.[123] These goals can be achieved by adopting Principle 2—a community-led approach centred on meaningful engagement and the effective participation of encampment residents.

Most importantly, states need to end actions that criminalize homeless encampments and shift towards recognizing these as homes. The recognition of homeless encampments as home aims to drive states to exercise the same legal respect and consideration for informal home structures as they do for formal home structures.[124] Consequently, law enforcement would not be authorized to intrude in the lives of homeless encampment residents by opening, damaging, or destroying residents' property and entering, opening, or removing residents' homes without their expressed permission or a warrant.[125]

Principle 2: Meaningful engagement and effective participation of encampment residents

The principle of meaningful engagement and effective participation of encampment residents is premised on state recognition of encampment residents as right holders.[126] As stated in Principle 1, the treatment of encampment residents as criminals reinforces the unproven notion that homeless self-governance is dangerous and that a competent caretaker must intervene to protect the community.[127] Homeless encampment residents are perceived as dependent subjects who are incapable of knowing, articulating, or acting in their own best interests, which

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[120] See Chris Herring, Dilara Yarbrough, & Lisa Marie Alatorre, "Pervasive Penality: How the Criminalization of Poverty Perpetuates Homelessness" (2020) 67:1 Social Problems 1; Robinson, *supra* note 119 at 59.
[121] See Speer—mass incarceration, *supra* note 2 at 168.
[122] See Farha & Schwan — The Shift, *supra* note 1 at para 39.
[123] See *ibid.* at para 41.
[124] See Sarah Ferencz, Alexandra Flynn, Nicholas Blomley & Marie-Eve Sylvestre, "Are Tents a 'Home'? Extending Section 8 Privacy Rights for the Precariously Housed" (2022) 68 McGill LJ 1 at 10 (forthcoming).
[125] See "Encampments Rights Review Report on encampments in Toronto during COVID-19" (2020) at 13, online (pdf): *Right to Housing in Toronto* <right2housingto.ca/wp-content/uploads/2020/09/R2HTO-Encampents-Rights-Review-final.pdf> [Report on encampments in Toronto].
[126] See Farha & Schwan — The Shift, *supra* note 1 at para 41.
[127] See Speer—mass incarceration, *supra* note 2 at 166.

justifies discipline and management from the authorities.[128] On the contrary, it is precisely because encampment residents are best placed to identify their needs that their participation is needed in the design and implementation of programs and policies affecting them.[129]

When states cast homeless people as passive subjects, they fail to recognize them as low-income and disadvantaged people who are trying to attain political or legal recognition as active and rights-bearing citizens.[130] In the case of Seattle, encampments residents reported the difference between being in shelters compared to self-managed encampments: in the shelters, "They treat you like you're a little kid and after a while you become a little kid—Here, [in the Tent City] you're responsible for something. If you don't like it, you can work to change it, if you don't do what you say you're gonna do, everyone suffers."[131] This statement reveals how autonomy and responsibility afforded by self-managed homeless encampments provide dignity in the lives of homeless encampment residents.[132] Autonomy and responsibility provide residents with the opportunity to build confidence and leadership skills.[133] The communities in Seattle around the new encampments positively responded to these encampments, and it was documented that the crime levels had not significantly increased in the areas surrounding the self-managed encampments.[134]

The right to participate should be implemented at the earliest stage in any interactions between the state and encampments residents or in any policymaking regarding encampments.[135] States need to respond to encampments by first authorizing their existence and by establishing a legal framework that allows them to be self-governed, while providing assistance and oversight.[136] For instance, Seattle's Human Services Department selected several non-profit organizations to provide services, such as referrals to diversion programs and shelters, legal services, rapid rehousing programs, and employment training and educational referrals.[137]

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[128] See Ananya Roy, "Paradigms of Propertied Citizenship: Transnational Techniques of Analysis" (2003) 38:4 Urban Affairs Rev 463; Andrea Brighenti, "Visibility: A category for the social sciences" (2007) 55:3 Current Sociology 323.

[129] See Farha & Schwan — The Shift, *supra* note 1 at para 42.

[130] See Andrea Brighenti, "Visibility: A category for the social sciences" (2007) 55:3 Current Sociology 323; Sparks, *supra* note 131 at 88.

[131] Sparks, *supra* note 131 at 92.

[132] See *ibid.*

[133] See *ibid*.

[134] See City of Seattle, Human Services Department, "Seattle Permitted Encampment Evaluation. Seattle" (2017), online (pdf): *City of Seattle* <www.seattle.gov/documents/departments/humanservices/aboutus/final%202017%20permitted%20encampment%20evaluation.pdf> [*Seattle Encampment Evaluation*].

[135] See United Nations Human Rights Council, "The guiding principles on extreme poverty and human rights, foundational principles" (2012) at para 38, online (pdf): *OHCHR* <ohchr.org/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_EN.pdf>; Farha, *supra* note 119 at para 73.

[136] See *Seattle Encampment Evaluation*, *supra* note 134.

[137] See *ibid*.

To achieve meaningful engagement, States should ensure that the right to participation is protected in law through constitutional or legislative provisions.[138] Participation processes must comply with all international human rights law and principles, and meaningful engagement must be grounded in the recognition of the inherent dignity of encampment residents and their human rights.[139] States should also ensure that all homeless policies or relocation strategies provide encampment residents with full participation in the management of encampments, relocation planning and implementation, upgrading programs, and ensuring the achievement of sustainable results.[140] Participation and engagement in the decisions affecting encampment residents should be active, free, and meaningful, and in the case of Indigenous residents of encampments, the processes should be undertaken in accordance with the principles of free, prior, and informed consent and in a manner that is culturally safe and trauma informed.[141] Encampment residents should not be exposed to the threat of eviction procedures or police enforcement to coerce, intimidate, or harass them.

The following suggestions provide guidance to states to ensure meaningful engagement of encampment residents:

1) To eliminate the power imbalance with governments and residents, the necessary supports and resources should be provided. Residents who act as community spokespeople should be provided with remuneration for their work and proper training.[142] Access to independent legal advice and representation, independent advocates, collaboration with front-line organizations, and disbursements for expenses should also be provided to assist residents with the right to participate.[143]
2) Relevant information should be provided about the right to housing, including information about procedures through which they can hold governments and other actors accountable, the upgrading process, and the relevant laws and information about their rights.[144]
3) Relevant information concerning decisions that affect residents should be provided to ensure sufficient time to consult and opportunities to directly influence decisions that affect them.
4) A formal, binding community engagement agreement, establishing when and how the community will be engaged at each stage of the process, should be negotiated between homeless encampment residents, government actors, and other stakeholders.[145]
5) Equitable opportunities for the meaningful participation of all encampment residents should be provided to allow the community to make collective decisions and the effective sharing of information. [146]

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[138] See Farha, *supra* note 119 at para 73.
[139] See Farha & Schwan — The Shift, *supra* note 1 at para 44.
[140] See Farha, *supra* note 119 at paras 19, 31, 72.
[141] See Farha & Schwan — The Shift, *supra* note 1 at para 41.
[142] See Farha, *supra* note 119 at para 79.
[143] See Report on encampments in Toronto, *supra* note 125 at 15.
[144] See Farha, *supra* note 119 at paras 19, 79.
[145] See *ibid.* at para 74.
[146] See *ibid.* at para 76.

6) Residents' concerns should be documented, including those with police, and law enforcement must not be present at conversations and interactions with encampment residents, considering past interactions that have targeted specific members of the communities.[147]
7) It is important to understand their concerns and offer them safe and permanent housing options before asking them to move.[148]
8) It is important to collect and document understandings of informal tenure status through enumerations and tenure registration, with a view to ensuring long-term security.[149]

States' failure to adopt a meaningful engagement approach could result in encampment residents further disengaging and refusing to seek resources.[150]

Principle 3: Prohibition of forced evictions of encampments

Eviction is defined as "the expulsion of people and their possessions from a space to which they cannot return without the permission of the owner."[151] Forced eviction is defined as "the permanent or temporary removal of individuals, families and/or communities from the homes and/or land which they occupy against their will, without the provision of, and access to, appropriate forms of legal or other protection … in conformity with the provisions of the International Covenants on Human Rights."[152] Forced eviction can be executed by law enforcement through destruction of property and harassment or intimidation of encampment residents.[153] Unlike evictions, forced evictions are considered a gross violation of human rights, including the right to housing, and they are prohibited under international human rights law and standards.[154] They also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, and the right to the peaceful enjoyment of possession.[155]

Evictions of encampment residents could be motivated by public interest, city beautification, development or redevelopment, or requests by private actors.[156] In the circumstances where eviction is required, it should be carried out after exploring all viable alternatives with residents, in accordance with the law and consistent with the right to housing. As stated in the *United Nations*

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[147] See Report on encampments in Toronto, *supra* note 125 at 14.
[148] See *ibid*.
[149] See Farha, *supra* note 119 at para 37.
[150] See Oren Yiftachel, "Critical theory and 'gray space': Mobilization of the colonized" (2009) 13 City 246 at 249; Sparks, *supra* note 111 at 91.
[151] Nicholas Blomley, "Precarious Territory: Property Law, Housing, and the Socio-Spatial Order" (2019) 52:1 Antipode 36 at 46.
[152] Committee on Economic, Social and Cultural Rights, *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions*, UNESCOR, 16th Sess, Supp No. 2, UN Doc E/1998/22 (1997) at para 4 [*General Comment No. 7*].
[153] See Farha & Schwan — The Shift, *supra* note 1 at para 47.
[154] See UN Commission on Human Rights, *Commission on Human Rights Resolution: 2004/28: Prohibition of forced evictions,* UNHCROR, 60th Sess, UN Doc E/CN.4/RES/2004/28 (2004) at para 1.
[155] See *General Comment No. 7*, *supra* note 152 at para 4.
[156] See Farha & Schwan — The Shift, *supra* note 1 at para 48.

Conference on Human Settlements in 1976, forced evictions should only take place when conservation and rehabilitation are not possible, and if appropriate forms of protection are provided or relocation measures have been put in place. [157]. Therefore, laws and policies that sanction forced evictions or penalize and punish people experiencing homelessness and residing in encampments, such as anti-camping laws, move-along laws, laws prohibiting tents being erected overnight, laws prohibiting personal belongings on the street, etc., should be repealed, and states must refrain from adopting them. States must ensure that measures are in place to prevent and punish forced evictions that are carried out without appropriate legal protection by private agents or third parties.[158]

Forced evictions are prohibited in all but in the most extreme circumstances, such as if the well-being of encampment residents was in immediate risk if a forced eviction was not to take place. In the case where forced evictions must occur, it should be done only if it is permissible under relevant laws, the circumstances in which the interferences may be permitted are specified in legislation, and suitable alternatives are provided, in compliance with the international human rights law and in accordance with the principles of reasonableness and proportionality.[159] In these rare cases, states should implement the following recommendations when conducting forced evictions:[160]

1. Adequate and reasonable notice for all affected persons to move their items prior to the scheduled date of eviction;
2. Upon residents' consent, clear and consistent guidelines about the removal, storage, and disposal of property;
3. Legal protection, remedies, procedures, and, where possible, legal aid to persons who are in need of it to seek redress from the courts;
4. Guaranteed due process and administrative fairness;
5. Right to compensation for any damaged property;
6. Alternative accommodation;
7. An opportunity for genuine consultation with those affected;
8. Information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in a reasonable time to all those affected;
9. Especially where groups of people are involved (such as in an encampment setting), the presence of government officials or their representatives during an eviction;
10. Proper identification of all persons carrying out the eviction;
11. Evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; and
12. Any appropriate resources that may be needed.

When evictions are conducted without safeguards, not only do they create disruptions and trauma for encampment residents, but encampments are re-established in a new location or at

[157] See *General Comment No. 7*, *supra* note 152 at para 2.
[158] See *ibid.* at para 9.
[159] See *ibid.* at para 14.
[160] See *ibid.* at paras 1, 2, 9, 15. See also Report on encampments in Toronto, *supra* note 125 at 15.

the initial site.[161] States must cease justifying the eviction of encampment residents using legal procedures. In addition, courts should refuse to authorize such evictions unless necessary and only when all international human rights requirements are met and when residents have been meaningfully engaged in the process.[162]

Principle 4: Explore all viable alternatives to eviction

State responses to homeless encampments tend to involve the eviction of the residents and the destruction of their property without providing proper support or services to help them.[163] Principle 4 highlights the importance for states to explore all viable alternatives to eviction and to consult with encampment residents when addressing the issue of homeless encampments.[164] Evictions without adequate support or viable alternatives can have many negative consequences, such as poorer quality of life, traumatic psychological and emotional impacts, thereby further disrupting the lives of people who are already in a disadvantage situation.[165] In addition, such actions create an adversarial relationship between people experiencing homelessness and law enforcement and governments.[166]

People experiencing homelessness have limited options in finding alternative housing.[167] The most common options are shelters and encampments. In deciding between both options, several factors come into play such as the availability of shelter beds, undesirable shelter conditions, shelter policies, sense of safety and community in the shelter, the space to have autonomy and privacy, and the freedom to come and go.[168] States must engage with homeless encampment residents in discussions regarding viable alternatives to eviction and ensure their meaningful and effective participation in discussions regarding the future of the encampments.[169]

To ensure proper consultations and engagement, States should make available free and independent legal advice, financial support, and other types of support to all residents to ensure that they understand their options, processes, and rights.[170] Encampment residents should also be able to retain outside consultants to assist them in developing alternative options to eviction.[171] States should also take into considerations the various needs among encampment

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[161] Rebecca Cohen, Will Yetvin, & Jill Khadduri, "Understanding Encampments of People Experiencing Homelessness and Community Responses" (2019) at 2, online (pdf): *US Department of Housing and Urban Development* <huduser.gov/portal/sites/default/files/pdf/Understanding-Encampments.pdf>.
[162] See Farha, *supra* note 119 at para 29.
[163] See Cohen et al., *supra* note 161 at 9.
[164] See Farha & Schwan — The Shift, *supra* note 1 at para 50.
[165] See Samir Junejo, Suzanne Skinner, & Sara Rankin, "No Rest for the Weary: Why Cities Should Embrace Homeless Encampments" (2016) at 18, online (pdf): *Seattle University School of Law* <digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1006&context=hrap>; Farha, *supra* note 119 at para 27.
[166] See Cohen et al., *supra* note 161 at 13.
[167] See *ibid.* at 21.
[168] See *ibid*.
[169] See *Ibid*.
[170] See Farha & Schwan — The Shift, *supra* note 1 at para 41.
[171] See *ibid*.

residents and develop alternative solutions accordingly. For instance, representatives of Indigenous communities should be engaged in the planning process to ensure the availability of culturally appropriate services.[172]

Ultimately, the most appropriate alternative to eviction is permanent housing that is affordable, habitable, culturally adequate, accessible to services and where encampment residents would be able to live without discrimination, in security, peace, and dignity.[173] The permanent housing should also be located in areas that are proximate to those from which the eviction took place in order to minimize social, economic, and cultural disruption. In the absence of adequate alternatives or permanent housing for encampment residents, States should ensure that encampments are protected and made safe for all residents through the provision of resources that meet basic needs and human rights standards. [174]

Principle 5: Ensure that any relocation is human rights compliant

States tend to respond to homeless encampments by relocating encampment residents using law enforcement, physical barriers, or other means, with little to no consultation or engagement with the residents.[175] This type of relocation does not address the lack of the basic right to housing; instead, it contributes to increased marginalization when conducted in a manner that is not compliant with human rights and not agreed to by encampment residents.[176] For instance, one of the City of Toronto responses to the increase of encampments during Covid-19 was the relocation of encampment residents to hotels and shelters following the issuance of notices of trespassing. However, some of the encampments residents who relocated to one of the shelters returned to encampment sites, given the lack of safety and privacy (see the Toronto Case Study in this series).[177] The City of Toronto case study demonstrates that even when shelter spaces are available, they do not necessarily provide a level of safety or privacy that is acceptable to residents. The inability of shelters to adequately provide these important necessities can lead those staying in shelters to relocate to encampments, especially during the Covid-19 pandemic, given the need to social distance.[178]

Where encampment residents agree to relocate, states must establish meaningful and ongoing engagement with residents early in the process of the development of any relocation plans. The relocation plans should:[179]

1. Comply with international human rights law;
2. Provide residents with relevant information regarding the relocation plans;
3. Provide residents access to independent legal advice regarding the plans;

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[172] See Farha & Schwan — The Shift, *supra* note 1 at para 52.
[173] See Farha, *supra* note 119 at para 21.
[174] See Report on encampments in Toronto, *supra* note 125 at 16.
[175] See Farha & Schwan — The Shift, *supra* note 1 at para 55.
[176] See *ibid*.
[177] See Report on encampments in Toronto, *supra* note 125 at 18.
[178] See *ibid.* at 16–19
[179] Farha, *supra* note 119 at paras 4, 17, 22, 25, 38, 41, 59, 60, 63, 74; Report on encampments in Toronto, *supra* note 125 at 16; Farha, *supra* note 119 at para 34.

4. Provide access to justice to ensure procedural fairness and compliance with all human rights;
5. Respect the rights of residents, including the right to remain in one's home and community;
6. Provide compensation for any relocation costs incurred;
7. Be implemented without the interference of law enforcement or the use of force;
8. Prohibit the removal of residents' private property without their knowledge and consent;
9. Adhere to the right to housing and other human rights standards; and
10. Not result in the continuation or exacerbation of homelessness or require the fracturing of families or partnerships.

If states cannot ensure that the relocation will be human rights compliant, then residents should be permitted to remain in encampment sites until adequate alternatives are provided.[180] States should adopt a human rights-based approach and ensure that encampments are safe, and residents have access to resources and services.[181] Moreover, encampments should be recognized as communities, and states should ensure meaningful engagement with encampment residents collectively and individually.[182]

Given that encampments are neither a solution to homelessness nor a form of adequate housing, states have an obligation to ensure that homeless residents have access to permanent affordable housing, mental health services, the services covered under Canadian universal health care, and employment opportunities.[183] Furthermore, states should refrain from approving urban development proposals that do not provide existing residents with housing that fully meets their needs in terms of affordability, design, and adequacy.[184]

Principle 6: Ensure encampments meet basic needs of residents consistent with human rights

States must ensure that encampments meet the basic needs of residents consistent with human rights while arranging for permanent affordable housing.[185] States should engage with encampment residents when planning and implementing measures to improve access to basic services, deciding on the resources that are needed, and how best to mobilize them.[186] States should also respect any existing practices, systems, and agreements among the residents and should consult them if there is need for improvements.[187]

Article 11.1 of the *International Covenant on Economic, Social and Cultural Rights*, which is recognized in the *National Housing Strategy Act*, states that "The State Parties to the present

[180] See Farha & Schwan — The Shift, *supra* note 1 at para 57.
[181] See Report on encampments in Toronto, *supra* note 125 at 16.
[182] See *ibid*.
[183] See Cohen et al., *supra* note 161 at 16.
[184] See Farha, *supra* note 119 at para 41.
[185] See Farha & Schwan — The Shift, *supra* note 1 at para 61.
[186] See *ibid.*
[187] See *ibid*.

Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."[188] Furthermore, under the human rights to water and sanitation, "Governments must ensure that all people have access to safe water and sanitation in proximity to their living spaces, regardless of whether living spaces are formal or informal."[189] Lastly, under the right to adequate housing, "Housing must provide its residents with safety, security, and dignity, and must contain those services that are necessary for protecting human life, including water, sanitation, heating, and cooking facilities."[190] It is thus important to ensure that encampment residents have access to the following basic resources and services[191]:

- Safe and clean drinking water
- Hygiene and sanitation facilities,
- Fire safety
- Waste management systems
- Social supports and services
- Personal safety
- Facilities and resources that support food safety
- Resources to support harm reduction
- Rodent and pest prevention

Access to these basic services and resources are not discretionary. They are essential to human life and failure by the state to provide them would be considered a violation of human rights, and a threat to dignity, safety, security, health, and well-being.[192] For example, the lack of access to drinking water, washrooms, showers, and other resources for residents of the Moss Park encampment in Toronto resulted in serious health concerns (see also the Toronto Case Study in this series).[193] The residents chose to remain in the encampment site even though it was not safe because they were worried that shelters were less safe during the pandemic.[194]

The denial of access to water, sanitation and health services, and other necessities by the state as a strategy to relocate the encampment residents constitutes a clear violation of human rights, including the rights to life, housing, health, and water and sanitation.[195] States should instead have meaningful engagement and participation with encampment residents to develop plans to have access to safe water, washrooms, showers, and other essential amenities to meet the basic needs of residents, consistent with human rights.[196]

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[188] *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) at para 11.1.
[189] See Committee on Economic, Social and Cultural Rights, *General Comment No. 15: The Right to Water (Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)*, UNESCOR, 29th Sess, UN Doc E/C.12/2002/11 (2003) at paras 12(c)(i), 16(c) [*General Comment No. 15*].
[190] See *ibid.* at para 8(b).
[191] See Farha & Schwan — The Shift, *supra* note 1 at para 61.
[192] See *General Comment No. 15*, *supra* note 189 at para 26.
[193] See Report on encampments in Toronto, *supra* note 125 at 12.
[194] See *ibid*.
[195] See *General Comment No. 7*, *supra* note 152 at para 2; Farha, *supra* note 119 at para 46.
[196] See Report on encampments in Toronto, *supra* note 125 at 17.

Principle 7: Ensure human rights-based goals and outcomes, and the preservation of dignity for encampment residents

When states fail to realize human rights-based goals and outcomes, such as the right to housing, they fail to preserve the dignity of encampment residents.[197] The right to privacy, dignity, integrity of the person, and autonomy are fundamental to all human beings, but these are often denied to encampment residents.[198] The right to privacy, for example, is a right that is denied to encampment residents given that tents are not accepted as homes.[199] Those who reside in settings such as group homes, institutions, transitional housing, shelters, and public spaces, finding it more challenging to enjoy the right to privacy compared to those living in houses and apartment buildings, because their residential space is subject to state management and control.[200] It is important to note that a home has no stationary location, while a location can come to function like a home. This is central to the experience of encampment residents.[201] Encampment residents often view the encampment sites as a home that provides them a sense of protection, comfort, privacy, and community.[202] In an encampment site in Fresno, California, a sign at the encampment location says: "All property here is valuable. Do not destroy." One of the residents reported: "I ended up here and I'm trying to make the best of it and take what they throw away to build a home … and they come out here … and they're stepping on my friend's home." [203]

When states and courts refuse to consider tents as homes, they deny a reasonable expectation of privacy to encampment residents.[204] When law enforcement destroys, seizes, or disposes of encampment residents' property, these residents are precluded from their right to privacy and of the legal protection of their property.[205] Encampment residents are not property-less, yet they have fewer rights protecting their property compared to those who reside in a formal structure.[206] For instance, law enforcement entering a property to conduct a search and seizure without additional authority, such as a warrant, would be deemed illegal and would result in criminal liability for breaking and entering.[207] However, without the recognition of encampments as homes, the privacy, control, and security protections of people in them are revoked.[208]

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[197] See Farha & Schwan — The Shift, *supra* note 1 at para 64.
[198] See Ferencz et al., *supra* note 124 at 34.
[199] See *ibid.* at 33.
[200] See Jessie Speer, "'It's not like your home': Homeless Encampments, Housing Projects, and the Struggle over Domestic Space" (2016) 49:2 Antipode 517 at 520.
[201] See *ibid.* at 519.
[202] See *ibid.* at 522.
[203] *Ibid*.
[204] See Ferencz et al., *supra* note 124 at 8.
[205] See *ibid.* at 1.
[206] See Jane B Baron, "Homelessness as a Property Problem" (2004) 36:2 Urban Lawyer 273.
[207] See Ferencz et al., *supra* note 124 at 12.
[208] See *ibid.* at 23.

States should adopt policies or laws to ensure that individuals enjoy their right to dignity and privacy.[209] Some of the recommendations for policies and laws are:[210]

1. Identify opportunities for shelter;
2. Improve access to community services;
3. Promote safe environments for people who are homeless;
4. Promote and deliver human services prior to any enforcement activities;
5. Ensure shelter, support and housing outreach staff accompany enforcement officers;
6. Provide assistance, call 211, or refer homeless people to services;
7. Provide training for staff and volunteers focused on developing sensitivity to issues relating to homelessness and people living in poverty;
8. Address safety threats, racism, transphobia, and other issues in shelters that cause people to seek shelter in encampments;
9. Ensure the safety and survival of encampment residents;
10. Create a transparent and accountable plan to move residents into housing;
11. Recognize encampment residents as rights holders, and measure to ensure their ongoing, meaningful participation in decisions regarding encampments; and
12. Ensure encampment residents' basic needs are met, including access to amenities and hygiene facilities, and that these are not removed until they can be offered permanent, appropriate, and accessible housing options.

Principle 8: Respect, protect, and fulfill the distinct rights of Indigenous Peoples in all engagements with encampments

Indigenous peoples in Canada are overrepresented in homeless populations across the country. According to the Employment and Social Development Canada report, *Everyone Counts 2018: Highlights*, Indigenous peoples represent about 5% of the Canadian population, yet about 30% of homeless youth identify as Indigenous.[211] Furthermore, of those who identified as Indigenous, 37% were living in unsheltered locations.[212] The presence of Indigenous people in this environment reflects a violation of their right to housing, self-determination, and the free pursuit of their economic, social, and cultural development.[213] Indigenous peoples' right to housing is "interconnected with their right to lands, territories and resources, their cultural integrity and their ability to determine and develop their own priorities and strategies for development."[214] Therefore, the presence of Indigenous people in encampments can be seen as a means of survival and an attempt to claim the right to housing and to assert their rights to land and territories.[215]

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[209] See Human Rights Committee, *General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life,* UNHRCOR, 124th Sess, UN Doc CCPR/C/GC/36 (2019) at para 26.
[210] See Report on encampments in Toronto, *supra* note 125 at 7, 10.
[211] See Kaitlin Schwan, "Too Little, Too Late: Reimagining Our Response to Youth Homelessness in Canada" (16 November 2016), online: *Homeless Hub* <homelesshub.ca/blog/too-little-too-late-reimagining-our-response-youth-homelessness-canada>.
[212] See *ibid*.
[213] See Farha & Schwan — The Shift, *supra* note 1 at para 66.
[214] *Ibid* at para 68.
[215] See *ibid.* at para 39.

When developing policies and plans for encampments, states must recognize their obligation to uphold human rights in their decisions and engagements with Indigenous encampment residents.[216] As outlined in the *United Nations Declaration on the Rights of Indigenous Peoples Act*,[217] which the Government of Canada has endorsed, governments must respect and promote the inherent rights of Indigenous peoples and must commit to consult and cooperate with them.[218] At minimum, governments must comply with human rights law pertaining to Indigenous peoples by:[219]

1. Recognizing the distinct relationship that Indigenous peoples have with their lands and territories;
2. Guaranteeing self-determination, free, prior, and informed consent, and meaningful consultation for Indigenous peoples;
3. Prohibiting the forced eviction, displacement, and relocation of Indigenous peoples; and
4. Protecting against all forms of violence and discrimination for Indigenous women, girls, and gender diverse people.

This chapter has explained *A National Protocol on Homeless Encampments in Canada*, situating encampments within a right to housing framework with eight key principles. Using the Protocol as a framework, this chapter has highlighted key themes and concerns arising from the literature. Given the limited availability of Canadian literature, the review also integrated several research papers and reports from the United States. US literature does, however, remain useful given the similar issues present in both contexts, in particular the notable increase in encampments in recent years, the over-representation of Indigenous people in homeless populations, and a federal governmental system where municipalities are strongly involved in housing and homelessness policy. All sources reviewed therefore help to provide a greater understanding as to what implementing a human rights-based approach to encampments should look like in Canada.

The material used for this literature review was limited, however, by the lack of an extensive number of testimonies from encampment residents on their experience of living in encampments and on their consultation and engagement with governments. Future research could focus on those topics and incorporate the voices of those with lived experience, to further contribute to the literature on encampments in Canada.

The next chapter provides five recommendations for the federal government to implement a rights-based approach to encampments.

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[216] See *ibid.* at para 68.
[217] SC 2021, c 14.
[218] *Ibid*, Preamble.
[219] See Farha & Schwan — The Shift, *supra* note 1 at para 69.

Chapter 5: Adopting a Rights-Based Approach to Encampments

> "I want to tell everyone: We're all in this together. I used to sit in the tent in the dark and think about why things are so hard, but I didn't leave. If everyone is determined and said, 'We're not moving!,' watch what happens! They will find affordable housing, because our lives matter."[220]
>
> —Derrick Black

As this report has demonstrated, evicting, dismantling and displacing encampment residents does not lead to safer conditions for unhoused people, as they are often placed into increasingly insecure and unsafe situations. Encampment evictions raise important questions about the violation of people's human rights, notions of citizenship, tenure and private or public property, and the occupation of public space. The general public, alongside politicians and community organizations, are quite divided about the issue of encampments, often disagreeing about what the solutions should entail, but they agree that action must be taken to address this urgent issue. A different approach is needed.

The increased visibility of encampments throughout the COVID-19 pandemic has provoked significant public debate about homelessness and housing solutions. The general public, alongside politicians and community organizations, are quite divided about the issues of encampments, often disagreeing about what the solutions should entail. Although divided on the issue of encampments, the general public, politicians and community organizations express that encampments do need to be addressed in some way. However, some encampment residents disagree and call these spaces home, expressing that they feel more comfortable and in control in encampments than they have felt for a long time.

While there is much discussion in the media surrounding what to do about encampments, such as taking a criminalization approach or displacing people to hotels and short-term shelters, there is not as much understanding about why people move into encampments in the first place. Indeed, the root of the issue—housing shortages and a lack of affordable housing and support—is rarely addressed politically. Solutions are often short-term, leaving residents to fend for themselves and then blaming them when issues arise.

As this report has shown, health and safety are evoked as the most common and important reasons to end encampments. However, removing encampment residents does not ensure their safety. Violently evicting and displacing encampment residents in the name of wellness is a massive contradiction, as residents are often placed into increasingly insecure and unsafe situations. These encampment evictions raise important questions about the violation of peoples' human rights, notions of citizenship, tenure and private or public property, and the occupation of public space. Moreover, several levels of government are involved in these different situations raising questions about who is ultimately responsible for people's and communities' well-being, social inclusion, and the protection of their human rights. This raises

[220] Black & Mistry, *supra* note 7.

questions about cohabitation and the occupation of public space. Removing encampment residents with violent, coercive means, trampling their dignity, and ignoring their self-determination and human rights so that other citizens can use space freely sends a clear message about whose rights are more important and worth protecting.

This report has highlighted the impact of Canada's severe housing shortage on the increase in encampments. The case studies show that across the country, municipalities use trespass orders, policing, and restrictive bylaws to remove encampment residents. In turn, when they can, encampments and their advocates turn to legal processes to try to stop local governments from these practices. This ineffective circuit results in further displacement for encampment residents and their belongings and does not address the problem.

Instead, we recommend a rights-based transformation of government responses at all levels to encampments through the immediate adoption by the Government of Canada of the following five recommendations.

1. De-Centre Policing and Law Enforcement

A rights-based approach to encampments requires all governments, including municipalities and the federal government, to end their practices of using trespass orders, bylaws, and policing to evict unhoused people from encampments.

Encampments and other survival space of unsheltered people are policed and regulated through a complex intersection of actors, jurisdictions, and authorities. This is further complicated by the blurring of public and private property relations, since many encampments are established in public spaces like parks. While governments may formally "own" public spaces, they are not private property in the sense that an individual home would be.

Municipal bylaws are the most prominent and perhaps most visible of the policing tools used to respond to encampments. They are a powerful weapon against the survival spaces of unsheltered people for a number of reasons: they are often enforced informally by low-level agents with little accountability, and they are by their nature designed to target the mundane presence of people and things in public space. Municipalities often invoke provincial trespass legislation to enforce bylaws against encampment residents. The power to invoke trespass laws and issue trespass notices is rooted in a government's ownership of public spaces such as parks. However, public spaces cannot be understood as akin to private property no matter who owns them. Further, cities have discretion about whether and how to enforce such bylaws. Therefore, it is important to understand that governments could choose to prioritize upholding the rights of encampment residents to safety, security, and human dignity by responding to encampments without relying on policing and punitive or exclusionary measures.

We also note that the Government of Canada could provide an example of the right to housing for encampments located on federal land, such as CRAB Park in Vancouver. In so doing, it could operationalize both the *National Housing Strategy Act* and the Protocol.

2. Municipal Governance & Interjurisdictional Responsibilities

In adopting a rights-based approach to encampments, federal and provincial governments have an obligation to provide funding and services that offset the disproportionate impact faced by municipalities in addressing the housing crisis and the existence of encampments. This includes short-term options, such as investments in modular housing and suitable shelter spaces, and longer-term investments in social and affordable housing.

While municipalities largely have primary jurisdiction over encampments, they often lack the resources and competencies to adequately address the underlying structural causes driving homelessness and encampments (e.g., unaffordability, dwindling housing supply for low- and even middle-income households, and higher demand). For cities to adequately address and eliminate homelessness through prevention measures and by transitioning those living in encampments into permanent, adequate housing, consistent with their human rights obligations, they will undoubtedly need greater cooperation with and support from other levels of government. In relation to the federal government, this includes the urgent adaptation and expansion of the Reaching Home and Rapid Housing Initiative to provide better long-term shelters and permanent housing options.

Municipalities and other stakeholders across the country have increasingly employed not only legal powers but "soft powers" to negatively characterize encampment residents and mischaracterize the realities experienced by people living in encampments. In doing so, they shift attention away from their human rights obligations and individualize the systemic failure to realize the right to housing.

Municipalities often cite health, safety, and fire concerns as reasons to dismantle encampments. These concerns are rarely informed by the lived experience of encampment residents, and the threat of eviction is inconsistent with a harm reduction approach to health, safety, substance use, or even fire safety. Encampment evictions, in fact, often undermine safety, with encampment residents displaced to increasingly insecure and unsafe situations where their needs and presence is made invisible.

In many cases encampment residents are asked (or forced) to go to shelters, many of which are unsuitable or inaccessible for some people experiencing homelessness (e.g., people who use drugs, couples, people with animals, people with mental health challenges). Shelters can expose individuals to various dangers, including infection, theft, and physical and sexual violence—which they may have been buffered from within encampments. Such forced relocation also undermines choice and self-determination. Shelters are also not housing and are by nature temporary. Indeed, most shelters do not offer daytime services, even in cold weather.

We urge the federal government to immediately require all recipients of federal funds directed at housing and homelessness, including municipalities, to adopt a rights-based framework in the enactment and enforcement of bylaws, policies, and other frameworks.

3. Ensure the Meaningful Participation of Encampment Residents

A rights-based approach requires meaningful and inclusive participation of people living in homelessness in the design and implementation of policies, programs, and practices that affect them.

Encampment residents are frequently perceived in the media and treated by the general public and decision-makers as non-citizens and as nuisances to public safety and public space. These perceptions have led to the widespread failure to meaningfully engage encampment residents in the development and implementation of the policies and practices affecting them.

Encampment residents are often acted upon without any form of consultation. They are rarely encouraged or supported to participate in informed decision-making or to direct decisions concerning their well-being, tenure, and belongings. Processes for decision-making about encampments are rarely transparent or clearly explained to encampment residents before actions are taken. Governments rarely provide legal information concerning human rights and the distinct rights of Indigenous peoples, creating barriers to informed consultation and meaningful engagement with encampment residents. Further, there are few (if any) processes to challenge decisions, propose alternatives, and voice priorities and needs where decisions are inappropriate, unresponsive, or harmful.

Meaningful participation must be mobilized to better understand encampment residents' perspectives, to promote their self-determination, and to respect their human rights, including the right to housing. People with lived experience and their advocates should be included at the table when governments consider housing, shelter, and other supports in place of encampments. The federal government must immediately prioritize the knowledge of those with lived experience with funding for unhoused people to assist with policy and program development.

4. Recognize the Distinct Rights of Indigenous Peoples

A rights-based approach requires governments to acknowledge Indigenous rights under the United Nations Declaration on the Rights of Indigenous Peoples*, the* Canadian Constitution*, treaties, and case law. Governments should meaningfully engage all relevant Indigenous stakeholders and nations, as identified by Indigenous peoples themselves, in the development of policy approaches to encampments.*

The issue of encampments in Canada is inextricably linked to historic and ongoing colonial practices that harm Indigenous peoples and contribute to housing inequities, including systemic discrimination and racism, broken treaty promises, dispossession of land and displacement, residential schools, intergenerational trauma resulting from disconnection from language and culture, and chronic underfunding of housing and social services for Indigenous communities. The ongoing impacts of colonization have resulted in higher rates of homelessness among Indigenous peoples across Canada, with research indicating that people living in encampments or "sleeping rough" are disproportionately Indigenous.

Governments have distinct obligations to Indigenous peoples grounded in historic or modern treaty relationships, Canadian constitutional law, and international law, all of which are relevant to encampments. These include responsibilities to respect, protect, and uphold the distinct rights of Indigenous Peoples at all levels of government. UNDRIP requires governments to obtain the free, prior, and informed consent of Indigenous peoples in all decisions that affect their socio-economic development.[221] Further, the duty to consult and accommodate Indigenous Peoples is enshrined in domestic law as set out by the Supreme Court in *Haida Nation.*[222] Canadian courts have recognized that the right to self-determination applies to urban Indigenous peoples and communities with respect to social programs and decisions that affect them.[223] Therefore, while there is limited case law on the meaning of the duty to consult in this context, forced evictions of Indigenous people do not comply with the requirements for meaningful, good-faith consultation about and involvement in the development and delivery of social programs, nor are they consistent with the recognition of Indigenous self-determination in accordance with UNDRIP. In the context of specific encampments, relevant government actors will have legal duties to consult and engage with the current treaty holders as governments, as well as to regional Indigenous organizations, with policies and priorities related to housing and homelessness policy, and increasingly as housing developers and providers of both housing and homelessness programs.[224]

The current approach to encampments taken by many governments, including municipalities, fails to honour these obligations and address the particular rights, needs, and relationships of Indigenous encampment residents and local Indigenous nations. We urge the Government of Canada, and all other governments, including municipalities, to work with Indigenous people with lived experience of homelessness, Indigenous advocates, Indigenous-led organizations, Indigenous lawyers, and Indigenous legal scholars to ensure encampment responses reflects the specific intersecting legal, treaty, and human rights obligations applicable in a particular territory. This includes a recognition of Indigenous peoples' own processes and laws.

5. Address the Conditions within Encampments and Provision of Basic Services

A rights-based approach requires access to basic services, such as clean water, sanitation facilities, electricity, and heat.

Encampment residents frequently lack access to adequate water, sanitation, heating and cooling, and safety measures, which severely threatens their mental and physical well-being. While some cities provide basic services, such as toilet facilities and waste management systems, available research and information suggest that access to basic services remains

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[221] See *United Nations Declaration on the Rights of Indigenous Peoples,* GA Res 295, UNGAOR, 61st Sess, Supp No. 49, UN Doc A/RES/61/295 (2007), arts 10, 11(2), 19, 28(1), 29(2), 32(2).
[222] *Haida Nation v British Columbia (Minister of Forests*), 2004 3 SCR 511.
[223] *Canada (AG) v Misquadis,* 2002 FCA 370; *Ardoch Algonquin First Nation v Canada (AG),* 2003 FCA 473 at para 36.
[224] See e.g., Mississaugas of the New Credit First Nation, "Trailblazers: The Mississaugas of the New Credit First Nation Strategic Plan" (September 2017) at 39, 48.

limited, unpredictable, or absent in many encampments and that services may be inconsistently established and removed.

In the absence of basic services, many encampments have self-organized to meet their basic needs and fill gaps in services (e.g., by establishing centralized tents for harm reduction supplies, water, or food). Encampment evictions frequently undermine these efforts and result in the loss or destruction of these resources and self-established mutual aid systems that meet basic needs. Unfortunately, cities across Canada have not only failed to directly provide basic services, they have made extensive efforts to prevent the provision of humanitarian aid to encampments by community groups and other allies, including through ticketing and the destruction of property.

We recommend that the federal government prioritize the provision of services to address basic needs, such as access to water and warmth, through the provision of funding and through examples on federal lands. Municipal governments' resistance to providing water, food, sanitation, and other critical resources to encampments during the COVID-19 pandemic stands in stark contrast to public health orders and evidence-based scientific advice from leading health experts, in addition to contravening human rights standards.

This report provides a greater understanding of what implementing a human rights-based approach to encampments should look like in Canada. We urge the Government of Canada—and all governments—to immediately operationalize the right to housing for encampment residents.

Conclusion

A different approach is needed to better respond to this humanitarian crisis and violation of people's human rights in Canada. A human rights-based approach to encampments is long overdue.

We applaud the Government of Canada for enacting the *National Housing Strategy Act*, including the recognition that the right to adequate housing is a fundamental human right in Section 4 of the Act. As demonstrated by this report and the case studies, encampment residents are both rights holders and have had their rights to housing violated through the forced evictions of residents from encampments and the lack of vital services. These evictions have not addressed the underlying problem: a lack of secure shelter, including social and affordable housing. Instead, punitive bylaws and trespass orders have exacerbated existing vulnerability and criminalized people's very existence.

Our research has found that governments are failing in their human rights obligations to encampment residents. To remedy the situation, the Government of Canada should:

1. **De-Centre Policing and Law Enforcement:** A rights-based approach to encampments requires that all governments, including the Government of Canada in relation to federal lands, end their practice of using trespass orders, bylaws, and policing to evict unhoused people from encampments. Bylaw offences should never be used to target the survival and subsistence activities of unhoused people, including the right to simply be present in public space.
2. **Intergovernmental Obligations:** In adopting a rights-based approach to encampments, the federal government has an obligation to provide funding and services that offset the disproportionate impact faced by municipalities in addressing the housing crisis and existence of encampments. This includes short-term options, such as investments in modular housing and suitable shelter spaces, and longer-term investments in social and affordable housing.
3. **Meaningful Participation:** A rights-based approach requires the meaningful and inclusive participation of people living in homelessness in the design and implementation of policies, programs, and practices that affect them. The federal government must immediately prioritize the knowledge of those with lived experience with funding for unhoused people to assist with policy and program development.
4. **Recognition of the Distinct Rights of Indigenous Peoples**: A rights-based approach requires governments to acknowledge Indigenous rights under the *United Nations Declaration on the Rights of Indigenous Peoples*, the *Canadian Constitution*, treaties and case law. The Government of Canada—and all governments—should meaningfully engage all relevant Indigenous stakeholders and nations, as identified by Indigenous peoples themselves, in the development of policy approaches to encampments. We remind the federal government of its responsibilities to respect, protect, and uphold the distinct

rights of Indigenous peoples, who are disproportionately represented in encampment populations.

5. **Access to basic services**: A rights-based approach requires access to basic services, such as clean water, sanitation facilities, electricity, and heat. The federal government must also prioritize the provision of services to address basic needs, such as access to water and warmth through the provision of funding and through examples on federal lands.

Through these five recommendations, we argue that the federal government must provide leadership in this crisis—both in relation to federal lands and in relation to funding. This is an opportunity for the federal government to proactively acknowledge its human rights obligations and ensure basic and fundamental rights are protected.

All governments are implicated by these recommendations and share responsibility for people's and communities' well-being, social inclusion, and the protection of their human rights. All encampment residents are rights holders.

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Appendix A: Judicial Responses to Encampments

In this section, we review the encampment cases from both before the pandemic and during the pandemic. The pre-pandemic era can be divided into three eras: early cases, the turning point in *Victoria (City) v Adams*, and the subsequent cases that built on and distinguished themselves from *Adams*. We will also review the government policies that have defined the pandemic era, drawing out general trends as well as outliers which convey unique insights.

It is important to note that many encampment cases that come before the courts are determined at a preliminary stage, such as on an injunction application. In a successful injunction decision, enforcement of bylaws can proceed even though the merits of Charter-based arguments have not been heard or determined at trial. The results of these hearings effectively determine the outcome on the ground because an encampment is evicted or is allowed to stay until sufficient housing has been offered. These decisions mean the municipality has successfully argued that they would suffer irreparable harm, or that the balance of convenience favours the enforcement of the bylaw. Thus, we suggested treating claims by municipal governments that bylaws are valid based on the granting of an injunction with caution.

A. Court Cases on Encampments Pre-Pandemic

Early Cases: Mickelson and Sterritt

Canadian case law dealing with encampments began in 2003 with two British Columbian cases decided within less than two weeks of each other.[225] The plaintiff in both was the Vancouver Board of Parks and Recreation, which was seeking court orders to evict multiple encampment residents from Thornton Park in *Vancouver Parks Board v Mickelson* and Portside Park in *Vancouver Board of Parks and Recreation v Sterritt*.[226] While these cases have been largely overlooked afterward, they nonetheless set the stage for judicial treatment of encampments. Cases going forward would continue to focus on injunctions, municipal bylaws, and the infringement of Charter rights.

In *Mickelson* the Board sought a declaration that the defendants had violated section 11 of the city's *Parks Control Bylaw* and committed trespass, as well as a permanent injunction against the encampment residents from "constructing, placing or maintaining structures in the park" and an

[225] There are earlier Canadian cases dealing with protest occupations which reference homelessness, and a 1939 case involving federal relief camps established during the Great Depression which were intended to in part address homelessness. There is also *Vancouver (City) v Maurice*, 2002 BCSC 1421, though this was described at the time as a squat or protest rather than an encampment, and the reasoning is thinner and less influential than the cases of the following year. Therefore, we see the examined cases as the start of the current line of jurisprudence.

[226] *Vancouver Parks Board v Mickelson*, 2003 BCSC 1271 [*Mickelson*]; *Vancouver Board of Parks and Recreation v Sterritt*, 2003 BCSC 1421 [*Sterritt*]. It is unclear why it is listed as the Parks Board in one style of cause and the Board of Parks and Recreation in the other; the headnote for both cases lists it as the Vancouver Board of Parks and Recreation.

interlocutory mandatory injunction requiring them to remove their structures.[227] The judge found for the Board and applied the leading injunction test from *RJR-MacDonald*. Notably, it was held that the Board would "suffer irreparable harm as [they] cannot be properly compensated in damages for the violation of the bylaw."[228] The argument claiming infringement of Charter rights was largely dismissed, seemingly in part because the defendants did not file a statement of defence.[229] That said, the decision to apply the *RJR-MacDonald* injunction test rather than the less onerous *Maple Ridge (Distrct) v Thornhill Aggregates Ltd*[230] because Charter rights were raised would prove influential on future decisions. Under the *Thornhill* test, the municipality would only have to establish a clear violation of the bylaw and, outside of exceptional circumstances, an injunction would be granted. The *RJR-MacDonald* test requires a three-part analysis that considers whether there is a serious issue to be tried, whether the party seeking the injunction would suffer irreparable harm if it was not granted, and which party the balance of convenience favours, in light of the public interest at stake.

In *Sterritt,* the Board sought an interlocutory mandatory injunction requiring the defendants to remove their structures and belongings from Portside Park.[231] Meiklem cites *Mickelson* and noted the nearly identical circumstances, adopted the reasoning, and issued a nearly identical injunction and prohibition (despite the Board seemingly not having made an identical application).[232] Notably *Sterritt* expressly discusses the safety, orderliness, and cleanliness of the encampment as well as a significant portion of the defendants being Indigenous, factors that would emerge as significant in later cases.[233]

The Turning Point: Victoria (City) v Adams

The landmark decision in *Victoria (City) v Adams* has shaped the cases that have followed, including those decided during the pandemic. In October 2005, an encampment of roughly 70 residents in Cridge Park became the target of a City of Victoria injunction application. The City sought an interlocutory injunction against the residents loitering and "taking up temporary abode overnight" in the park.[234] Though the injunction was granted and the encampment disbanded, the residents opposed the injunction in court and a trial was required.[235] The British Columbia Supreme Court found in favour of the defendants. Justice Ross' decision found sections of the municipal *Parks Regulation Bylaw* and the *Streets and Traffic Bylaw* had breached the defendants' section 7 rights to life, liberty and security of the person and were not saved under section 1 of the Charter. It declared the infringing sections of the bylaws "of no force and effect insofar and only insofar as they apply to prevent homeless people from erecting temporary shelter."[236] Though *Adams* was not hugely dissimilar from *Mickelson* or *Sterritt* in

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[227] *Mickelson*, *supra* note 226 at para 1.
[228] *Ibid* at paras 7, 25.
[229] *Ibid* at paras 27, 32.
[230] [1998] BCJ No 1485 at para 9, 162 DLR (4th) 203 (BCCA).
[231] See *Sterritt*, *supra* note 226 at para 1.
[232] See *ibid.* at paras 6, 11–12.
[233] See *ibid.* at paras 2–3, 6–7.
[234] *Victoria (City) v Adams*, 2008 BCSC 1363 at paras 7–10 [*Adams I*].
[235] See *ibid.* at paras 11–14.
[236] *Ibid* at para 239.

facts, the defendants' section 7 Charter arguments were fully argued and were thus considered far more comprehensively than in either of the earlier cases. This included acutely framing the issue around the shortfall of shelter beds relative to the number of people experiencing homelessness, such that, for many, camping outside was demonstrably their only option.[237] Finally, there was the willingness and ability to persist in challenging the city in court for over four years and in funding and participating in a full hearing of the merits.

The City appealed to the provincial court of appeal, which upheld the trial decision but modified the declaration to narrow its application.[238] The Court of Appeal's 2009 decision declared the bylaws "inoperative insofar and only insofar as they apply to prevent homeless people from erecting temporary overnight shelter in parks when the number of homeless people exceeds the number of available shelter beds in the City of Victoria."[239] This revision of the declaration has significantly limited the circumstances to which it could be applied, as the Court of Appeal decision binds all other BC courts in future cases. As we discuss below, the link between shelter availability and the right to erect temporary shelter is one of the most enduring features of the case law both within and outside BC.

Distinguishing from Adams: Occupy, Shantz, Adamson*, and Beyond*

Following *Adams*, multiple encampment cases arose involving the Occupy movement. Two of them cited *Adams*, including the Ontario decision *Batty v City of Toronto*, but these were ultimately distinguished given the Occupy encampments engaged different Charter rights than the encampment in *Adams*.[240] The outcome for a homeless encampment in *Vancouver Board of Parks and Recreation v Williams* hewed closer to *Mickelson* and *Sterritt*, in part because the judge in *Williams* seemed to accept that Vancouver had sufficient capacity to shelter the encampment residents, unlike in *Adams*.[241] Two lengthy cases would follow, each resulting in multiple decisions: *Abbotsford (City) v Shantz* and *British Columbia v Adamson*. These decisions confirmed that the *RJR-MacDonald* injunction test applies where Charter issues are raised.

The first *Shantz* decision in 2013 granted an injunction evicting the encampment residents and prohibiting them from lighting fires and trespassing. Notably the judge did discuss the issues with the local shelters and expressed concern over the tactics used in clearing encampments.[242] The second decision in 2015 resulted from the city seeking a permanent injunction against the defendants as well as damages against Mr. Shantz, an activist associated with the BC/Yukon Drug War Survivors group supporting the camp. This case substantiated the allegations that chicken manure and pepper spray had been used by City employees during evictions[243] and provided an expansive analysis of how the city bylaws against camping affected Charter rights under sections 2, 7, and 15.[244] The court held that only section 7 was violated and that it was not

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[237] See *ibid.* at paras 37–66.
[238] See *Victoria (City) v Adams*, 2009 BCCA 563 at paras 160–166 [*Adams II*].
[239] *Ibid* at para 166. Underline added to emphasize the Court's adjustments.
[240] See *Batty v City of Toronto*, 2011 ONSC 6862 at note 17. See also *Victoria (City) v O'Flynn-Magee*, 2011 BCSC 1647 at paras 41–42.
[241] See *Vancouver Board of Parks and Recreation v Williams*, 2014 BCSC 1926 at paras 55–57.
[242] See *Abbotsford (City) v Shantz*, 2013 BCSC 2612 at paras 20–53.
[243] See *ibid.* at paras 100, 107–115.
[244] See *ibid.* at paras 146–236.

saved under section 1, as the bylaws were not minimally impairing.[245] In so doing, the court clarified that the Charter did not create positive obligations with respect to housing and rejected homelessness as a protect ground under the Charter's section 15 equality rights protection, relying on the *Tanudjaja* decision of the Ontario Court of Appeal.[246]

Adamson uniquely involved the provincial government, given that the encampment at issue was located on the green space of a provincial courthouse in Victoria. The encampment was formed in November 2015, with the province seeking an injunction in March 2016 after attempts to disperse residents through the *Trespass Act* and the *Fire Services Act* failed to fully clear the encampment. The province argued against the *RJR-MacDonald* test in favour of the *Thornhill* test, but the court rejected this deviation from *Williams*, *Shantz* and *Mickelson*.[247] The injunction was denied, with Hinkson (who also decided *Shantz* [2015]) challenging the near-presumption that the government would suffer irreparable harm from allowing encampments to persist, as well as comprehensively exploring the benefits of encampments, including improved health, access to services, safety of persons and possessions, and sense of community, and finding the balance of convenience favouring the residents.[248] The decision also noted that—as in *Adams*—the number of people experiencing homelessness continued to exceed shelter spaces, meaning that clearing the encampment at the courthouse would simply result in the same issues "migrat[ing] to other areas in the City of Victoria."[249] A second decision by Hinkson in July 2016 granted an injunction against the same encampment, finding that the province had sufficiently increased the number of alternative housing spaces available and that conditions in the encampment had worsened in the intervening months, increasing the costs incurred by the province and the city and decreasing the benefits gained by the encampment residents.[250]

The remaining British Columbia encampment cases between 2017 and 2020 largely maintained the principles set by prior cases, being determined primarily on factual circumstances already explored rather than novel facts or reasoning. Of note are two cases which dealt with the impacts of encampment residents being rehoused. A dozen former encampment residents from *Adamson* successfully challenged a restrictive visitor policy imposed at the Johnson Street Community Housing Project before the Residential Tenancy Branch. The operators, contracted by BC Housing, applied for judicial review of the Branch's decision, which was upheld as reasonable and procedurally fair.[251] In the aftermath of *Nanaimo (City) v Courtoreille* (2018), municipal zoning issues arose around properties purchased to house the encampment residents. The court held that Crown immunity protected the governments and their agents in bypassing the zoning requirements.[252] Finally, we saw another protest encampment case considered in Saskatchewan in 2018 where *Shantz* was cited as an example of how "societal interests" and "the plight of the homeless" could be reconciled, though homelessness and

[245] See *ibid.* at paras 237–247.
[246] See *ibid.* at paras 148, 177, 231–234.
[247] See *British Columbia v Adamson*, 2016 BCSC 584 at paras 23–35.
[248] See *ibid.* at paras 54–59 and 125–179.
[249] *ibid.* at paras 64–73 and 184–185.
[250] See *British Columbia v Adamson*, 2016 BCSC 1245.
[251] See *PHS Community Services Society v Swait*, 2018 BCSC 824.
[252] See *Buechler v Island Crisis Care Society*, 2019 BCSC 1899.

section 7 rights were not issues in the decision. That decision ordered the encampment be cleared.[253]

B. Court Cases on Encampments in the Pandemic Era

Several cases have been brought before courts in Ontario and British Columbia since the start of the pandemic in March 2020: the Ontario cases *Sanctuary et al. v Toronto (City) et al.*, *Black et al. v City of Toronto*, and *Poff v Hamilton* (*City*), and the British Columbia cases *Bamberger v Vancouver (Board of Parks and Recreation), Prince George (City) v Stewart,* and *Vancouver Fraser Port Authority v Brett*. Quebec has also seen a major decision on homelessness in the pandemic with *Clinique Juridique Itinérante c. Procureur Général du Québec* in 2021. These cases have made novel advancements even where they have not succeeded in protecting encampments.[254]

Sanctuary involved two decisions in which a coalition of advocacy groups initially pursued an injunction prohibiting the City from operating shelters which did not adhere to rules surrounding distancing of beds; in May 2020, the motion was adjourned as the two sides composed an Interim Settlement Agreement which required regular reports to the coalition.[255] The Agreement acknowledged encampments, noting that new spaces opened to accommodate encampments residents must also meet distancing standards. In June, the City claimed to have reached compliance with the agreement, but the coalition alleged they had breached the terms and sought an order declaring as much.[256] Prior to the court's decision on the Agreement, it ruled on a refusals motion: City witnesses had refused to provide answers to certain questions concerning records of how physical distancing had been implemented, the shelter system's overall capacity, internal processes and policies, and more.[257] The motion was granted in part, with some of the refusals being found to be proper.[258]

The court ultimately found the City had breached the Interim Settlement Agreement and was obligated to continue reporting to the coalition on its progress in implementing physical distancing across their shelters.[259] The City acknowledged certain sites were not fully compliant but argued the demands of the pandemic should be taken into account when assessing if they had exerted their best efforts. The court held that "the pandemic context … cuts both ways" and raised the need for accountability, especially in regards to the already-vulnerable homeless

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[253] See *Dubois v Saskatchewan*, 2018 SKQB 241.

[254] It is worth noting that, though it did not culminate in a major decision on the issue, in Hamilton the combined efforts of Keeping Six, HAMSMaRT, the Hamilton Community Legal Clinic, and Wade Poziomka successfully won a temporary injunction against an encampment clearing in July/August 2020: "Community updates" (2020), online: *Hamilton Justice* <hamiltonjustice.ca/en/encampment-advocacy/>. The City reached an agreement with these groups to end the injunction in October: Dan Taekema & Samantha Craggs, "Court battle over Hamilton tent encampments expected to drag on for days" (19 October 2021), online: *CBC* <cbc.ca/news/canada/hamilton/encampments-1.6215671>.

[255] See *Sanctuary et al. v Toronto (City)*, 2020 ONSC 6207 at paras 6–7.

[256] See *ibid.* at paras 8–10

[257] See *ibid.* at paras 88–136.

[258] See *ibid.* at paras 145–147.

[259] See *ibid.* at paras 214–216.

population.[260] Despite concerns arising from internal communications, the court did not find that the City had acted in bad faith.[261] Although limited, the *Sanctuary* decision was a victory in terms of accountability, and it revealed the shortcomings of the City's shelters in responding to the pandemic, which is important given the continued efforts to move encampment residents into shelters and housing.

In *Black*, 14 Toronto encampment residents applied for an injunction preventing the City from enforcing bylaws (after the moratorium on clearing encampments was lifted) that prohibit camping and structures in parks. The residents argued enforcement would violate their section 7, 12 and 15 Charter rights.[262] The injunction was denied on application of the *RJR-MacDonald* test, with the application failing on the third portion, the balance of convenience, which examines the relative harm to the parties.[263] Unlike *Adams*, *Shantz*, or *Adamson* the decision in *Black* did not hinge only on availability of shelter spaces, but the court did hear the evidence before it established there was sufficient space.[264] This difference stems in part from the novelty of the application. Here the injunction was sought by (rather than against) encampment residents to prohibit enforcement *during the pandemic*. It was not a broader challenge to the validity of the bylaws themselves. Overall, the court's acceptance of there being sufficient shelter space and outreach without further examination, despite advocates' claims to the contrary, is perhaps the most unfortunate aspect of the decision, implying that the threshold for establishing sufficient shelter capacity is low. Notably the court also imported reasons from the *Batty* case in the context of section 2 freedom of expression rights, though it did consider the BC decisions in *Adamson* and *Abbotsford*. As noted in *Stewart*, discussed below, encampments established for shelter by homeless individuals "must be distinguished" from encampments motivated by expressive activity and advocacy for economic and political change.[265] Analysis of the limits of section 2(b) expressive rights should not be used to withhold protection where "one of the most basic and fundamental human rights guaranteed by our Constitution" is at stake.[266]

Despite the application being rejected, the reasoning in *Black* is notable in its treatment of equality-based arguments. The BCSC in *Adams* accepted the encampment residents had raised a serious issue to be tried regarding section 15 of the Charter and the *Ontario Human Rights Code*, specifically noting the disproportionate number of Indigenous and gender-diverse people within the encampment population.[267] The test for a serious issue to be tried is a low bar and does not indicate the likelihood of success, particularly given the potential of a Charter violation to be saved by section 1 reasonable limits, but it does present an opening to explore section 15 further than earlier cases had. Further, the court specifically refused to apply the section 15 analysis from *Tanudjaja v Canada* rejecting "homelessness" as analogous ground under

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[260] *Ibid.* at paras 68–75.
[261] See *ibid.* at paras 142–159.
[262] See *Black et al. v City of Toronto*, 2020 ONSC 6398 at paras 1–2.
[263] See *ibid.* at paras 76–150.
[264] See *ibid.* at paras 86–99.
[265] *Prince George (City) v Stewart*, 2021 BCSC 2089 at para 83 [*Stewart*].
[266] *Adams II*, *supra* note 238 at para 75.
[267] See *Adams I*, *supra* note 234 at paras 60–61.

section 15 in the context of encampments.[268] Future claims could be based directly in other grounds such as Indigeneity, gender, race, or disability, in addition to revisiting the question of whether homelessness is an analogous ground.[269]

The 2020 *Brett* decision from Vancouver illustrates the continuity of encampments over years despite clearings and the continued involvement of activists.[270] Uniquely, because the encampment was on Port Authority lands, the case was based on common law trespass or alternatively the *Port Authorities Operations Regulations* under the *Canada Marine Act*, rather than a breach of the provincial *Trespass Act* or municipal bylaw.[271] Nevertheless, *RJR-MacDonald* was applied. Irreparable harm was established by the fact that encampment residents had "no apparent means of indemnifying the plaintiff" for any costs resulting from their continued presence and found the balance of convenience favoured the Port Authority, with much of the defendants' evidence being dismissed as conjecture.[272]

One year after *Brett* was decided, encampment residents challenged an eviction order brought against residents in the CRAB Park encampment, adjacent to the lands considered by the court in *Brett*. In *Bamberger*, the residents did not raise a section 7 claim, focusing instead on procedural issues about the lack of consultation with residents before the orders and questions about the reasonableness of the Parks Board's decision. However, the court was live to the section 7 issues, which informed the conclusion that residents had a right to notice and an opportunity to be heard before being ordered to leave. The court also decided that the Parks Board was unreasonable, because it did not have accurate information regarding the availability of alternative housing for those living in CRAB Park. On these bases, the court set aside the order prohibiting overnight shelter at a Vancouver park and remitted the decision for reconsideration.[273] Though the order being challenged was implemented during the third wave of the pandemic, the pandemic itself was not an independent consideration for the court. Rather, the petition succeeded because the general manager did not have a reasonable factual basis for concluding that there were sufficient and appropriate indoor options for those seeking shelter at the park in question.[274]

In Quebec, *Clinique Juridique Itinérante* challenged the provincial curfew imposed on January 6, 2021 (décret gouvernemental 2-2021) on the grounds that it infringed on the section 7 Charter

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[268] *Ibid* at para 62.
[269] See *Tanudjaja ONCA*, *supra* note 36 at para 37.
[270] Specifically, the plaintiff Christine Brett was also involved in the encampment case *Saanich (District) v Brett*, 2018 BCSC 1648 and an order made concerning an encampment in *Duncan (City) v Brett* [2017] BCSC WL10398269. The decision in *Brett* (2020) notes that *Williams* granted an injunction against an encampment in Oppenheimer Park, which eventually reformed and persisted until a Ministerial Order was made on April 24, 2020, evacuating the encampment. Oppenheimer Park is a kilometre southwest of 101 West Waterfront Road, where the encampment at issue in *Brett* was formed on May 8, 2020. See *Vancouver Fraser Port Authority v Brett*, 2020 BCSC 876 at paras 10–15, 28–31 [*Brett*].
[271] See *Brett*, *supra* note 270 at paras 36–41.
[272] *Ibid.* at paras 102–115, 68–75.
[273] See *Bamberger v Vancouver (Board of Parks and Recreation)*, 2022 BCSC 49 at paras 63–64.
[274] See *ibid.* at para 150.

rights (as well as provincial charter rights) of people experiencing homelessness.[275] Having been decided after the peak of the second wave, the decision took into account the outbreaks at shelters as a valid reason for people to not utilize them, on top of the issues raised about shelters denying admittance based on various factors.[276] The court found for the applicants, concluding that all elements of the *RJR-MacDonald* test had been satisfied, with the balance of convenience section noting police enforcement could be unpredictable and the exemption would apply to a small percentage of the overall population.[277] Though not directly related to encampments, the curfew came within a month of Montréal's Notre-Dame Street encampment being cleared by police.[278]

The lack of sufficient and appropriate indoor options was also an important factor in *Prince George (City) v Stewart.* This case involved a municipality seeking two statutory injunctions (and a police enforcement order) against the occupants of an encampment. Though the application was allowed in part and one encampment site was permitted to be cleared, the municipality was unable to establish the other encampment site contravened the zoning bylaw due to a lack of viable alternatives.[279] The court held the existing shelter beds were not "low barrier" enough to provide for accessibility.[280] For example, the shelters imposed eligibility criteria which often excluded those with substance abuse issues or mental health issues from accessing these spaces. Other barriers mentioned by the court included a lack of identification and lack or bank accounts or records.[281] Notably, Chief Justice Hinkson briefly considered the role of the pandemic in contributing to the lack of normally accessible shelter spaces.[282] The decision is also important because the judge considered both the climate and the context of colonization. Taking notice of the ongoing impacts of colonization such as residential schools, the judge noted the disproportionate number of Indigenous individuals in the encampment. Several times in the decision the judge also noted the cold climate and the lack of both suitable housing and daytime facilities. This may imply that Charter protections regarding sheltering at nighttime may also be extended to daytime situations where the cold weather is a significant threat. In a second injunction application in *Prince George (City) v Johnny* regarding the same encampment, the City argued it had satisfied the preconditions set out in *Stewart.* The application was dismissed for similar reasons, the court finding there was still a lack of "low-barrier" shelter space accessible for some encampment residents, as well as issues with the limited daytime facilities.

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[275] See *Clinique*, *supra* note 45 at para 9.
[276] See *ibid.* at para 10.
[277] See Isaac Olson, "Forced out of Montreal encampment, disbanded homeless community spreads out into city" (9 December 2020), online: *CBC* <cbc.ca/news/canada/montreal/homeless-montreal-shelters-encampment-1.5834917>.
[278] See Sidhartha Banerjee, "Montreal authorities clear out Notre-Dame Street homeless camp over safety concerns" (7 December 2020), online: *Global News* <globalnews.ca/news/7505640/notre-dame-street-homeless-camp-evictions-begin/>.
[279] See *Stewart*, *supra* note 265 at para 84.
[280] *Ibid.* at para 81.
[281] See *ibid.* at paras 67–68, 73.
[282] See *ibid.* at para 73.

Poff v Hamilton (City) is another example of an injunction application brought by encampment residents. This case followed on an earlier successful application in August 2020, which had led to a negotiated settlement and a Bylaw Enforcement Protocol agreed to by advocates and City Council. When the City voted to repeal the Protocol one year later, encampment residents brought a Charter challenge and another application requesting the City be restrained from enforcing anti-camping bylaws until the Charter case could be fully heard and decided on the merits. The court refused the to grant the injunction, finding the five residents bringing the application were no longer in encampments and could not establish irreparable harm. Notably the court refused to consider the broader homeless population in this analysis. Following *Black*, the court also imported analysis from the protest encampment context in *Batty* without acknowledging the very different Charter rights at stake under section 7. Here the court rejects the arguments that shelters had high barriers to entry and emphasized the "choice" to remain in encampments.

This signals that courts in Ontario are taking a markedly different approach than those in BC, emphasizing the property rights of municipalities without consideration of the social context of encampments, substance use, the ongoing impacts of colonialism, and systemic discrimination against Black and Indigenous people in housing and policing. These cases also demonstrate that the unique facts of each court action are important, rather than broader questions of housing availability for vulnerable people.

THIS IS **EXHIBIT "G"** REFERRED TO
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DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

FACTSHEETS

Guide to Meaningful Engagement and Integrating a Human Rights-based Approach into Encampment Responses

Office of the Federal Housing Advocate | Bureau du défenseur fédéral du logement

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Introduction to the Resource

"A neighborhood that does not seek to meet the needs of all people, whether housed or not, is not a successful community. Too often, people living in encampments are seen as obstacles rather than as human beings" (Stakeholder).

In February 2024, the Federal Housing Advocate released her report, Upholding dignity and human rights, presenting her findings and recommendations following a systemic review of homeless encampments across Canada.[1] The report highlighted that governments have human rights obligations to people living in encampments and called for the adoption of a human rights-based approach.[2]

This resource has been developed to provide additional guidance to governments on how they should adopt a human rights-based approach when it comes to encampment responses. It is particularly relevant for municipal decision-makers and officials, who are most often on the frontlines when it comes to encampment responses. However, it can also be used as a tool for other levels of government, service providers and advocates. Recognizing that forced evictions of encampments are a violation of human rights and that they are inherently harmful, this guide encourages municipalities to explore alternatives rooted in a human rights-based approach and to value meaningful engagement of people living in encampments. The use of a human rights-based approach, which includes people living in encampments in the design and delivery of durable solutions, is a win-win for a community. This approach not only improves the quality of life and health of people living in encampments, but it also helps to find long-term solutions that address people's real needs.

The resource also attempts to respond to concerns expressed by people living in encampments and human rights advocates, who have noted that the language of human rights, reconciliation and consultation has been co-opted in some instances and even used to

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1. The term "encampments" refers to emergency accommodations established by people who are unhoused, usually on public property or privately-owned land, and often without permission. The Advocate has chosen to use the term "homeless encampment" as the language most commonly in use for now. She recognizes, however, that the term may not reflect everyone's reality or experience and that it differs from terms commonly used internationally, such as informal settlements. Some people refer to "tent cities" and others prefer terminology which speaks of "people living on the street".

2. A full list of recommendations for municipalities is available at this link and for provinces and territories at this link.

justify processes that cause harm. The Federal Housing Advocate is concerned about some examples she has heard about where municipalities put consultation processes in place without a willingness to change their practices or after they had already determined what the outcome will be. One example that was shared, which does not demonstrate the spirit of reconciliation with First Nations peoples, was a municipality adding territorial acknowledgement to an eviction notice.

A human rights-based approach to encampments requires commitment to a paradigm shift and to doing things differently. It is not enough to claim to adopt and to be applying a human rights-based approach; it is essential to take actions that lead to rights being protected and a real improvement in the lives of people living in encampments. This must not be limited to efforts to ensure access to adequate housing but must also include immediate measures to respect human dignity and protect lives until such time as adequate long-term housing solutions are available in sufficient quantities and adapted to meet people's needs.

This resource articulates eight key principles that are necessary to guide municipal decision-makers and staff in ensuring meaningful engagement is carried out and to implement a human rights-based approach in their encampment responses. For each principle, there is a fact sheet that identifies actions needed to put the principle into practice. It is important to note that there is not one road map that can be applied systematically to all situations. Each community is unique and every person living in an encampment has their distinct experience and needs.

Readers are encouraged to reflect individually and collectively on their role in implementing these principles and to apply the principles and actions into concrete policies, protocols, plans and laws. Adopting a human rights-based approach begins with understanding the realities and perspectives of people living in encampments and that they are rights-holders and taking action to protect safety, dignity and human rights.

When a human rights-based approach to encampment is put in place, it will build trust, encourage participation and engagement as well as empower people to contribute to solutions that will provide appropriate, accessible and adequate long-term housing solutions and services as well as measures to address their immediate needs.

It is also important to recognize that all levels of government have a role to play. Municipalities do not always have the powers, capacity and resources to address the systemic nature of homelessness and encampments across Canada. This shared responsibility requires all levels of government to support municipalities, including funding, to develop appropriate housing solutions and adapted services. However, regardless of the budgets available, it is important to remember that the starting point remains the same – genuine engagement with people living in encampments to understand their individual and collective needs is essential for a human rights-based approach. They are in the best position to determine what actions will improve their living and health conditions, and therefore to assess whether a municipality is truly implementing a human rights-based approach.

The information contained in this resource is the fruit of pan-Canadian engagement with a range of stakeholders which has continued since the Advocate launched her review of homeless encampments in February 2023. This resource builds on the perspectives of people with lived experience in encampments, advocates and municipal officials who contributed to the Advocate's review and participated in follow up engagement activities that took place between October 2024 and March 2025.

It is strongly recommended that the reader take the time to review all the information in every fact sheet to gain a full understanding of how to implement a human rights-based response to encampments. The fact sheets are not designed as a series of steps to be followed in a precise order, but as a guide to encourage deeper reflection and action to advance human rights. Individual fact sheets can also be consulted if the reader is seeking guidance to address a specific principle or situation.

The Advocate will continue to monitor the implementation of her recommendations and looks forward to continuing her work with municipalities and others that are making genuine efforts to implement a human rights-based approach to encampments.

This resource was produced to advance human rights for people experiencing homelessness and guide actions to improve the living conditions of people living in encampments. It is not a legal opinion and is not legal advice, but a guide to support a stronger commitment to meaningful engagement with people living in encampments and more effective action to put in practice a human rights-based approach in municipal encampment responses.

The Eight Principles to Guide Meaningful Engagement with People Living in Encampments

1 Understand and respect the realities of people living in encampments

Many people, including people responsible for municipal responses to encampments, make assumptions about the reality of people living in encampments without taking into account their voices, which means that the measures put in place may not adequately meet their needs. Homeless encampments exist because of the lack of adequate alternative housing options, colonialism, racism and systemic discrimination. People are choosing to live in encampments because, for most, a makeshift shelter in a public space is still often the best or only option available to them. Before proposing solutions, it is important to take time to learn about and understand their experiences and to consider that people choose to live in encampments because housing and emergency shelters are unavailable, inaccessible or do not provide the safety and security they need.

Durable solutions will only come about when the responses address the real issues and needs identified by the people living in encampments. This cannot be done without a commitment to meaningful engagement.

Click here to go directly to the actions that will help put this principle into practice.

2 Publicly recognize the human rights of people living in encampments

All governments in Canada, including municipalities, have legal obligations to respect, protect and fulfil human rights. People experiencing homelessness and living in encampments have the same human rights as everyone else in Canada.

In 2019, the *National Housing Strategy Act* reaffirmed Canada's commitment to housing as a fundamental human right and recommitted Canada to the progressive realization of the right to adequate housing as defined in the *International Covenant on Economic, Social and Cultural Rights*. The right to adequate housing is clearly defined in

international human rights law[3], and interconnected rights such as the right to life[4] and freedom from discrimination, are part of *Canada's Charter of Rights and Freedoms*.

Explicit recognition that people living in encampments are entitled to the protection of their human rights is a critical first step to changing the conversation and moving away from enforcement approaches that have failed in the past and continue to cause harm. Forced evictions are a violation of international human rights law and inherently harmful. If a proposed action risks infringing on human rights, it must be reconsidered and an adequate alternative found that meets the needs of the people living in encampments.

Adopting a human rights-based approach to encampments aligns with Canada's human rights obligations. It provides an alternative to enforcement approaches which criminalize people for experiencing homelessness and cause further harm. It also provides a framework to understand and address the systemic nature of homelessness in Canada and design and implement long-term solutions to realize the human rights of people living in encampments.

A human rights-based approach to encampments is focused on finding sustainable solutions that will provide access to adequate housing. It ensures that all policies and plans to support people living in encampments are designed following meaningful engagement and implemented in compliance with international human rights standards. In the absence of concrete possibilities to be adequately rehoused, a human rights-based approach requires taking immediate actions to protect the human rights of people experiencing homelessness, including the right to life and making available services that meet their fundamental needs.

Click here to go directly to the actions that will help put this principle into practice.

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3. See the Committee on Economic, Social and Cultural Rights general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.

4. See the Committee on Civil and Political Rights' general comment 36 on the right to life, Article 26 which states: "The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include high levels of criminal and gun violence, pervasive traffic and industrial accidents, degradation of the environment, deprivation of indigenous peoples' land, territories and resources, the prevalence of life-threatening diseases, such as AIDS, tuberculosis and malaria, extensive substance abuse, widespread hunger and malnutrition and extreme poverty and homelessness."

3 Recognize and uphold the rights of First Nations, Inuit and Métis Peoples living in encampments

As a direct result of colonization and displacement, First Nations, Inuit and Métis people are acutely over-represented in Canada's population of people experiencing homelessness and living in encampments. Encampment responses must integrate the rights found in the *United Nations Declaration on the Right of Indigenous Peoples* (UNDRIP). Métis, Inuit, and First Nations governments must be supported in managing and implementing housing solutions that reflect self-governance and community-specific needs.

Urban Indigenous populations are over-represented in encampments and face distinct housing challenges, including inadequate access to culturally appropriate services as well as systemic barriers to affordable housing. It is critical to establish dedicated financial mechanisms to bridge jurisdictional gaps and provide sustainable housing solutions for Indigenous communities regardless of where they live.

Click here to go directly to the actions that will help put this principle into practice.

4 Build and maintain the trust of people living in encampments

Meaningful engagement with people living in encampments is an essential component of a human rights-based approach and a necessary step in finding sustainable housing solutions. It must be built upon relationships of trust that demonstrate transparency, accountability and integrity. All too often, people living in encampments have been asked for their opinions, but their ideas were not taken into consideration. Engagement processes that are sincere and focus on the real interest of people living in encampments help to establish and strengthen bonds of trust.

Meaningful engagement takes time and requires and the investment of resources. To achieve this, it is essential to provide people living in encampments with the support they need to overcome obstacles to their participation in engagement processes and to ensure they see that their voice has a real impact.

When such engagement processes are implemented authentically with genuine intention to bring about positive change, it leads to concrete solutions that respect the rights of people living in encampments– instead of band-aid fixes that waste time

and taxpayer money, and further harm the people affected. Meaningful engagement with people living in encampments requires a proactive approach to involve them in finding solutions that can pre-empt community concerns.

If no individuals from encampments wishes or is able to participate meaningfully in an engagement process, it is crucial to examine the reasons for this. Was the process authentic? Was it implemented with integrity? Was every effort made to create truly accessible spaces and to ensure that the interests of people living in encampments were represented effectively? Did their perspectives inform decisions?

Click here to go directly to the actions that will help put this principle into practice.

5 Provide services adapted to the needs and realities of people living in encampments

People living in encampments do not have access to the same basic services as those who are living in adequate housing, particularly in terms of protections from the elements, access to potable water and waste collection for example. They face challenges accessing the care they need to protect their physical and mental health, including harm reduction supports to save the lives of people who use substances. Although in Canada the recording of mortality rates for people experiencing homelessness is inconsistent or even absent in several provinces, research demonstrates that the difficult living conditions experienced by people experiencing homelessness are clearly a risk factor for mortality.[5]

To save lives and uphold the dignity of people living in encampments, it is critical to also advance the right to health of people living in encampments, ensuring that the services are available to address their fundamental and complex mental and physical health needs of people.

Click here to go directly to the actions that will help put this principle into practice.

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5. Roncarati, J. S., Baggett, T. P., O'Connell, J. J., Hwang, S. W., Cook, E. F., Krieger, N., & Sorensen, G. (2018). Mortality among nnsheltered homeless adults in Boston, Massachusetts, 2000-2009. JAMA Internal Medicine, 178(9), 1242. https://doi.org/10.1001/jamainternmed.2018.2924 ; Roncarati, J. S., O'Connell, J. J., Hwang, S. W., Baggett, T. P., Cook, E. F., Krieger, N., & Sorensen, G. (2020). The use of high-risk criteria to assess mortality risk among unsheltered homeless persons. Journal of Health Care for the Poor and Underserved, 31(1), 441-454. https://doi.org/10.1353/hpu.2020.0032

6 Facilitate participation in decision-making of people living in encampments

Excluding people living in encampments from decision-making processes perpetuates their marginalization and undermines their right to autonomy. This kind of exclusion undermines trust and compromises efforts to build meaningful relationships.

It is important that engagement processes begin as early as possible and that they be ongoing to facilitate the participation of people living in encampments. They must be included in decision-making processes concerning policies, programs, practices and laws that affect them. Their perspective must be taken into account in the decisions that directly influence their own lives if we are to achieve real sustainable solutions.

Click here to go directly to the actions that will help put this principle into practice.

7 Support the self-determination and autonomy of people living in encampments

Encampment responses should be designed to uphold the dignity of people living in encampments as well as their autonomy to be part of decisions that affect their lives. Consultations are a mere formality when decisions have already been made, making it clear to encampment residents that their input is not important. It is critical to stop instrumentalizing people living in encampments solely to satisfy consultation requirements. It is important to remember that people living in encampments are able to think critically and have the ability to organize and make decisions about their own lives.

It is also important to put in place measures which help to empower and build the confidence of people living in encampments by, for example, supporting their shared responsibility for managing and maintaining their encampment. This can enhance a sense of belonging in the community, provide stability, and can be an important step in a person's journey to adequate housing.

Click here to go directly to the actions that will help put this principle into practice.

8 Continue to work towards long-term adequate housing solutions

Encampments are not a solution to the housing and homelessness crisis. Municipal efforts must continue to prioritize adequate housing that meets the international standard for security of tenure, availability of services, affordabiity, habitability, accessibility, location and cultural adequacy[6] at the same time as efforts are undertaken to protect the human rights of people living in encampments.

To adopt a human rights-based approach, it is essential for municipalities to quickly establish services that meet the immediate needs of people living in encampments and protect their lives and dignity. They must also continue to fully mobilize their own resources to facilitate access to adequate housing, along with the necessary and desired support services. It is important that municipalities continue their advocacy with other levels of government to secure funding to achieve these ends. People should not be forced or required to go to an emergency shelter before being considered for a permanent and adequate housing solution.

Click here to go directly to the actions that will help put this principle into practice.

6. The Right to Adequate Housing, UN Habitat Fact Sheet 21, https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf

Human Rights, Indigenous Rights and a Human Rights-Based Approach[7]

The Human Rights of People Living in Encampments

According to the former Special Rapporteur on the Right to Adequate Housing, Leilani Farha:

"Homelessness is a profound assault on dignity, social inclusion and the right to life. It… violates a number of other human rights in addition to the right to life, including non-discrimination, health, water and sanitation, security of the person and freedom from cruel, degrading and inhuman treatment." [8]

With the 2019 *National Housing Strategy Act*, recognition of the right to adequate housing, as defined in international human rights law, is now also explicitly enshrined in domestic federal law.

The right to adequate housing is more than four walls and a roof. Adequate housing under international law[9] includes:

- **Security of tenure:** Housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.
- **Availability of services, materials, facilities and infrastructure:** Housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage and refuse disposal.

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7. For a more detailed description of human rights and legal obligations, see Flynn, A., Kiiwetinepinesiik Stark, H., Van Wagner, E., 2024, Encampments and legal obligations: Evolving rights and relationships. The Office of the Federal Housing Advocate.

8. Leilani Farha, Guidelines for the Implementation of the Right to Adequate Housing: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non- discrimination in this context, UN Doc. A/HRC/43/43, UN Human Rights Council (2019), para. 30 [Guidelines for the Implementation of the Right to Adequate Housing].

9. The Right to Adequate Housing, UN Habitat Fact Sheet 21, https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf

- **Affordability:** Housing is not adequate if its cost threatens or compromises the occupants' enjoyment of other human rights.
- **Habitability:** Housing is not adequate if it does not guarantee physical safety and provide adequate space as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.
- **Accessibility:** Housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account.
- **Location:** Housing is not adequate if it is cut off from employment opportunities, healthcare services, schools, childcare centres and other social facilities, or if it is located in polluted or dangerous areas.
- **Cultural adequacy:** Housing is not adequate if it does not respect and take into account the expression of cultural identity.

It is important for municipalities and municipal actors to recognize that forced evictions[10] of encampments make people more unsafe and expose them to a greater risk of violence and harm a person's safety, health, dignity and may even cost them their life. Evictions destabilize people, remove them from their support systems, and cause them to lose the tools and equipment they need to survive.

International human rights law also prohibits measures that would arbitrarily and unnecessarily deprive individuals of housing, including temporary or informal shelters such as encampments.[11] The prohibition of forced evictions requires that individuals and communities be relocated only after adequate consultation. People should not be displaced without somewhere to go. They should not be expected to move to a situation that results in worse conditions or diminished access to services. For example, if they have access to toilets in their current location, they should have similar access if another location is being

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10. To better understand the prohibition on forced evictions under international law, see Principle 3 in the National Protocol for Homeless Encampments in Canada, Leilani Farha and Kaitlin Schwan, 2020.

11. The obligation of States to refrain from, and protect against, forced evictions from homes and land arises from several international legal instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the International Covenant on Civil and Political Rights (art. 17, 23 and 27) the Convention on the Rights of the Child (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination Against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination. In its resolution 1993/77, the Commission on Human Rights stated that the "practice of forced eviction constitutes a gross violation of human rights, in particular of the right to adequate housing." https://www.ohchr.org/en/special-procedures/sr-housing/forced-evictions

proposed. A short-term offer of an emergency shelter bed is not enough to not meet the requirements of adequate housing.

Relocation without consent must be limited to exceptional circumstances. When individuals or communities do not consent to be relocated because the proposed alternatives do not meet their real needs, municipalities have an obligation to be transparent and demonstrate to the people living in the encampment, to their advocates and to the public that the relocation is genuinely necessary, that all options have been explored and that the actions being taken respect human rights principles. If it is determined that an eviction is justified, it should only take place with a clear, long-term plan for where people will go during both the night and daytime, a strategy for how they will move, and a plan for equivalent or improved shelter and services.

Furthermore, it is important to note that forced evictions include evictions by coercion. One thing commonly reported by unhoused people is being told that if they do not accept a certain shelter or other housing option they believe is unsafe or unsuitable for them, they will be blacklisted from future housing offers (including of permanent housing). Similarly, people are frequently told if they do not take certain offers, their shelters will be destroyed, and they will be forced to live without shelter.

Governments must also accept that people living in encampments are entitled to defend their human rights, and they should have access to legal aid and the support of community advocates in doing so. Making available legal aid, support from community advocates and independent monitors can reinforce respect for rights and demonstrate a willingness to act with transparency and compassion.

It is also important not to assume that a space in an emergency shelter or other temporary accommodation is necessarily a better solution for someone living in an encampment. Spaces in emergency shelters do not offer security of tenure and may be inaccessible or unsafe for many people. They do not always take into account the cultural needs of Indigenous people and can be unsafe for women and members of the LGBTQIA2S+ community. Emergency shelters should not be seen as a mandatory step before someone can access permanent and adequate housing. People have the capacity to transition directly to permanent housing without going to a shelter first. This underlines the need to assess the individual and collective needs of people living in encampments and to avoid putting in place obstacles to their social integration and ability to access adequate housing.

This resource aims to better equip municipalities to respect the human rights of people living in encampments and to provide a framework of intervention that recognizes them as rights holders with the autonomy to act and make decisions about their own lives. It identifies actions that are needed right away to protect the lives, dignity and human rights of people living in encampments. It also encourages all levels of government to continue efforts to progressively realize the right to adequate housing and ensure that appropriate services are available for everyone.

The Rights of Indigenous Peoples

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) identifies "the minimum standards for the survival, dignity and well-being of Indigenous peoples of the world." (Art. 43) The following UNDRIP articles are particularly relevant:

- **Article 10** prohibits forced removal of Indigenous Peoples from their lands or territories.
- **Article 20** guarantees Indigenous Peoples' right to their own means of subsistence and development;
- **Article 21** guarantees the right to the improvement of economic and social conditions, including housing;
- **Article 23** guarantees the right to determine and administer programs and services, including housing; and
- **Articles 26–28 and 32** set out Indigenous Peoples' right to own, use, develop and control their traditional lands, territories and resources, the requirement that states recognize Indigenous land tenure systems and the right to redress and compensation for the occupation, use or development of Indigenous territories without their free, prior and informed consent.

On June 21, 2021, the Parliament of Canada enacted the *UN Declaration on the Rights of Indigenous Peoples Act* (UNDA), which commits the federal government to achieving full implementation of UNDRIP, including by ensuring that federal laws, regulations and policies are consistent with its requirements. The government of British Columbia had previously adopted provincial legislation with similar requirements and intent.

Indigenous homelessness is not only defined by the lack of stable, permanent and adequate housing, but also by the separation of people's relationship with land, water, region, family, fellow human beings, others, animals, cultures, languages and identities.[12] It is crucial to recognize that First Nations people have been dispossessed of their land, and thus their experience of "home" is felt differently than that of non-Indigenous people. Indigenous homelessness is part of the legacy of this dispossession, discrimination and colonial laws and policies such as the *Indian Act*, residential schools and child welfare legislation.

A Human Rights-Based Approach

Adopting a human rights-based approach to encampments aligns with Canada's human rights obligations and provides a framework for understanding and addressing the systemic nature of homelessness in Canada and designing and implementing long-term solutions to realize the human rights of people living in encampments.

As the name suggests, a human rights-based approach requires a commitment to upholding and being accountable for all human rights for all people, without discrimination. It is also founded on the principles of participation, empowerment and accountability and requires the investment of time and resources in ensuring meaningful engagement with people living in encampments.

A human rights-based approach does not criminalize people experiencing homelessness. It takes care to ensure that responses do not inflict additional harm on people living in encampments. It respects autonomy and choice and attempts to meet people where they are and to support them in accessing adequate housing while respecting their dignity, autonomy and human rights.

A human rights-based approach and an approach that respects Indigenous rights in encampments must also be complemented by Gender-based Analysis Plus (GBA Plus), cultural safety and trauma and violence-informed approaches.

Gender-based Analysis Plus (GBA Plus)[13] is an intersectional analytical tool used to support the development of responsive and inclusive policies, programs and other initiatives. GBA Plus goes beyond biological (sex) and sociocultural (gender) differences to consider

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12. Aboriginal Standing Committee on Housing and Homelessness. (2012). Plan to End Aboriginal Homelessness in Calgary. University of Calgary. https://homelesshub.ca/resource/plan-end-aboriginal-homelessness-calgary/

13. Gender-based Analysis Plus (GBA Plus). WAGE. https://www.canada.ca/en/women-gender-equality/gender-based-analysis-plus.html. Published February 21, 2025.

other factors, such as age, disability, education, ethnicity, economic status, geography (including rurality), language, race, religion and sexual orientation.

Cultural safety[14] is the result of a respectful engagement that recognizes and strives to address power imbalances inherent in public systems. It results in an environment free of racism and discrimination where people feel safe when receiving healthcare.

A trauma and violence-informed approach[15] requires changes in the way we engage with people living in encampments and how systems are designed. It is crucial in such an approach to understand and recognize the influence and impact of our actions on their lives and behaviour and to create spaces that are both psychologically and physically safe. It is also important to create opportunities where people living in encampments can choose, collaborate and strengthen their capacities. A table of the values and principles of a trauma-informed approach is available for reference.

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14. Common Definitions on Cultural Safety: Chief Public Health Officer Health Professional Forum. (June 20, 2023). https://www.canada.ca/en/health-canada/services/publications/health-system-services/chief-public-health-officer-health-professional-forum-common-definitions-cultural-safety.html#a4%60. For more information: First Nations of Quebec and Labrador Health and Social Services Commission. Cultural Safety: A Human Rights Issue. https://cssspnql.com/en/cultural-safety-a-human-rights-issue/. Published December 6, 2024.

15. Public Health Agency of Canada. Trauma and violence-informed approaches to policy and practice. https://www.canada.ca/en/public-health/services/publications/health-risks-safety/trauma-violence-informed-approaches-policy-practice.html. Published February 2, 2018.

B-1-10320

Office of the Federal Housing Advocate | Bureau du défenseur fédéral du logement

FACTSHEET 1/8

Actions to Understand and Respect the Realities of People Living in Encampments

"There is too much racism and discrimination, and government officials do not understand the needs of people living in encampments who struggle day by day just to survive without a roof over their heads. Their encampments are dismantled or destroyed over and over again, which prevents trust from being built between city officials and people living in encampments". (Stakeholder)

A. Recognize that encampments are the result of numerous systemic failures.

B. Recognize that it is important to treat people living in encampments with dignity and to respect the spaces and homes they have made for themselves. In many communities, there are not enough shelter beds that are accessible and adapted to their specific needs. Most people living in encampments would prefer to have access to adequate housing, but they face many barriers due to the cost of housing, the lack of services adapted to their needs and the discrimination they face on a daily basis.

C. Recognize that there are significant power imbalances between encampment residents and the service providers, governments, and housed residents who have decision-making influence over most of the resources on which they depend to meet their basic needs. Decisions made about the enforcement of bylaws which may seem minor to those making the decision can have important consequences and make it more difficult for people living in encampments to access what they need to improve their situation.

- 👉 **Example:** Facilitate the work of independent organizations and advocates to support people living in encampments to actively participate in and influence decision-making processes. Community organizations and advocates can develop a strong bond of trust with people living in encampments and play an important role in ensuring their meaningful engagement and ensuring conditions for more effective collaboration. Ensure people living in encampments have access to legal representation, through legal aid or other means, to defend their human rights when needed, and explore opportunities for restorative justice when harms have occurred.

B-1-10320

D. Recognize that people living in encampments are experts in their reality and are best placed to assess their needs. They are best placed to identify their needs for survival and priorities for improving their physical and mental health. They should be permitted to make decisions and take the necessary steps to protect themselves from the elements and not be at the mercy of bylaws written without input from people who have lived outdoors.

E. Recognize that the housing alternatives being offered may not be human rights compliant or meet the definition of adequate housing. People experiencing homelessness have shared with the Federal Housing Advocate their concerns about housing alternatives they were offered that had serious issues related to their health and safety (e.g., violence, discrimination, bug infestations) and institutional rules that infringed on their dignity and personal autonomy (e.g., curfews, restrictions on visitors and the ability to move about).

F. Recognize that current emergency shelters and transitional housing may pose greater risks for some people, specifically, women and people from the 2SLGBTQI+ community, who may face increased danger in shelters or transitional housing than they would living on the street or in an encampment. Emergency shelters and transitional housing also do not provide any security of tenure.

G. Recognize that First Nations, Inuit and Métis people may have a strong desire to avoid interactions with systems that have been historically oppressive and discriminatory (e.g., residential schools, child welfare system).

H. Recognize that restrictions on daytime camping and forced evictions create instability and insecurity for people living in encampments. These coercive measures create additional hardships for people experiencing homelessness and can have serious repercussions on their physical and mental health.

I. Recognize that some people living in encampments build a community that provides them with support; ensure that actions do not break relationships with this community, which includes peers, partners, companion animals and others. It is important to guard against uprooting people from their community and ensure the continuity of support and services that they need to prevent them from returning to the street.

J. Recognize that people living in encampments are resilient in the face of systemic neglect, and they must focus their daily energy on meeting their basic needs.

- 👉 **Example:** People living in encampments will not always be available or able to participate in activities according to the proposed schedule or programs made available to them. Take the time to adapt approaches to their daily reality, and ensure that the timing of interventions does not get in the way of their ability to fulfill their basic needs.

K. **Recognize that people living in encampments also need rest during the day.** There must be spaces made available specifically for them with basic services.

L. **Recognize that people living in encampments will live in public space as long as no suitable alternatives are offered that provide decent, permanent and accessible housing.** Municipal plans must strive to understand the reasons why these individuals are using public space and take steps to protect their fundamental human rights.

M. **Recognize that people living in encampments choose places to settle where they can best meet their needs to have some privacy, to feel safe and to secure and store their personal belongings.** Displacing people and policing where they can erect their tent can make it more difficult to stabilize their situation and improve their well-being.

N. **Recognize that most people living in encampments are affected by trauma,** and it is essential to ensure a trauma- and violence-informed[1] response.

O. **Recognize that people living in encampments may avoid engagement out of fear** that participation could expose them to racism, ableism, eviction or surveillance.

P. **Recognize the importance of raising awareness, and inform the public about the reality of people living in encampments** and the systemic issues that prevent their rights from being respected and fulfilled.

- 👉 **Example:** Encourage the public to contact a community organization offering social mediation services and established links to people living in encampments rather than the police if they need support in addressing a concern or conflict between housed and unhoused residents.

1. Trauma- and violence-informed approaches are policies and practices that recognize the connections between violence, trauma, negative health outcomes and behaviours. These approaches increase safety, control and resilience for people who are seeking services in relation to experiences of violence or have a history of experiencing violence. For more info, see the Public Health Agency of Canada website.

B-1-10323

FACTSHEET 2/8

Actions to Recognize and Respect the Human Rights of People Living in Encampments

"We don't believe that involving people in dismantling the encampment where they live should be considered a good practice. Encampments should be tolerated and people supported until there are adequate and appropriate options to offer." (Stakeholder)

A. **Formally recognize that people living in encampments are rights holders in all strategies, policies, declarations and laws.** They have the same human rights as everyone else in Canada, and all governments must publicly commit to upholding international and Canadian human rights norms in all responses to homeless encampments.[1] Strategies, policies, declarations and laws that address encampments must be human rights compliant and should be co-developed with people living in encampments to ensure they address their real needs and cause no harm. Action plans and strategies to advance Indigenous rights should be developed with local Indigenous leaders and Indigenous people living in the encampment.

👉 **Example:** Prior to putting place policies, protocols, plans and laws, seek independent advice to review drafts and identify any gaps in compliance with human rights norms as well as Indigenous rights and traditions. If a proposed action might infringe on human rights, it must be reconsidered and not implemented.

B. **Mobilize maximum available resources to ensure that everyone can enjoy the right to adequate housing** without discrimination.

C. **Recognize that the forced dismantling of encampments and other repressive strategies of control and surveillance are harmful** to the physical and mental health of people living in encampments.

D. **Recognize that the forced dismantling of encampments and other repressive strategies of control and surveillance are harmful** to the physical and mental health of people living in encampments.

B-1-10323

E. Draw up concrete action plans that respect human rights principles to help people living in encampments find permanent and adequate housing, and ensure follow through. Whatever type of housing is proposed as an alternative to living in an encampment, it must respect the seven elements which make up the international definition of the right to adequate housing[2] to guarantee dignified and sustainable conditions.

F. Ensure people living in encampments have access to legal representation, through legal aid or other means, to defend their human rights when needed.

G. Put in place urgent and concrete measures to respect and protect the rights of people living in encampments to live in dignity, to the highest attainable standard of physical and mental health, to privacy and to protection from arbitrary seizure of their belongings.

- 👉 **Example:** Coordinate and organize a day with stakeholders and service providers from the community, the public and the municipal sector to offer multiple services directly in the encampment or in the vicinity.

H. Put an end to bylaws and regulations that criminalize and marginalize people experiencing homelessness for occupying public space. Put an end to practices which result in the destruction or confiscation of personal belongings. Such measures make people living in encampments feel more insecure and can lead to a violation of their human rights, including the right to life.

- 👉 **Example:** Review current bylaws and regulations in consultation with people with experience living in encampments, and revoke those that criminalize people experiencing homelessness or are used disproportionately against people living in encampments.[3] Do not seize the belongings people need for survival.

I. Put in place permanent, effective and accessible accountability mechanisms that are accessible and have simplified procedures for people living in encampments to file complaints about harassment, intimidation and non-respect of human rights or existing policies and protocols. Ensure access to legal aid and provide timely responses and genuine follow-up.

- 👉 **Example:** Appoint an independent person or instance with the power to act who can represent the interests of people living in encampments. Provide education and resources to people living in encampments so they can voice their concerns to actively promote and defend their human rights.

J. Support people living in encampments to take part in the decisions that concern them and respect their right to decide what is best for them and their security. No alternative should be imposed or actions taken that will worsen their situation. See the actions under Principle 8 for more details.

K. Use existing human rights-based resources to inform responses and strategies to support people living in encampments.

- 👉 **Example:** Review these resources and others and consider how you can change your policies, protocols and plans:
  - Upholding Dignity and Human Rights: The Federal Housing Advocate's Review of Homeless Encampments
  - Encampments and legal obligations: Evolving rights and responsibilities
  - National Protocol for Homeless Encampments in Canada
  - Homeless Encampments: Municipal Engagement Guidance

L. Dedicate sufficient financial resources to ensure meaningful engagement with people living in encampments.

- 👉 **Example:** When developing budgets, ensure specific allocations are available to support engagement with people living in encampments and local Indigenous leaders. Budgets should include amounts for honoraria, food and beverages, transportation and other needs that may be identified by people living in encampments.

M. Immediately halt practices which traumatize and destabilize people living in encampments, including forced evictions, dismantling encampments and violence.

- 👉 **Example:** Put in place policies based on respect for human rights, and provide training to prevent micro-aggressions, such as denigration of particular groups, intimidation, harassment and the destruction of personal belonging required for survival, including items used for drug consumption.

N. Abolish hostile architecture and urban planning practices designed to prevent people experiencing homelessness from sitting, sleeping or taking shelter in the public space, as these contribute to the daily challenges they face and hinder their survival capabilities.

- 👉 **Example:** Involve people living in encampments in the design of urban renovation projects to ensure solutions meet the needs of all people using public space, as they know their environment and needs. For example, a municipality can make a heated bus shelter available so people can protect themselves from cold weather.

1. For more details, see Upholding dignity and human rights: The Federal Housing Advocate's Review of Homeless Encampments and the National Protocol for Homeless Encampments in Canada

2. UN Habitat Fact Sheet No. 21, The Right to Adequate Housing

3. In the last 30 years, new or revised anti-homeless laws have been enacted across Canada targeting the presence and survival activities of homeless people in public spaces. The offence types include: panhandling, loitering, obstructing, salvaging/scavenging, resting/sleeping and disorder. Hermer, J., & Fonarev, E. (2020, July 12). Neo-Vagrancy Laws in Canada. Retrieved from: http://covid19-phi.ca/

B-1-10326

Office of the Federal Housing Advocate | Bureau du défenseur fédéral du logement

FACTSHEET 3/8

Actions to Recognize and Respect the Rights of First Nations, Inuit and Métis Peoples

"We protect ourselves and others."
(Indigenous person living in a camp)

A. Recognize, respect and protect the distinct rights of Indigenous people in all contacts with encampment residents.

B. Recognize their rights to self-determination and self-governance and cease applying colonial regulations and laws to control or criminalize them.

C. Work with local Métis, Inuit and First Nations governments to design and implement housing solutions that reflect self-governance and community-specific needs.

D. Recognize that First Nations, Inuit and Métis people may have a strong desire to avoid interactions with colonial systems that have been historically discriminatory and oppressive (e.g., police, emergency shelters and health care facilities).

E. Recognize the systemic oppressions that have undermined the confidence of Indigenous people in colonial institutions and practices.

- 👉 **Example:** Hire more Indigenous workers to support Indigenous people living in encampments, and ensure the adoption of cultural safety in all activities.

F. Implement the calls to action of the Truth and Reconciliation Commission and the calls to justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls.[1]

B-1-10326

G. Ensure that the meaningful engagement with Indigenous people living in encampments is Indigenous led to promote genuine dialogue guided by "mutual respect, good faith and the sincere desire to reach agreement."

H. Work with Indigenous entities to co-develop engagement processes with Indigenous people, particularly Indigenous individuals living in the encampment, to ensure that the processes recognize Indigenous rights, are culturally appropriate and result in meaningful engagement.

- 👉 **Example:** Collaborate with local friendship centres and other Indigenous-led groups that provide essential services and a safe and secure environment to the Indigenous population.

I. Engage with representatives chosen by Indigenous individuals in the encampment, in accordance with their own procedures and practices.

J. Work with higher orders of government to ensure sufficient funding assistance for urban Indigenous populations.

K. Provide resources to ensure the meaningful participation Indigenous people living in encampments.

L. Respect and implement Indigenous protocols and decision-making processes in responding to encampments inhabited by Indigenous people.

- 👉 **Example:** Facilitate the visits of Elders to the tent city as often as possible to talk about traditional medicines and well-being, and enable Indigenous people living in encampments to have Sacred Fires. Elders should be people trusted by the people living in encampments and ideally come from the host First Nation.

  For many First Nations, it is appropriate to offer tobacco when meeting with Elders, but it is important to research and understand the Indigenous protocols in your area. Elders should also be offered a stipend to cover travel and other costs.

M. Ensure Indigenous-led housing solutions by financing and endorsing Indigenous organizations, such as friendship centres, to be key actors in encampment responses.

N. Ensure that municipal policies distinctly acknowledge and address the housing and homelessness needs of urban Indigenous populations independently from on-reserve initiatives.

1. In particular, implement the housing-related recommendations in Section 4 - Calls for Justice for All Governments: Human Security.

B-1-10328

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FACTSHEET 4/8

Actions to Build and Maintain the Trust of Encampment Residents

"Start with small actions that build trust, like keeping a promise. Don't just show up one day and say you're suddenly going to listen and be respectful after not doing so before." (Person living in an encampment)

A. Take the time to build relationships with people living in encampments, understanding that their communication methods may be different. Recognize that they have to prioritize just meeting their daily needs because of the inadequacy of the services that are available and adapted to their needs.

- 👉 **Example:** Plan engagement activities keeping in mind the schedules and needs of people living in the encampment.

B. Take the time to get to know the people living in encampments, and ask if and when they are available and willing to discuss the subjects you want to talk about. Avoid making assumptions.

- 👉 **Example:** Always ask permission to start a conversation, and confirm that the person you want to speak with is also comfortable speaking with you before you begin. Understand some people may have challenges expressing themselves or have more pressing priorities.

C. Recognize that people living in encampments bear the consequences of systemic failures and injustice and that they may express strong emotions and frustration stemming from feelings of being trapped and the absence of solutions that meet their needs and respect their right to housing.

- 👉 **Example:** Take time to listen. Use compassion, empathy and patience to get people to open up and express themselves. Prioritize the issues that people living in encampments have identified as urgent to improve their physical and mental health.

B-1-10328

D. Welcome people where they are and demonstrate your interest in their reality. Create opportunities where they can express themselves freely without fear of consequences. Avoid assumptions about their capacity and what they need.

- 👉 **Example:** Pay close attention to the sense of attachment and belonging that individuals have to their surroundings and living space, as well as the reasons that lead them to choose one place over another.

E. Foster authentic and lasting relationships by centring interventions that support the well-being of people living in encampments, addressing their expressed and prioritized needs and offering solutions tailored to their individual and collective situations.

- 👉 **Example:** Ask permission before entering a person's living space, and offer resources or services that can improve their living conditions, such as lockers to store personal belongings and reduce the risk of theft and back injuries from continuously carrying a heavy load of their possessions.

F. Ensure interactions with people living in encampments are grounded in the principles of active listening, respect, cultural sensitivity, transparency and non-judgment, regardless of conditions or choices.

- 👉 **Example:** Avoid stigmatizing remarks towards people living in encampments, even when they are not present, as this will harm trust and collaboration. Do not define the person by their situation.

G. Provide resources for people living in encampments to ensure that they can defend their human rights, and act quickly in case of harm.

- 👉 **Example:** Create simplified guides on the human rights of people in encampments that clearly outline international and domestic human rights obligations and any guidelines established by the municipality to respect them. Appoint an individual with the authority to respond quickly to the concerns of people living in encampments.

H. Try to ensure continuity within the teams working with people living in encampments to ensure consistency of approach, build confidence and reinforce stability.

I. Ensure there is follow-up on the commitments made to people living in encampments. Making realistic commitments and avoiding the creation of false expectations will strengthen trust.

- 👉 **Example:** Municipal employees can provide their contact details so that people living in encampments can request information and resources or follow up on a request for support.

B-1-10330

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FACTSHEET 5/8

Actions to Provide Services Adapted to the Needs and Realities of People Living in Encampments

"I get judged in the street, so how can anyone take what I have to say seriously? It's hard when you don't have access to basic dignity and basic needs, and it's hard to want to get involved when you don't believe you'll be heard and accepted."
(Person living in an encampment)

A. **Take immediate measures that will protect the right to life and the dignity of people living in encampments,** including installing and making accessible essential facilities and services such as clean drinking water, sanitation, showers, cooking facilities, recharging stations, secure storage and waste collection.

👉 See the list of essential services developed by the National Working Group on Homeless Encampments.

B. **Provide support to improve the physical and mental health of people living in encampments as required and on a consent basis.** When services cannot be provided on site, provide resources to facilitate travel and access to the needed resources.

👉 **Example:** Offer healthcare services directly in encampments for individuals and veterinary care for their pets. Providing care for pets helps people living in encampments maintain their bond with their animals, reduce the distress of losing them and learn to take better care of themselves[1]

C. **Consider creating zones where encampments are tolerated or even accepted** without forcing people to occupy them and without criminalizing them for not doing so. If these zones are created, they should respect human rights principles and adhere as much as possible to the criteria outlined in the definition of adequate housing: security of tenure from the threat of forced evictions; habitability (e.g., protection from the elements, privacy); location (e.g., land free from hazards and pollution); availability of services (see the list of essential services); and cultural adequacy.

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D. **Work with people living in encampments to find solutions to issues that they raise about their site.** Make sure you fully understand the concerns people have about their encampment, and explore options with them for improving their situation.

- 👉 **Example:** If your municipality has a telephone or online help line, ensure that it is accessible and that operators are equipped to respond to issues raised by encampment residents.

E. **Support harm reduction practices for people using substances in encampments** by providing services and access to a safe supply program and by developing action protocols with them to save lives and mitigate the risk of substance-related overdoses.

F. **Take steps to ensure emergency shelters and drop-in centres are barrier-free and accessible 24/7** and that there are enough resources available to meet the needs of those wishing to use them.

G. **Ensure sustained funding for community-based services and initiatives** that adopt a human rights-based approach to providing support for people living in encampments.

H. **Respect the right of people living in encampments to refuse the services offered to them,** and try to understand the systemic issues that may have caused them to refuse.

- 👉 **Example:** Take the time to understand their refusal and use the opportunity to reflect on how you can improve services and ensure they are adapted to the needs of the people living in encampments.

I. **Ensure accountability for respecting and protecting human rights** and avoid repressive and coercive practices.

- 👉 **Example:** When there is a concern about garbage in an encampment, make resources available for the clean-up. Ensure the people living there are involved and alternatives are put in place to protect the belongings of people living in the encampment.

J. **Ensure effective communication, coordination and collaboration between services and stakeholders,** and ensure people living in encampments have a clear explanation of the roles of municipal actors and service providers.

- 👉 **Example:** Collaborate with respected community leaders chosen by people living in the encampment to facilitate sincere dialogue and collaboration in the best interests of people living in encampments.

K. **Demonstrate transparency, consistency and fairness** to reduce any potential for confusion and misunderstanding that can undermine trust and the ability to engage people living in encampments.

L. **Provide training to raise awareness of human rights** among people living in encampments.

- 👉 **Example:** Create collective or individual opportunities to build capacity to help people living in encampments defend their rights. Provide the necessary conditions for them to participate (e.g., familiar and accessible locations, healthy snacks, remuneration, access for pets and secure storage for personal belongings).

M. **Provide training to decision-makers, police and intervention teams** on human rights and Indigenous Rights, Gender-based Analysis Plus (GBA Plus), cultural safety and trauma- and violence-informed approaches.

- 👉 **Example:** Develop training tools with people living in encampments, and value their participation in the programs.

N. **Ensure people living in encampments are able to protect themselves during difficult weather conditions.**

- 👉 **Example:** Prepare for weather emergencies, and put in place emergency resources that can help people obtain clothing, equipment and access places that are dry, warm or cool during extreme weather conditions.

O. **Ensure that the support services needed to improve the health and well-being** of people living in encampments are available when they are needed and that transportation is not an additional barrier to accessing services.

- 👉 **Example:** Provide clear information on available services and their schedules by providing 24/7 street workers and a telephone line, making a public touch-screen accessible and increasing internet access for research.

P. **Identify individual and collective needs regarding living conditions, safety, services** and housing in order to offer tailored solutions to each person living in an encampment while respecting and preserving their social ties and sense of belonging.

- 👉 **Example:** Ensure the housing options offered allow people to maintain their relationships in the community. A small-scale rooming house might allow them to maintain their social network.

1. Leblanc C, Morin P. The Pet, an important ally for people Living on the streets. International Journal on Homelessness. https://doaj.org/article/f6809776b08c4e3285947fb3e60305de

B-1-10333

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FACTSHEET 6/8

Actions to Facilitate Participation in Decision-Making

"I couldn't even properly form sentences without having to sit down and take a break to let my brain catch up with what I was trying to express, which made it nearly impossible to clearly explain what I wanted to say. Being in a bad situation and dealing with severe mental health issues caused by a multitude of factors can make it almost impossible to communicate." (Person living in an encampment)

A. **Understand the individual and collective realities of people living in encampments in order to create consultation and engagement processes adapted to their needs,** and provide the supports and environment they need to be able to express themselves.

- 👉 **Example:** Provide nourishing food, clean clothes, access to a shower, the necessary electronic equipment and supports to help people to prepare to participate in meaningful engagement.
  It is also important to use a variety of methods of expression, including written, oral and artistic. Include options for individual as well as group activities to ensure everyone has a chance to contribute based on their capacity and needs.

B. **Consult and involve the people living in encampments from the beginning** in the planning, implementation and monitoring of services in the encampments (toilets, showers, food distribution, health services, etc.), and involve them in decisions regarding how funds are allocated and spent on encampments and homelessness services.

- 👉 **Examples:** Elected officials should meet with people living in encampments either on-site or in spaces where they will feel comfortable (e.g., the office of a trusted community organization that provides them with services).
  Work with trained mediators and facilitators who can help create the right conditions for effective dialogue.

B-1-10333

C. Offer people real choices and provide them the opportunity to make informed decisions.

- 👉 **Example:** If housing becomes available, take the time to explain the options. What is the space that is available and for how long, and what rules, if any, might apply? Allow people to visit the space and take the time to consider the consequences for themselves. People should not be forced to make choices under threat of eviction and of confiscation or destruction of their personal belongings.

D. Ensure that the voices of people living in encampments are considered with the same value as other stakeholders involved in decisions.

- 👉 **Example:** Organize an event that includes both people living in encampments, the local population, as well as community, public and governmental actors while ensuring the reduction of power imbalances. See the guide for integrating people living in encampments into events.

E. Recognize the contributions of people living in encampments and their input into the policy-making process by compensating them for the time they contribute to engagements and ensuring follow up on their contributions. It is also important that people understand that they can leave a session at any time without any repercussions.

F. Assess and respect the priorities and needs based on the views expressed by people living in encampments.

- 👉 **Example:** Note that people's needs may change depending on the precarity of their living conditions and circumstances.

G. During meetings, ensure the creation of safe spaces by using trauma-informed and culturally safe approaches.

- 👉 **Example:** Avoid situations where people living in encampments have to share their personal life experiences and risk reliving traumas. Instead, create spaces where people themselves express the situations they wish to share. Ensure that people leading engagements are trained in violence- and trauma-informed approaches and cultural safety practices that enable them to respond with compassion and support as needed.

H. Implement specific measures to facilitate the participation of people living in encampments with an addiction.

- 👉 **Example:** Provide a non-judgmental participation environment, ensuring access to safe consumption services based on their needs and the duration of the meeting, and adapt to their schedules so that people who use substances are not excluded and can feel acknowledged.

I. **Plan engagement methods suitable for people who are unable** to leave their encampment (e.g., there is a high risk of theft of their belongings).

- 👉 **Example:** Provide a secure storage area, have a trusted person monitor tents and belongings or schedule meetings near their living area.

J. **Rethink the structure of meetings to adapt to the realities** of people living in encampments and to maximize their time and knowledge. Provide the necessary information and tools for people living in encampments to participate effectively in the engagement.

- 👉 **Example:** Ensure information provided is available in plain language and in the languages spoken by the people living in the encampment. It is important to ensure all material is inclusive, accessible and takes into the account the needs of people, notably people with disabilities, including disabilities related to cognitive functions.

K. **Be as transparent as possible about potential short-, medium- and long-term benefits of engagement to enhance motivation and participation in decision-making processes.**

- 👉 **Example:** Provide feedback to people living in encampments about what is working well during engagements. Let them know what can be improved to increase their influence in the decision-making process.

L. **When working with people living in encampments, recognize and value the skills** that they bring, and take advantage of opportunities to reinforce their capacity as actors in their own lives.

M. **Question and rethink collaboration strategies when multiple people** do not wish or are unable to participate by examining the reasons that hinder their meaningful engagement.

- 👉 **Example:** Explore and try to understand the barriers people may experience (e.g., trust, physical accessibility and lack of information or time) and try to design a process that takes them into account to maximize participation.

B-1-10336

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FACTSHEET 7/8

Actions that Support the Self-Determination and Autonomy of People in Encampments

"When government representatives speak publicly about the encampment situation, they should address the people living in them directly." (Stakeholder)

A. Continuously inform people living in encampments about their rights and the government's obligations to respect them, and work with them to find the best communication strategies for establishing an effective and respectful collaboration.

👉 **Example:** Prepare a simplified document or a poster explaining the human rights obligations of government actors, including law enforcement, as well as available options for making a human rights claim or pursuing a complaint.

B. Work with people living in encampments and informal leaders at a pace that suits them to develop tailored solutions to defend their human rights, meet their needs, improve their physical and mental health and stabilize their situation.

👉 **Example:** Regularly collect feedback from people living in encampments and continuously assess the practices implemented while taking preventive actions for potential issues.

C. Encourage and support self-managed dialogue spaces by and for people living in encampments, in collaboration with advocacy organizations they trust, and provide the necessary resources to help them organize autonomously.

👉 **Example:** Support the creation of governance committees primarily or solely composed of people living in encampments so they can discuss their issues, determine their needs and solve their problems.

B-1-10336

D. Recognize and respect the internal dynamics of encampments, and allow people to choose with whom they feel safe living.

E. Provide resources to allow people living in encampments to manage services on their own (e.g., garbage collection or meal preparation) and support them by offering flexible day work schedules and opportunities.

👉 **Example:** Develop accessible community facilities to encourage mutual support (e.g., collective kitchens), and use municipal structures to increase their capacity to meet their needs.

F. Work with people living in encampments to reduce risks, and share the responsibility for their safety. Support them to establish procedures in case of incidents, and provide training to build knowledge, skills and empowerment.

👉 **Examples:**

- Offer training in suicide prevention, conflict de-escalation, fire safety, harm reduction (Naloxone) and first aid (injuries, burns, CPR, etc.).
- Provide safety equipment (fire extinguishers, winterized tents), and ensure people have what they need to protect themselves from the elements, including access to warming or cooling centres.
- Offer clear information to people living in encampments on how to layout tents in a safer way (e.g., three feet from another tent) and suggest assembly points in case of fire.
- Share advice on food storage to reduce the risk of spoilage and vermin, management of donations and emergency care. Make telephones available for emergencies.

G. Ensure predictability when decision-makers and people in positions of authority visit an encampment by announcing their visit in advance, posting information and distributing brochures to raise awareness.

👉 **Example:** During cleaning teams' visits for waste collection, the presence of independent and trained observers can help reinforce respect for human rights standards by the municipal authorities and private entities involved.

H. Facilitate the presence of independent, trained observers to encourage compliance with human rights standards in encampments by the municipal authorities and private entities involved.

👉 **Example:** Work with community organizations, advocates and Indigenous leaders who are trusted by people living in encampments and who can act as observers and human rights defenders.

B-1-10338

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FACTSHEET 8/8

Actions that Continue to Work Towards Long-Term Adequate Housing Solutions

"There should be diversity in housing choices, locations and services provided—there is no single shelter/housing option that fits everyone. Consult with those living on the streets to design safe, adequate and diverse housing models." (Stakeholder)

A. Advocate with other levels of government to ensure long-term investments in adequate, affordable housing as well as support services for people exiting homelessness and transitioning into housing.

B. In areas where municipalities can act, facilitate the construction of adequate housing to support people in their transition from encampments to safe, adequate and permanent housing solutions.

👉 Municipalities should consider:

- Providing surplus municipal land at no cost in areas close to transit and other necessary amenities to non-profit affordable housing providers or land trusts.
- Implementing zoning and other changes to fast track the development of community housing.
- Exploring how waving development and other municipal fees can help to fast-track non-profit housing that is affordable for people exiting homelessness and to support the operations of the housing providers over the long-term.
- Developing specific initiatives to support urban Indigenous housing.

C. Advocate for laws and policies that make evictions from housing more difficult and make it harder to discriminate against people in need of housing.

👉 **Example:** Landlords should not be allowed to discriminate on the basis of warrants or criminal records.

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D. Ensure that zoning, bylaws and municipal policies facilitate the protection of existing low-income housing, such as rooming houses and cooperatives, and don't create barriers to innovative new approaches to housing for people experiencing homelessness.

E. Put in place eviction prevention programs as an early intervention measure to stabilize the housing of people at risk of homelessness.

- 👉 **Example:** Eviction prevention measures include rent banks, energy assistance programs, community legal clinics, credit counselling and mediation.

F. People should be provided with a variety of housing options and locations that meet their needs and are adapted to their personal situation. Allow people to make choices and take control over their lives.

G. Ensure that the transitional and supportive housing that is offered is compliant with human rights principles. Residents in these buildings should be afforded the same rights as tenants, as per the landlord and tenant regulations in force in the province.

- 👉 **Example:** Do not impose restrictions, such as preventing visitors or requiring total abstinence from consumption. This type of transitional housing should not focus on control measures, but on personal empowerment and responsibility.

H. Provide housing subsidies and programs adapted to the realities of people living in encampments to help them move into permanent housing solutions. Emergency shelters and supportive housing options are not enough, as they do not meet the definition of adequate housing set out in UN international standards.

- 👉 **Example:** People living in encampments should not be obliged to stay at an emergency shelter or in transitional housing before they can move to permanent housing.

I. Be transparent about when adequate housing will be available. Provide clear information to people living in encampments about new housing projects that can meet their needs, and update them on the progress of their construction.

J. Ensure that different levels of government share the same priorities regarding human rights and homelessness, because it does not work when one level of government focuses on initiative "A" and the other on initiative "B."

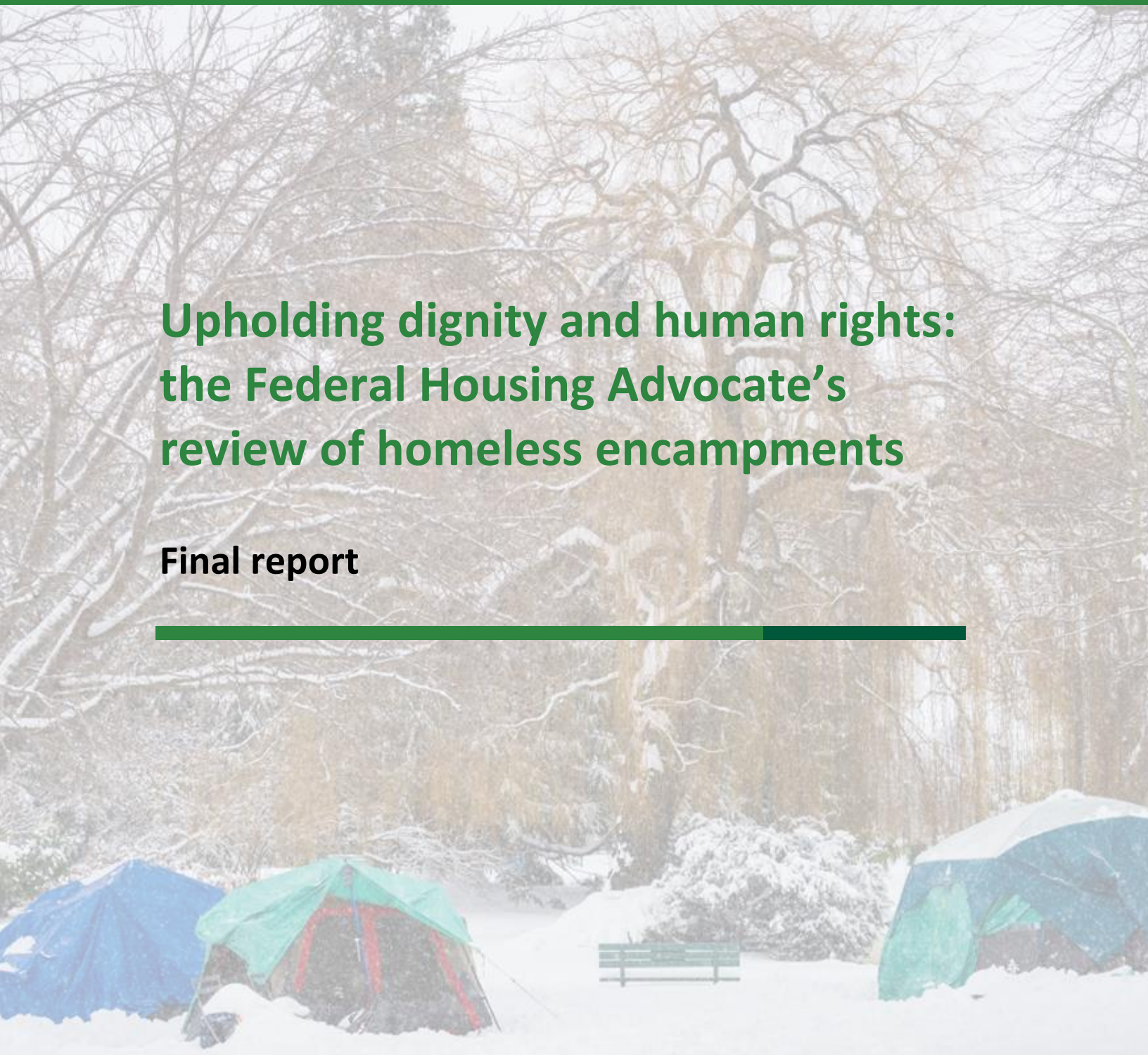
1. OHCHR, Fact Sheet No. 21 (Rev.1): The Right to Adequate Housing, United Nations, Geneva, 2009.

THIS IS **EXHIBIT "H"** REFERRED TO
IN THE AFFIDAVIT OF MARIE JOSEE HOULE
SWORN REMOTELY AT THE
CITY OF CANTLEY BEFORE ME AT THE REGION OF WATERLOO
DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

Canadian human rights commission | Commission canadienne des droits de la personne



Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments

Final report

Office of the Federal Housing Advocate, Canadian Human Rights Commission

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NOTE OF GRATITUDE

As Canada's first Federal Housing Advocate, my role is to drive change on key systemic housing issues and to hold government decision makers to account for their human rights obligations related to housing and homelessness. The right to adequate housing means that all people are equally entitled to live in dignity in a safe and secure home without discrimination or harassment. Recognizing housing as a human right means that government "duty bearers" at all levels have legal obligations to protect this right for everyone, and especially for people whose right to housing is being violated.

During the past year, I have had the privilege of meeting with and hearing from people who have experienced encampments across the country. First and foremost, this report is designed to place them at the centre of efforts to address homelessness. I want to thank them for sharing their stories and insights. I also want to recognize and commend their courage and resilience in the face of systemic failures to uphold their human rights.

As you read my Final Report and reflect on my recommendations, I urge you to consider how your actions can better respect, protect and fulfill the human rights of people experiencing homelessness and living in encampments.

I live and work much of the time in unceded Anishinabe Algonquin territory and have appreciated the opportunity to visit the territories of First Nations, Inuit and Métis peoples to learn more about the challenges of Indigenous Peoples related to encampments. My discussions across the country have highlighted the direct links between homelessness, encampments and the colonial dispossession of land.

My report would not have been possible without the work of national and local advocates who are working tirelessly to support people in encampments. This report has also been enriched through discussions with duty bearers from all levels of government. I thank all those who met with me or provided information for my review and I was encouraged to learn more about how human rights principles are informing responses in a number of places.

I recognize my work does not end with the launch of my report. I will continue to work with all governments to push for the implementation of my recommendations and hope this report can be used as a tool to support local advocacy to protect the human rights of people experiencing homelessness.

Change depends on all of us working at all levels, starting in our own communities.

Sincerely,

Marie-Josée Houle, Federal Housing Advocate

Please see Annex A for the list of key partners who contributed to the review and to this report.

EXECUTIVE SUMMARY

Canada's homeless encampments are a national human rights crisis.

A growing number of people in Canada are having to live in tents or informal shelters to survive due to a lack of affordable housing, limited support services, and nowhere safe to go.

There has been a significant rise in encampments in the last five years, and particularly since the COVID-19 pandemic. Encampments are now being reported across the country – in both large and small municipalities, as well as in more rural areas.

Encampments are not a safe or sustainable solution for housing. For people living in these encampments, every day is a matter of life and death.

At the same time, encampments represent an effort by people who are unhoused to claim their human right to housing and meet their most basic needs for shelter. For reasons discussed in this report, encampments are often people's only housing option, or the only option that meets their needs for safety, security and dignity. Many encampment residents have highlighted the sense of community they experienced when living in an encampment with others facing similar struggles.

Recognizing the severity of this crisis, the Federal Housing Advocate launched a systemic review of encampments in February 2023. This systemic review has been carried out pursuant to subsection 13.1(1) of the National Housing Strategy Act.

In October 2023, the Advocate published an interim report setting out the context of the crisis and documenting in detail what had been heard through the engagement process. The engagement process consulted directly with people living in encampments, local community advocates, Indigenous governments and representative organizations, and duty-bearers across all governments.

This final report includes the Advocate's conclusions about the factors leading to the rise in encampments and, most importantly, the concrete measures that must be taken by all governments to fulfill their human rights responsibilities in order to reduce or eliminate the need for encampments.

What has emerged is a clear picture of a two-fold human rights crisis.

First, encampment residents are at dire risk of harm due to the failure to uphold their basic rights.

Second, the encampments exist only because of a larger, systemic failure to uphold the right of all people to adequate housing without discrimination.

The engagement process made it clear that Canada has the capacity to solve this crisis. Encampment residents are acutely aware of the measures required to meet their most pressing needs. What is lacking is sufficient political will, resources and coordination.

The absence of effective coordination between the many agencies, departments and jurisdictions involved limits the effectiveness of responses to the homelessness crisis. While municipalities are on the frontlines in responding to encampments, they don't have all the powers and resources they need to provide human rights-based services. Provinces and territories must work closely with municipalities and the federal government must play a leadership role.

This national crisis calls for a national response.

National Encampments Response Plan

The Federal Housing Advocate is recommending that the federal government establish a National Encampments Response plan. The plan must drive urgent change that responds to the Calls to Action developed in this report and addressed to all governments in Canada. The Calls to Action have been developed as the result of extensive consultation with encampment residents, community organizations, and municipalities across the country.

The Federal Housing Advocate calls on the federal government to establish a National Encampments Response plan by August 31, 2024, that will:

- **Act immediately to save lives.**
    - Ensure that everyone living in encampments has access to the basic necessities they need to survive and live in dignity, and to services to protect their physical and mental health.
    - This includes access to clean water, sanitation, food, heating and cooling, accessibility supports, healthcare, and harm reduction.
    - Ensure drop in-shelters are accessible 24/7 throughout the year to provide people with a dignified place to rest, take refuge from the elements and access services.

- **End forced evictions of encampments.**
    - Forced encampment evictions make people more unsafe and expose them to a greater risk of harm and violence. Evictions destabilize people, remove them from their support systems, and cause them to lose the tools and equipment they need to survive.
    - Immediately end forced evictions of encampments, particularly on public lands. Forced evictions are a violation of human rights, as contained in section 7 of the Canadian Charter of Rights and Freedoms, the United Nations Declaration on the Rights of Indigenous Peoples, and the right to adequate housing under international law.
    - Put in place alternatives to removal of encampments that are designed following meaningful engagement with encampment residents to find solutions that meet their needs.
    - All governments must ensure that laws, regulations and bylaws do not further destabilize encampments nor expose residents to greater risk of harm and violence.
    - The role of police and by-law officers should be de-emphasized in responses to encampments. Police, by-law enforcement, and emergency service need clear direction to halt the confiscation of belongings, surveillance and harassment, which violate the human rights of encampment residents. All enforcement measures undertaken must be compliant with human rights standards.

- **Work with all governments and provide support to municipalities.**
    - Immediately convene meetings with provinces, territories, and municipalities to coordinate an all-of-government response.
    - Develop all encampment response measures in consultation and cooperation with First Nations, Inuit, and Métis governments and their representative organizations.
    - Commit the maximum available resources and funding to address this crisis.

- Ensure municipalities have the resources and powers they need to respond to the urgent needs of encampment residents and uphold their human rights.
- Include clear targets and timelines for the National Encampments Response Plan.

- **Respect the inherent rights of Indigenous Peoples.**

  - All governments must commit to upholding the United Nations Declaration on the Rights of Indigenous Peoples and work in consultation and cooperation with First Nations, Inuit and Métis governments to fully implement its provisions. In particular, all governments must work with Indigenous governments to more effectively respond to the distinct needs of urban First Nations, Inuit, and Métis individuals, particularly those who are unhoused and living in encampments.
  - Recognize the jurisdiction of Indigenous governments to determine, develop, and administer programs and services related to housing and homelessness and support First Nations, Inuit and Métis governments and representative organizations to develop and provide self-determined, culturally appropriate housing and related services and supports, including in urban centers in partnership with existing Indigenous service providers.
  - First Nations, Inuit and Métis governments and representative organizations must be fully supported to develop and provide self-determined, culturally appropriate housing and related services and supports, including supports in urban centers.

- **Respect and uphold human rights.**

  - In the absence of adequate, affordable and accessible housing alternatives, all governments must recognize that people have a right to live in encampments.
  - People living in encampments must play a leading role in decision-making processes that affect them. All governments must implement ongoing and meaningful engagement with people living in encampments and those who support them.
  - People living in encampments must have access to timely, effective recourse when their rights are threatened or violated.
  - All governments and political leaders at all levels have obligations to promote and protect the human rights and dignity of people experiencing homelessness. Leaders must refrain from actions and language that further stigmatizes the residents of encampments, or people experiencing homelessness, and exposes them to greater risk of rights violations.
  - All governments must publicly commit to applying a human rights-based approach to encampments that recognizes and addresses the distinct needs of First Nations, Inuit and Métis individuals, Black and other racialized individuals, women, 2SLGBTQQIA+ individuals, people fleeing gender-based violence, youth, seniors and people with disabilities. These approaches must align with Canada's human rights obligations as affirmed in international human rights instruments, the Charter and domestic law.

- **Offer people permanent housing options as rapidly as possible.**

  - Immediately develop and fund adequate housing solutions and supports so that people living in encampments can be re-housed as rapidly as possible.
  - These housing solutions must meet the definition of adequate housing which includes security of tenure, affordability, accessibility, suitable location, availability of services, habitability and cultural adequacy.

- In the absence of available adequate housing, all governments and service providers must work to address the structural barriers that result in existing emergency shelters not being accessible or appropriate for all people who might choose to use them.

- **Address the root causes of encampments.**

  - Encampments are the symptom of systemic failures – all governments must urgently prioritize investments in adequate housing and support services to prevent and address homelessness. All governments must work together to address the systems that drive homelessness, including systemic racism and discrimination and failings in the Canadian child welfare, corrections, and healthcare systems.
  - The National Housing Strategy must be greatly enhanced and its programs must prioritize the elimination of chronic homelessness and reduction of core housing need, with a focus on Indigenous peoples and disadvantaged groups, to fulfill commitments under the National Housing Strategy Act.
  - All governments must ensure that they are monitoring the progressive realization of the right to adequate housing and put in place measurement systems that include accurate, comprehensive, and replicable data on homelessness.

Next steps

Specific Recommendations are outlined in the report to enable governments at all levels to implement the Calls to Action.

This report's findings and recommendations will be submitted to the federal Minister of Housing, Infrastructure and Communities. The National Housing Strategy Act specifies that the when the federal government receives the report of such a systemic review, the Minister responsible for housing must respond within 120 days.

This report is an urgent call to action to governments at all levels to uphold the human rights and the right to housing of encampment residents.

INTRODUCTION

The term "encampments" refers to emergency accommodations established by people who are unhoused, usually on public property or privately-owned land, and often without permission.[1] Encampments are a consequence of Canada's failure to meet its human rights obligation to ensure that all individuals have access to adequate housing – housing that is secure, affordable, habitable, accessible, culturally appropriate, and in a suitable location with access to services.

While encampments have always been a feature of homelessness in Canada, in the last five years, and particularly since the COVID-19 pandemic, "encampments have become more numerous, more densely populated, and more visible across the country."[2] The growth of encampments has been driven by a range of inter-related human rights failures, including the impacts of colonial laws and policies on Indigenous Peoples, systemic discrimination in the housing market, a severe lack of available and affordable housing that has become a deepening national crisis, and barriers to accessing emergency shelters.

There is no systematic data collection on who lives in encampments in Canada. The Observatory on Homelessness at York University has suggested that at least 35,000 individuals are unhoused at any given time across the country.[3] One survey of Canadian municipalities estimated that between 20 to 25% of unhoused individuals in Canada now live in encampments.[4] This is consistent with reports from frontline service providers who talk about thousands of people currently living in encampments across Canada.

It is important to emphasize that while encampments vary from region to region, as do patterns of homelessness, the rise of encampments is a truly national crisis. Encampments are reported in both large and small municipalities, as well as in more rural areas.

Encampments represent an effort by people who are unhoused to claim their human rights and meet their most basic needs. For reasons discussed later in this report, encampments are often the only housing option currently available to many, or the only available option that meets their needs. Living in an encampment may also offer the advantage of living in community with others facing similar struggles.

While recognizing the resourcefulness and collective organizing involved in establishing and maintaining an encampment, it is important to be clear that the conditions in encampments do not represent adequate housing. The Federal Housing Advocate is acutely conscious of the tragic deaths that have

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[1] The Advocate has chosen to use the term "encampment" as the language most commonly used, and mostly widely understood in Canadian contexts. The Office recognizes, however, that the term may not reflect everyone's reality or experience and that it differs from terms commonly used internationally, such as informal settlements.

[2] Alexandra Flynn et al., *Overview of Encampments Across Canada: A Right to Housing Approach*, The Office of the Federal Housing Advocate (2022). https://www.homelesshub.ca/resource/overview-encampments-across-canada-right-housing-approach

[3] Homeless Hub, "How many people are homeless in Canada?" https://www.homelesshub.ca/about-homelessness/homelessness-101/how-many-people-are-homeless-canada

[4] Infrastructure Canada, *Homelessness Data Snapshot: Findings from the 2022 National Survey on Homeless Encampments* (November 2023). https://www.infrastructure.gc.ca/homelessness-sans-abri/reports-rapports/encampments-survey-2022-enquete-campements-eng.html

occurred in encampments due to cold, fire and drug poisoning – and the likelihood that more deaths will occur even as this report is being written. Furthermore, it is clear the precarious situation of encampments is made much worse when municipalities deny residents access to the essentials of life, including clean water and sanitation, or add to the insecurity of encampment residents through forced relocation and other punitive responses.

Recognizing the severity of this crisis, the Advocate launched a systemic review of encampments in February 2023. As part of this review, the Advocate has engaged with encampment residents and local advocates in communities across Canada. In addition to meetings in Montreal, Saskatoon, Winnipeg, Vancouver, Toronto, and Calgary, the Advocate also launched an online portal to invite individual and organizational submissions to inform this review. Because many people living in encampments would face challenges accessing this tool, the Office partnered with The Shift and local organizations in Victoria, Vancouver, Hamilton, Peel, Ottawa, Gatineau, Montreal, Moncton, and Halifax to support encampment residents using this portal to share their experiences and their proposals for solutions. With the help of these local partners and others, 313 people with lived experience in encampments made submissions. There were also 53 submissions from municipalities, frontline workers, advocates, and other community members.

The Office of the Federal Housing Advocate (OFHA) also worked with the Federation of Canadian Municipalities (FCM), the FCM's Big City Mayors' Caucus, and the Association of Municipalities of Ontario to obtain input from municipalities across the country. Recognizing the significant over-representation of Indigenous individuals living in encampments, the Advocate has also taken part in a number of targeted engagements with First Nations, Inuit and Métis governments and organizations.

What has emerged is a clear picture of a two-fold human rights crisis.

First, encampment residents are at dire risk of harm and the failure to uphold the human rights of encampment residents, including the right to adequate housing and numerous interrelated rights such as the right to life and the right to health, has left them at dire risk of harm.

Second, the encampments exist only because of a larger, systemic failure to uphold the right of all people to adequate housing without discrimination. These rights are protected in international human rights laws, including the International Covenant on Economic, Social, and Cultural Rights and the UN Declaration on the Rights of Indigenous Peoples, which Canada has explicitly committed to uphold to the fullest of its ability.

The engagement process also made it clear that Canada has the capacity to solve this crisis. What is lacking is sufficient political will, resources and coordination.

To be clear, some important advancements have been made. The National Housing Strategy and the 2019 National Housing Strategy Act (NHSA) provide an important, rights-based foundation. The federal government's ten-year National Housing Strategy marks an important return to funding affordable housing programs after decades of absence. Promising practices related to encampments have been put into place by some municipal governments.

Overall, however, the scale of response falls far short of what is required to address this crisis. Furthermore, the evident lack of coordination across jurisdictions remains a barrier to effectively addressing the larger issue of housing and homelessness. The Auditor General's 2022 Report on Chronic Homelessness found that the government was not able to determine whether the National Housing

Strategy's efforts to prevent and reduce chronic homelessness were, in fact, leading to improved outcomes.[5]

People who are unhoused in general, and encampment residents in particular, continue to be stigmatized. Negative perceptions of encampment residents as authors of their own misfortune, or as threats to community safety, impact the political will of governments to recognize and act on their human rights responsibilities. As more than one person commented in our engagement process, Canada has a long history of mobilizing resources to rapidly rehouse people on a mass scale in wake of natural disasters. The failure to respond to the encampments crisis is a telling illustration of attitudes toward people who are unhoused.

In this context, it is crucial to acknowledge that Indigenous persons are much more likely to experience homelessness. For example, in Edmonton, it has been reported that approximately 60 percent of people experiencing homelessness identify as First Nations, Inuit, or Métis.[6]

Overall, the risk of experiencing homelessness, and the needs of unhoused persons, are impacted by intersecting, and compounding experiences of systemic discrimination. This includes racism directed against Indigenous persons, Black Canadians, and members of other racialized communities, as well as gender-based discrimination that particularly impacts women, member of 2SLGBTQQIA+ communities, and discrimination against persons with disabilities.

In October 2023, the Advocate published an interim report setting out in detail what had been heard through the engagement process. This final report focuses on the Advocate's conclusions about the factors leading to the rise in encampments and, most importantly, the concrete measures that must be taken by all governments to fulfill their human rights responsibilities to reduce or eliminate the need for encampments.

The Advocate has identified the need for an urgent national response that leverages the resources and powers of all governments. The role of the federal and provincial and territorial governments is particularly important given that municipalities are on the frontlines in responding to the crisis, but they do not have the resources or powers to address the scale or complexity of the issues.

This systemic review has been carried out pursuant to subsection 13.1(1) of the National Housing Strategy Act. The Act specifies that the when the federal government receives the report of such a systemic review, the Minister of Housing, Infrastructure and Communities must respond in writing within 120 days.

[5] Office of the Auditor General of Canada, *Report 5 – Chronic Homelessness* (2022). https://www.oag-bvg.gc.ca/internet/english/parl_oag_202211_05_e_44151.html (accessed August 31, 2023).

[6] Letter from Edmonton Mayor Amarjeet Sohi.

THE HUMAN RIGHTS FRAMEWORK

The right to adequate housing

The human right to adequate housing, and interconnected rights such as the right to life, are clearly established in international human rights law, including in treaties that Canada has signed and ratified as well as in human rights declarations and other international norms and standards.[7] With the NHSA enacted in 2019, the human right to adequate housing is now also explicitly enshrined in domestic law.[8]

Recognizing the human right to adequate housing means that governments have legal obligations to recognize and respect this right, protect against its violation, take positive measures and mobilize maximum available resources to ensure that everyone can enjoy this right without discrimination, and promote broad public awareness and understanding of the right. These obligations are heightened in respect to those who have experienced prior human rights violations and who are at heightened risk of further violations.

As it has been interpreted in the international human rights system, adequate housing is housing that is:

- secure,
- affordable,
- habitable,
- accessible,
- culturally adequate,
- in a suitable location, and
- able to ensure access to basic services.[9]

All people should have equitable access to adequate housing, without discrimination based on gender, race, disability, faith, place of birth, age, sexual orientation, or other grounds.

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[7] Universal Declaration of Human Rights, 10 December 1948, UN Doc. A/810, art. 25; International Covenant on Economic, Social and Cultural Rights, 16 December 1966, UN Doc. A/6316, 993 UNTS 3 (entered into force 3 January 1976; accession by Canada 19 May 1976), art. 11(1) [ICESCR]; International Covenant on Civil and Political Rights, 16 December 1966, UN Doc. A/6316 (entered into force 23 March 1976; accession by Canada 19 May 1976), [ICCPR]; International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, 660 UNTS 195 (entered into force 4 Jan. 1969, accession by Canada 14 Oct. 1970), art. 5(e)(iii) [ICERD]; Convention on the Elimination of All Forms of Discrimination against Women, 21 December 1965, 1249 UNTS 14 (entered into force 3 Sept. 1981; accession by Canada 10 Dec. 1981), art. 14(2) [CEDAW]; Convention on the Rights of the Child, 20 November 1989, 1577 UNTS 3 (entered into force 2 September, 1990, accession by Canada 13 Dec. 1991), art. 27(1) [CRC]; Convention on the Rights of Persons with Disabilities, 13 Dec. 2006, (entered into force 3 May 2008, accession by Canada 11 March 2010), arts. 9 and 28 [CRPD]. See also article 10 of the Declaration on Social Progress and Development, section III (8) of the Vancouver Declaration on Human Settlements, article 8 (1) of the Declaration on the Right to Development, and the ILO Recommendation Concerning Workers' Housing, 1961 (No. 115)). Further, UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4, The Right to Adequate Housing, U.N. Doc. E/1992/23 (1991).

[8] See, National Housing Strategy Act, S.C. 2019, c. 29, s. 313 [NHSA].

[9] Office of the UN High Commissioner for Human Rights and UN Habitat, *The Right to Adequate Housing, Fact Sheet 21* (2014). https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf (accessed August 1, 2023).

Failure to uphold the right to adequate housing has harmful consequences for the enjoyment of other human rights. Former United Nations Special Rapporteur on the right to adequate housing, Leilani Farha, explained:

Homelessness is a profound assault on dignity, social inclusion and the right to life. It… violates a number of other human rights in addition to the right to life, including non-discrimination, health, water and sanitation, security of the person and freedom from cruel, degrading and inhuman treatment.[10]

International human rights standards require states to make every effort, and to use all available resources to eliminate homelessness in the shortest possible period of time.[11] Specific human rights obligations include requirements to:

- In consultation with people who are unhoused, adopt and implement action plans to eliminate homelessness that must include clear, time-bound goals, and clear delineation of responsibilities across all levels of government.
- Measure and monitor the extent of homelessness using data disaggregated by gender, race, disability and other relevant characteristics;
- Combat discrimination, stigma, and negative stereotyping of people who are unhoused;
- Ensure access to justice for rights violations, including government failures to take adequate measures to address homelessness; and
- Regulate non-state actors such as private corporations so that they respect the rights of people who are unhoused and undertake actions consistent with the imperative to eliminate homelessness.[12]

The prohibition of forced evictions

International human rights standards prohibit measures that would arbitrarily and unnecessarily deprive individuals of housing, including temporary or informal shelter such as encampments. The prohibition of forced evictions requires that individuals and communities be relocated only after adequate consultation. Relocation without consent is limited to exceptional circumstances. When individuals or communities do not wish to be relocated, there is an obligation for the state to demonstrate that the relocation is strictly necessary and that all other alternatives have been explored. In all instances, any relocation must be consistent with the right to adequate housing: alternative shelter must be provided

[10] Leilani Farha, Guidelines for the Implementation of the Right to Adequate Housing: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non- discrimination in this context, UN Doc. A/HRC/43/43, UN Human Rights Council (2019), para. 30 [Guidelines for the Implementation of the Right to Adequate Housing].

[11] Committee on Economic, Social, and Cultural Rights, General Comment No. 3 on the nature of States parties' obligations, UN Doc. E/1991/23 (1990), paras. 10 and 12.

[12] Leilani Farha, Guidelines for the Implementation of the Right to Adequate Housing, para. 32; Leilani Farha, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, UN Doc. A/HRC/31/54, UN Human Rights Council (2015), paras. 49, 73, and 90; Committee on Economic, Social, and Cultural Rights, General Comment No. 20 on non-discrimination in economic, social and cultural rights, UN Doc. E/C.12/GC/20 (2009), para. 35, and Human Rights Committee, General Comment No. 36 on the right to life, UN Doc. CCPR/C/GC/35 (2018), para. 61.

that is secure, habitable, culturally appropriate, in a suitable location and where access to essential supports and services can be maintained.[13]

The right to adequate housing and the human rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous Peoples is also particularly important given the disproportionate number of Indigenous individuals living in encampments. The Declaration affirms a wide range of interconnected rights of Indigenous individuals and Peoples relevant to the right to adequate housing. These include the right of Indigenous Peoples to determine and control provision of social services such as housing, the right of Indigenous Peoples to maintain their relationship to, and use of, their traditional territories for livelihoods, subsistence and ceremony; the obligation of states to work in cooperation and consultation with Indigenous Peoples' chosen representatives, the right not to be forcibly removed from their lands or territories, and the duty of states to support Indigenous Peoples in the exercise of their right to self-determination. In July 2021, Canada passed national legislation to implement the UN Declaration which requires the federal government to "take all measures necessary to ensure that the laws of Canada are consistent with the Declaration."[14] These obligations are particularly significant given the greatly disproportionate number of Indigenous persons living in encampments.

The right to life

Finally, the United Nations Human Rights Committee underscores that States should take particular measures to uphold the right to life, including actions related to housing:

> The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include [...] extensive substance abuse, widespread hunger and malnutrition and extreme poverty and homelessness. The measures called for to address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions, such as the bolstering of effective emergency health services [...] and social housing programmes.[15]

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[13] Committee on Economic, Social and Cultural Rights, General Comment No. 7: The Right to Adequate Housing: Forced Evictions, UN Doc. E/1998/22, annex IV (1997) and Leilani Farha, Guidelines for the Implementation of the Right to Adequate Housing: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, UN Doc. A/HRC/43/43, UN Human Rights Council (2019), "Guideline No. 6. Prohibit forced evictions and prevent evictions whenever possible" [Guidelines for the Implementation of the Right to Adequate Housing].

[14] SC 2021, c 14. Royal Assent, 21 June 2021.

[15] Human Rights Committee, General Comment No. 36 on the right to life, UN Doc. CCPR/C/GC/35 (2018), para. 26

A LIFE AND DEATH CRISIS

Encampments arise as a direct consequence of Canada's persistent failure to protect and fulfill the right to adequate housing. Until encampment residents can access adequate housing options that meet their needs, urgent measures must be taken to protect their human rights and reduce the precariousness of their current living conditions.

It is important to acknowledge that the encampments crisis is taking place in the context of a national opioid crisis and the greatly heightened risks created by an unsafe drug supply. A review panel convened by the British Columbia Coroner's Office recently reported that between April 2016, when the province first recognized the opioid crisis as a public health emergency, and September 30, 2023, "at least 13,000 lives have been lost to toxic, unregulated drugs in British Columbia."[16] For reasons set out below, the risks created by an unsafe drug supply and the unaddressed mental health and addictions needs, compound the dangers faced by many encampment residents.

Forced evictions

Forced encampment evictions make people more unsafe and expose them to a greater risk of harm and violence. Evictions destabilize people, remove them from their support systems, and cause them to lose the tools and equipment they need to survive.

As was detailed in the interim report, the Advocate has repeatedly heard about municipal enforcement actions that have made the lives of encampment residents much more precarious. There have been numerous incidents of encampments forcibly closed down by municipal officials without provision of adequate housing to address the safety and well-being of the residents. In addition to full-scale evictions, there have widespread incidents of municipal officials tearing down tents and seizing individual property, including personal identification, photo albums, money, and clothing.

Actions to restrict or relocate encampments are often taken in the name of safety and public security. However, the failure to consult encampment residents, protect their belongings, and provide adequate and acceptable alternative housing has the direct consequence of increasing risks to their health and safety.

In an investigation of forced evictions of encampment in Toronto, the city ombudsperson found that the municipality "[c]hose to clear encampments quickly, instead of focusing on the needs of the people living in them."[17] In doing so, the report concluded, "the city caused undue confusion and harm."[18]

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[16] British Columbia Coroners Service, *BC Coroners Service Death Review Panel: An Urgent Response to a Continuing Crisis* (1 November 2023.) https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/an_urgent_response_to_a_continuing_crisis_report.pdf

[17] Ombudsman Toronto, "Toronto's Ombudsman says City Chose Speed over People in Clearing Encampments," (24 March 2023). https://www.ombudsmantoronto.ca/news/torontos-ombudsman-says-city-chose-speed-over-people-in-clearing-encampments/ (accessed August 31, 2023).

[18] Ombudsman Toronto, *Ombudsman Toronto Investigation Report: Investigation into the City's clearing of Encampments in 2021* (24 March 2023), p. 2. https://www.ombudsmantoronto.ca/investigative-report/investigation-into-the-citys-clearing-of-encampments-in-summer-2021/ (accessed August 31, 2023).

Encampment residents, and advocates who work closely with them, point out that established encampments have informal systems through which residents look out for each other. In other words, they are a community with a kind of safety net of their own. Forced evictions disrupt these communities and the benefits they provide.

Forced evictions are also inherently violent. Residents experience their rights being disregarded and trampled on. Outreach workers told the OFHA that police involvement in forced evictions can invoke a trauma response in many people who are or have been experiencing homelessness. The Toronto Alliance to End Homelessness told the OFHA:

> Security approaches do not work in addressing homelessness, or in stopping people from setting up encampments. It traumatizes already vulnerable and marginalized people and increases their vulnerability to becoming chronically homeless, forcing people into often even more precarious places.

For unhoused Indigenous persons, the trauma of encampment clearings is often added to previous traumas, including the forced removal of children from their families and communities. Indigenous organizations and frontline workers said that police involvement in the housing crisis is a continuation of colonial state violence and is deeply inappropriate.

Unmet basic needs and a lack of essential supports

Most encampments lack necessities such as clean water, bathrooms, a place to shower, or secure storage for belongings. Tents and tarpaulins that are not meant for winter use, inadequate clothing and blankets, no electricity or access to heating and cooling, lack of first aid supplies and fire extinguishers, no provision for garbage removal, and no place for safe needle disposal create significant risks to the safety and well-being of residents.

The OFHA has received reports of how conditions in encampments add to mental health challenges and may worsen chronic physical conditions such as back injuries. There are also demonstrated risks of injury and even death from exposure in winter and heat exhaustion in summer.

The failure of many municipalities to provide for the basic needs of encampment residents led to individuals and community groups stepping in with donations of tents, sleeping bags, clothing or food. However, there have also been accounts of some municipalities interfering with the delivery of such basic amenities in a misguided attempt to force encampments to disband.

In many communities that allow overnight camping in public spaces, people experiencing homelessness must pack up their belongings early every morning until they can set up their shelter again in the evening. People who are already exhausted, and who may be in ill-health, are forced to carry all their possessions with them, or risk their loss. Encampment residents describe how carrying large packs or bags means that they are more likely to be refused entry to spaces where they might rest or access washrooms. By-laws establishing these rules ignore the needs of people for rest and privacy during the day and also represent an attack on their basic dignity.

Housing is a social determinant of health and it comes as no surprise that encampment residents have a wide range of health and wellness needs, some of which are linked to their challenges in finding and maintaining long-term secure housing. These needs include treatment for chronic illness and counselling for mental health and addictions issues.

Encampment residents who cannot securely store their belongings are severely limited in how far they are able to travel to access services. The situation is compounded by an overall shortage of community-based supports, the challenge of navigating a complex service system, and the fact that many encampments have been pushed into isolated locations.

There is an additional concern about the scarcity of culturally appropriate resources for unhoused Indigenous persons. An Elder told the Advocate about the lack of Indigenous crisis workers able to provide culturally appropriate assistance to encampment residents.

Responding to safety and security concerns

During this review, the Advocate heard about violent incidents in encampments such as robberies, sexual violence, beatings, harassment, and sexual exploitation. Violence, exploitation and coercion within encampments is a particular concern for women, youth, gender-diverse people, persons with disabilities, and persons experiencing multiple forms of systemic discrimination. The Advocate also heard that incidents of violence in encampments are treated differently. For example, all the tenants of an apartment building are not evicted when an incident of violence is reported.[19]

It should be noted however, that violence, including gender-based violence, disproportionately impacts all people experiencing homelessness, including people using shelters, and is not necessarily a greater risk for those living in encampments. In fact, many encampment residents expressed greater fear about being alone on the streets or in certain temporary housing situations, such as shelters and single room occupancy units. Many expressed that they see encampments as a place that provides community, support, and safety for most of the people living there.

The stigmatization of encampments, and the reasonable fear that police and other authorities may tear down the encampment, may discourage residents seeking the protection of law enforcement. One community organizer stated that the constant threat of displacement, and lack of reliable access to food and water, increases stress, exacerbates mental health issues, and can lead to a rise in violent incidents.

People living in encampments face life and death risks throughout the year, but in the winter months, these risks are heightened dramatically. Efforts to stay warm without access to appropriate shelter, clothing, and heat sources greatly increases the risk of fire. This risk is often cited as a reason to forcibly remove encampments. However, as noted earlier, removal from one site, without provision of adequate alternatives, only causes further disruption and harm to the lives of encampment residents while doing little or nothing to reduce the risks they face. In fact, if encampments are pushed to more isolated locations, the risks may be further increased.

A human rights-based response to the risk of fire would include mitigation measures, including provision of more weather resistant forms of temporary shelter, safe sources of heat, and access to fire extinguishers, along with fire safety training. Above all else, public officials should be meeting regularly with encampment residents so that residents can identify their own safety needs and the best ways to address them.

[19] If governments don't provide adequate housing, they must allow people to shelter in public spaces" by Kasari Govender, Vancouver Sun, September 14, 2023 (accessed January 24, 2024)

HOW WE GOT HERE

A national housing crisis

A recent study commissioned by the Office of the Federal Housing Advocate calculates that Canada has a total shortage of 4.3 million homes affordable to very low- and low-income households.[20] In some locations, there is now a ten-year waitlist for rent-geared-to-income housing. During this review, one community worker said simply: "There is no housing to offer people."

The severe housing shortfall, and the soaring cost of rental accommodations, have also meant that there are only very limited options available to very low-income households. The Advocate heard that many of these apartments have no running water or extreme infestations of rodents, and bedbugs. Some encampments residents said they would rather live outside than try to live in the uninhabitable housing options that are available to them.

The Advocate also heard that the housing crisis is compounded by the discrimination facing members of Indigenous Peoples, racialized communities, people with disabilities, youth, 2SLGBTQQIA+ individuals and others. There is also a severe lack of supportive housing that meets the specific needs of people with mental health challenges including active and severe addictions. Alongside a limited supply of detox and rehab programs, there are not enough housing options for people leaving those programs.

The limited housing available to low and very low-income individuals is often highly insecure. There are widespread reports of people being evicted by landlords wanting to upgrade units to a higher rent.

Challenges with emergency shelters

There is a clear link between the growing encampments and inaccessibility of the emergency shelter system. Shelters are intended as an emergency measure before being rehoused. They fall far short of meeting government obligations to fulfill the right to adequate housing.

The surge in the number and size of encampments was initially linked to the decreased capacity of shelters during the early phase of the COVID-19 pandemic. However, the challenges have proven to be more persistent and systemic.

Firstly, there is an overall shortage of available shelter space. Frontline workers describe a crisis in which individuals are being routinely turned away because there is no available space.

Secondly, there are also significant concerns about living conditions in the overcrowded and overstrained shelter system. "Shelters are dead spaces," according to one participant in the review, noting that conditions like theft, crowding, violence, and the threat of catching illnesses encourage people to opt to live in encampments.[21]

Thirdly, emergency shelters are not available, or safe and suitable, for all. During the review, encampment residents and advocates indicated that some women and gender-diverse people reside in

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[20] Carolyn Whitzman, *A Human Rights-Based Calculation of Canada's Housing Supply Shortages*, The Office of the Federal Housing Advocate (2023). https://www.homelesshub.ca/sites/default/files/attachments/Whitzman-Human_Rights_Based_Supply_Report-EN_1.pdf

[21] Encampments Roundtable – Toronto – June 1, 2023.

encampments because there are no gender-specific shelters in their community. Data shows that the vast majority of shelter beds in Canada are either designated for men or are co-ed (68 percent), with only 13 percent dedicated specifically for women.[22]

Furthermore, most shelters in the violence against women or homelessness systems have physical barriers for people with disabilities. They also lack appropriate and accessible spaces for persons with mental health, sensory and environmental disabilities.

As noted earlier, people living unhoused face a disproportionately high risk of violence. Many women have experienced harassment or violence in co-ed and congregate shelters. These concerns are particularly acute for many trans women. Roundtable participants lamented the lack of emergency resources specifically for women and 2SLGBTQQIA+ people.

Emergency shelters often have rules that restrict personal autonomy, freedom of movement, privacy, and access to friends and family. They may also set expectations that are difficult to meet for people who have been living on the street. For example, shelters may require sobriety, impose disruptive bed checks, restrict the quantity of belongings residents can bring, or not provide space for pets. The Advocate repeatedly heard concern over policies that prevent couples from staying or sleeping together. Numerous participants compared shelters to prison-like conditions. Faith-based shelters can also raise legitimate concerns for some who have had negative experiences with religious institutions. The restrictive environment can have a triggering effect, depending on the individual's mental health and prior experiences of trauma.

Shelters designed for women fleeing violence may also impose restrictive admission criteria. One assessment estimates that approximately 699 women and 236 accompanying children are turned away from domestic violence shelters every day across Canada.[23]

People who use drugs are also particularly affected by shelter restrictions. The Pan Canadian Women's and Housing and Homelessness Survey demonstrates that people who use drugs were banned from shelters at a rate three times greater than those who did not use drugs.[24]

Indigenous Peoples and the homelessness crisis

Indigenous persons are greatly overrepresented among people experiencing homelessness. A recent national study found that 35 percent of unhoused respondents identify as Indigenous compared to the 5 percent of the overall population that identified as Indigenous in the 2021 census.[25]

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[22] Kaitlin Schwan et al., *A Rights-Based, GBA+ Analysis of the National Housing Strategy*, Office of the Federal Housing Advocate (2021), p. 11. https://womenshomelessness.ca/wp-content/uploads/EN-Rights-Based-GBA-Analysis-of-NHS-28-Sept-2021.pdf (accessed August 30, 2023).

[23] Kaitlin Schwan et al., *The Crisis Ends with Us: Request for a Review into the Systemic Denial of the Equal Right to Housing of Women and Gender-Diverse People in Canada*, Women's National Housing & Homelessness Network (2022). https://womenshomelessness.ca/wp-content/uploads/WNHHN-Claim-15-June-2022.pdf (accessed August 31, 2023).

[24] Kaitlin Schwan et al., *Pan Canadian Women's and Housing and Homelessness Survey*, Canadian Observatory on Homelessness (2021). https://womenshomelessness.ca/wp-content/uploads/EN-Pan-Canadian-Womens-Housing-Homelessness-Survey-FINAL-28-Sept-2021.pdf (accessed August 30, 2023).

[25] Infrastructure Canada, *Everyone Counts 2020-2022: Preliminary Highlights Report* (April 2023). https://www.infrastructure.gc.ca/homelessness-sans-abri/reports-rapports/pit-counts-dp-2020-2022-highlights-eng.html#h2.5.4 (accessed August 31, 2023).

High rates of Indigenous homelessness are linked, in large part, to inter-generational harms caused by Canada's colonial laws and policies and the longstanding lack of equitable federal investment in housing and related infrastructure in First Nations, Inuit, Métis communities. While Indigenous communities face a severe housing crisis, there is also a critical lack of resources and supports for Indigenous individuals living in urban centres away from their home territories, which increases the risks of homelessness. Gaps in services and supports include a lack of transition services for those moving from reserves and remote to communities to urban centres, a lack of culturally appropriate housing, and the limited number of urban Indigenous housing providers.

The full scale of housing needs for Indigenous persons is uncertain, however, because of the prevalence of hidden Indigenous homelessness. Rather than living unsheltered, it is common for unhoused Indigenous individuals to live in overcrowded family homes, couch surf, or live out of cars and hunting shacks, particularly in Northern, rural, and remote locations.

There are also significant gaps in available data. Failure to separately track the experience of First Nations, Inuit, Métis individuals means that their distinct needs are often overlooked.

It has been reported that in Western Canada the majority of encampment residents in many communities are Indigenous.

Indigenous governments and service providers face significant jurisdictional barriers in meeting the needs of their communities. At the same time, First Nations, Inuit and Métis governments are not resourced to support Indigenous people living away from their home territories and their jurisdiction to provide such support may not be recognized. A representative of an Indigenous organization observed that third party, non-Indigenous entities are receiving funding to provide services to urban Indigenous people but are not delivering culturally appropriate care and services.

Inadequate program funding for community services

Frontline services are underfunded, operating over capacity, and facing high rates of staff turnover and burnout. Reliance on project-based and short-term funding – the model used by the federal Reaching Home program – is a barrier to long-term planning and ties up staffing in managing administration and reporting requirements. By the time someone is hired and trained, one person noted, the funding for the position is gone, which leads to instability for staff, and precludes being able to build trust with clients, many of whom have complex needs. The result, some noted, is that vulnerable and neglected people are being underserved, and not receiving the qualified, trauma-informed care to which they are entitled.

Furthermore, limited funding results in "unproductive competition" between organizations as they fight for the same funding opportunities. This competition can lead groups to under report their real financial needs when submitting applications, which makes it difficult to maintain projects, even if they are successful in meeting needs.

Mental health and addictions support

Without proper housing supports in place, mental health and addictions can create significant barriers to finding and maintaining housing. At the same time, the circumstances of living unhoused or in precarious housing can greatly add to mental health or addictions challenges.

During the review, encampment residents and advocates consistently drew attention to the inadequacy of resources for people living with mental health and addictions challenges, and the difficulty accessing

the supports that do exist. Municipalities and frontline service providers emphasized the need for greater integration and coordination between housing and homelessness services and mental health and addictions support. In particular, many called for the creation of integrated response teams available to support individuals living in encampments.

A critical issue is access to a safe, regulated drug supply. Reliance on unregulated, criminalized supplies exposes people using drugs to increased incidents of violence and coercion, as well as a much greater risk of overdose or other harm from adulterated or "poisoned" drugs.

Many communities lack harm reduction services, or the services are limited or otherwise inaccessible to encampment residents. Encampment residents described a lack of access to specialized care or treatment, clean needle distribution programs, safe consumption sites, and naloxone.

Lack of coordination and accountability

Efforts to address homelessness have been stymied by lack of clear coordination and accountability across government ministries and between various levels of government. "Everyone keeps acting like it's not their responsibility and trying to pass the issue on to another government entity. They need to just come together and resolve this issue," one person told the Office.[26]

The absence of effective coordination between the many agencies, departments and jurisdictions involved limits the effectiveness of responses to the homelessness crisis. For example, the two issues of affordable, accessible housing and mental health and addictions support are directly linked in practice, but fall under the purview of different, unconnected federal, provincial and territorial programs and agencies, without any established structure of coordination.

Critical areas of integration and coordination include income supports, housing allowances, access to health care, and policies and practices related to public safety. All such services should be developed and assessed on the basis of compliance with Canada's human rights obligations and a gender-based analysis plus (GBA+) of the differential impacts on Indigenous Peoples, racialized communities, people of diverse genders, youth, and people living with disabilities. While municipalities are on the frontlines in responding to encampments, they don't have all the powers and resources they need to provide human rights-based services. Provinces and territories must work closely with municipalities and the federal government must play a leadership role.

EMPHASIZING DIGNITY AND RESPECT

All responses to the encampments crisis must respect the inherent dignity and rights of encampment residents. The stigmatization of encampments, and homelessness more generally, fuels enforcement-based responses that do nothing to alleviate the crisis, and only add to the marginalization and precariousness of life for unhoused people. This stigmatization also masks the systemic causes of the crises and obscures the accomplishments made by encampment residents in asserting their rights and meeting their own basic needs.

[26] Encampments Roundtable – Calgary – August 8, 2023.

Meaningful engagement

Any human rights-based response must begin by engaging with encampment residents, respecting their ability – and their right – to make decisions for themselves. It is also important to recognize that they have valuable knowledge and insights as a result of their lived experiences of homelessness or in encampments. Many encampment residents are distrustful of authorities, often based on a history of negative interactions. It is vital that anyone engaging with encampment residents build a relationship of trust. This requires experience in cultural safety and trauma informed approaches. Police and emergency services should not be the primary point of contact between governments and encampments.

In many encampments, informal structures have emerged that help organize the space and make it safer for residents. These informal structures should be the starting point for any engagement. To the extent that it is welcomed, such structures should be supported and strengthened.

There is a wealth of guidance available to assist in respectful, trauma-informed and culturally appropriate engagement with encampments. In particular, the OFHA encourages application of the National Protocol on Homeless Encampments in Canada, authored by former United Nations Special Rapporteur on the Right to Adequate Housing Leilani Farha and Dr. Kaitlin Schwan and published by The Shift. The Canadian Lived Experience Leadership Network also presented key principles at the Canadian Alliance to End Homelessness' National Conference on Ending Homelessness in November 2023. Drawing on these and other sources, the Advocate recommends the following key measures for meaningful, transparent, and accountable engagement:

- Engagement should be managed through people trusted by encampments residents.
- Wherever possible, people with lived experience of homelessness and housing insecurity should be employed as leaders and contact points in the process.
- Value the time of people taking part in the engagement process, including by providing stipends to compensate for their time; provide food and beverages at meeting; provide transportation as needed; and ensure meeting spaces are culturally safe.
- Ensure that there is enough time for meaningful engagement, including the time needed to build trust and good communication.
- Respect Indigenous protocols and decision-making processes.
- Any community consultation processes must take into account the tremendous power imbalances between encampments and their housed neighbours.
- Avoid unnecessary turnover of staff involved or too many people being involved.
- Make clear commitments to effective monitoring and follow up.
- Ensure that all aspects of an engagement process are documented and that these documents are publicly available.

THE URGENT NECESSITY OF FEDERAL LEADERSHIP

Effective responses to encampments require both mobilization of significant financial resources and effective coordination of a complex web of departments, agencies and programs among federal, provincial, territorial and municipal governments as well as Indigenous Peoples and their representative institutions. Federal leadership is critical.

The federal government has unique responsibilities to ensure Canada lives up to its international human rights obligations. This includes specific obligations toward Indigenous Peoples and their rights affirmed in Treaties, international law more generally and in the Canadian Constitution.

Federal leadership is necessary to recognize the urgency of this national human rights crisis affecting large, medium and smaller communities across the country. Federal leadership is also necessary to confront the stigmatization and discrimination faced by people living in encampments. The federal government is in a position to model appropriate and effective responses.

The federal government is also uniquely positioned and has the spending powers to bring about comprehensive and coordinated responses required to address housing, income supports, physical and mental health, and public safety in every region of the country. The National Housing Strategy, the 2019 National Housing Strategy Act, and the 2021 UN Declaration on the Rights of Indigenous Peoples Act provide a foundation for responding to this crisis on the basis of internationally recognized human rights principles and obligations. The federal government has the capacity to convene the national coordination and planning processes needed to resolve jurisdictional barriers and confusion. Through its transfer agreements with the provinces and territories, it has also the means to ensure provinces, territories and municipalities have human rights-compliant standards to address the needs of people living in encampments.

CALLS TO ACTION

In response to the urgency of the current crisis – including the life and death risks faced by the growing number of people now living in encampments – the Federal Housing Advocate is issuing the following Calls to Action addressed to all governments in Canada.

It is the Advocate's hope that the Calls to Action will also be useful to service providers, other civil society organizations, and the public as a whole. Public awareness of the need for urgent action should drive governments to uphold their responsibilities to protect and fulfil the human right to housing.

The Calls to Action provide a high-level road map to guide the actions need to respond to homeless encampments in compliance with Canada's human rights obligations, including those affirmed in the Canadian Charter of Rights and Freedoms, the Canadian Constitution, the National Housing Strategy Act, the International Covenant on Economic, Social, and Cultural Rights, and the UN Declaration on the Rights of Indigenous Peoples.

The Calls to Action are followed by a set of specific, actionable recommended measures that federal, provincial, territorial and municipal governments must each take to implement the Calls to Action.

1. The Federal Government must lead the development of a human rights-based National Encampments Response Plan in cooperation and consultation with all other governments.

a. Immediately convene meetings with provinces, territories, and municipalities to coordinate an all-of-government response.

b. Commit maximum available resources to promote, protect and fulfill the human rights of encampment residents.

c. Provide a coordinated all-of-government response and ensure resources are available to address the range of housing, healthcare, income and other supports needed by people experiencing homelessness using human rights-based approaches.

d. Include clear targets and timelines.

2. Commit to a human rights-based approach to address the needs of encampment residents.

a. All governments must publicly commit to applying a human rights-based approach to encampments that recognizes and addresses the distinct needs of First Nations, Inuit and Métis individuals, Black and other racialized individuals, women, 2SLGBTQQIA+ individuals, people fleeing gender-based violence, youth, seniors and people with disabilities. These approaches must align with Canada's human rights obligations as affirmed in international human rights instruments, the Charter, and domestic legislation.

b. In the absence of adequate, affordable and accessible alternatives, all governments must recognize the rights of people to live in encampments. Supporting the dignity and autonomy of the person means governments must respect the rights of encampment residents to decide for

themselves if shelter solutions best meet their needs, including for safety and security.

c. People living in encampments must play a leading role in decision-making processes that affect them. All governments must implement ongoing and meaningful engagement with people living in encampments and those who support them.

d. All governments and political leaders at all levels have obligations to promote and protect the human rights and dignity of people experiencing homelessness. Leaders must refrain from actions and language that further stigmatizes the residents of encampments, or people experiencing homelessness, which exposes them to greater risk of rights violations.

3. Respect the inherent rights of Indigenous Peoples.

a. All governments must commit to upholding the United Nations Declaration on the Rights of Indigenous Peoples and work in consultation and cooperation with First Nations, Inuit, and Métis governments to fully implement its provisions.

b. Federal, provincial, territorial, and municipal governments must recognize the jurisdiction of Indigenous governments to determine, develop, and administer programs and services related to housing and homelessness. Such recognition must not result in any reduction in levels of funding or other supports provided by federal, provincial, territorial and municipal governments.

c. Develop all encampment response measures in consultation and cooperation with First Nations, Inuit, and Métis governments and their representative organizations.

d. First Nations, Inuit and Métis governments and representative organizations must be fully supported to develop and provide self-determined, culturally appropriate housing and related services and supports, including supports in urban centers.

e. All government departments and agencies engaged in the design and delivery of housing-related services should make a concerted effort to ensure their staff, management and boards are representative of First Nations, Inuit and Métis people, and introduce mandatory cultural safety training.

4. Take immediate action to protect the right to life and dignity of all people living in encampments, reduce the risks that they face, and help them to stabilize their situation.

a. Immediately end forced evictions of encampments, particularly on public lands, as a violation of human rights protected by section 7 of the Charter as well as the right to life and the right to adequate housing under international law. Put in place alternatives to evictions that are designed following meaningful engagement with encampment residents to find solutions that meet their needs.

b. All governments must ensure that laws, regulations and bylaws do not further destabilize encampments and expose residents to greater risk of harm and violence. All enforcement measures undertaken must be compliant with human rights standards.

c. All governments must fulfill their human rights responsibilities to ensure that everyone living in encampments has access without discrimination to the necessities of life and the services needed to protect their physical and mental health, including access to water, food, sanitation, and heating and cooling, accessibility supports, healthcare and harm reduction services.

d. Ensure drop-in shelters are accessible 24/7 throughout the year to provide people with a dignified place to rest, take refuge from the elements and access services.

5. Implement immediate measures to address the root causes of encampments and provide access to adequate housing.

a. All governments must immediately fund and/or develop adequate housing solutions and supports so that people living in encampments are re-housed as rapidly as possible. These housing solutions must meet the definition of adequate housing which includes security of tenure, affordability, accessibility, suitable location, availability of services, habitability and cultural adequacy.

b. In the absence of available adequate housing, all governments and service providers must work to address the structural barriers that result in existing emergency shelters not being accessible or appropriate for all people who might choose to use them.

c. The National Housing Strategy must be greatly enhanced and its programs must prioritize the elimination of chronic homelessness and reduction of core housing need, with a focus on Indigenous peoples and disadvantaged groups, to fulfill commitments under the NHSA.

d. All governments must strengthen collaboration to address the systems that drive homelessness, including systemic racism and discrimination and failings in the Canadian child welfare, corrections, healthcare, income security and other systems.

6. Ensure government accountability and that people experiencing homelessness have access to justice.

a. All governments must ensure that they are monitoring the progressive realization of the right to adequate housing and put in place measurement systems that include accurate, comprehensive, and replicable data on homelessness.

b. People living in encampments must have access to timely, effective recourse when their rights are threatened or violated.

DETAILED RECOMMENDATIONS TO IMPLEMENT THE CALLS TO ACTION

The following recommendations set out essential measures for all governments to put the Calls to Action into practice, with emphasis on the measures that must be taken immediately to address the urgent risks facing encampment residents. It is essential that all measures be adapted to the specific needs of each community, taking into account that needs in rural, remote and northern communities will differ from larger urban centres in the south. In every instance, people living in encampments are the ones best able to identify their own needs and must be fully engaged in determining and implementing solutions.

These Recommendations include legislative and regulatory measures, policies, and programs that advance the progressive realization of the right to adequate housing in accordance with Canada's human rights obligations, including those affirmed in the Charter and Constitution and international instruments such as the UN Declaration on the Rights of Indigenous Peoples. These obligations place responsibilities on all levels of government.

The Recommendations identify a series of distinct actions to be undertaken by federal, provincial, territorial and municipal governments to respect, protect and fulfill the right to adequate housing and other human rights implicated in the context of encampments.

First Nations, Inuit and Métis are over-represented among people living in encampments. This is a result of historic and ongoing failures to uphold the distinct rights of Indigenous Peoples affirmed in domestic and international law. Therefore, the Recommendations include specific measures that need to be undertaken in partnership with Indigenous governments and representative organizations.

1. The Federal Government must lead the development of a National Encampments Response Plan in cooperation and consultation with all other governments.

- In consultation and cooperation with First Nations, Inuit and Métis governments and representative organizations, **the Minister of Housing, Infrastructure and Communities and Infrastructure Canada must** lead development of a **National Encampments Response Plan** that recognizes Canada's human rights obligation to commit maximum available resources, all available means and demonstrate progress in a timely manner.
    - The plan must include **new resources** commensurate with the scale of the problem and a clear human rights-based strategy to ensure sustained and meaningful engagement with people with experience living in encampments.
    - The plan should aim to provide coordinated responses among all governments and across all government departments and agencies and ensure local authorities have the resources they need to address the range of housing, healthcare, income and other supports needed by people experiencing homelessness using human rights-based approaches.
    - The Plan should include clear targets and timelines for offering adequate housing to people living in encampments in response to the findings of the Auditor General's **Ending Chronic**

Homelessness as well as a strategy for monitoring progress towards the established targets.

- The plan should recognize the urgency to act and be in place by August 31, 2024.
- Development of the plan must include provincial and territorial governments, First Nations, Inuit and Métis governments, municipalities (coordinated and convened by Federation of Canadian Municipalities (FCM) between municipalities and the federal government) and right to housing organizations who can convene people with lived experience in encampments and people with human rights expertise.
- In consultation with the Federal Housing Advocate, **The Minister of Housing, Infrastructure and Communities** must establish an advisory process which includes lived experts and Indigenous leadership to guide development of the plan.
- The plan must leverage existing Federal, Provincial and Territorial bodies such as the Federal, Provincial and Territorial Forum on Housing and similar bodies addressing mental health and addictions to ensure better coordination of human rights-based responses.
- Explore how to mobilize resources and coordinate efforts with other federal action plans (e.g. Addictions and Mental Health, Gender-based violence, Anti-racism, 2SLGBTQQIA+, Poverty reduction strategy, UNDRIP Action Plan, Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ People National Action Plan)
- Establish mechanisms to monitor the results of the Response Plan In fulfilling the right to adequate housing for people in encampments.

- As a first step, **The Minister Housing Infrastructure and Communities must** immediately convene meetings on homelessness and encampments with provinces, territories, and municipalities to coordinate an all-of-government response.

2. Commit to a human rights-based approach to address the needs of encampment residents.

- **The Minister of Housing, Infrastructure and Communities'** response to this report must publicly commit to a human rights-based response to encampments and to developing a National Encampment Response Plan.

Federal, Provincial, Territorial and municipal governments must:

- Integrate the human rights principles and guidance set out in the National Protocol for Homeless Encampments in Canada and the Homeless Encampments: Municipal Engagement Guidance, both produced by The Shift.
- Consistently use the human rights language of the National Housing Strategy Act across all government legislation, policy, and communications.

- Cease using language that stigmatizes or discriminates against people living in encampments or undermines the work of grassroots organizations providing support to them.

- Adopt policies and procedures on how to conduct meaningful, culturally safe, and trauma-informed engagement with people living in encampments or experiencing homelessness.

- Recognize the right of people in encampments to be part of the decision-making process which means:
    - Recognizing and engaging with the informal peer leadership in encampments;
    - Supporting the emergence of camp-led consensus-based decision making.

- Ensure people who have lived/living experience with addictions and substance use have a central role in designing the health solutions they need.

The Federal Government:

- **Infrastructure Canada and the Canadian Mortgage and Housing Corporation must** include conditions in funding agreements with provinces, territories, and municipalities that ensure that all use of federal housing-related funds respects and fulfills Canada's international and domestic human rights obligations.

Provincial and Territorial governments must:

- Adopt provincial or territorial legislation recognizing the human right to adequate housing as defined in international law.

- Review provincial and territorial human rights codes to ensure explicit prohibition of discrimination based on social condition such as income levels, being unemployed or experiencing homelessness.

- Develop programs to ensure that people residing in encampments, shelter and precarious housing are aware of their human rights, including the right to housing.

Municipal governments must:

- Develop a human rights-based policy related to encampments and ensure that any response to encampments prioritizes upholding the human rights of encampment residents. The role of police and by-law officers should be de-emphasized in these responses.

- Ensure the development of all relevant by-laws, policies, programs and plans includes meaningful engagement with people with lived experience in encampments.

3. All measures must respect the inherent rights of Indigenous Peoples.

Federal, provincial, territorial and municipal governments must:

- Support Indigenous governments to provide self-determined, culturally appropriate housing and supports to their citizens regardless of place of residency, including through recognition of First Nations, Inuit and Métis jurisdiction, accelerated transfer of care and control of housing and homelessness programs and programs in other areas such as mental health and addictions (as

requested); and respecting existing funding arrangements with Indigenous governments and their representative organizations.

- Support and allocate funds to ensure the full and effective implementation of housing and homelessness action plans developed by First Nations, Inuit and Métis governments and organizations, including the First Nations Housing and Related Infrastructure Strategy, the Inuit Nunangat Housing Strategy, and the Canada-Métis Nation Housing Sub-Accord.

- Substantially increase investment in adequate, sustainable, and culturally appropriate housing in First Nations, Inuit, and Métis communities based on accurate assessment of needs and the actual costs of building and maintaining housing in small, remote and northern communities.

- Work with Indigenous Peoples to more effectively respond to the distinct needs of urban First Nations, Inuit, and Métis individuals, particularly those who are unhoused and living in encampments.

- Support Indigenous governments and engage with relevant Indigenous service providers to develop and implement holistic strategies to provide wrap-around supports to Indigenous individuals who are unhoused or living in encampments with a goal of providing access directly into adequate housing.

- Ensure that all departments and agencies engaged in the design and delivery of housing-related services make a concerted effort to have their staff, management and boards be representative of First Nations, Inuit and Métis people. All departments and agencies must also provide cultural safety training for all staff and management.

- Implement Indigenous-led training on the UN Declaration on the Rights of Indigenous Peoples as called for by the Truth and Reconciliation of Canada and prioritize implementation of all Calls to Action relevant to resolving the crisis of housing and homelessness.

- Support the role of cultural workers, Elders and Knowledge Keepers in the process of finding solutions and supporting individuals experiencing homelessness.

- Work with First Nations, Inuit and Métis governments and organizations in building capacity to collect and analyze relevant homelessness data and ensure data collection initiatives respect Indigenous data sovereignty as reflected, for example, in the principles of First Nations Ownership, Control, Access, and Possession (OCAP®).

- Take action to “support the establishment and long-term sustainable funding of Indigenous-led low-barrier shelters, safe spaces, transition homes, second stage housing, and services for Indigenous women, girls, and 2SLGBTQQIA+ people who are homeless, near homeless, dealing with food insecurity, or in poverty, and who are fleeing violence or have been subjected to sexualized violence and exploitation” as called for by the National Inquiry on Missing and Murdered Indigenous Women and Girls and prioritize implementation of the Inquiry’s other Calls to Justice relevant to addressing the housing needs of Indigenous women, girls and 2SLGBTQQIA+ persons.

4. Take immediate action to respect and protect the human rights and dignity of all people living in encampments and reduce the risks that they face.

The federal government:

- **All federal ministries must** prohibit forced evictions of encampments on federal lands, including lands that are operated by agencies and other federal entities.

- **Infrastructure Canada must** increase funding designed to prevent and reduce homelessness. New money must be added to address encampments, reflect the increased scope of the problem and to reach the increasing number of communities facing a homelessness crisis.

- **The Minister of Health and the Minister of Mental Health and Addictions must** ensure healthcare funding, including allocations for mental health and addictions, specifically references the urgent needs of encampment residents.

- **Health Canada and the Public Health Agency of Canada must** invest in upstream interventions to prevent mental illnesses and substance use disorders and promote good physical and mental health.

- **Health Canada and Public Safety Canada must** take measures to protect people living in encampments from the poison drug epidemic by supporting access to safe supply and other harm reductions services in order to save the lives of encampment residents who rely on the unregulated drug supply and are at risk of overdose.

Provincial and territorial governments must:

- Prohibit forced evictions of encampments on public lands[27].

- Support municipalities in putting in place alternatives to removal of encampments.
    - Support meaningful engagement as the priority for finding solutions that fulfill the human rights obligations to provide safety and security for encampment residents.
    - Support Indigenous-led interventions to provide culturally appropriate services and supports for First Nations, Inuit and Métis individuals living in encampments.
    - Ensure funding for services and supports is available for municipalities (regardless of their size), including healthcare funding to address the complex needs of encampment residents.
    - Ensure adequate housing alternatives are available when people are ready to leave an encampment.

- Adopt provincial or territorial action plans for the safety and well-being of encampment residents based on meaningful engagement with those residents and their advocates and in consultation and cooperation with Indigenous Peoples, as well as federal and municipal governments.

- Adequately fund individualized social and mental health supports and other measures that help individuals to maintain a stable living situation.

[27] The prohibition of forced evictions in international law does not distinguish between public and private lands. However, as encampments are generally established on public lands, the Advocate's recommendation focuses on public land.

- Provide direction to law enforcement agencies to halt the confiscation of belongings, surveillance and harassment which can be violations of the human rights of encampment residents. This includes providing direction to law enforcement and relevant authorities to end practices which make drug use grounds for displacement, seizure of property, mandatory referrals to health and social services and treatment, and other measures that impose coercive limitations on the rights of encampment residents who use drugs.

- Ensure greater coordination amongst provincial service providers and systems to meet the needs of people living in encampments (i.e. healthcare, income-support, housing).

- Take measures to protect people living in encampments from the poison drug epidemic by supporting access to safe supply and harm reduction services for encampment residents.

- Leverage and adequately fund community-based organizations to provide urgent care for mental health, addictions, and substance use, including grief counselling and trauma support for those who use drugs, their families, and those who work with them.

- Increase support to facilitate access to low-barrier shelter options.
    - Ensure adequate funding for shelters to remover barriers and address individualized needs of women, Indigenous individuals, racialized groups, 2SLGBTQQIA+ individuals, families, people with pets, people with disabilities and people who use drugs.
    - Ensure provision of on-site supports and harm reduction for people who use drugs as well as people with mental health issues and brain injuries.
    - Ensure shelters implement trauma-informed approaches.
    - Ensure funding for shelters for people fleeing gender-based violence.

Municipal governments must:

- End the practice of forced evictions of encampments on public lands.[28]

- Put in place alternatives to removal of encampments.
    - Ensure meaningful engagement as the priority for finding solutions that meet the needs of encampment residents.

- Implement measures to protect and support people living in encampments:
    - In consultation with encampment residents, identify needs and provide dignified access on site or in reasonable proximity to essential facilities and services such as clean drinking water, sanitation, cooking facilities and waste collection (see the list of essential services developed by the National Working Group on Homeless Encampments).
    - Respect people's right to refuse services.
    - Eliminate any policies or practices that restrict access to encampment sites during daylight hours or require daytime tear down of tents and removal of personal effects.
    - Facilitate delivery of existing services and supports such as health care and income supports to encampment residents which are the responsibility of other governments.

[28] The prohibition of forced evictions in international law does not distinguish between public and private lands. However, as encampments are generally established on public lands, the Advocate's recommendation focuses on public land.

- In discussion with women and gender-diverse encampment residents, provide services for persons who have or are experiencing gender-based violence and identify and support measures to enhance the protection of women and 2SLGBTQQIA+ individuals, particularly those who are Indigenous.
- Ensure protection from the poison drug supply through access to harm reduction services and regulated safe supply for encampment residents who are at risk of overdose because of reliance on an unregulated supply.
- Provide access to storage facilities for people to protect their belongings.
- Ensure availability of transportation so that encampment residents have ready access to clinics and other supports.
- Ensure that police, bylaw enforcement officers and private security firms do not play any direct role in managing encampments.
- Respect Indigenous protocols and ensure municipal services are culturally appropriate.
- The availability of services to people experiencing homelessness should not be a justification for an eviction.

- Ensure drop in-shelters are accessible 24/7 throughout the year to provide people with a dignified place to rest, take refuge from the elements and access services.

- Repeal any regulations that restrict people experiencing homelessness from accessing public space.
  - Repeal by-laws and other regulations which prohibit encampment residents from using public spaces.
  - Ban “hostile architecture” (e.g. spikes on sidewalks, armrests on benches) that is designed to stop homeless people from sitting, sleeping and sheltering.

- Repeal and/or refrain from passing by-laws that restrict community members from offering support services to encampment residents.

- Empower and support residents to manage their encampments themselves to the extent possible. Government resourcing and supports should not be used to undermine resident autonomy or decision-making. Government should support encampment residents in creating collective camp-wide processes for decision-making, but they should not run these processes.

- Provide direction to by-law enforcement officers and emergency service to halt the confiscation of belongings, along with surveillance and harassment which may constitute violations of the human rights of encampment residents. This includes providing direction to all relevant municipal agencies to end practices which make drug use grounds for displacement, seizure of property, mandatory referrals to health and social services and treatment, and other measures that impose coercive limitations on the rights of encampment residents who use drugs.
  - Ensure that drug use – or perception of drug use – is not a pretext for restricting access to essential supports and services.

- Promote collaboration among municipal agencies and community-based service providers to provide an integrated approach to meeting the needs of encampment residents and referring people to the available services.

- Provide financial and other support to organizations serving encampment residents to ensure adequate staffing levels and address risk of overwork and burnout.

- While permanent housing remains the ultimate goal, immediate improvements to existing emergency shelter services are also needed. Shelter providers must:
    - Ensure that their facilities and services are designed to accommodate and be accessible for people with specific needs (e.g., for Indigenous individuals, women, Black and racialized individuals, 2SLGBTQQIA+ people, couples, families, youth, seniors and people with disabilities).
    - Put in place policies and practices that are trauma-informed and that meet the needs of and respect the dignity and human rights of people experiencing homelessness.

5. Implement immediate measures to address the root causes of encampments and provide access to adequate housing.

The Federal Government:

- In consultation with First Nations, Inuit and Métis governments and representative organizations, **Infrastructure Canada and the Canadian Mortgage and Housing Corporation** must re-orient the current and future National Housing Strategies to ensure there is a priority on initiatives that will rapidly increase the supply of adequate and affordable non-market housing for people transitioning out of encampments and others experiencing homelessness.
    - Provide **new** long-term and predictable funding and ensure resources are also available to small, medium, rural, remote and northern communities who are experiencing growing problems of homelessness.
    - Expand and sustain funding to rapidly create new housing units building on lessons learned from the Rapid Housing Initiative.
    - Establish a properly funded Acquisition Fund to allow municipalities, local land trust organizations and non-profit housing providers to acquire, repair, and operate existing affordable market rental housing.
    - Review the Canada Housing Benefit to ensure it is being leveraged to prevent homelessness, address core housing need, and assist people to return to housing.
    - Create efficient and cost-effective long-term programs (such as direct transfer of adequate public lands, direct lending and preferential lending rates) that allow for the creation of new non-market adequate housing that meets the needs of encampment residents and people at risk of homelessness.
    - Prioritize making resources available to address groups that are in greatest need, including First Nations, Inuit and Métis individuals, Black Canadians, other racialized communities, women, 2SLGBTQQIA+ individuals, people fleeing gender-based violence, youth, seniors and people with disabilities.

- Recognizing that housing is an important social determinant of health and that unaddressed mental and physical health needs contribute to homelessness and that homelessness can have severe mental and physical health impacts, **Infrastructure Canada, Health Canada and the Public Health Agency of Canada must work with Women and Gender Equality Canada** to ensure better integration of housing and public health policies, particularly for women, 2SLGBTQQIA+ individuals and youth.

- **Infrastructure Canada must** support the documentation and sharing of promising practices to facilitate the spread of effective human rights-based responses to homeless encampments.

- **The Minister of Health and the Minister of Mental Health and Addictions** must develop national legislation, parallel to or within the National Health Act, to bring parity, accountability and transparency to federal funding to provinces and territories for programming and services related to mental health and substance use.

- **Immigration, Refugees and Citizenship Canada** must increase funding for refugee housing supports.

- **Statistics Canada and Infrastructure Canada must** facilitate the collection of better data that captures the diverse needs and experiences of people living in encampments, including women and 2SLGBTQQIA+ people.

Provincial and Territorial governments must:

- Work with the federal government, municipalities as well as First Nations, Inuit and Métis governments and representative organizations to identify and implement permanent and affordable housing solutions.

- Increase funding for supportive housing, including units inclusive of trans and non-binary people.

- Increase funding for municipal services that provide access to housing and address the needs of those who are unhoused and living in encampments, including providing funding to ensure sufficient staffing.

- Increase income supports as well as the minimum wage to reflect the high cost of living and to reinforce efforts to prevent homelessness and allow for successful transitions to adequate housing solutions.

- Strengthen protection of tenant rights, including rent control and vacancy control, as well as protection against above-guideline rent increases, forced evictions for rent arrears and evictions into homelessness.

- Provide adequate funding to housing organizations who are housing people exiting out of chronic homelessness, including encampments, in order to ensure individualized social and mental health supports for high acuity tenants.

- Provide supports for community-based organizations that allow them to retain and meet the mental health needs of frontline workers.

- Reduce bureaucratic barriers to accessing permanent housing, such as requirements to provide tax returns and establishing accessible processes for other requirements, such as obtaining identification.

- Undertake reviews to better understand and address systemic failures that drive homelessness during transitions out of the child welfare system, the prison system, hospitals, gender-based violence shelters and other institutional environments.

- Reduce bureaucratic barriers for unsheltered individuals to access permanent housing, such as obtaining identification.

Municipal governments must:

- Ensure programs are available to rapidly rehouse anyone entering encampments using available housing allowances and providing individualized supports where necessary to support them in maintaining their housing.

- Put in place measures to facilitate the rapid construction of non-market affordable housing.
    - Immediately provide surplus municipal land at no cost in areas close to transit and other necessary amenities to non-profit affordable housing providers or land trusts.
    - Implement zoning and other changes to fast track the development of community housing.
    - Waive development and other municipal fees to fast-track non-profit affordable housing and support the operations of the housing providers over the long-term.

- Maintain strong standards and enforcement for state of repair in rental units and other landlord obligations to address conditions which can lead to homelessness.

- Strengthen housing loss prevention initiatives, including accessible emergency funds to reduce incidents of evictions due to late payment of rent.

6. Ensure government accountability and that people experiencing homelessness have access to justice.

All governments must:

- Require that all officials with responsibilities relevant to housing, homelessness, and encampments receive training on the right to adequate housing, Gender-based Analysis (GBA) Plus, and the UN Declaration on the Rights of Indigenous Peoples.

The Federal government:

- **Justice Canada must** change government litigation strategies to ensure access to justice for violations of the right to life, security and equality experienced by those who are experiencing homelessness or living in precarious housing and instruct government lawyers to cease from arguing that the right to adequate housing is non-justiciable or that courts in Canada should not require governments to ensure access to housing in order to comply with the rights to life or equality.

- **Global Affairs Canada, Canadian Heritage and Justice Canada** must lead a process aimed at ratifying the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights to afford all in Canada a right to make complaints to the Committee.

- **Canadian Heritage must** ensure that the Forum of Federal-Provincial-Territorial Ministers Responsible for Human Rights, the Senior Officials Committee Responsible for Human Rights, and the Continuing Committee of Officials on Human Rights follow up on Canada's obligations to respect, protect and fulfill the human rights of people living in encampments.

- Recognizing that access to justice is a fundamental principle of human rights, **Canadian Heritage must work with Justice Canada and Infrastructure Canada** to provide funding to enable both civil society organizations and rights holders to better organize and access the human rights

accountability mechanisms established under the NHSA as well as mechanisms established by other governments**.**

- **Canadian Heritage must** expand Federal Court Challenges program or develop a similar type of program so that encampment residents and advocates working with encampment residents have recourse to litigation as necessary to advance the right to adequate housing.

- **Public Safety Canada must** develop and publicize guidelines for the RCMP on their human rights obligations when engaging with encampment residents, such as in the investigation of a violent crime targeting residents. RCMP officers should also receive Cultural Sensitivity Training and be made aware of local Indigenous supports before working with First Nations, Inuit and Métis encampment residents.

Provincial and Territorial Governments must:

- Establish and/or strengthen systems such as legal aid so that encampment residents and people experiencing homelessness or precarious housing have timely access to mechanisms to protect their rights or pursue redress for rights violations.

- Develop alternative mediation and dispute resolution mechanisms accessible to people living in encampments, consistent with principles of restorative justice, and able to give due regard to Indigenous legal traditions.

- Ensure that an independent body such as human rights commission, ombuds office, or housing advocate has the mandate and resources necessary to review systemic housing issues.

- Review provincial and territorial human rights codes to ensure prohibition of discrimination based on social condition, housing status and other forms of discriminatory treatment experienced by people experiencing homelessness.

- Develop guidelines for provincial police services on their human rights obligations when engaging with encampment residents.

Municipal governments must:

- Establish independent municipal accountability mechanisms. Larger municipalities should consider creating Ombuds offices.

- Document and make public all decisions related to municipal services for encampments in a manner that makes this information accessible to encampment residents and the wider public.

- Prohibit any restrictions on freedoms of association and assembly.

- Ensure journalists have access to and can report on encampment clearances and evictions.

- Ensure advocates and trusted service providers are allowed to support encampment residents if an eviction is threatened. Peaceful demonstrations and protests must be allowed.

ANNEX A

List of Engagement Partners

Facilitating the collection of submissions from encampment residents
Alliance to End Homelessness Ottawa, Ottawa, Ontario
BRAS Outaouais, Gatineau, Quebec
Canadian Lived Experience Leadership Network (CLELN)
Caroline Leblanc, Université de Sherbrooke
Le Centre d'intervention et de prévention en toxicomanie de l'Outaouais (CIPTO), Gatineau, Quebec
Clinique interdisciplinaire en droit social de l'Outaouais (CIDSO), Gatineau, Quebec
Dopamine, Montreal, Quebec
Elizabeth Fry Society of Mainland Nova Scotia, Dartmouth, Nova Scotia
Hamilton Social Medicine Response Team, (HAMSMART), Hamilton, Ontario
Lived and Living Experience of Homelessness Network (LLEHN), Victoria, British Colombia
Neighbourhood Solidarity with Unhoused Neighbours (NSUN), Victoria, British Columbia
Peel Alliance to End Homelessness, Peel, Ontario
Pivot Legal Society, Vancouver, British Columbia
Spectre de Rue, Montreal, Quebec
Stop the Sweeps, Vancouver, British Columbia
The Housing Justice Project, Victoria, British Columbia
The John Howard Society of Southeastern New Brunswick, Moncton, New Brunswick
The Shift

Supporting Engagement Activities
Canadian Alliance to End Homelessness (CAEH) 2023 National Conference Halifax
Canadian Drug Policy Coalition (CDPC)
Canadian Lived Experience Leadership Network (CLELN)
Caroline Leblanc, Université de Sherbrooke
CRAB Park tent city residents
Federation of Canadian Municipalities
Fiona York, Advocate
Main Street Project and West Central Women's Resource Centre, Winnipeg
National Indigenous Housing Network (NIHN)
National Right to Housing Network (NRHN)
Pivot Legal Society, Vancouver
Regent Park Community Health Centre
Réseau d'aide aux personnes seules et itinérantes de Montréal (RAPSIM)
Réseau SOLIDARITÉ itinérance du Québec (RSIQ)
Stop the Sweeps, Vancouver
Table des Organismes Montréalais de Lutte Contre le Sida (TOMS)
The Salvation Army, Saskatoon, Saskatchewan
Women's National Housing and Homeless Network (WNHHN)
Western Aboriginal Harm Reduction

Engagement with Indigenous government entities and National Indigenous Organizations
Assembly of First Nations (AFN)
British Columbia Assembly of First Nations
Congress of Aboriginal Peoples (CAP)
Inuit Housing and Homelessness Caucus
Manitoba Metis Federation
Métis Nation Government in British Columbia
Métis National Council – Métis Nation Housing Working Group
National Association of Friendship Centres (NAFC)
Native Women's Association of Canada (NWAC)
Nunatsiavut Government (NG) and Nunavut Tunngavik Incorporated (NTI)

Methodology

Lived and living experts who attended meetings with the Advocate were compensated according to Canadian Human Rights Commission (CHRC) guidelines. Sharing of information was purely on a voluntary basis.

THIS IS **EXHIBIT "I"** REFERRED TO
IN THE AFFIDAVIT OF MARIE JOSEE HOULE
SWORN REMOTELY AT THE
CITY OF CANTLEY BEFORE ME AT THE REGION OF WATERLOO
DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

Canadian human rights commission | Commission canadienne des droits de la personne

Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments

Interim report

B-1-10381

Office of the Federal Housing Advocate, Canadian Human Rights Commission

344 Slater Street, 8th Floor, Ottawa, Ontario K1A 1E1

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NOTE OF GRATITUDE

As Canada's first Federal Housing Advocate, my role is to drive change on key systemic housing issues and to hold government decision makers to account for their human rights obligations related to housing and homelessness. The right to adequate housing means that all people are equally entitled to live in dignity in a safe and secure home without discrimination or harassment. Recognizing housing as a human right means that government "duty bearers" at all levels have legal obligations to protect this right for everyone, and especially for people whose right to housing is being violated.

In the past months, I have had the privilege of meeting with and hearing from people who have experienced encampments across the country. First and foremost, this report is designed to place them at the centre of efforts to address homelessness. I want to thank them for sharing their stories and insights. I also want to recognize and commend their courage and resilience in the face of systemic failures to uphold their human rights. As you read this Interim Review and think about potential solutions, I urge you to focus on the urgent need to ensure everyone in Canada has a safe and secure home where they can live in dignity.

I live and work much of the time in un-ceded Anishinabe Algonquin territory and have appreciated the opportunity to visit the territories of First Nations, Inuit and Métis peoples to learn more about the challenges of Indigenous Peoples related to encampments. My discussions across the country have highlighted the direct links between homelessness, encampments and the colonial dispossession of land.

My Interim Report would not have been possible without the work of national and local advocates who are working tirelessly to support people in encampments. This report has also been enriched through discussions with duty bearers from all levels of government. I thank all those who met with me or provided information for my review and I was encouraged to learn more about how human rights principles are informing responses in a number of places.

I encourage all interested readers to share any feedback with me so I can ensure my final report and recommendations will have an impact and result in the changes that are urgently needed.

Change depends on all of us working at all levels, starting in our own communities.

Sincerely,

Marie-Josée Houle, Federal Housing Advocate

INTRODUCTION

The Federal Housing Advocate launched a systemic review on February 23, 2023 to examine the human rights issues facing encampment residents in Canada. This review, pursuant to subsection 13.1(1) of the National Housing Strategy Act (the NHSA), is informed by research on homeless encampments that was commissioned by the Office of the Federal Housing Advocate (OFHA) and released in December 2022. This research confirmed that encampments are a human rights crisis and a violation of Indigenous Peoples' rights, which are unfolding in communities across Canada.[1]

The challenges related to homelessness have been growing for many years and were exacerbated by the COVID-19 pandemic. The demands on shelters and social services are exceeding capacity, and homeless encampments have grown across the country. Punitive responses to encampments have also become widespread. This approach – including ticketing, arrest, forced eviction, and the destruction of tents and personal property – fails to address the underlying conditions that have led to the growth of encampments in the first place: chiefly, a lack of affordable, accessible housing. Further, it does not respect the human rights of encampment residents to live in dignity and have access to safe and secure housing.

This Interim Report provides an overview of what the Advocate has heard and learned to date about encampments in Canada and proposed human rights-based solutions. The report is intended to provide the foundation for a deeper reflection on these issues over the coming months. These discussions will in turn inform the findings and recommendations that will be included in the Advocate's final report (expected in early 2024). In preparation of the final report, the Advocate will continue to engage with rights holders, local and national advocates, as well as government human rights duty-bearers at all levels.

In this report, the term "homeless encampments" refers to temporary outdoor accommodations for individuals and groups of unhoused and unsheltered individuals that have been established – often without permission – on public property or privately-owned land.[2] The growth in number and size of such encampments is the consequence of a severe lack of adequate housing that meets people's varying needs, particularly accessible and affordable housing. The Advocate also recognizes the need for Indigenous understandings of encampments to be respected given that encampments occur on Indigenous land and Indigenous people are overrepresented in encampments.

RATIONALE FOR THE REVIEW

This report is an important step in the first systemic review undertaken by the Advocate under the National Housing Strategy Act (NHSA). Guided by the human rights principles that form the foundation of the NHSA, the review has been designed to create space for meaningful engagement and amplify the voices of encampment residents as rights-holders.[3] People who are unhoused bring an essential perspective and unique understanding of the systems that deny them their rights. Thus, they "must be recognized as central agents of the social transformation necessary for the realization of the right to adequate housing."[4]

The review is taking place at a time when formal recognition of the right to adequate housing is still new and accountability mechanisms like the Federal Housing Advocate are still being established. As such, the review is an important opportunity to raise awareness about the human rights obligations of all levels of government while identifying the gaps in implementation and proposing human rights-based solutions related to encampments.

Since the Review was launched on February 23, 2023, the Advocate has engaged in a number of events across the country to hear directly from encampment residents and local community advocates in Montreal, Saskatoon, Winnipeg, Vancouver, Toronto, and Calgary. Recognizing the significant over-representation of Indigenous individuals living in encampments, the Advocate also took part in a number of targeted engagements with Indigenous Peoples and their representative organizations.[5] The Advocate met with national and local Indigenous organizations and advocates during her visits to Montreal, Saskatoon, and Winnipeg as well as during her August 2022 visit to British Columbia.[6]

In April 2023, the Advocate launched an online portal to invite individual and organizational submissions to inform this review. Recognizing that many people living in encampments would face challenges accessing this tool, she partnered with the Shift and local organizations in Victoria, Vancouver, Hamilton, Peel, Ottawa, Gatineau, Montreal, Moncton, and Halifax to support encampment residents in sharing their experiences and proposals for solutions. With the help of these local partners and others, 313 people with lived experience in encampments made submissions. In addition, 53 advocates, organizations and municipalities shared their perspectives and observations.

Finally, the Advocate is seeking to engage with all levels of government regarding their human rights obligations with respect to housing and encampments.

The Advocate's engagement with the Federation of Canadian Municipalities (FCM), the FCM's Big City Mayors' Caucus, and the Association of Municipalities of Ontario (AMO) facilitated input from municipalities across the country. As well as receiving written responses, the Advocate met with a number of municipal leaders and officials working on effective responses to the human rights challenges posed by encampments.

In a number of instances, when municipalities were taking actions that appeared to contravene the human rights of encampment residents, the Advocate sent letters of concern to mayors, and municipal councils, the relevant provincial authorities, and provided comment in the media.[7]

Throughout the process, the Advocate and her staff also met regularly with federal officials to keep them informed about the process of the review and to learn more about federal efforts to develop a response.

The Advocate has engaged with provincial human rights commissions in Ontario, British Columbia, and Quebec. In April, she also met with provincial and territorial senior officials of the intergovernmental Forum on Housing, informing them of the review and asking for their input in next steps.

As an Interim Report, this document could not capture all relevant experiences. Rather, it is intended to provide the foundation for further reflection and engagement to identify human rights-based solutions. The Advocate's final report (expected in early 2024) will present her findings as well as concrete recommendations to increase dignity, security, and protection for the human rights of people who are unhoused and living in encampments, as well as upholding the rights of Indigenous Peoples. The Advocate looks forward to continuing her engagement in the coming months in preparation of this final report.

The right to adequate housing

The human right to adequate housing is an obligation affirmed in international human rights law, including in treaties that Canada has signed and ratified as well as in human rights declarations and other applicable international norms and standards.[8] With the National Housing Strategy Act (NHSA) enacted in 2019, the human right to adequate housing is now enshrined in Canadian law.[9] Recognizing housing as a human right means that governments at all levels have legal obligations to respect, protect, fulfill, and promote this right for everyone, without discrimination. These obligations are heightened in respect to those most vulnerable to violations of their human rights.

The right to adequate housing means that housing must be secure, provide availability of basic services, affordable, habitable, accessible, in a suitable location and culturally adequate. [10]

All people should have equitable access to adequate housing, without discrimination based on gender, race, disability, faith, place of birth, age, sexual orientation, or other grounds.

Being unhoused means not having stable, safe, and adequate housing, nor the means or ability to obtain it. Then United Nations Special Rapporteur on the right to adequate housing, Leilani Farha, explains:

> Homelessness is a profound assault on dignity, social inclusion and the right to life. It is a prima facie violation of the right to housing and violates a number of other human rights in addition to the right to life, including non-discrimination, health, water and sanitation, security of the person and freedom from cruel, degrading and inhuman treatment.[11]

Homelessness also negatively impacts other rights. For example, the right to family life and family unity are undermined when women who are unhoused have their children taken away from them. Governments should avoid punitive measures and focus, rather, on providing a solution.[12]

A State must make every effort and use all available resources to satisfy the obligation to eliminate homelessness. This standard means eliminating homelessness in the shortest possible period of time. [13]

Under international human rights law, states have specific human rights obligations to:

- Adopt and implement plans to eliminate homelessness as quickly as possible in consultation with people who are unhoused. Such plans must include clear, time-bound goals, as well as setting out who is responsible for what across all levels of government.
- Measure and monitor the extent of homelessness using data disaggregated by gender, race, and other relevant characteristics;
- Eliminate forced evictions;
- Stop the criminalization of people who are unhoused;
- Combat discrimination, stigma, and negative stereotyping of people, including by prohibiting discrimination based on socio-economic status, including homelessness;
- Ensure access to justice for rights violations, including government failures to take adequate measures to address homelessness; and
- Regulate non-state actors so that they respect the rights of people who are unhoused and undertake actions consistent with the imperative to eliminate homelessness.[14]

Finally, the United Nations Human Rights Committee underscores that States should take particular measures to uphold the right to life, including actions related to housing:

> The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include [...] extensive substance abuse, widespread hunger and malnutrition and extreme poverty and homelessness. The measures called for to address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions, such as the bolstering of effective emergency health services [...] and social housing programmes.[15]

Recognizing the right to housing in Canadian courts

There have been several developments toward recognizing the right to housing in Canada.

In the 2009 Adams decision, involving an encampment in Victoria, B.C., the Court ruled that, in the context of a shortage of adequate shelter for unhoused persons, bylaws imposing an absolute prohibition on the erection of temporary overnight shelter violated section 7 of the Canadian Charter of Rights and Freedoms.[16] This decision was the first to establish a link between the Charter – in this case section 7 rights to life, liberty, and security of the person – and the right of encampment residents to shelter in public spaces. The decision also affirmed that the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights are relevant factors when courts consider section 7.[17]

Subsequently, many encampment cases have arisen, but the precedent set in Adams has not yet borne out a more robust and meaningful recognition of the rights of encampment residents, either under section 7, or under section 15 protections of equal treatment under the law. In fact, most encampment cases have been decided at the injunction stage, before Charter claims are even addressed.

In those rare cases that involve analysis of Charter rights, judges tend to opt for the narrowest and least systemic legal remedies. We often see some variation on the reasoning first defined in Adams.

For example, in a recent court case in Ontario that dealt with encampments in the city of Waterloo (Waterloo v. Persons Unknown and to be Ascertained, 2023), the decision concluded: "The essence of the British Columbia decisions is the establishment of a constitutional right to shelter oneself when the number of homeless persons exceed the number of available and accessible indoor shelter spaces within a given jurisdiction."[18]

This current trend in legal recognition requires no positive government action. It simply requires governments to refrain from specific, harmful activity, namely: forcibly displacing people where there are no accessible shelter beds, as opposed to taking concrete steps to ensure access to shelter or housing. This is a far cry from full recognition of the right to housing under international law.

The right to housing and the human rights of Indigenous Peoples

Governments have particular human rights obligations related to housing when it comes to upholding the rights of Indigenous individuals and the collective rights of Indigenous Peoples.

First and foremost, governments need to address the impact of colonialism and related systemic housing inequality and dispossession experienced by Indigenous Peoples.[19] Indigenous homelessness, in its many forms, including encampments, is directly tied to Canada's ongoing legacy of colonial policy and practice. As Jesse Thistle, a Métis-Cree scholar on Indigenous homelessness, writes:

> Racism and discrimination aimed at Indigenous peoples are firmly entrenched in Canadian society, producing impenetrable systemic and societal barriers, such as a lack of affordable and appropriate housing, insufficient and culturally inappropriate health and education services, irrelevant and inadequate employment opportunities, and a crumbling infrastructure in First Nations, Inuit, and Métis communities. The fiduciary abandonment of Indigenous communities by the state, which has greatly contributed to Indigenous homelessness, is manifested by chronic underfunding by the federal, provincial and territorial governments of Canada.[20]

Ensuring Indigenous individuals have access to adequate, culturally appropriate housing, consistent with the right to housing, is one key step toward addressing this appalling human rights record. It is also key to addressing the ongoing crisis of missing and murdered Indigenous women, girls, and gender-diverse people. The National Inquiry into Missing and Murdered Indigenous Women and Girls has called on all governments in Canada to "ensure that Indigenous women, girls, and 2SLGBTQQIA people have access to housing that is safe, appropriate to geographic and cultural needs, and available wherever they reside, whether in urban, rural, remote, or Indigenous communities."[21]

Further, for Indigenous individuals, the right to housing can only be realized in tandem with the collective rights of Indigenous Peoples, including those contained in the United Nations Declaration on the Rights of Indigenous Peoples.[22]

In this light, the right to adequate housing for Indigenous Peoples must be understood within the context of their rights to self-determination and self-government. The right to self-determination includes Indigenous Peoples' right to free, prior, and informed consent. This requires federal, provincial, territorial, and municipal governments to work in consultation and cooperation with Indigenous Peoples to seek their agreement before taking measures that potentially impact the rights of Indigenous Peoples.[23]

The right to self-determination and self-government also means that enjoyment of the right to adequate housing of Indigenous Peoples is inextricably linked to maintaining their unique relationship to their traditional territories and corresponding rights.[24] The right to housing for Indigenous Peoples should also be seen as connected to rights to practice ceremonies, harvesting, and other Indigenous economic, cultural, and spiritual traditions and practices.

Métis, Inuit and First Nations governments also have a collective right to design and implement their own housing policies and programs, including access to adequate financial resources to implement the right to housing.[25]

For all individuals, forced evictions are a gross violation of the right to adequate housing. For Indigenous Peoples, the prohibition of forced eviction must be understood in the context of closely interconnected collective rights. Specifically, Article 10 of the UN Declaration states that Indigenous Peoples shall not be forcibly removed from their lands or territories.[26]

A human rights-based approach to encampments

Everyone has a right to live in security, peace, and dignity, including people living in encampments.

People living in encampments face some of the most vulnerable circumstances of any member of Canadian society. Many are dealing with the combined effects of unaffordable housing, the health crisis brought on by the pandemic, and a severe economic downturn. They have often faced discrimination linked to the historical legacy and ongoing realities of colonialism, racism, sexism, ableism, and other forms of systemic marginalization. In other words, they have experienced a history of human rights violations and are at heightened risk of further violations.

Residents of encampments frequently experience harassment and violence from police, bylaw officers, and the public. While the Advocate heard that many unhoused people find that living in encampments is safer than alternatives such as shelters or living alone on the street, the conditions are still precarious. Many described losing their possessions, including government-issued identification, during enforcement actions. Most do not have access to basic services like clean water or heat. Some have suffered physical harm or have died as a result of exposure, fire, overdose, and other threats to life and safety. These conditions are an assault on their human dignity and amount to violations of the human right to housing.

Paradoxically, encampments are also a site of strong human rights claims. As articulated by former United Nations Special Rapporteur on the Right to Adequate Housing Leilani Farha and Dr. Kaitlin Schwan:

> While encampments arise as a result of governments failing to effectively implement the right to housing, they can also be an expression of individuals and communities claiming their legitimate place within cities, finding homes within communities of people without housing, asserting claims to lands and territories, and refusing to be made invisible. They are a form of grassroots human rights practice critical to a democracy such as Canada's. For Indigenous peoples, the occupation of lands and traditional territories vis-à-vis encampments may also be an assertion of land rights, claimed in conjunction with the right to housing.[27]

Living in an encampment does not change the scope of rights protections or government obligations. The prohibition on forced eviction, for example, applies "regardless of ownership or tenure status of those affected." Encampment residents who face forced evictions must receive adequate compensation, reparation, and access to housing.[28]

Furthermore, encampment residents have the right to remain where their community is whenever possible. Relocation should occur only when strictly necessary and after all other options have been explored through meaningful consultation with encampment residents.[29]

Governments must also ensure encampment residents' basic needs are met, such as having access to safe drinking water and sanitation,[30] and government services and programs must be accessible without discrimination.[31]

Finally, encampment residents have a right to redress for any human rights violation they face, including access to justice to enforce their rights.[32]

Designing and delivering solutions for encampments using a human rights-based approach also requires the application of the following key principles[33]:

- **Participation** – People should be involved in decisions that affect their rights.
- **Accountability** – There should be monitoring of how people's rights are being affected, as well as remedies when things go wrong.
- **Non-Discrimination and Equality** – All forms of discrimination must be prohibited, prevented and eliminated. People who face the biggest barriers to realizing their rights should be prioritized.
- **Empowerment** – Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.
- **Legality** – Approaches should be grounded in the legal rights that are set out in domestic and international laws.

Existing human rights guidance

Two months into the pandemic, former United Nations Special Rapporteur on the Right to Adequate Housing Leilani Farha and Dr. Kaitlin Schwan published "A National Protocol on Homeless Encampments in Canada," advocating for cities to adopt a human rights-based approach to encampments. The Protocol provides governments with a framework on how to use a rights-based approach when dealing with encampments based on eight principles, which are, in brief:

1. Recognize residents of homeless encampments as rights holders;
2. Meaningful engagement and effective participation of encampment residents;
3. Prohibition of forced evictions of encampments;
4. Explore all viable alternatives to eviction;
5. Ensure that any relocation is human rights compliant;
6. Ensure encampments meet the basic needs of residents consistent with human rights;
7. Ensure human rights-based goals and outcomes, and the preservation of dignity for encampment residents; and
8. Respect, protect, and fulfill the distinct rights of Indigenous Peoples in all engagements with encampments.[34]

The research commissioned by the Advocate's Office on encampments also recommended a rights-based transformation of government responses at all levels to encampments through the immediate adoption of the following five recommendations:

1. **De-Centre policing and law enforcement:** A rights-based approach to encampments requires all governments, including municipalities and the federal government, to end their practices of using trespass orders, bylaws, and policing to evict unhoused people from encampments.

2. **Municipal and interjurisdictional responsibilities:** In adopting a rights-based approach to encampments, federal and provincial governments have an obligation to provide funding and services that offset the disproportionate impact faced by municipalities in addressing the housing crisis and the existence of encampments. This includes short-term options, such as investments in modular housing and suitable shelter spaces, and longer-term investments in social and affordable housing.
3. **Ensure the meaningful participation of encampment residents:** A rights-based approach requires meaningful and inclusive participation of people living in homelessness in the design and implementation of policies, programs, and practices that affect them.
4. **Recognize the distinct rights of Indigenous Peoples:** Governments should meaningfully engage all relevant Indigenous stakeholders and nations, as identified by Indigenous Peoples themselves, in the development of policy approaches to encampments.
5. **Address the conditions within encampments and provision of basic services:** A rights-based approach requires access to basic services, such as clean water, sanitation facilities, electricity, and heat.[35]

WHAT WE HEARD ABOUT THE HOMELESSNESS CRISIS

This section, and the one that follows, summarizes what the Advocate has heard so far over the course of public engagement about conditions contributing to the increase in encampments across the country. It reflects input from 313 people who have lived in encampments who made a submission through the Advocate's online platform, and 53 submissions from frontline workers, city officials and staff, advocates, and community members.[36] It also includes perspectives expressed at six roundtable engagements,[37] a series of engagements held by The Shift,[38] input received from Indigenous Peoples and representative organizations, as well as municipal government representatives.

Barriers to secure housing

The federal government has authorized an over $80 billion suite of loans and program funding as part of the National Housing Strategy (2017-2027) designed to respond to the housing and homelessness crisis. Yet, the Auditor General's 2022 report on Chronic Homelessness found that the government is unable to determine if its efforts to prevent and reduce chronic homelessness were leading to improved outcomes.[39]

The Advocate heard how the growth of encampments reflects an underlying lack of access to adequate, affordable housing, and how the supply of supportive housing is not able to meet current levels of demand. One roundtable participant expressed frustration at backlash to encampments, noting, "There is no housing to offer people." In particular, the Advocate heard the deep fear and exhaustion from advocates and individuals on the front lines of the housing

crisis in Canada who feel like they are “fighting a losing battle” as the right to housing becomes more and more out of reach for many.

The Advocate also heard how discrimination prevents some groups from enjoying their right to housing. In particular, people with disabilities face an extreme shortage of adequate, affordable, and accessible housing that supports a life of dignity. One participant remarked, “The only way we get accessible housing is if someone dies or goes to long-term care.”[40] Racism also impacts access to housing. For example, one participant shared their experience of facing rejection by landlords as a Black person with dreadlocks.

Participants described the severe lack of supportive housing that meets the particular needs of people with active and severe addictions. Alongside a limited supply of detox and rehab programs, participants shared that there are not enough housing options for people leaving those programs. This shortage is especially alarming given incidents shared about drug use leading to eviction, likely into homelessness.

People also face discrimination because of their low income, being unhoused, or both. The Advocate heard about the stigma that unhoused people experienced that was related to their social identity and appearance. Participants also underscored how landlords requiring employment references, judicial or credit checks, or demonstrations of consistent recent access to housing disproportionately screen against marginalized people, particularly unhoused people. Further, the Advocate was concerned to hear of an increasing trend of landlords not accepting tenants who rely on social assistance.

Some people seeking housing shared that the only housing options offered were uninhabitable. Participants described seeing violations of adequate housing standards so deplorable due to rodents, bedbugs, and lack of running water, that they would rather live outside.

Participants also explained how lack of secure tenancy can lead to homelessness, particularly for women and gender diverse people. In some cases, it is not possible for romantic partners to be added to a lease. In others, couples will hide their relationship and cohabitation because their combined income may render them ineligible for housing or social assistance. The Advocate heard how this situation can lead to one person in the couple being made homeless when the relationship ends because they are not named on the lease and therefore have no tenancy protections.

Participants further warned that, in some provinces, public and supportive housing programs can be a pathway to homelessness, instead of a conduit to stable housing. The Advocate heard that in British Columbia for example, highly restrictive, but illegal “program agreements” have led to housing providers imposing extremely restrictive rules on residents and evicting people for even minor breaches.

Once someone is unhoused, the Advocate heard how it becomes increasingly difficult to access housing. Quick turnaround times and extensive bureaucratic hurdles increase the difficulty of making a transition away from street living, even with assistance. One participant recalled having two days to get paperwork together to enter public housing and not being able to make the deadline. Frontline workers also reported difficulties in helping unhoused people navigate

through the systems in place, for example, applications for programs, income tax paperwork, unemployment insurance, or arranging for a rent allowance. These challenges are growing as more and more of these systems are going online.

Even when successful in navigating the system, many face extensive waitlists for the current inadequate supply of affordable and social housing. One roundtable participant expressed particular frustration at ten-year waitlists for rent-geared-to-income housing.

Inadequate emergency shelters

The Advocate heard that there is a clear link between the levels of capacity, adequacy, and dignity within shelter systems, and the emergence of encampments.

A frontline worker described the lack of shelter space as “a crisis,” noting that lack of space in winter means people are forced to remain outside, exposed to the elements. Some get frostbite, in some cases resulting in amputated fingers and toes. Some people have died from exposure. “We had to drop people off at emergency rooms to keep them alive,” they said.[41] Another participant described how some unhoused mothers have resorted to letting their kids sleep in stores or other indoor places they can go unnoticed, due to overfilled shelters.

Many also deplored the fact that shelters cannot maintain dignified living conditions. “Shelters are dead spaces,” one roundtable participant said, noting that conditions like theft, crowding, violence, and the threat of catching illnesses encourage people to opt to live in encampments.[42] Numerous participants expressed frustration at the lack of privacy in shelters, and fear that their belongings will be stolen due to a lack of secure storage spaces. A participant shared that shelters for her are a location of trauma where she does not feel safe and where she has no privacy and no autonomy. In fact, numerous participants compared shelters to prison-like conditions. As one submission noted, this can be a source of trauma for those with experience being incarcerated. For many trying to avoid a relapse into addiction, a shelter can also be triggering, as poor mental health is exacerbated by living in a dorm with no privacy.

Emergency shelters often have rules that restrict autonomy, freedom of movement, privacy, and access to friends and family. They may also set expectations that are difficult to meet for people who have been living on the street. For example, shelters may require sobriety, impose disruptive bed checks, prevent couples from staying or sleeping together (segregation by gender), restrict the quantity of belongings residents can bring, or not provide space for pets. Such limits can have serious consequences. For example, separating families and couples deprives people of a key source of safety and support. Gender-specific shelters may also prevent same-gender couples from sleeping together.

People who suffer from addictions are also particularly affected by shelter restrictions. The Pan Canadian Women’s and Housing and Homelessness Survey demonstrates that people who use drugs were banned from shelters at a rate three times greater than those who did not use drugs.[43]

Some also expressed the difficulty of maintaining employment while living in the shelter system. Shelters can require residents to be present at certain times for head counts, or to depart at a particular time of day, often early in the morning. One participant, for instance, described losing

her place in a shelter where she was volunteering because the shelter required her to be present for several bed counts, and she slept at a friend's house for one night. Since her eviction, she lost all her belongings and personal identification, and has been sleeping on the streets.

The Advocate also heard how shelters can be so unsafe, people will choose to live outside. Many of the participants said they face serious safety issues such as violence, gender-based violence and systematic discrimination and racism. Some participants reported allegations of theft and sexual assault involving shelter staff.

For women and gender diverse people in particular, staying in shelters can expose them to violence, including sexual assault. Some noted that women, trans women, and gender diverse people are more likely to avoid shelters – out of fear of violence, sexual exploitation, and child apprehension – and therefore have more difficulty accessing services. Many lamented the lack of emergency resources, including warming centers, specifically for women and LGBTQIA2S+ people.

Participants also shed light on the lack of safe places for women, gender diverse people, and others fleeing violence. Data shows that the vast majority of shelter beds in Canada are designated for men or are co-ed (68 percent), with only 13 percent dedicated specifically for women.[44] Some roundtable participants remarked that shelters designed for women fleeing violence can also be restrictive in who is granted access, creating barriers for people who aren't experiencing the "right kind" of abuse. Unhoused women fleeing a violent relationship may not be considered eligible to stay at a shelter because they don't fit specific criteria – for example their assault took place beyond a certain timeframe. Such restrictions, it was noted, can lead to people either staying in abusive living situations, or living outside in encampments. One assessment estimates that approximately 699 women and 236 accompanying children are turned away from domestic violence shelters every day across Canada.[45]

Indigenous Peoples and the homelessness crisis

The Advocate heard how the rights of Indigenous Peoples are particularly impacted by the housing and homelessness crisis across Canada, and how unhoused Indigenous individuals face distinct harms.

Indigenous representative organizations and municipal government representatives all recognized that Indigenous Peoples are overrepresented among the population of unhoused people throughout Canada. Data corroborates this pattern. For example, the most recent Point in Time counts of homelessness in communities receiving federal funding through the Reaching Home program show that 35 percent of unhoused respondents identify as Indigenous compared to the 5 percent of the overall population that identified as Indigenous in the 2021 census.[46]

Participants attribute this systemic disparity, in part, to the longstanding lack of equitable federal investment in housing and related infrastructure in Indigenous communities. They also highlighted the need for follow through on the findings of the Truth and Reconciliation Commission as well as the National Inquiry into Missing and Murdered Indigenous Women and Girls. They also called for greater recognition of the direct links between Indigenous

homelessness and the dispossession of Indigenous lands as well as the discriminatory and disproportionate apprehension of Indigenous children. As Indigenous housing scholar Alan Hanna stated in his report commissioned by the Advocate, the history of colonialism in housing policy is shameful. He also underscores that acknowledging this history is critical to understanding the present day access to housing challenges and right to housing violations regularly inflicted on Indigenous communities throughout Canada.[47]

The full scale of housing needs for Indigenous people is uncertain, however, because of the prevalence of hidden Indigenous homelessness. Rather than living unsheltered, it is common for unhoused Indigenous individuals to live in overcrowded family homes, couch surf, or live out of cars, particularly in Northern, rural, and remote locations. Nevertheless, Indigenous communities are also seeing a rise in seasonal encampments, or incidents of unsheltered homelessness that can have lethal consequences, particularly in Northern climates.

Participants warned that a lack of resources and supports for Indigenous individuals living away from their communities in urban centres increases the risks of homelessness and other negative outcomes. Missing or inadequate essential supports include: a lack of transition services for those moving from reserves to cities, a lack of culturally appropriate housing, and few Indigenous housing providers. With increasing rents in urban areas, some seek to return to their home communities, but will face long waitlists for housing.

Indigenous individuals, meanwhile, often avoid mainstream shelter services due to fear of separation from key supports and personal possessions. The Ontario Federation of Indigenous Friendship Centres' submission shared:

> For many Indigenous people, they would rather stay with their partners or pets in encampments than be separated from them in the shelter system. To restrict encampments and force residents into shelters, it would be essential that those shelters be safe and accommodating places that treat residents with dignity, not strip them of their possessions and loved ones.

Unhoused Indigenous people also face a lack of culturally appropriate services and care. The Ontario Federation of Indigenous Friendship Centres shared that mainstream services do not provide the supports and culturally safe services Indigenous people facing homelessness or housing precarity need.

Significantly, participants lamented the way jurisdictional confusion leads to barriers for funding Indigenous housing and homelessness programs. Federal Reaching Home funds, for example, are not available on-reserve. A representative of an Indigenous organization observed that third party, non-Indigenous entities are receiving funding to provide services to urban Indigenous people, but are not delivering culturally appropriate care and services. For urban Indigenous communities, some participants pointed to the failure of the federal government to take responsibility for necessary service provision. It was reported that, meanwhile, Indigenous governments are not resourced to support Indigenous people living in urban centres away from their home communities, and sometimes not jurisdictionally empowered to provide said support.

Positively, the Advocate did hear about some collaboration between Indigenous and non-Indigenous governments to bridge jurisdictional barriers. For example, the Newfoundland and Labrador Housing Corporation, a provincial crown corporation, will lease building space and allow the Nunatsiavut Government to operate housing and homelessness programs in Goose Bay, which is a hub for Inuit who have left Nunatsiavut, some due to lack of housing in their homeland.

Inadequate program funding for community services

The Advocate heard how frontline housing and homelessness services are underfunded, operating over capacity, and facing high rates of staff turnover and burnout.

Another remarked on the inability to recruit new employees, noting that first year university students are being hired for roles they aren't equipped to perform. Similarly, some noted the difficulty in retaining skilled workers when government agencies can offer higher pay and more stability.

At the root of the issue, participants remarked, is the reliance on project-based and short-term funding, particularly through the federal Reaching Home program, as opposed to sustained, perennial operational funding. By the time someone is hired and trained, one roundtable participant noted, the funding for the position is gone, which leads to instability for staff, and precludes being able to build trust with clients, many of whom have complex needs. The result, some noted, is that vulnerable and neglected people are being underserved, and not receiving the qualified, trauma-informed care to which they are entitled.

Further, limited funding results in "unproductive competition" between organizations as they fight for the same funding opportunities. This competition can lead groups to underestimate their real financial needs when submitting applications, which makes it difficult to maintain projects, even if they are successful in meeting needs.

The need for human rights-based action and more accountability

Participants described the need for a paradigm shift in government approaches to housing and homelessness. There is a need for people-centred approaches based on genuine effort and cross-jurisdictional collaboration.

Participants on the frontlines of the struggle for housing justice spoke to a long history of facing off against government denial and disregard. As one roundtable participant shared:

> Everything we got in this city we had to fight for it, get arrested, get lawyers, get tickets: 24-7 women drop-ins, tent city, warming centres – these are all fought for by the community, not provided by the city. We have been beaten by police for the kind of activism we have done.[48]

Participants noted that many municipalities and provinces continue to invest money and resources in hostile approaches to encampments (including hostile architecture), supporting harassment and surveillance of residents as opposed to genuine outreach. Some reported a lack of communication or meaningful engagement with encampment residents and organizations, as

well as denial by government of the seriousness of the housing crisis. “The government needs to understand that they created these issues of inequity and they are complicit in maintaining them,” one participant stated.[49]

Participants also noted that work to address housing and homelessness issues has been stymied by lack of clear lines of responsibility, both across government ministries and between various levels of government. As a result, no one takes responsibility for financing and implementing appropriate solutions. “Everyone keeps acting like it’s not their responsibility and trying to pass the issue on to another government entity. They need to just come together and resolve this issue,” a participant emphasized.[50]

The Advocate heard that many of the people in government responsible for delivering homelessness services and programs (at all levels) don’t understand the realities of people living on the street. People expressed concerns that responsibilities are not well defined and that the agencies often avoid responsibility by suggesting it is up to another department or level of government to address the problem.

The Advocate also heard from municipalities who reported that in attempting to take a human rights-based approach to housing and homelessness, they came up against limitations, particularly the need for cross-jurisdictional collaboration with provincial and federal governments. When the Advocate asked municipalities for solutions they would like to see put in place, the responses mostly centred around funding for non-market, supportive and affordable housing as well as the need for coordination of health and housing policies and funding streams. However, implementing these measures, they added, requires additional support from provincial and federal governments who bear the key responsibility for such investments. Some noted that municipalities can work with third-party partners to facilitate the building of supportive housing as a stop-gap in the absence of adequate funding, but such partnerships cannot bridge all funding gaps and program shortfalls, particularly when it comes to the need for supports to keep people housed. As Calgary Mayor Jyoti Gondek expressed in a letter to the Advocate, “As cities work towards more sustainable housing solutions, additional investments to enhance existing mental health and addiction service providers, […] and more mobile services to provide supports to people where they are at would help alleviate the homelessness crisis.”

The disproportionate levels of Indigenous homelessness in municipalities across the country was also a key concern mayors shared with the Advocate. For example, in Edmonton, approximately 60 percent of people experiencing homelessness identify as Indigenous.[51] There is frustration at the lack of support from the federal government for urban Indigenous programming given their fiduciary duty to Indigenous Peoples.

Some municipalities also noted that the poisoned drug crisis[52] has added another layer of urgency and complication to addressing homelessness. Municipalities identified the need for a coordinated approach to the intersecting and compounding harms of increasing homelessness and poisoned drug supply, with greater support from provincial and federal governments.

WHAT WE HEARD ABOUT ENCAMPMENTS

Encampment evictions and clearances

The Advocate heard repeatedly about widespread experiences of encampment evictions and clearances.

More than 150 references were made in individual online submissions regarding people living in encampments facing routine seizure and disposal of their property – including personal identification, tents, photo albums, money, and clothing – and being displaced without the provision of adequate alternative housing. Similar experiences were also recounted during the Advocate's in-person engagements. Some described seizure and displacement as daily occurrences.

Roundtable participants also described how some municipalities misuse health and safety regulations as justification to clear encampments. For example, one participant shared how a fire department was sent to an encampment under the pretense of a "wellness check," but instead tore down tents and decamped people. Another shared that in Calgary, health concerns about mold in tents were used to justify dismantling an encampment. "But why would you not just use the resources to get them new tents rather than paying for a sweep?" they asked.[53] The Advocate was also very concerned to hear about new "safe street bylaws" being enacted in some municipalities, empowering by-law officers and police to remove items they deem to be abandoned.[54]

Many participants with lived experience recounted facing violence, harassment, bullying, and constant threats of incarceration and fines from by-law officers and police, especially when being evicted and cleared out from temporary encampments.[55] The few participants who reported facing no particular issues with evictions and clearances were very disciplined in packing up their tents and all of their belongings before morning sweeps by law enforcement.

The Advocate also heard about incidents of excessive force used to clear encampment residents, such as during the 2021 eviction of an encampment at Lamport Stadium Park in Toronto.[56] "People could have died, it's just luck that nobody did," one roundtable participant reflected, noting that there were serious injuries among encampment residents, including someone who sustained a broken bone. Toronto's Ombudsman investigated the Lamport encampment clearing, among others, and found that the city "[c]hose to clear encampments quickly, instead of focusing on the needs of the people living in them."[57] In doing so, the Ombudsman concluded, "the city caused undue confusion and harm."[58]

Even where excessive force is not deployed, clearing an encampment is an inherently violent act. Participants described how destruction of encampments deprives residents of essential personal property needed for survival. One roundtable participant reflected, "slashing a tent is like slashing a throat."[59]

The Advocate also heard how encampment clearances not only destroy homes, but also communities. As another roundtable participant expressed, "my community is my family."[60]

Participants warned that evicting encampments takes stability and community away from people, leading to health crises, greater violence, and even loss of life.

Reliance on policing and law-enforcement based approaches to encampments and homelessness adds to this trauma. Outreach workers and organizations mentioned how the police invoke a trauma response in many people who are or have been experiencing homelessness. The Toronto Alliance to End Homelessness sums up:

> Security approaches do not work in addressing homelessness, or in stopping people from setting up encampments. It traumatizes already vulnerable and marginalized people and increases their vulnerability to becoming chronically homeless, forcing people into often even more precarious places.

For unhoused Indigenous people, the trauma of encampment clearings is often added to previous traumas, including the trauma of forced removal from traditional lands, or the forced removal of children from their communities into residential schools, the 60s Scoop and the child welfare system. Indigenous representative organizations and frontline workers expressed that police involvement in the housing crisis is a continuation of colonial state violence and is deeply inappropriate.

Violence and stigma increase isolation and risk of harm

The Advocate heard how government approaches to encampments stigmatize their residents, and how this relates to broader public sentiment regarding encampments. As one individual submission noted, “There is no empathy from the government, thus no empathy from the public.”[61]

Roundtable and online submission participants reflected on the many ways people who are unhoused are criminalized for living in poverty. For example, Winnipeg police issue hundred plus dollar fines for trespassing or loitering outside shut down businesses. Participants also described how many cities have bylaws that do not permit encampments or allow anyone to erect a tent in city parks.[62] In other municipalities, tents are only allowed between 7 p.m. and 7 a.m., making it difficult to establish any stability. Some described how municipalities will pursue legal action against groups, such as churches, that have worked to support encampments because they violate such bylaws. Often, such suits or other government-led actions against encampments are encouraged by public complaints and backlash against encampments, participants noted. In one extreme example, the Advocate learned of efforts by the Barrie city council to introduce a bylaw that would penalize individuals distributing essential supplies to unhoused people, such as providing tents or food supplies without a permit. Anyone found violating the bylaw could face fines up to $100,000.[63]

Participants also noted widespread discrimination against people who are unhoused. There were 60 references in online submissions about unhoused people being constantly judged, discriminated against, and harassed on the street or in local stores by members of the general public, by police or other authorities. Examples of behavior ranged from outright physical violence and intimidation, to being kicked out and falsely accused of stealing in stores and restaurants.

Some roundtable participants reflected on the lack of understanding of the systemic reasons why people end up unhoused, or why some may choose to live in an encampment in the midst of very limited options. Some highlighted facing stigma tied to drug use and mental health challenges, because of public assumptions that all people who live in encampments struggle with these issues. “Outsiders don’t know us. We get stereotypes of being criminals and drug users,” one participant said.[64] “Things would be different if people knew and understood the full situation,” another suggested.[65]

The Canadian Drug Policy Coalition warned that criminalizing drug possession, in addition to being ineffective in reducing the use and availability of drugs, only serves to increase stigma and harm for drug users and their families: “The harms also go beyond the individual and affect families and communities who face stigma, social isolation, negative health outcomes, and financial burdens because of the criminalization of their loved one.”

Online submissions also reported a growing hatred toward encampment residents on social media. A community member from Timmins, Ontario shared their concerns:

> The discrimination and violence toward people experiencing homelessness has continued in 2023 with a group of community members, supported by local municipal councilors, calling for the criminalization of and violence toward people experiencing homelessness. A public town hall, hosted by the city council on June 15, 2023, was a culmination in calls for violence toward people experiencing homelessness and toward people who use drugs.[66]

They described a Facebook page, created to advocate against the safe injection site in Timmins, which has become a focus for posts and comments targeting unhoused people and other marginalized community members, including frequent calls for violence.

The Advocate heard how this pervasive environment of criminalization, stigma, and hate leads to increased isolation for those most in need of supports. Encampment clearings are just one piece contributing to increased insecurity for people who are unhoused. One roundtable participant described the situation as a “very sadistic game of whack-a-mole,” as people who are unhoused are chased out of location after location, as shelters close, encampments are cleared, and they face increasing public backlash and lack of access to public spaces like malls or coffee shops. Current policy is not focused on housing people, they reflected, but rather on making them “invisible.”[67] Similarly, a staff person of an Indigenous representative organization said, “The only purpose of bylaw enforcement is to displace them from public space.”[68]

People who opt to live hidden away to avoid being harassed are also deprived of access to community support and services critical for their physical and mental well-being. Frontline service workers emphasized that people are being forced by police to move, making it more difficult to maintain contact and more likely for people to fall through the cracks. This phenomenon uniquely impacts particular groups. Black, Indigenous, and racialized people who face elevated levels of police surveillance and violence, for example, are especially impacted.

Safety and security risks in encampments alongside peer support

Participants shared stories about incidents in encampments such as robberies, physical assaults, harassment, sexual violence, sex trafficking, attacks by encampment dogs, racism, organized crime, and death. Many also spoke about the danger of their living conditions, such as the threat of encampment fires or exposure during harsh winter months. The Elizabeth Fry Society of Simcoe Muskoka noted that people living in encampments are constantly displaced, without shelter or reliable access to food and water, potentially going several days without sleep – all circumstances that increase stress and feed the rise of incidences of violence and exacerbate challenging mental health issues.

While encampments can be sites with risks of violence and harm, many participants saw greater danger in being alone on the streets or in certain temporary housing situations, such as shelters and single room occupancy units. Many expressed that they see encampments as a place that provides community, support, and safety for most of the people living there. Encampment residents establish a care network outside of traditional systems, they share resources, and rely on each other to survive. At CRAB Park in Vancouver, for example, someone will welcome new residents, provide an orientation, and go over guidelines – such as no stealing, no fighting, no police. The roundtable participant who shared this experience added, “Residents know each other better than people who live in a high-rise.”[69]

An employee at an organization working with encampments in Kingston, Ontario shared their observations of peer support in encampments: “People look out for each other in encampments. This doesn’t mean that conflict or challenges don’t happen. Of course, they do like in any communal living situation. [...] People may watch over each other’s belongings, pets, etc. Or also support each other if facing a physical threat. I have seen people break up disagreements and fights among other people in a respectful way. I have also seen people protecting a woman fleeing an abusive partner, by taking turns staying with her or near her tent.”[70]

The result is that people can develop a deep sense of safety, community, and freedom in encampments. One participant explained, “I was homeless for eight years. Without the support of my peers, I would not be alive today, the encampment community gave me a sense of belonging. We would listen and take care of one another.”[71]

Some participants expressed the difficulty of leaving behind the encampment community once they obtained housing. One participant shared that after being housed they kept living outside with their peers because they did not want to sleep alone. Another participant invited their “street family” to move into their new place and ended up losing their housing as a result. These challenges and the draw of encampment living are exacerbated by the tendency for people to be relocated far from their communities and familiar services when they finally access housing through social services.

One service provider working in and around encampments did warn about potential dangers from growing encampment size:

> [T]he larger the encampment, the more dangerous it became for those living there. While there may be additional safety and community within a smaller group of tents/people living together, there is a tipping point at which the volume of people results in significant risk, danger, and criminal activity.[72]

Another participant noted that the same level of safety and community isn't achieved with externally managed encampments: "They [nonprofit staff] go home and sleep in a bed at night. They can't run it – need people who live there to run it."[73]

Gendered experiences in encampments

Gender shapes the pathways into, and experiences of, encampments. Roundtables indicated that some women and gender-diverse people reside in encampments because there are no gender-specific shelters in their community, shelters are full, or because they experience gender-based barriers to accessing shelters or housing. Roundtables also revealed that women, transwomen, and gender-diverse people commonly experience harassment or violence within large mainstream homeless shelters, particularly co-ed and congregate shelters, meaning that many are forced to choose between living in situations of violence, hidden homelessness, or residing unsheltered or in encampments.

Women and gender-diverse people report nuanced and complex experiences in encampments of both heightened safety and heightened risk as well as isolation and community. While some women and gender-diverse people report safety concerns related to residing outdoors and in encampments (e.g., vulnerability to physical violence), some women and gender-diverse people report that residing in an encampment is a *safer* option amongst the other options available to them (e.g., accessing a shelter, returning to an abusive relationship). Previous reports suggest that encampments can buffer women from exposure to violence, harassment, or abuse that they might otherwise experience when residing outdoors alone, or within situations of hidden homelessness.[74] In some cases, encampment evictions eroded the security systems, safety measures, and mutual aid systems women and gender-diverse people had adopted for themselves and their communities within encampments.[75]

In other cases, roundtables revealed unique safety risks for women and gender-diverse people, including sexual and physical violence. For example, a trans woman shared her experience: "Living in the camps was hell. I was beaten, robbed. I got judged for being a trans woman. It was hard to find a place."[76] Experiences of violence, exploitation, or coercion within encampments is a particular concern for young girls and gender-diverse people, those with disabilities, and persons experiencing multiple forms of marginalization. While gender-based violence occurs in encampments and is a violation of human rights in all settings, roundtables revealed that gender-based violence is common across all forms of homelessness. This suggests that housing precarity, rather than the context of encampments themselves, is correlated with gender-based violence.

While the conditions of encampments often fail to meet the basic needs of women and gender-diverse people, they are also circumstances in which women and gender-diverse people may have greater agency, autonomy, and dignity to determine the circumstances of their lives. For some women and gender-diverse people, residing in encampments provides an alternative to

shelters or systems that evicted them and have been involved in profound harm to them, including the violence of having their children apprehended due to their housing status or poverty. Nonetheless, women and gender-diverse people residing in encampments also experience unique barriers to maintaining their sexual and reproductive health, including barriers to accessing prenatal and postnatal care. These complex experiences illustrate the ways in which the choice to reside in encampments are inherently tied to the inequities, violence, and underinvestment within other systems.

Unmet basic needs of encampment residents

The Advocate was concerned to hear that the basic needs of encampment residents are not being met, and, in fact, many municipalities are creating further obstacles to unhoused people in accessing water, sanitation, and essential infrastructure.

In the 366 online submissions, there were 119 references to lack of basic services in and around encampments. Roundtable participants also spoke about lack of basic services, such as water and sanitation, in and around encampments. Numerous participants spoke about having no place to shower, use the bathroom, access clean water, or store their belongings. In addition, participants spoke of the lack of access to safe food, clothing, garbage removal, tents or tarps to protect themselves from the elements, blankets, first aid supplies, needle disposal, cooking equipment, places to do laundry, fire extinguishers, and electricity.

Participants shared that some camps do have amenities, but such camps are rare. One online submission said that encampment residents should be “treated as refugees of poverty and the community, government and agencies should swarm to [provide] all that is needed – food, access to garbage service, access to cooking facilities and bathrooms, hygiene facilities and access to support.”[77] Another roundtable participant noted that what help has been provided has come from the local community, not the city. Individuals have dropped off gear and water, for example.

Even where basic amenities exist, participants reported incidents of municipalities purposefully cutting off service to encampment residents. For instance, one roundtable participant spoke about a city turning off electricity to an encampment, leaving residents without power for almost 6 weeks. They said that by denying services, and making living conditions worse, the municipalities are trying to force encampment residents to leave.

Lack of access to basic needs such as sanitation, food, and shelter, coupled with persistent sources of stress and trauma – from living under constant threat of eviction, to facing hostility, stigma, and discrimination from the public, law enforcement, or city staff – cause serious physical and mental health consequences for encampment residents. These can include worsening mental health and post-traumatic stress disorder, chronic physical conditions such as back injuries, as well as injuries from exposure, such as frostbite (including losing digits and even limbs) in winter, and heat exhaustion in summer.

Absence of services and supports

Participants also highlighted the need for greater access to social, mental and physical health, and legal services in and around encampments.

There were 35 references in online submissions made regarding the lack of assistance and services for encampment residents. A lived experience participant said: “I feel some folks have lost their ability to get the help they need. The help we need is not there. People need more than advice or help towards goals. They need everything.”[78]

Sometimes services are available, but they are not accessible. For example, a roundtable participant spoke about the increased use of “By-Name Lists,” which require individuals to be on a prepared list to have access to any services. These are ideally real-time, up-to-date lists of people known to be experiencing homelessness. In some areas, these lists exclude newcomers and people hesitant to be identified.

In cases where people living in encampments have been displaced and pushed into isolated locations, services can be geographically too far away to reach, especially if someone is carrying their belongings with them. In some instances, the services themselves are moving further away from people who require them. A roundtable participant warned of the impact of defunding city housing services and community-based supports.

Several submissions also shed light on the fact that there is a lack of clarity among encampment residents on where help can be found. As one participant who has been living in and out of encampments shared: “Encampment residents usually do not know what resources are available to find housing or shelter. I was one of those people.”[79]

Service providers also recounted extreme difficulty in navigating the often complex and cumbersome web of programs and policies. One roundtable participant explained: “There’s this revolving door – not enough services, insane amount of barriers. One service isn’t able to connect you with the next because there’s so many barriers. The service providers themselves can’t even navigate the barriers that exist.”[80]

Participants lamented that supports rolled out at the height of the Covid-19 pandemic have been withdrawn, even though the need remains. In particular, some noted the success of Covid-era service centres with services housed under one roof alongside shelter space. For encampment residents, the lack of access to care for physical and mental health was a point of major concern. Participants described lack of access to care for serious physical injuries including frostbite and major wounds. Unaddressed trauma and mental illness, meanwhile, was mentioned 77 times in submissions.

Participants also underscored the serious lack of appropriate services to address addictions and related health impacts. For some people, addictions are tied to the reason they are unhoused, for others, substance use is a response to living unhoused. “People can’t afford to live, it is crushing them,” one roundtable participant explained. “Using substances is a response.”[81] The

Canadian Drug Policy Coalition emphasized how many existing policies and laws in Canada intentionally or unintentionally create and even increase risks and harms related to drug use.

Some participants emphasized that encampments can be a safer environment for people struggling with substance use, thanks to community care. As one roundtable participant with experience of homelessness said: "People mutually support each other in encampments, nobody ODs."[82] By contrast, participants spoke about people overdosing in supportive housing where it can take days before staff find them. Others mentioned how a lot more overdoses happen in shelters compared to encampments. An employee in Kingston observed that if encampment residents are using in their tent, they are not far for someone to run and get help if they experience a drug poisoning, overdose, or other health need. The worker also mentioned that they have "seen people run a communal medic tent where people could use with peers, or get support if someone overdosed, or needed first aid help. Encampment communities have their own integrity and rules that they encourage each other to abide by."[83]

Nonetheless, community care is no substitute for properly resourced addictions and harm reduction programming. Participants described a lack of access to specialized or knowledgeable care or treatment, clean needle distribution programs, safe consumption sites, and naloxone. Participants also described the increased health consequences, including Hepatitis C and HIV, due to unclean needle use.

Participants also noted the scarcity of culturally appropriate resources for unhoused Indigenous people. An Elder, for example, reflected on the lack of Indigenous crisis workers able to provide culturally appropriate assistance to encampment residents. Another roundtable participant described an incident of non-Indigenous city staff opposing an Indigenous-led, sacred fire at an encampment, despite its crucial role in wellness and traditional healing.

PROMISING MUNICIPAL PRACTICES

During the Advocate's engagement, she heard from municipalities that are working to develop more humane and human rights-centred responses to homelessness and encampments. The following are some of the promising municipal practices shared with the Advocate.

The Saskatoon fire department's people first approach

Saskatoon, like other Canadian cities, faces significant homelessness driven by intersecting factors. Colonialism,[84] lack of access to affordable housing, lack of addictions and mental health supports, and inadequate income assistance are primary contributors.

The Saskatoon Fire Department (SFD) became directly involved with people who are precariously housed and living in encampments at the end of 2021. Chief Morgan Hackl and Deputy Chief Yvonne Raymer said that the fire department uses the same approach that they would when supporting and rehousing people who have survived a house fire.

The SFD created the Inadequate Housing Team to connect people living in encampments with housing and social services. This team is staffed by two fire inspectors who are rotated from

regular inspection duties every few months. The team has two primary goals: 1) ensure public fire safety; and 2) reduce the number of encampments by connecting people directly to shelters and services. Their work varies widely from day to day, but most of their time is spent talking to unhoused people, giving out water on extremely hot days, offering to connect people to housing and financial assistance services, cleaning up used needles, and supervising the cleanup of inactive encampment sites.

The inspectors know the risk of fire and fatalities for residents and the dangers present for emergency medical services staff when fuel sources such as propane are used in encampments. At the same time, the team understands that fire risk cannot be managed without providing adequate shelter.

While the team has a mandate to enforce bylaws prohibiting public homeless encampments, the team approaches encampment residents first with offers to help them access social assistance and enforce bylaws only when these services are refused. Chief Hackl and Deputy Chief Raymer told the Advocate that the vast majority (around 80 percent) of encampment residents accept shelters or hotels and will make an appointment to connect with a housing worker. They do acknowledge that shelters are not adequate or safe for everyone. If a person refuses shelter or housing, SFD will work with social service organizations to create a plan with a timeline for that individual to access other housing options.

Housing as healthcare in London, Ontario

The homeless crisis in London has grown rapidly. With a low vacancy rate, unaffordable rents, and inadequate shelter allowances provided by Ontario Works (Ontario's social welfare program), the number of people experiencing homelessness in London, Ontario has increased dramatically since the Covid-19 pandemic. There is also an acute need for access to deeply affordable supportive housing units for people with complex housing needs, and fully funded health supports.

Recognizing the severity of the unmet needs, the City of London has worked on a "whole of community system response" that contextualizes homelessness within broader health and social service needs.[85] The system response brought together more than 200 people representing nearly 70 local organizations to help the growing numbers of people facing homelessness, addiction, and mental health challenges, with the ultimate goal of transitioning them into stable housing.[86] "Because in London, Ontario, we believe that housing is healthcare and that it is a fundamental human right," the city's plan affirms.[87]

To address the immediate crisis, the city is working to develop short-term supports addressing the ongoing and emerging concerns facing individuals who are living unsheltered. By leveraging the strengths of many existing providers and resources, the city hopes to coordinate the delivery of social services, health care supports, and basic needs provisions through mobile service depots.[88] Mayor Josh Morgan explained to CBC:

> We call them depots, but really these are 90-minute drop-ins at specific locations where people can get access to basic needs, food, water, garbage

> collection, some conversation with support workers, and then that group moves on to the next spot and does the same thing in another location.[89]

Using a mobile service, London is working to bring services directly to where individuals are and ensure access for encampment residents.

At the same time, it is working to develop a community-informed, long-term strategy and to build more highly supportive housing.

Supporting encampment residents in Halifax, Nova Scotia

The Halifax Regional Municipality is in the midst of an affordable housing and homelessness crisis. Between 2018 and 2022, the number of people who are unhoused has more than doubled. At the same time, the number of people forced to shelter outside, many in municipal parks, has increased by 500 percent.[90] Among those who are experiencing homelessness are a disproportionate number of people who identify as Black or Indigenous. There are also disproportionate numbers of people who have a disability or mental health condition.[91]

The municipality does not condone or support the installation of infrastructure associated with encampments, but has taken the approach of allowing occupants of homeless encampments to remain until adequate housing has been identified and offered, or until the health and safety of the occupants or public are at risk.

While the province has overall responsibility for initiatives to address homelessness in Nova Scotia, the Halifax Regional Municipality acknowledges it also has an important role to play in addressing this human rights issue. Accordingly, the municipality has developed and led several initiatives to support those who are experiencing homelessness, including: creating four designated outdoor sheltering locations in municipal parks, building modular units to house people experiencing homelessness, and funding community service providers and street outreach workers who provide crisis support and help access services.

The municipality also created a lived experience committee to advise staff on solutions.

Respecting charter rights in Kitchener-Waterloo, Ontario

In January 2023, the Ontario Superior Court of Justice found that a municipal by-law prohibiting certain activities on municipal lands in Waterloo violated section 7 (right to life, liberty, and security of the person) of the Canadian Charter of Rights and Freedoms due to a lack of available and truly accessible shelter spaces that meet the needs of people experiencing homelessness.[92]

The Region of Waterloo decided not to appeal the decision, and to instead “focus on supporting those experiencing homelessness in the community.” The Regional Council approved a $163 million investment in housing and homelessness to advance the region’s Interim Housing Strategy and increase shelter capacity.[93] The region’s creation of an outdoor, tiny homes shelter on region-owned property to provide a greater range of accessible options for individuals experiencing homelessness is a key part of this strategy.[94]

While the Region of Waterloo is the lead for housing and shelter locally, Kitchener recognizes that municipalities have a role to play as well. In Kitchener, increased homelessness has led to

highly visible encampments in public places, including Victoria Park, a city-owned property. The municipality notes that while "those camping in Victoria Park are violating some bylaws, we have been taking a compassionate approach to addressing this encampment."[95]

Kitchener is working to support residents in relocating to better shelter or housing. This work involves engaging residents and identifying alternative places to live, addressing their basic needs for housing, improving their current housing, and connecting residents with the necessary social and health support services.[96]

In the meantime, the municipality also tries to mitigate risks for encampment residents. To this end:

> By-law and other City staff visit Roos Island daily to check on residents, help connect them with shelter options and other services, check for fire risks and provide safer heating options. Staff also facilitate daily garbage removal and cleanup of litter, sharp objects and abandoned or damaged tents. Staff and contracted security regularly patrol Victoria Park to address any safety or security issues raised by park users or Roos Island residents.[97]

A collaborative, housing first approach at Dufferin Grove Park in Toronto

In August 2021, 22 tents were erected in Dufferin Grove Park in Toronto, with approximately 15 individuals staying on site, including youth, adults, and Black and Indigenous individuals. In the wake of public criticism regarding encampment clearings in 2021, the city worked with community partners to undertake a new approach.

Toronto and its community partners adopted a Housing First approach, working to find permanent housing as quickly as possible, without imposing any conditions or barriers such as mandatory drug rehabilitation treatment or abstinence. At the same time, the city notes, "The Housing First approach includes providing individualized, person-centered supports that are strengths-based, trauma informed, grounded in a harm reduction philosophy and promote self-sufficiency."[98]

Community partners were involved at the advisory and operational level in determining the overall approach to encampments. This collaboration resulted in numerous positive outcomes including relationship building with encampment residents, connecting individuals to health and social supports, and ultimately transitioning 90 individuals to safer indoor spaces.[99]

Importantly, the collaboration also resulted in a reflection report outlining the successes and learnings from this initiative. This report will guide the City of Toronto's future approaches to addressing homeless encampments.[100]

DEFINING POTENTIAL SOLUTIONS

Solutions are urgently needed

Governments at all levels in Canada have a duty to uphold international human rights standards as well as Charter rights for everyone in Canada, and especially for people who are experiencing greater disadvantages and marginalization. The conversations the Advocate has had and the submissions she has received in recent months have reinforced her concerns about the human rights of people experiencing homelessness and living in encampments.

It is imperative that we change the conversation about encampments and recognize that encampments are a symptom of systemic failures and not the fault of individuals.

The current surge in encampments across the country reflects a lack of government action and inadequate allocation of resources for essential programs and services over the course of many years. By operating in bureaucratic silos and isolated jurisdictional territories, all governments are also failing in their duty to protect life. An all of government approach including all jurisdictions working together is the only way forward to successfully address the interconnected issues such as the poisoned drug supply, the opioid crisis, extreme poverty, colonialism, racism and encampments.

Today, the fundamental right of encampment residents to exist as equal members of society, and to live a life with dignity is at stake in Canada. The failures to provide access to basic services and meet the essential needs of encampments residents are not only a breach of the human rights to housing and to the highest attainable standard of physical and mental health, but they may also amount to cruel and inhumane treatment.

All governments must act to eliminate forced evictions of encampment residents, to stop the criminalization of people who are unhoused, to combat discrimination, stigma, and negative stereotyping of people who are unhoused, and to ensure access to legal remedies for rights violations related to housing.

In their efforts to address homelessness and improve access to housing, many governments are not upholding the rights of encampment residents to participate in decisions that affect them.

The rights of Indigenous people, women and gender-diverse peoples, older people, and people with disabilities are also being negatively affected.

Governments are often failing to uphold Indigenous Peoples' right to self-determination, including their right to design and implement their own housing policies and programs, and to access adequate financial resources to implement them. This has a further negative impact on access to culturally appropriate housing.

Ultimately, the Advocate is concerned about duties to respect, protect, and fulfill obligations related to:

- The right to life and dignity protected by the International Covenant on Civil and Political Rights (ICCPR) and the Canadian Charter of Rights and Freedoms;

- The rights of Indigenous Peoples as protected in the United Nations Declaration on the Rights of Indigenous Peoples and the UN Declaration Act;
- The right to equality protected in the ICCPR, the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Charter, and federal and provincial human rights codes; and
- The right to adequate housing as protected in the ICESCR and recognized in the National Housing Strategy Act.

It is encouraging that some municipal governments are taking steps to adopt plans and programs consistent with human rights to address encampments and eliminate homelessness as quickly as possible. They are also pioneering new ways to put the human rights obligations around meaningful engagement into practice. However, much more is needed on a nationwide scale.

We must also recognize and commend the resilience and courage of encampment residents, local advocates and organizations that are finding ways to build community and solidarity as well as provide people who are unhoused with the basics needed to survive.

What we heard about solutions

There is an urgent need to design and implement solutions using a human rights-based approach to uphold the human rights and dignity of encampment residents, while simultaneously addressing the systemic failures in Canada's housing and related systems that are driving the growth of encampments and homelessness in general.

The Advocate recognizes that solutions ultimately require housing that is adequate as per the United Nations definition, but which is in very short supply right now. While medium- to longer-term solutions to provide housing adapted to the needs of unhoused individuals are sought, there are actions needed immediately to protect the human rights of people in encampments to live in dignity, security and be free from discrimination.

Many potential solutions were shared with the Advocate by encampment residents and organizations that support them in their struggle to exist outside of the provision of adequate housing and shelter. In considering these solutions, it is critical to remember that the complexity of the issues requires holistic whole-of-government approaches. A robust policy debate is needed to fulfill these human rights.

The Advocate recognizes that municipalities are the first line of response to encampments, but are often not empowered and generally not adequately resourced to meet the complex housing and public health crises growing in their communities.

The following section provides details on potential solutions shared with the Advocate during her engagement so far. They are being shared here to be used as an important building block for the recommendations the Advocate will provide in her final report.

ENSURE HUMAN RIGHTS-BASED ACTION AND GREATER ACCOUNTABILITY

Participants made clear that a new approach to housing and homelessness is needed – one based on meaningful action, collaboration across all levels of government, and accountability. For too long, governments have dragged their feet on addressing homelessness, in direct opposition to their human rights obligation to eliminate homelessness as quickly as possible. The Advocate heard how in some places, local oversight mechanisms like an ombudsman and lessons learned reports can influence change. At the same time, encampment residents told the Advocate how their access to remedies or restitution for ongoing violations of their rights is often out of reach due to barriers in accessing existing legal recourse for harms, or because no avenue currently exists to address violations of their rights.

Participants outlined the following actions that governments at all levels should take in order to meet their obligations to progressively realize the right to housing and uphold encampment residents' rights:

- Strengthen collaboration on housing priorities, taking an all-of-government approach, bridging across levels of government and between different departments, especially housing and health.
- Take steps, including strengthening legislation, to reinforce implementation of, and accountability for, advancing and protecting the human rights of people experiencing homelessness.
- Enact policy in line with the National Protocol for Homeless Encampments in Canada, including a clear stance against the displacement of people who are unhoused and inadequately housed.
- Ensure greater transparency when governments form partnerships with community-based organizations so that organizations and people experiencing homelessness understand the respective roles and responsibilities. These roles and responsibilities must be known by the organizations and people who live on the street.
- Ensure more significant government participation in community tables, especially when looking for solutions.
- Set up accessible and effective complaint mechanisms so that people experiencing homelessness can assert their rights. This also includes setting up accessible and effective complaint mechanisms for shelters and housing providers, to enable them to adopt a human rights-based approach to continuous improvement.
- Include "social condition" as a status protected against discrimination under human rights codes where it is not already included.

MEANINGFULLY ENGAGE WITH ENCAMPMENT RESIDENTS

Encampment residents are entitled to directly influence decisions and policies that affect them and have essential insight to provide. Participants suggested the following steps to improve meaningful engagement with encampment residents:

- Facilitate the involvement of encampment residents in all relevant policy decisions and allow residents to be involved in any decisions regarding matters that will affect them.
- Establish community advisory panels to allow people experiencing homelessness to provide meaningful input into new bylaws.
- Municipal officials and service providers should establish lines of communication and cooperation with the informal peer leadership that generally exists in encampments.
- Allow and encourage respected encampment residents to act as community leaders or managers, responsible for areas such as safety and cleanliness, and provide them with training to assist them in this role.
- Make paid jobs inside encampments available to residents, including leadership roles on outreach and support teams.

TREAT ENCAMPMENTS RESIDENTS WITH DIGNITY AND RESPECT

Participants underscored how governments are not doing enough to uphold their obligations to address hate and stigma, which increase encampment residents' isolation and exposure to risk of harm. Suggestions for governments included:

- Uphold the prohibition on forced evictions by ensuring that there is no removal of encampments, including individual tents and habitations, except where strictly necessary to ensure the safety and security of the residents.
- Establish designated sites where people are allowed to camp.
- Review and revise existing bylaws and other regulations to ensure they recognize the need to protect, rather than punish, encampment residents.
- Prohibit law enforcement from removing the personal possessions of residents and require them to immediately return those that they are holding.
- Require law enforcement to receive human rights training to better understand the rights of encampment residents, including Indigenous residents.
- Create public education programs to encourage understanding of unhoused people's experiences and grow compassion, including by fostering a two-way dialogue and respect between people living on the street and others who share the space with them.
- Decriminalize drug possession for personal use, as well as the sharing or selling of drugs for subsistence, to support personal drug use costs, or to provide a safe supply.
- Establish memorials to remember people experiencing homelessness who have died or gone missing.

UPHOLD THE RIGHTS OF INDIGENOUS PEOPLES

Participants underscored the need to recognize the direct links between colonial practices, the dispossession of land, and encampments. They also highlighted the failure of governments to act on implementing existing recommendations, particularly from the Truth and Reconciliation Commission and the National Inquiry into Missing and Murdered Indigenous Women and Girls.

They identified the critical need to ensure solutions were in line with the United Nations Declaration on the Rights of Indigenous Peoples and the UN Declaration Act, and that they should be designed for Indigenous people by Indigenous people. Suggestions for governments included:

- Take urgent and sustained action to implement the Calls to Action of the Truth and Reconciliation Commission as well as the Calls for Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls.
- Ensure dedicated funding for Indigenous housing and homelessness programs and Indigenous service providers.
- Support Indigenous governments to provide self-determined, culturally appropriate housing and supports , including through the transfer of care and control of housing and homelessness programs and related funds to relevant Indigenous governments and their representative organizations.
- Support the role of cultural workers and elders in the process of finding solutions and supporting individuals experiencing homelessness.
- Ensure Indigenous individuals have access to traditional medicines, including by designating a sacred fire site in encampments.
- Put in place programs to protect the security of Indigenous women and 2SLGBTQQIA+ individuals.

PROVIDE FOR ENCAMPMENT RESIDENTS' BASIC NEEDS

Participants made clear that access to basic needs must be a priority for government action to ensure the health and wellbeing of encampment residents, as well as their right to live with dignity. Suggestions for governments included:

- Allow encampments to be established in areas with access to basic needs and services and stop moving them to spaces that lack access.
- Ensure equitable and accessible toilets, showers, and potable running water are continually available in or near all encampments, with any necessary infrastructure provided, including drainage.
- Improve waste collection services in encampments, and design waste collection policies around those utilised for housed residents.
- Ensure the enjoyment of the right to food for all by facilitating increased access through service providers, providing community gardens, and improving access to social assistance payments for food.
- Build capacity (including funding) for municipalities to meet the basic survival needs of encampment residents. Municipal officials such as fire services, police, paramedics, parks and recreation and outreach workers should be focused on supporting, not punishing, encampment residents.

UPHOLD ENCAMPMENT RESIDENTS' RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH

Participants called on governments to provide targeted psycho-social, health, and wellness supports for encampment residents to address the full scope of their physical and mental health needs. Participants highlighted the need for harm reduction programming to address the addictions and opioid crisis. Suggestions for governments included:

- Promote outreach services, including by city officials such as community safety officers, and provide them with the training and resources they require.
- Facilitate the establishment of 24/7 drop-in support centres and community hubs that allow access to multiple different types of supports.
- Ensure access to pharma and dental care for encampment residents.
- Increase the availability of harm-reduction services and supports for encampment residents and ensure a continuum of care for people suffering from addictions.
- Implement policies with particular regard for the health and well-being of protected communities, including older persons and Indigenous individuals, women, youth and 2SLGBTQQIA+ individuals.
- Provide recurrent, stable funding for homelessness programs to allow resources adapted to the needs of people living on the street to be made permanent.
- Redirect funding away from harmful drug and bylaw enforcement towards outreach services aimed at promoting education, health, and well-being.
- Improve access to services and supports by:
    - Improving access to transportation, including through free tickets for encampment residents;
    - Providing free Wi-Fi in encampments; and
    - And allowing encampment residents greater access to recreation and community centres.

IMPROVE ENCAMPMENT SAFETY AND SECURITY FOR ALL RESIDENTS

Governments have an obligation to ensure encampment residents can live free from violence. The Advocate heard that this has not been the experience for most encampment residents to date. Participants noted that encampment residents face threats to their safety and right to life. Exposure to violence and danger is greater for some, including women, gender-diverse people, and people with disabilities. They called for action to protect the safety and security of all encampment residents. Participants highlighted the needs for improved security and support for encampment community building to ensure safety and maintain the wellbeing of encampment residents. Suggestions for governments included:

- Support security for encampment residents by providing properly trained security services – who are not police – to patrol to deter threats while not harassing residents, particularly at night.
- Prevent law enforcement actors from harassing encampment residents and service providers and hold them accountable for human rights violations.

- Implement policies aimed at ensuring the security of particular groups, including women, gender diverse individuals and people with disabilities.
- Improve the security of personal spaces, including toilets and showers by ensuring these have locks, and provide storage facilities for residents' personal possessions.
- Support programs to train and support people experiencing homelessness so that they are better equipped to prevent and intervene in harmful situations (e.g., suicide intervention training).
- Improve encampment fire safety by providing fire extinguishers in encampments.

PRIORITIZE LONG-TERM RIGHT TO ADEQUATE HOUSING SOLUTIONS

Participants called for government action to provide permanent housing solutions that uphold the right to housing for all, without discrimination. Participants underscored the need for security of tenure, affordability, habitability, and accessibility, while guaranteeing the ability of people to live in dignity. Suggestions for governments included:

- Undertake housing needs assessments to gain a better understanding of the housing landscape and inform effective housing policies and programs with the central goal of making sure housing is accessible for everyone.
- Implement a Housing First model as a critical first step, in order to provide housing with support for those who are chronically homeless.
- Increase the availability of affordable housing by increasing investment in social housing, constructing more rent-geared-to-income homes, and redeveloping existing real estate assets into housing for low-income people.
- Strengthen the regulation of landlords and housing providers to ensure they meet human rights and other standards.
- Increase supports for people exiting out of homelessness to allow them to adapt and successfully maintain their housing.
- Ensure appropriate plans are made so that people being released from incarceration and youth transitioning from care have immediate access to accommodation and supports to help them readjust to independent living.
- Support greater protections for security of tenure as well as funding for legal aid and housing loss prevention programs.
- Establish programs to support mothers reuniting with their children by covering initial housing costs (security deposit, the first month's rent, the utilities hook-up fees) and providing access to employment, education, and wellbeing supports.
- Federal and provincial governments should ensure more flexible and predictable funding for supportive housing.
- Introduce policies to prevent discrimination against people who receive social security, have a poor credit rating or have a gap in their housing history.
- Implement universal basic income.
- Make access to social assistance and emergency grants easier and more equitable.
- Bring all forms of housing under the residential tenancy legislation and confer fulsome tenants' rights on all, regardless of tenure.

IMPROVE EMERGENCY SHELTER CONDITIONS AND ACCESS

Participants emphasized that while permanent housing should be the ultimate goal, immediate improvements to emergency shelter services are also needed. Suggestions for governments included:

- Encourage and facilitate the establishment of shelters designed to accommodate and be accessible for people with specific needs (e.g., for women and gender-diverse people, couples, families, 2SLGBTQQIA+ people, Indigenous individuals).
- Improve access to temporary accommodation (including cabins and tiny homes) by increasing security, reinforcing respect for dignity and autonomy, and reducing barriers and deterrents.
- Remove any existing policies related to the apprehension of children from parents who are required to use any form of shelter or temporary accommodation.
- End discrimination against substance use and take a harm reduction approach, including the provision “wet and dry” shelters.

CONCLUSIONS AND NEXT STEPS

This Interim Report provides an overview of what the Advocate has heard and learned to date about encampments in Canada and proposed human rights-based solutions. It draws attention to the seriousness of the issues and urgent need for human rights-based responses.

The report is intended to provide the foundation for a deeper reflection and engagement with rights holders, advocates, Indigenous governments and representative organizations as well as provincial, territorial, municipal and federal governments. These discussions will provide an opportunity to fill in any gaps and in turn inform the findings and recommendations that will be included in the Advocate's final report, expected in early 2024.

ENDNOTES

[1] "Homeless encampments in Canada: A human rights crisis," Office of the Federal Housing Advocate, December 8, 2022, https://www.housingchrc.ca/en/homeless-encampments-in-canada-a-human-rights-crisis (accessed August 1, 2023).

[2] Terminology related to encampments can be a source of diverging interpretations and conflicted meaning. One organization's submission expressed a concern that, "[t]he term encampment is a false descriptor leaving the impression that a person's domicile in a tent is temporary and chosen on the basis of a pleasure or sport and as a means to separate and devalue segments of the population" In her Interim Report, the Advocate has chosen to use the term "homeless encampment" as the language most commonly in use for now. She recognizes, however, that the term may not reflect everyone's reality or experience and that it differs from terms commonly used internationally, such as informal settlements.

[3] The Advocate's engagement on encampments is also informed by the National Protocol for Homeless Encampments in Canada: A Human Rights-Based Approach. Written by Leilani Farha and Kaitlin Schwan and published by the Shift, April 30, 2020.

[4] Leilani Farha, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/31/54, UN Human Rights Council (2015), para 17.

[5] The Advocate is also undertaking engagement with First Nations, Inuit, and Métis governments and representative organizations to inform the release of future, distinctions-based reports on the right to housing for First Nations, Inuit, and Métis peoples.

[6] For more information on the Advocate's findings from her visit to British Columbia, see Federal Housing Advocate's Observational Report British Columbia (August 23 to September 2, 2022), https://www.housingchrc.ca/en/publications/federal-housing-advocates-observational-report

[7] See letters of concern regarding encampments in Montreal, Kingston, Prince George, Vancouver, and Barrie, included in the Annex.

[8] *Universal Declaration of Human Rights*, 10 December 1948, UN Doc. A/810, art. 25; *International Covenant on Economic, Social and Cultural Rights*, 16 December 16 1966, UN Doc. A/6316, 993 UNTS 3 (entered into force January 3, 1976; accession by Canada 19 May 1976), art. 11(1) [*ICESCR*]; *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, 660 UNTS 195 (entered into force 4 Jan. 1969, accession by Canada 14 Oct. 1970), art. 5(e)(iii) [*ICERD*]; *Convention on the Elimination of All Forms of Discrimination against Women*, 21 December 1965, 1249 UNTS 14 (entered into force 3 Sept. 1981; accession by Canada 10 Dec. 1981), art. 14(2) [*CEDAW*]; *Convention on the Rights of the Child*, 20 November 1989, 1577 UNTS 3 (entered into force 2 September, 1990, accession by Canada 13 Dec. 1991), art. 27(1) [*CRC*]; *Convention on the Rights of Persons with Disabilities*, 13 Dec. 2006, (entered into force 3 May 2008, accession by Canada 11 March 2010), arts. 9 and 28 [*CRPD*]. See also article 10 of the Declaration on Social Progress and Development, section III (8) of the Vancouver Declaration on Human Settlements, article 8 (1) of the Declaration on the Right to Development, and the ILO

Recommendation Concerning Workers' Housing, 1961 (No. 115)). Further, *UN Committee on Economic, Social and Cultural Rights* (CESCR), General Comment No. 4, The Right to Adequate Housing, U.N. Doc. E/1992/23 (1991).

[9] See, National Housing Strategy Act, S.C. 2019, c. 29, s. 313 [*NHSA*].

[10] "The Right to Adequate Housing, Fact Sheet 21," Office of the UN High Commissioner for Human Rights and UN Habitat, 2014, https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf (accessed August 1, 2023).

[11] Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/43/43, UN Human Rights Council (2019), para. 30 [*Guidelines for the Implementation of the Right to Adequate Housing*].

[12] The right to family is recognized in article 16(3) of the *Universal Declaration of Human Rights*, article 23(1) of the *ICCPR*, and article 10(1) of the *ICESCR*. The UN Committee on Economic, Social, and Cultural Rights (CESCR) expressed concern that women in Canada "continue to be forced to relinquish their children into foster care because of inadequate housing," and that "low-income families, single-mother-led families and Aboriginal and African Canadian families, are overrepresented in families whose children are relinquished to foster care." Concluding Observations of the Committee on Economic, Social, and Cultural Rights: Canada, UN Doc. E/C.12/CAN/CO/4E/C.12/CAN/CO/5 (2006), para. 24.

[13] Committee on Economic, Social, and Cultural Rights, General Comment No. 3 on the nature of States parties' obligations, UN Doc. E/1991/23 (1990), paras. 10 and 12.

[14] Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing*, para. 32; Leilani Farha, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/31/54, UN Human Rights Council (2015), paras. 49, 73, and 90; Committee on Economic, Social, and Cultural Rights, General Comment No. 20 on non-discrimination in economic, social and cultural rights, UN Doc. E/C.12/GC/20 (2009), para. 35, and Human Rights Committee, General Comment No. 36 on the right to life, UN Doc. CCPR/C/GC/35 (2018), para. 61.

[15] Human Rights Committee, General Comment No. 36 on the right to life, UN Doc. CCPR/C/GC/35 (2018), para. 26.

[16] *Victoria (City) v Adams*, 2009 BCCA 563 at paras. 132 and 195.

[17] *Victoria (City) v Adams*, 2009 BCCA 563 at paras. 32-35.

[18] *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained*, 2023 ONSC 670 at para 82.

[19] Leilani Farha, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/37/53, UN Human Rights Council (2018), para. 38.

[20] Jesse A. Thistle, *Definition of Indigenous Homelessness in Canada*, Canadian Observatory on Homelessness (2017), https://www.homelesshub.ca/sites/default/files/attachments/COHIndigenousHomelessness-summary.pdf (accessed August 30, 2023).

[21] Call to Justice 4.6.

[22] *United Nations Declaration on the Rights of Indigenous Peoples*, 2 October 2007, UN Doc. A/RES/61/295 (Canada signaled its full support in May 2016). https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

[23] Special Rapporteur on adequate housing Leilani Farha, *Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context* (Index: A/74/183), UN General Assembly, 2019, para. 54.

[24] *United Nations Declaration on the Rights of Indigenous Peoples*, art. 25; and Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization, art. 13.

[25] Special Rapporteur on adequate housing Leilani Farha, *Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context*, UN Doc. A/74/183, UN General Assembly (2019), para. 64.

[26] See also, Inter-American Court of Human Rights, *Moiwana Community v. Suriname*, judgement of 15 June 2015, para. 186, www.corteidh.or.cr/docs/casos/articulos/seriec_124_ing.pdf (accessed August 30, 2023).

[27] Special Rapporteur on the right to adequate housing Leilani Farha and Kaitlin Schwan, *A National Protocol for Homeless Encampments in Canada* (2020), para. 39.

[28] Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing*, para. 38.

[29] Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing*, para. 42(b).

[30] The Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, The Independent Expert on the question of human rights and extreme poverty, Magdalena Sepúlveda, and The Special Rapporteur on the right to adequate housing, Raquel Rolnik, "Water and

Sanitation: A human right for all, even slum-dwellers and the homeless," Office of the High Commissioner for Human Rights (2011), https://www.ohchr.org/en/statements/2011/03/water-and-sanitation-human-right-all-even-slum-dwellers-and-homeless?LangID=E&NewsID=10875 (accessed August 2, 2023).

[31] Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing*, paras. 42 and 48(b).

[32] Committee on Economic, Social, and Cultural Rights, General Comment No. 9: The domestic application of the Covenant: The domestic application of the Covenant, UN Doc. E/C.12/1998/24 (1998), paras. 2-3.

[33] *A human rights based approach: an introduction*, Scottish Human Rights Commission, https://www.scottishhumanrights.com/media/1409/shrc_hrba_leaflet.pdf (accessed August 30, 2023).

[34] Special Rapporteur on the right to adequate housing Leilani Farha and Kaitlin Schwan, *A National Protocol for Homeless Encampments in Canada* (2020).

[35] Alexandre Flynn et al., *Overview of Encampments Across Canada: A Right to Housing Approach*, The Office of the Federal Housing Advocate (2022).

[36] The Advocate received submissions from most provinces and territories, but the majority came from British Columbia (130), Ontario (121), Quebec (44), New Brunswick (19) and Alberta (11). The Advocate is still waiting for submissions from partner organizations in Vancouver and Halifax. These will be reflected only in the Advocate's final report.

[37] Conducted in Saskatoon, Saskatchewan, Winnipeg, Manitoba, Vancouver, British Columbia, Toronto, Ontario, Calgary, Alberta, and Montreal, Quebec.

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[39] *Report 5 – Chronic* Homelessness, Office of the Auditor General of Canada (2022), https://www.oag-bvg.gc.ca/internet/english/parl_oag_202211_05_e_44151.html (accessed August 31, 2023).

[40] Encampments Roundtable – Toronto – June 1, 2023.

[41] Encampments Roundtable – Winnipeg – April 18, 2023.

[42] Encampments Roundtable – Toronto – June 1, 2023.

[43] Kaitlin Schwan et al., *Pan Canadian Women's and Housing and Homelessness Survey*, Canadian Observatory on Homelessness (2021) https://womenshomelessness.ca/wp-content/uploads/EN-Pan-Canadian-Womens-Housing-Homelessness-Survey-FINAL-28-Sept-2021.pdf (accessed August 30, 2023).

[44] Kaitlin Schwan et al., *A Rights-Based, GBA+ Analysis of the National Housing Strategy*, Canadian Human Rights Commission (2021), p. 11, https://womenshomelessness.ca/wp-content/uploads/EN-Rights-Based-GBA-Analysis-of-NHS-28-Sept-2021.pdf (accessed August 30, 2023).

[45] Kaitlin Schwan et al., *The Crisis Ends with Us: Request for a Review into the Systemic Denial of the Equal Right to Housing of Women and Gender-Diverse People in Canada,* Women's National Housing & Homelessness Network (2022), https://womenshomelessness.ca/wp-content/uploads/WNHHN-Claim-15-June-2022.pdf (accessed August 31, 2023).

[46] "Everyone Counts 2020-2022: Preliminary Highlights Report," Infrastructure Canada (2023), https://www.infrastructure.gc.ca/homelessness-sans-abri/reports-rapports/pit-counts-dp-2020-2022-highlights-eng.html - h2.5.4 (accessed August 31, 2023).

[47] Alan Hanna, *Systemic barriers for First Nations people: security of tenure in Canada* (Ottawa, Ontario: Canadian Human Rights Commission = Commission canadienne des droits de la personne, 2022).

[48] Encampments Roundtable – Toronto – June 1, 2023.

[49] Encampments Roundtable – Calgary – August 8, 2023.

[50] Encampments Roundtable – Calgary – August 8, 2023.

[51] Letter from Edmonton Mayor Sohi.

[52] Between January and September of 2021, at least 5,368 Canadians died from "apparent opioid toxicity." The number of deaths has increased dramatically during the Covid-19 pandemic, due to increased isolation and stress, and "as street drugs became increasingly noxious." Laura McQuillan, "'Mass poisoning crisis': Canadians need to change how we talk about drug deaths, advocates say," CBC (24 May 2022), https://www.cbc.ca/news/health/drug-poisoning-deaths-language-1.6457834 (accessed August 31, 2023).

[53] Encampments Roundtable – Calgary – August 8, 2023.

[54] Kate Partridge, "Prince George police, bylaw officers given power to decide what can be removed from streets," CBC (12 July 2022), https://www.cbc.ca/news/canada/british-columbia/prince-george-encampment-bylaws-1.6517643 (accessed August 31, 2023).

[55] There were 112 references across online submissions.

[56] Matthew Bingley, "Toronto officials, police under fire for tactics used to clear homeless encampments," Global News (22 July 2021), https://globalnews.ca/news/8052972/lamport-stadium-park-encampment-toronto-police/ (accessed August 31, 2023);
[57] "Toronto's Ombudsman says City Chose Speed over People in Clearing Encampments," Ombudsman Toronto (24 March 2023), https://www.ombudsmantoronto.ca/Publications/News-Releases/News-Folder/Toronto-s-Ombudsman-says-City-Chose-Speed-over-Peo (accessed August 31, 2023).
[58] *Ombudsman Toronto Investigation Report: Investigation into the City's clearing of Encampments in 2021*, Ombudsman Toronto (24 March 2023), p 2, https://www.ombudsmantoronto.ca/Publications/News-Releases/News-Folder/Investigation-into-the-City-s-Clearing-of-Encampme.aspx?ext=.pdf (accessed August 31, 2023).
[59] Encampments Roundtable – Toronto – June 1, 2023.
[60] Encampments Roundtable – Toronto – June 1, 2023.
[61] Submission 2150 – Gatineau – June 28, 2023.
[62] "Encampment Safety & Clearing Protocols," City of Toronto, https://www.toronto.ca/community-people/housing-shelter/homeless-help/encampment-outreach-response/encampment-safety-clearing-protocols/ (accessed August 31, 2023).
[63] Andrew Lupton, "Barrie bylaw that outlaws homeless help perplexes those shaping London's response," CBC (22 June 2023), https://www.cbc.ca/news/canada/london/barrie-bylaw-outlaws-homeless-help-perplexes-london-response-1.6883806 (accessed August 29, 2023). The Advocate's open letter to Barrie Mayor Alex Nuttal is available here: https://www.housingchrc.ca/en/open-letter-barrie-city-council.
[64] Encampments Roundtable – Vancouver – May 10, 2023.
[65] Encampments Roundtable – Calgary – August 8, 2023.
[66] Submission 2075 – Timmins – June 19, 2023.
[67] Encampments Roundtable – Toronto – June 1, 2023.
[68] Encampments Roundtable – Toronto – June 1, 2023.
[69] Encampments Roundtable – Vancouver – May 10, 2023.
[70] Submission 2082 – Kingston – June 20, 2023.
[71] Submission 2127 – Mississauga – June 27, 2023.
[72] Submission 1473 – Courtenay – June April 19, 2023.
[73] Encampments Roundtable – Winnipeg – April 18, 2023.
[74] Farha, L., Schwan, K., & Perruca, J. (2021). Human Rights & Homeless Encampments in Toronto – Report on The Shift's Research Visit to the City of Toronto. Ottawa, ON: The Shift.
[75] Schwan, K. (31 August 2022). "Affidavit of Expert Witness Dr. Kaitlin Schwan re: Women's Experiences in Homeless Encampments." Persons unknown or to be ascertained v. The Regional Municipality of Waterloo. Court File Court File No.: CV-22-00000717-0000
[76] Submission 2151 – Gatineau – June 28, 2023.
[77] Submission 1709 – Elginburg – May 23, 2023.
[78] Submission 1590 – Moncton – May 16, 2023.
[79] Submission 2036 – Mississauga – June 15, 2023.
[80] Encampments Roundtable – Calgary – August 8, 2023.
[81] Encampments Roundtable – Toronto – June 1, 2023.
[82] Encampments Roundtable – Toronto – June 1, 2023.
[83] Submission 2082 – Kingston – June 20, 2023.
[84] In Saskatoon, 82.6% of unhoused people identify as Indigenous. An Evaluation of the Inadequate Housing Team at Saskatoon Fire Department. Pg 9. Point-In-Time Count 2022
[85] *Saving Lives, Alleviating Suffering & Building a Healthy, Strong & Safe Community for All: Whole of Community System Response Hubs Implementation Plan*, City of London (July 2023), https://ehq-production-canada.s3.ca-central-1.amazonaws.com/ebf256bc17d535b7aef469f4f74c94d79d3cf553/original/1690399917/30070cce402496988c5acf06fc119bfc_Hubs_Implementation_Plan_GetInvolved.pdf (accessed August 31, 2023) [*Saving Lives*].
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THIS IS **EXHIBIT "J"** REFERRED TO
IN THE AFFIDAVIT OF MARIE JOSEE HOULE
SWORN REMOTELY AT THE
CITY OF CANTLEY BEFORE ME AT THE REGION OF WATERLOO
DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

B-1-10425

Canadian human rights commission | Commission canadienne des droits de la personne

Federal response to encampments a step forward, and work must continue

3 October, 2024

October 3, 2024 – Ottawa, Ontario – Office of the Federal Housing Advocate

In response to the federal government's funding announcements for human rights-based encampment responses, the Federal Housing Advocate, Marie-Josée Houle, issues the following statement:

Across Canada, people continue to be forced to live in public spaces because they have nowhere else to go. This national human rights crisis calls for a national response.

Last year, I launched a systemic review of this issue to better understand people's experiences and arrive at solutions. I met with encampment residents, local advocates, Indigenous leaders and municipal governments to form the basis of my recommendations. In particular, my final report (https://www.chrc-ccdp.gc.ca/publications/upholding-dignity-and-human-rights-federal-housing-advocates-review-homeless) urged the federal government to lead on this issue by swiftly developing a National Encampments Response Plan by August 31, 2024, which would design solutions following meaningful engagement with people who are living in encampments.

I was pleased to see in Canada's Housing Plan (https://housing-infrastructure.canada.ca/housing-logement/housing-plan-report-rapport-plan-logement-eng.html) that the federal government set aside $250 million for human rights-based encampment responses. Most recently, on September 22, 2024, the federal government announced (https://www.canada.ca/en/housing-infrastructure-communities/news/2024/09/leading-the-effort-to-end-encampments-and-address-homelessness-in-canada.html) it is ready to negotiate agreements and invest in any province or territory who will cost-match the federal government's funding.

I welcome these important steps and federal leadership in bringing provincial, territorial and municipal governments to the table. The government is taking timely action and must continue to act quickly as winter rapidly approaches.

New resources are positive. While the funding is not adequate to deal with the scale of the challenge across the country, it can act as a catalyst by incentivizing new approaches and developing successful human rights-based community models that can be shared and influence others.

B-1-10425

Critically, the recognition of the need for a human rights-based approach to encampments is an important shift in direction. The government has recognized that if we want better results, we need to do things differently and put people experiencing homelessness at the centre of efforts to find solutions.

Despite this positive initiative, I remain concerned about several potential issues.

I am disappointed that the announcement on September 22nd did not reference the language in Canada's Housing Plan that called for “human rights-based community action plans” to address encampments. I urge the federal government to continue to demonstrate its leadership and emphasize the importance of human rights-based approaches through the consistent use of human rights language in all its communications about encampment responses.

It is essential that there are clear guidelines on what constitutes a human rights-based approach to encampments. Funding should be directed to communities and partners that publicly recognize the human rights of encampment residents and be used for projects that are consistent with a human rights-based approach. At minimum, human rights-based community action plans should include:

- measures to protect the life, dignity and human rights of people who are unhoused and living in encampments, including essential services such as clean drinking water, electricity, healthcare and harm reduction, heating and cooling, sanitation, cooking facilities and waste collection
- transparent, human rights-based protocols for enforcing by-laws
- a commitment to repealing by-laws which contribute to the criminalization and insecurity of encampment residents and to ending practices like coercive “clean up” actions, including the confiscation of belongings that people need to survive and live in dignity
- meaningful engagement of encampment residents in the design, implementation, decision-making and evaluation of human rights-based community action plans
- recognition of the acute over-representation of Indigenous people experiencing homelessness and living in encampments, and the meaningful engagement of Indigenous governments and organizations in the action plans in line with obligations under the United Nations Declaration on the Rights of Indigenous Peoples Act

My report recognized that encampments should not be seen as a solution. At the same time, it reminded governments that forcibly evicting people living in encampments is a violation of international human rights law and it causes more harm. Instead of forced evictions, governments must engage with encampment residents to find solutions that include adequate housing that meets their needs. I reiterate my call for a prohibition on forced evictions, and I urge the federal government to lead on this issue by putting in place a moratorium on forced evictions on federal lands and by prohibiting the use of the new program funds to support forced evictions and other police-led responses. I also urge provinces, territories and municipalities to follow suit.

As this funding is rolled out, there is a need for transparency and accountability. The agreements negotiated between the federal government and the provinces and territories must include minimum human rights standards and must be made public. I also encourage the federal government to reconsider appointing a focal point for encampments, such as a Special Advisor, who would ensure meaningful engagement with stakeholders, monitor and publicly report results, and document and share good practices.

Finally, a coordinated and all-of-government approach is needed to address this crisis as well as the root causes of homelessness. This encampment response funding should be offered alongside other federal housing funds so that communities can provide long-term solutions. Municipalities on the front lines of this crisis need supports. Resources must also be coordinated with funds to address Métis, Inuit and First Nations housing needs and homelessness, including fully funding the commitment to close the First Nations Housing & Infrastructure Gap by 2030. The response from all levels of government should also ensure that coordinated resources are available for health, community services, housing loss prevention and supportive housing.

Above all, we need to ensure there is ongoing funding and support for people living in encampments, as well as a focus on permanent housing. The ultimate goal must be to get people into adequate housing options as quickly as possible. In the meantime, we must take steps to respect the dignity and human rights of people experiencing homelessness and living in encampments. It is critical that we act before winter comes.

– 30 –

Background

- In Canada's Housing Plan (https://housing-infrastructure.canada.ca/housing-logement/housing-plan-logement-eng.html) released on April 12, 2024, the federal government announced $250 million, to be cost-matched by provinces and territories, for “human rights-based community action plans that commit to a housing first approach to ending encampments, and include supportive and transitional housing, housing-focused services, and rent supplements specifically dedicated to individuals living in encampments or experiencing homelessness.”
- On May 30, 2024, Minister Fraser provided a detailed and substantive official response to the Advocate's report on encampments (https://www.chrc-ccdp.gc.ca/resources/publications/response-the-minister-the-advocates-report-homeless-encampments) as required by the legislation. His response highlighted the new funding for human rights-based community action plans and recognized the need for meaningful engagement with Indigenous governments.
- On September 22, 2024, the federal government announced (https://www.canada.ca/en/housing-infrastructure-communities/news/2024/09/leading-the-effort-to-end-encampments-and-address-homelessness-in-canada.html) it is ready to negotiate agreements and invest in any province or territory who will cost-match the federal government's funding.

Associated links

- Final report – Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments (https://www.chrc-ccdp.gc.ca/publications/upholding-dignity-and-human-rights-federal-housing-advocates-review-homeless)
- News release – Federal Housing Advocate's report on encampments in Canada details human rights concerns and solutions (https://www.chrc-ccdp.gc.ca/resources/newsroom/federal-housing-advocates-report-encampments-canada-details-human-rights)

- Interim report – Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments (https://www.chrc-ccdp.gc.ca/publications/advocates-review-homeless-encampments)
- News release – Federal Housing Advocate to review encampments and human rights violations of residents (https://www.chrc-ccdp.gc.ca/resources/newsroom/federal-housing-advocate-review-encampments-and-human-rights-violations)
- Research – Case study on encampments from 5 regions of Canada (https://www.homelesshub.ca/resource/encampments-across-canada-human-rights-approach)
- Implementing the Advocate's recommendations on encampments – Fact sheet for provinces and territories (https://homelesshub.ca/resource/fact-sheet-recommendations-for-provinces-and-territories-implementing-the-federal-housing-advocates-report-on-homeless-encampments-upholding-dignity-and-human-rights/)
- Implementing the Advocate's recommendations on encampments – Fact sheet for municipalities (https://homelesshub.ca/resource/fact-sheet-recommendations-for-municipalities-implementing-the-federal-housing-advocates-report-on-homeless-encampments-upholding-dignity-and-human-rights/)

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ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

Implementing the Federal Housing Advocate's report on homeless encampments: Upholding dignity and human rights

Recommendations for municipalities

February 2024

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Executive summary

- On February 13, 2024, the Federal Housing Advocate released the final report and recommendations from her review of homeless encampments. The report, entitled Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments, is a call to action for an urgent national response to the human rights crisis facing people living in homeless encampments.

- The Federal Housing Advocate is recommending that the federal government establish a National Encampments Response Plan by August 31, 2024. It is critical that this plan be rooted in a human rights-based approaches and that new resources are in place before next winter. Furthermore, the report calls for greater collaboration, coordination, and consistency from all governments.

- The plan must drive urgent change that responds to the Calls to Action and detailed recommendations presented in this report and addressed to all governments in Canada. These recommendations have been developed as the result of extensive consultation with encampment residents, community organizations, and municipalities across the country.

- This fact sheet is designed to highlight the Advocate's recommendations directed at municipal governments. A summary of those recommendations includes the need for municipal actors to:

    - Commit to a human rights-based approach to address the needs of encampment residents.

    - Respect the inherent rights of Indigenous Peoples.

    - Take immediate action to respect and protect the human rights and dignity of all people living in encampments and reduce the risks that they face.

    - Implement immediate measures to address the root causes of encampments and provide access to adequate housing.

    - Ensure government accountability and that people experiencing homelessness have access to justice.

Canada has the capacity to solve this crisis. Municipal governments have a key role to play in upholding the human rights and right to housing of encampment residents.

You can download the full report.

Background

- There has been a significant rise in encampments in the last five years, and particularly since the COVID-19 pandemic. Encampments are now being reported across the country– in both large and small municipalities, as well as in more rural areas.

- The human rights violations of encampment residents are twofold:

    1. Encampment residents are at dire risk of harm due to the failure to uphold their basic rights.
    2. The encampments exist only because of a larger, systemic failure to uphold the right of all people to adequate housing without discrimination.

- Municipalities must work closely with Provinces and territories as well as Indigenous governments and the federal government must play a leadership role.

- Recognizing the severity of this crisis, the Federal Housing Advocate launched a systemic review of encampments in February 2023. This systemic review has been carried out pursuant to subsection 13.1(1) of the National Housing Strategy Act.

- As part of this review, the Advocate has engaged with encampment residents and local advocates in communities across Canada. These face-to-face meetings were complemented by written submissions received through an online portal, created specifically for this review. The Advocate worked with local partners across the country who already existing relationships based on trust with encampment residents to facilitate the collection of testimonies from people with lived experience.

    - 313 people with lived experience in encampments made submissions.

    - There were also 53 submissions from municipalities, frontline workers, advocates, and other community members.

- The Advocate followed up on written submissions with face-to-face meetings, through a series of roundtables talks and other public events, in order to ensure encampment residents and homelessness advocates voices were heard.

- The Office of the Federal Housing Advocate (OFHA) also worked with the Federation of Canadian Municipalities (FCM), the FCM's Big City Mayors' Caucus, and the Association of Municipalities of Ontario (AMO) to obtain input from municipalities across the country.

- Recognizing the significant over-representation of Indigenous individuals living in encampments, the Advocate has also taken part in a number of targeted engagements with First Nations, Inuit and Métis governments and organizations.

Human rights obligations for municipalities

- With the National Housing Strategy Act enacted in 2019, the human right to adequate housing is now explicitly enshrined in Canadian law. Moreover, the right to housing, and interconnected rights, such as the right to life that is guaranteed by Section 7 of the Canadian Charter of Rights and Freedoms, must be taken into account in the application of municipal regulations, policies and programs addressing homelessness and encampments.

- Further, municipal governments must apply the lens of International human rights to encampments, including in treaties that Canada has signed and ratified as well as in human rights declarations and other international norms and standards. All governments must commit to upholding the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and work in consultation and cooperation with First Nations, Inuit and Métis governments and representative organizations to fully implement its provisions. In particular, all governments must work with Indigenous governments and representative organizations to more effectively respond to the distinct needs of urban First Nations, Inuit, and Métis individuals, particularly those who are unhoused and living in encampments.

Recommendations

1. Municipalities must work with the Federal Government in the development of a National Encampments Response Plan in cooperation and consultation with all other governments.

- Development of the plan must include provincial and territorial governments, First Nations, Inuit and Métis governments, **municipalities (coordinated and convened by Federation of Canadian Municipalities** (FCM) between municipalities and the federal government) and right to housing organizations who can convene people with lived experience in encampments and people with human rights expertise.

2. Municipalities must commit to a human rights-based approach to address the needs of encampment residents.

- Integrate the human rights principles and guidance set out in the National Protocol on Homeless Encampments in Canada and the Homeless Encampments: Municipal Engagement Guidance, both produced by The Shift.

- Consistently use the human rights language of the National Housing Strategy Act across all government legislation, policy, and communications.

- Cease using language that stigmatizes or discriminates against people living in encampments or undermines the work of grassroots organizations providing support to them.

- Adopt policies and procedures on how to conduct meaningful, culturally safe, and trauma-informed engagement with people living in encampments or experiencing homelessness.

- Recognize the right of people in encampments to be part of the decision-making process which means:

    - Recognizing and engaging with the informal peer leadership in encampments;
    - Supporting the emergence of camp-led consensus-based decision making.

- Ensure people who have lived/living experience with addictions and substance use have a central role in designing the health solutions they need.

- Municipalities must develop a human rights-based policy related to encampments and ensure that any response to encampments prioritizes upholding the human rights of encampment residents. The role of police and by-law officers should be de-emphasized in these responses.

- Municipalities must ensure the development of all relevant by-laws, policies, programs and plans includes meaningful engagement with people with lived experience in encampments.

3. All measures taken by municipalities must respect the inherent rights of Indigenous Peoples.

- Support Indigenous governments to provide culturally appropriate housing and supports to their citizens regardless of place of residency, including through recognition of First Nations, Inuit and Métis jurisdiction, accelerated transfer of care and control of housing and homelessness programs and in other areas such as mental health and addictions; and respecting existing funding arrangements with Indigenous governments and their representative organizations.

- Support and allocate funds to ensure effective implementation of housing and homelessness action plans developed by First Nations, Inuit and Métis governments and organizations, including the First Nations Housing and Related Infrastructure Strategy, the Inuit Nunangat Housing Strategy, and the Canada-Métis Nation Housing Sub-Accord.

- Substantially increase investment in adequate, sustainable, and culturally appropriate housing in First Nations, Inuit, and Métis communities based on accurate assessment of needs and the actual costs of building and maintaining housing in small, remote, and northern communities.

- Work with Indigenous Peoples to more effectively respond to the distinct needs of urban First Nations, Inuit, and Métis individuals, particularly those who are unhoused and living in encampments.

- Support Indigenous governments and engage with relevant Indigenous service providers to develop and implement holistic strategies to provide wrap-around supports to Indigenous individuals who are unhoused or living in encampments with a goal of providing access directly into adequate housing.

- Ensure that all municipal departments and agencies engaged in the design and delivery of housing-related services make a concerted effort to have their staff, management and boards be representative of First Nations, Inuit and Métis people. All departments and agencies must also provide cultural safety training for all staff and management.

- Implement Indigenous-led training on the UN Declaration on the Rights of Indigenous Peoples as called for by the Truth and Reconciliation Commission of Canada and prioritize implementation of all Calls to Action relevant to resolving the crisis of housing and homelessness.

- Support the role of cultural workers, Elders and Knowledge Keepers in the process of finding solutions and supporting individuals experiencing homelessness.

- Work with First Nations, Inuit and Métis governments and organizations in building capacity to collect and analyze relevant homelessness data and ensure data collection initiatives respect Indigenous data sovereignty.

- Take action to ‘support the establishment and long-term sustainable funding of Indigenous-led low barrier shelters, safe spaces, transition homes, second stage housing, and services for Indigenous women, girls, and 2SLGBTQQIA people who are homeless, near homeless, dealing with food insecurity, or in poverty, and who are fleeing violence or have been subjected to

sexualized violence and exploitation' as called for by the National Inquiry on Missing and Murdered Indigenous Women and Girls and prioritize implementation of the Inquiry's other Calls to Justice relevant to addressing the housing needs of Indigenous women, girls and 2SLGBTQIA+ persons.

4. Municipalities must take immediate action to respect and protect the human rights and dignity of all people living in encampments and reduce the risks that they face.

- End the practice of forced evictions of encampments on public lands.
- Put in place alternatives to removal of encampments.
    - Ensure meaningful engagement as the priority for finding solutions that meet the needs of encampment residents.
- Implement measures to protect and support people living in encampments:
    - In consultation with encampment residents, identify needs and provide dignified access on site or in reasonable proximity to essential facilities and services such as clean drinking water, sanitation, cooking facilities and waste collection (see the list of essential services developed by the National Working Group on Homeless Encampments).
    - Respect people's right to refuse services.
    - Eliminate any policies or practices that restrict access to encampment sites during daylight hours or require daytime tear down of tents and removal of personal effects.
    - Facilitate delivery of existing services and supports such as health care and income supports to encampment residents which are the responsibility of other levels of government.
    - Engage in dialogue with women and gender-diverse encampment residents, provide services for persons who have or are experiencing gender-based violence and identify and support measures to enhance the protection of women and 2SLGBTQQIA+ individuals, particularly those who are Indigenous.
    - Ensure protection from the poison drug supply through access to harm reduction services and regulated safe supply for encampment residents who are at risk of overdose because of reliance on an unregulated supply.
    - Provide access to storage facilities for people to protect their belongings.
    - Ensure availability of transportation so that encampment residents have ready access to clinics and other supports.
    - Ensure that police, bylaw enforcement officers and private security firms do not play any direct role in managing encampments.
    - Respect Indigenous protocols and ensure municipal services are culturally appropriate.
    - The availability of services to people experiencing homelessness should not be a justification for an eviction.

- Ensure drop-in-shelters are accessible 24/7 throughout the year to provide people with a dignified place to rest, take refuge from the elements and access services.

- Repeal any regulations that restrict people experiencing homelessness from accessing public space.

    - Repeal by-laws and other regulations which prohibit encampment residents from using public spaces.

    - Ban “hostile architecture” (e.g. spikes on sidewalks, armrests on benches) that is designed to stop homeless people from sitting, sleeping and sheltering.

- Repeal and/or refrain from passing by-laws that restrict community members from offering support services to encampment residents.

- Empower and support residents to manage their encampments themselves, to the extent possible. Government resourcing and supports should not be used to undermine resident autonomy or decision-making. Government should support encampment residents in creating collective camp wide processes for decision-making, but they should not run these processes.

- Provide direction to by-law enforcement officers and emergency service to halt the confiscation of belongings, along with surveillance and harassment which may constitute violations of the human rights of encampment residents. This includes providing direction to all relevant municipal agencies to end practices which make drug use grounds for displacement, seizure of property, mandatory referrals to health and social services and treatment, and other measures that impose coercive limitations on the rights of encampment residents who use drugs.

    - Ensure that drug use–or perception of drug use–is not a pretext for restricting access to essential supports and services.

- Promote collaboration among municipal agencies and community-based service providers to provide an integrated approach to meeting the needs of encampment residents and referring people to the available services.

- Provide financial and other support to organizations serving encampment residents to ensure adequate staffing levels and address risk of overwork and burnout.

- While permanent housing remains the ultimate goal, immediate improvements to existing emergency shelter services are also needed. Shelter providers must:

    - Ensure that their facilities and services are designed to accommodate and be accessible for people with specific needs (e.g., for Indigenous individuals, women, Black and racialized individuals, 2SLGBTQI+ people, couples, families, youth, seniors and people with disabilities).

    - Put in place policies and practices that are trauma-informed and that meet the needs of and respect the dignity and human rights of people experiencing homelessness.

5. Municipalities must Implement immediate measures to address the root causes of encampments and provide access to adequate housing.

- Ensure programs are available to rapidly rehouse anyone entering encampments using available housing allowances and providing individualized supports where necessary to support them in maintaining their housing.

- Put in place measures to facilitate the rapid construction of non-market affordable housing.

    - Immediately provide surplus municipal land at no cost in areas close to transit and other necessary amenities to non-profit affordable housing providers or land trusts.

    - Implement zoning and other changes to fast track the development of community housing.

    - Waive development and other municipal fees to fast-track non-profit affordable housing and support the operations of the housing providers over the long-term.

- Maintain strong standards and enforcement for state of repair in rental units and other landlord obligations to address conditions which can lead to homelessness.

- Strengthen housing loss prevention initiatives, including accessible emergency funds to reduce incidents of evictions due to late payment of rent.

6. Municipalities must ensure government accountability and that people experiencing homelessness have access to justice.

- Require that all officials with responsibilities relevant to housing, homelessness, and encampments receive training on the right to adequate housing, Gender-based Analysis (GBA) Plus, and the UN Declaration on the Rights of Indigenous Peoples.

- Establish independent municipal accountability mechanisms. Larger municipalities should consider creating Ombuds offices.

- Document and make public all decisions related to municipal services for encampments in a manner that makes this information accessible to encampment residents and the wider public.

- Prohibit any restrictions on freedoms of association and assembly.

- Ensure journalists have access to and can report on encampment clearances and evictions.

- Ensure advocates and trusted service providers are allowed to support encampment residents if an eviction is threatened. Peaceful demonstrations and protests must be allowed.

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A HUMAN RIGHTS APPROACH

A National Protocol for Homeless Encampments in Canada

Leilani Farha
UN Special Rapporteur on the right to adequate housing

Kaitlin Schwan
Lead Researcher for UN Special Rapporteur on the right to adequate housing

UN Special Rapporteur on the Right to Housing

APRIL 30, 2020

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EXECUTIVE SUMMARY
A National Protocol for Homeless Encampments in Canada: A Human Rights Approach

Homeless encampments threaten many human rights, including most directly the right to housing. People living in encampments face profound challenges with respect to their health, security, and wellbeing, and encampment conditions typically fall far below international human rights standards. Residents are frequently subject to criminalization, harassment, violence, and discriminatory treatment. Encampments are thus instances of both human rights *violations* of those who are forced to rely on them for their homes, as well as human rights *claims,* advanced in response to violations of the right to housing.

Ultimately, encampments are a reflection of Canadian governments' failure to successfully implement the right to adequate housing.

As encampments increasingly emerge across Canada, there is an urgent need for governments to interact with them in a manner that upholds human rights. This Protocol, developed by the UN Special Rapporteur on the Right to Housing and her lead researcher, Kaitlin Schwan, with the input of many experts, outlines eight Principles to guide governments and other stakeholders in adopting a rights-based response to encampments. While encampments are not a solution to homelessness, it is critical that governments uphold the basic human rights and dignity of encampment residents while they wait for adequate, affordable housing solutions that meet their needs. The Principles outlined in this Protocol are based in international human rights law, and the recognition that encampment residents are rights holders and experts in their own lives. The Protocol is intended to assist governments in realizing the right to adequate housing for this group.

PRINCIPLES

Principle 1: Recognize residents of homeless encampments as rights holders

All government action with respect to homeless encampments must be guided by a commitment to upholding the human rights and human dignity of their residents. This means a shift away from criminalizing, penalizing, or obstructing homeless encampments, to an approach rooted in rights-based participation and accountability.

Principle 2: Meaningful engagement and effective participation of homeless encampment residents

Residents are entitled to meaningful participation in the design and implementation of policies, programs, and practices that affect them. Ensuring meaningful participation is central to respecting residents' autonomy, dignity, agency, and self-determination. Engagement should begin early, be ongoing, and proceed under the principle that residents are experts in their own lives. The views expressed by residents of homeless encampments

must be afforded adequate and due consideration in all decision-making processes. The right to participate requires that all residents be provided with information, resources, and opportunities to directly influence decisions that affect them.

Principle 3: Prohibit forced evictions of homeless encampments

International human rights law does not permit governments to destroy peoples' homes, even if those homes are made of improvised materials and established without legal authority. Governments may not remove residents from encampments without meaningfully engaging with them and identifying alternative places to live that are acceptable to them. Any such removal from their homes or from the land which they occupy, without the provision of appropriate forms of legal protection, is defined as a 'forced eviction' and is considered a gross violation of human rights. The removal of residents' private property without their knowledge and consent is also strictly prohibited.

Common reasons used to justify evictions of encampments, such as 'public interest,' 'city beautification', development or re-development, or at the behest of private actors (e.g., real estate firms), do not justify forced evictions.[1]

Principle 4: Explore all viable alternatives to eviction

Governments must explore all viable alternatives to eviction, ensuring the meaningful and effective participation of residents in discussions regarding the future of the encampment. Meaningful consultation should seek to maximize participation and should be supported by access to free and independent legal advice. Where personal needs differ amongst residents of encampments such that a singular best alternative is not unanimous, governments will have to develop several solutions each of which is consistent with the principles outlined in this Protocol.

Principle 5: Ensure that relocation is human rights compliant

Considerations regarding relocation must be grounded in the principle that "the right to remain in one's home and community is central to the right to housing."[2] Meaningful, robust, and ongoing engagement with residents is required for any decisions regarding relocation. Governments must adhere to the right to housing and other human rights standards when relocation is necessary or preferred by residents. In such cases, adequate alternative housing, with all necessary amenities, must be provided to all residents prior to any eviction. Relocation must not result in the continuation or exacerbation of homelessness, or require the fracturing of families or partnerships.

Principle 6: Ensure encampments meet basic needs of residents consistent with human rights

Canadian governments must ensure, at a minimum, that basic adequacy standards are ensured in homeless encampments while adequate housing options are negotiated and

[1] A/HRC/43/43, para 36.
[2] A/73/310/Rev.1, para 26.

secured. Governments' compliance with international human rights law requires: (1) access to safe and clean drinking water, (2) access to hygiene and sanitation facilities, (3) resources and support to ensure fire safety, (4) waste management systems, (4) social supports and services, and guarantee of personal safety of residents, (5) facilities and resources that support food safety, (6) resources to support harm reduction, and (7) rodent and pest prevention.

Principle 7: Ensure human rights-based goals and outcomes, and the preservation of dignity for homeless encampment residents

Governments have an obligation to bring about positive human rights outcomes in all of their activities and decisions concerning homeless encampments. This means that Canadian governments must move, on a priority basis, towards the full enjoyment of the right to housing for encampment residents. Any decision that does not lead to the furthering of inhabitants' human rights, that does not ensure their dignity, or that represents a backwards step in terms of their enjoyment of human rights, is contrary to human rights law.

Principle 8: Respect, protect, and fulfill the distinct rights of Indigenous Peoples in all engagements with homeless encampments

Governments' engagement with Indigenous Peoples in homeless encampments must be guided by the obligation to respect, protect, and fulfil their distinct rights. This begins with recognition of the distinct relationship that Indigenous Peoples have to their lands and territories, and their right to construct shelter in ways that are culturally, historically, and spiritually significant. Governments must meaningfully consult with Indigenous encampment residents concerning any decisions that affects them, recognizing their right to self-determination and self-governance. International human rights law strictly forbids the forced eviction, displacement, and relocation of Indigenous Peoples in the absence of free, prior, and informed consent.

Given the disproportionate violence faced by Indigenous women, girls, and gender diverse peoples, governments have an urgent obligation to protect these groups against all forms of violence and discrimination within homeless encampments, in a manner that is consistent with Indigenous self-determination and self-governance.

A National Protocol for Homeless Encampments in Canada: A Human Rights Approach

I. Introduction

1 In the face of escalating homelessness and housing affordability crises, many cities across Canada have seen a rise in homeless encampments. In various Canadian communities, people experiencing homelessness have turned to living in s, vehicles, or other forms of rudimentary or informal shelter as a means to survive.[3] While they vary in size and structure, the term '*encampment*' is used to refer to any area wherein an individual or a group of people live in homelessness together, often in tents or other temporary structures (also referred to as *homeless camps*, *tent cities*, *homeless settlements or informal settlements*).

2 Homeless encampments in Canada must be understood in relation to the global housing crisis and the deepening of housing unaffordability across the country. Encampments must also be understood in the context of historical and ongoing structural racism and colonization in Canada, whereby Indigenous peoples have been systemically discriminated against and dispossessed of their lands, properties, and legal systems. Other groups have also endured systemic and historical disadvantage that has created barriers to accessing housing and shelters, including 2SLGBTQ+, Black and other racialized communities, people living with disabilities, and people who are criminalized. While encampments are often framed and discussed as matters of individual poverty or deficiency, they are the result of structural conditions and the failure of governments to implement the right to housing or to engage with reconciliation and decolonization materially and in good faith.

3 Homeless encampments threaten many human rights, including most specifically the right to housing. In international human rights law, homelessness - which includes those residing in encampments - is a prima facie violation of the right to adequate housing.[4] This means that governments have a positive obligation to implement an urgent housing-focused response, ensuring that residents have access to adequate housing in the shortest possible time and, in the interim, that their human rights are fully respected.

4 Government responses to homeless encampments often fail to employ a rights-based approach. Residents of encampments are frequently the victims of abuse, harassment, violence, and forced evictions or 'sweeps.' In many cases, the issues

[3] Encampments have arisen in cities across the country, including: Abbottsford, Vancouver, Victoria, Edmonton, Toronto, Ottawa, Gatineau, Peterborough, Winnipeg, Montreal, Nanaimo, Calgary, Saskatoon, Fredericton, Moncton, Oshawa, Halifax, and Maple Ridge.
[4] A/HRC/31/54, para. 4.

associated with encampments are within the jurisdiction and responsibility of municipal authorities, including through bylaws specific to policing, fire and safety, sanitation, and social services. This has led to a pattern whereby municipal governments deploy bylaws, local police, and zoning policies that displace people in encampments, in turn compromising the physical and psychological health of people who have no place else to go and who rely on encampments to survive, absent accessible alternatives.[5]

5 Provincial, territorial, and federal governments have historically left engagement with encampments to city officials, who receive little (if any) guidance and support. Municipal authorities are often unaware of their legal obligations under international human rights law, including with respect to the duty to ensure the dignity and security of encampment residents.[6] Further, accountability mechanisms with respect to the right to housing remain weak in Canada, meaning that people living in encampments have limited avenues through which to claim this right.

6 Ensuring a human rights-based response to homeless encampments should be a key concern for every Canadian city, and all governments should employ a human rights-based framework to guide their engagement with encampment residents.

II. Purpose of the National Protocol on Homeless Encampments

7 The purpose of this document is to provide all levels of government with an understanding of their human rights obligations with respect to homeless encampments, highlighting what is and is not permissible under international human rights law. This Protocol outlines 8 broad human rights-based Principles that must guide state[7] action in response to homeless encampments of all kinds.

8 This Protocol does not attempt to foresee every possible context or challenge that may arise within encampments. Governments and relevant stakeholders must apply human rights principles as described in the Protocol to each case as it arises, endeavouring at all times to recognize and respect the inherent rights, dignity, and inclusion of encampment residents.

9 This Protocol has been developed by the UN Special Rapporteur on the right to housing in consultation with a range of experts from across Canada, including those

[5] *Abbotsford (City) v. Shantz* (2016 BCSC 2437). Online, https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1

[6] A/HRC/43/43, para 7.

[7] 'State' refers to all levels and branches of government and anyone exercising government authority.

with lived expertise of homelessness, urban Indigenous leaders, community advocates, researchers, lawyers, and experts in human rights law.[8]

III. Encampments in Canada in the context of the Human Right to Adequate Housing

10 Under international human rights law, everyone has the right to adequate housing as an element of the right to an adequate standard of living.[9] This requires States to ensure that housing is accessible, affordable, habitable, in a suitable location, culturally adequate, offers security of tenure, and is proximate to essential services such as health care and education.[10] The right to adequate housing includes the right to be protected from: arbitrary or unlawful interference with an individual's privacy, family, and home; any forced eviction (regardless of legal title or tenure status); and from discrimination of any kind.[11]

11 Homelessness constitutes a prima facie violation of the right to housing. It is a profound assault on a person's dignity, security, and social inclusion. Homelessness violates not only the right to housing, but often, depending on circumstances, violates a number of other human rights, including: non-discrimination; health; water and sanitation; freedom from cruel, degrading, and inhuman treatment; and the rights to life, liberty, and security of the person.[12]

12 Encampments constitute a form of homelessness, and thus are a reflection of the violation of residents' right to adequate housing. People living in encampments typically face a range of human rights violations and profound challenges with respect to their health, security, and wellbeing. Encampment conditions typically fall far below international human rights standards on a variety of fronts, often lacking even the most

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[8] This Protocol was prepared by: Leilani Farha and Kaitlin Schwan with the assistance of Bruce Porter, Vanessa Poirier, and Sam Freeman. Reviewers include, among others: Margaret Pfoh (Aboriginal Housing Management Association), Cathy Crowe (Shelter and Housing Justice Network), Greg Cook (Sanctuary Toronto), Tim Richter (Canadian Alliance to End Homelessness), Anna Cooper (Pivot Legal Society), Caitlin Shane (Pivot Legal Society), Emily Paradis (University of Toronto), Emma Stromberg (Ontario Federation of Indigenous Friendship Centres), and Erin Dej (Wilfred Laurier University).

[9] United Nations Committee on Economic, Social and Cultural Rights Committee's General Comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.

[10] United Nations Committee on Economic, Social and Cultural Rights Committee's General Comment No. 4 (1991) on the right to adequate housing. At the domestic level, adequate housing and core housing need is defined in relation to three housing standards: adequacy, affordability, and suitability. The Canadian Mortgage and Housing Corporation defines these housing standards in the following ways: "(1) Adequate housing are reported by their residents as not requiring any major repairs; (2) Affordable dwellings cost less than 30% of total before-tax household income; and (3) Suitable housing has enough bedrooms for the size and make-up of resident households, according to National Occupancy Standard (NOS) requirements."

[11] A/HRC/43/43.

[12] A/HRC/31/54; A/HRC/40/61, para 43.

basic services like toilets.[13] Residents of encampments are also frequently subject to criminalization, harassment, violence, and discriminatory treatment.[14]

13 In the face of poverty and deep marginalization, people without homes face many untenable choices. For example, they may be forced to choose between 'sleeping rough' on their own (putting themselves at risk of violence and criminalization), entering an emergency homeless shelter (which may be inaccessible or inappropriate for their needs, or in which their autonomy, dignity, self-reliance, and/or independence may be undermined), or residing in a homeless encampment (in which they may lack access to basic services and face threats to their health). These choices are further narrowed for those living in communities that lack any emergency shelters, or where existing shelters are at (or over) capacity.

14 For people without access to adequate housing, the availability, accessibility, appropriateness, and adequacy of shelters plays a significant role in determining whether or not a person chooses to reside in a homeless encampment. In some cities, emergency shelters operate at 95-100% capacity,[15] necessitating that some individuals sleep rough or reside in an encampment. Existing shelters may also not be low-barrier, wheelchair accessible, trans-inclusive, or safe for people experiencing complex trauma or other challenges. Homeless persons with mental health challenges, drug or alcohol dependencies, or pets may find themselves barred from shelters. Under such conditions, some individuals may prefer, or feel they have little choice but to, reside in an encampment. Encampments thus may become a necessity or the best option available for some of those the most marginalized people in Canadian society.

15 For Indigenous peoples, a desire to avoid state surveillance and a mistrust of institutional settings, including shelters, may be a factor in turning to or living in an encampment. Negative or harmful interactions with colonial institutions, such as residential schools, the child welfare system, corrections, hospitals, asylums or sanitoriums, and shelters, may be intergenerational in nature and highly traumatic. For these reasons and others, Indigenous peoples are overrepresented in homeless populations across Canada, and further to this, are more likely to be part of "outdoor" or "unsheltered" populations – including homeless encampments.[16]

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[13] See Cooper, A. (2020). *Why People Without Housing Still Need Heat*. Pivot Legal Society. Available from: http://www.pivotlegal.org/why_people_without_housing_still_need_heat

[14] A/HRC/43/43, para 31; see also *Homelessness, Victimization and Crime: Knowledge and Actionable Recommendations*. Available from: https://www.publicsafety.gc.ca/lbrr/archives/cnmcs-plcng/cn35305-eng.pdf

[15] Employment and Social Development Canada. (2018). *Shelter Capacity Report 2018*. Ottawa. Available from https://www.canada.ca/en/employment-social-development/programs/homelessness/publications-bulletins/shelter-capacity-2018.html

[16] See Ontario Federation of Indigenous Friendship Centres. (2020). *Indigenous Homelessness in the 20 Largest Cities in Canada.* Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, Canada.

16 Regardless of the reasons why a person resides in a homeless encampment, homeless encampments *do not* constitute adequate housing, and do not discharge governments of their positive obligation to ensure the realization of the right to adequate housing for all people. Under international human rights law, "States have an obligation to take steps to the maximum of their available resources with a view to achieving progressively the full realization of the right to adequate housing, by all appropriate means, including particularly the adoption of legislative measures."[17] As part of these obligations, States must prioritize marginalized individuals or groups living in precarious housing conditions - including residents of homeless encampments.[18]

17 Governments have an urgent, positive obligation to provide or otherwise ensure access to adequate housing - for residents of encampments as they do for all people experiencing homelessness. Governments must act to immediately pursue deliberate, concrete, and targeted efforts to end homelessness by ensuring access to adequate housing. In the interim, governments must ensure the availability of sufficient shelter spaces - accessible and appropriate for diverse needs - where dignity, autonomy, and self-determination are upheld.

18 The fact that encampments violate the right to housing does not in any way absolve governments of their obligations to uphold the basic human rights and dignity of encampment residents while they wait for adequate, affordable housing solutions that meet their needs. The Principles outlined in this Protocol seek to support governments and other stakeholders to ensure that their engagements with encampments are rights-based and recognize residents as rights holders, with a view to realizing the right to adequate housing for these groups while respecting their dignity, autonomy, individual circumstances, and personal choices.

19 International human rights law does not permit government to use force to destroy peoples' homes, even if they are made of canvas or improvised from available materials and constructed without legal authority or title. States may not remove residents from encampments without meaningfully engaging them to identify alternative places to live that are acceptable to them. Any such removal from their homes or from the land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection, consistent with international human rights law is defined as a 'forced eviction' and is considered a gross violation of human rights.

20 Unfortunately, such forced evictions or sweeps have become common in Canada. Evictions have contravened international law by being carried out without meaningful consultation with communities and without measures to ensure that those affected have access to alternative housing. They have been justified on the basis that the

[17] International Covenant on Economic, Social and Cultural Rights, art. 2 (1).
[18] A/HRC/43/4.

residents are there illegally, are at risk to themselves, are on land that is slated for development, or are obstructing the enjoyment of the community by others. Declining conditions at encampments and public health and safety concerns are also frequently the grounds on which local governments and provinces seek injunctions for removal. The impact of municipalities' failure to proactively provide resources and services to mitigate or improve those conditions and concerns is most often ignored. Some communities have engaged bylaw officers or local police to tear down encampments at first sight.[19]

21 None of these reasons, however, justify forced evictions under international law. Forced evictions often have harmful or disastrous consequences for encampment residents.[20] Victims may face life-threatening situations that compromise their health and security, or result in the loss of access to food, social supports, social and medical services, and other resources.[21]

22 Few governments have recognized encampments as a response to violations of fundamental human rights and a response to the isolation and indignity of homelessness. They have failed to treat those living in such encampments as legally entitled to the protection of their homes and their dignity.

IV. Relevant Authority

23 Canadian governments' responsibilities and relevant authority to ensure the right to adequate housing, including for people residing in encampments, is found in: (1) international human rights treaties, (2) the *National Right to Housing Act*, (3) the *Canadian Charter of Rights and Freedoms* and human rights legislation, and (4) the UN *2030 Agenda for Sustainable Development* (*The Sustainable Development Goals*).

1. International Human Rights Treaties

24 Canada has ratified multiple international human rights treaties that articulate the right to adequate housing. In 1976, Canada ratified the *International Covenant on Economic, Social and Cultural Rights*, which contains the chief articulation of the right to housing under Article 11.1 "the right of everyone to an adequate standard of living for [themselves] and [their] family, including adequate food, clothing and housing, and to

[19] Ball, V. (2019). *Encampment residents fear eviction*. The Expositor. Available from: https://www.brantfordexpositor.ca/news/local-news/encampment-residents-fear-eviction
[20] A/HRC/43/43, para 36.
[21] UN Office of the High Commissioner. (2014). *Forced Evictions: Fact Sheet No. 25/Rev.1*. Available from: https://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf; Collinson, R. & Reed, D. (2018). *The Effects of Eviction on Low-Income Households*. Available from: https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf

the continuous improvement of living conditions."[22] The right to housing and the prohibition against forced evictions has been interpreted in General Comments No. 4 and 7[23] by the UN Committee on Economic, Social and Cultural Rights. In addition, Canada has ratified other treaties that codify the right to adequate housing, including:

- *Convention on the Rights of Persons with Disabilities*
- *Convention on the Rights of the Child*
- *Convention on the Elimination of Racial Discrimination*
- *Convention on the Elimination of Discrimination against Women*

25 Human rights ratified by Canada "extend to all parts of federal States without any limitations or exceptions," thus federal, provincial/territorial, and municipal governments are equally bound by these obligations.[24] In interpreting the right to adequate housing, the Committee on Economic, Social and Cultural Rights has emphasized that "the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity."[25]

26 Canada has also formally recognized the *UN Declaration on the Rights of Indigenous Peoples*, which also codifies the right to adequate housing and affirms that Indigenous Peoples have the right to be actively involved in developing and determining housing programmes and policies that affect them.[26] Further, Indigenous Peoples' right to land and self-determination is indivisible from the right to housing under international human rights law, meaning that they "shall not be forcibly removed from their lands or territories and that no relocation shall take place without their free, prior and informed consent."[27] All encampments are located on the traditional territories of Indigenous nations, including in cities, towns, and rural areas. On these territories, Indigenous Peoples' right to land and self-determination is in effect, whether or not those lands are subject to land claims or treaty.

1. Canadian Housing Policy and Legislation

27 The right to housing has also recently been recognized in Canadian legislation. In June 2019, the *National Housing Strategy Act* (the *Act*) received royal assent in Canada. The *Act* affirms Canada's recognition of the right to housing as a fundamental human

[22] ICESCR, Article 11, masculine pronouns corrected.
[23] General Comment 4 (1991), UN Doc. E/1992/23; General Comment 7 (1997), UN Doc. E/1998/22.
[24] A/69/274.
[25] General Comment 4 (1991), para 7.
[26] A/74/183.
[27] A/74/183.

right and commits to further its progressive realization as defined under the *International Covenant on Economic, Social and Cultural Rights.*

28 The Preamble and Section 4 of the *Act* underscore the interdependence of the right to housing with other fundamental rights, such as the right to life and an adequate standard of health and socio-economic wellbeing. Specifically, Section 4 states:

> It is declared to be the housing policy of the Government of Canada to:
>
> (a) recognize that the right to adequate housing is a fundamental human right affirmed in international law;
>
> (b) recognize that housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities;
>
> (c) support improved housing outcomes for the people of Canada; and
>
> (d) further the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights.

2. The Canadian Charter and Provincial/Territorial Human Rights Legislation

29 The government of Canada's international human rights obligations must be considered by courts in Canada when determining the rights of residents of encampments under domestic law,[28] particularly the *Canadian Charter of Rights and Freedoms*.[29] The Supreme Court has recognized that the right to "life, liberty and security of the person" in section 7 of the *Charter* may be interpreted to include the right to housing under international law.[30] Canada has told the UN that it accepts that section 7 at least ensures access to basic necessities of life and personal security.[31]

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[28] It should be noted that a human rights-based approach under domestic law should entail mindfulness about core human rights and equality principles, such as substantive equality and non-discrimination, which recognizes that state interventions be particularly attuned to the specific needs of particular groups, including those impacted by systemic and historical disadvantage. In this regard, a 'one size fits all' approach may not fully capture the distinct needs of groups residing within encampments.

[29] *R. v. Hape,* [2007] 2 S.C.R. 292, 2007 SCC 26, para 56: "In interpreting the scope of application of the Charter, the courts should seek to ensure compliance with Canada's binding obligations under international law where the express words are capable of supporting such a construction."

[30] *Irwin Toy Ltd. v. Quebec* (Attorney General), [1989] 1 S.C.R. 927; See Martha Jackman and Bruce Porter, "Social and Economic Rights", in Peter Oliver, Patrick Maklem & Nathalie DesRosiers, eds, *The Oxford Handbook of the Canadian Constitution* (New York: Oxford University Press, 2017), 843-861.

[31] Canada's commitments are described in *Victoria (City) v. Adams*, 2008 BCSC 1363 (CanLII), paras 98-99. Online, http://canlii.ca/t/215hs

30 In Canada, courts have considered the human rights implications of encampments, and have emphasized that Section 7 life and security of the person interests are engaged where state action poses significant harm to the health and wellbeing of persons enduring homelessness and housing insecurity. For example, Canadian courts have recognized that the daily displacement of people experiencing homelessness causes physical and psychological harm. The Court accepted in the case of *Abbotsford (City) v. Shantz*, that "the result of repeated displacement often leads to the migration of homeless individuals towards more remote, isolated locations as a means to avoid detection. This not only makes supporting people more challenging, but also results in adverse health and safety risks." The court recognized that these health and safety risks include "impaired sleep and serious psychological pain and stress."[32]

31 In the case of *Victoria v. Adams,*[33] residents of an encampment challenged a bylaw that prevented them from constructing temporary shelter in a park, on the basis of which city officials had secured an injunction to evict them. The British Columbia Supreme Court agreed that while the *Charter* does not explicitly recognize the right to housing, international law is a persuasive source for *Charter* interpretation and found that the bylaw violated the residents' right to security of the person. The BC Court of Appeal upheld the decision of the BC Supreme Court and other decisions in British Columbia have followed.[34] In *British Columbia v. Adamson* 2016,[35] for example, the court found that in the absence of alternative shelter or housing for all people experiencing homelessness, encampment residents must not be evicted from their encampment. In *Abbotsford v. Shantz* 2015[36] the Court found that denying encampment residents space to erect temporary shelters on public property was "grossly disproportionate to any benefit that the City might derive from furthering its objectives and breaches the s. 7 *Charter* rights of the City's homeless."[37]

32 The right to equality is also protected under the Canadian Charter as well as under federal, provincial, and territorial human rights legislation. Not all levels of government interpret or administer human rights codes in the same manner, with each province and territory administering its own human rights codes.[38] Regardless of jurisdiction, the UN Committee on Economic, Social and Cultural Rights has stated that the right to

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[32] *Abbotsford (City) v. Shantz*, 2015 BCSC 1909, paras 213 and 219.
[33] *Victoria (City) v. Adams*, 2008 BCSC 1363 (CanLII), paras 85-100. Online, http://canlii.ca/t/215hs
[34] Key examples of case law includes: *Victoria v. Adams* 2008/ 2009, *Abbotsford v. Shantz* 2015, *BC v. Adamson* 2016, and *Vancouver (City) v. Wallstam* 2017.
[35] *British Columbia v. Adamson* (2016 BCSC 1245). Online, https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc1245/2016bcsc1245.html?resultIndex=1
[36] *Abbotsford (City) v. Shantz* (2016 BCSC 2437). Online, https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1
[37] *Abbotsford (City) v. Shantz* (2016 BCSC 2437), para 224. Online, https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1
[38] For an overview of provincial and territorial human rights codes, see: https://ccdi.ca/media/1414/20171102-publications-overview-of-hr-codes-by-province-final-en.pdf

equality should be interpreted to provide the widest possible protection of the right to housing and has urged Canadian courts and governments to adopt such interpretations.[39]

33 While it is clear that the *Charter* provides some protection from forced evictions and sweeps of encampment residents, the extent to which it requires governments to address the crisis of homelessness that has led to reliance on encampments remains unresolved. The Supreme Court of Canada has yet to agree to hear an appeal in a case that would clarify the obligations of governments to address homelessness as a human rights violation. The Supreme Court has, however, been clear that the *Charter* should, where possible, be interpreted to provide protection of rights that are guaranteed under international human rights law ratified by Canada.

34 Governments should not use uncertainty about what courts might rule as an excuse for violating the human rights of those who are homeless. Canadian governments have an obligation, under international human rights law, to promote and adopt interpretations of domestic law consistent with the right to adequate housing. The UN Committee on Economic, Social and Cultural Rights has expressed concern that governments in Canada continue to argue in court against interpretations of the *Canadian Charter* that would protect the rights of homeless persons and residents of homeless encampments.

35 Therefore, it is critically important that, as part of a Protocol based on respect for human rights, municipal, provincial/territorial, and federal governments instruct their lawyers not to undermine international human rights or oppose reasonable interpretations of the *Charter* based on international human rights. They should never seek to undermine the equal rights of residents of homeless encampments to a dignified life, to liberty, and security of the person.

3. UN 2030 Agenda for Sustainable Development

36 In September 2015, member states of the United Nations, including Canada, adopted the *2030 Agenda for Sustainable Development* (*2030 Agenda*). Target 11.1 of the SDGs specifically identifies that by 2030, all States must "ensure access for all to adequate, safe and affordable housing and basic services and to upgrade informal settlements." This means governments must take steps to eliminate homelessness and make cities inclusive, safe, resilient and sustainable. Upgrading informal settlements

[39] CESCR, General Comment No. 9, para 15; E/C.12/1993/5, paras 4, 5, and 30.

includes the upgrading of homeless encampments.[40] States have affirmed that a rights-based approach to the SDG's is critical if they are to be achieved.[41]

V. Key Principles

37 It is critical that all levels of government in Canada employ an integrated human rights-based approach when engaging with encampments. The Principles outlined here aim to support the right to housing for all encampment residents as part of Canada's commitment to the right to housing under international human rights treaties and domestic law.

PRINCIPLE 1: Recognize residents of homeless encampments as rights holders

38 All government action with respect to homeless encampments must be guided by a commitment to upholding the human rights and human dignity of their residents. For many governments and those exercising governmental authority, this will mean a shift away from criminalizing, penalizing, or obstructing encampments, to an approach rooted in rights-based participation and accountability.[42]

39 This will mean understanding encampments as instances of both human rights *violations* of those who are forced to rely on them for their homes, as well as human rights *claims* advanced in response to violations of the right to housing. While encampments arise as a result of governments failing to effectively implement the right to housing, they can also be an expression of individuals and communities claiming their legitimate place within cities, finding homes within communities of people without housing, asserting claims to lands and territories, and refusing to be made invisible. They are a form of grassroots human rights practice critical to a democracy such as Canada's.[43] For Indigenous peoples, the occupation of lands and traditional territories vis-à-vis encampments may also be an assertion of land rights, claimed in conjunction with the right to housing.

40 In recognition of encampments as rights violations and rights claims, governments must rectify the policy failures that underpin the emergence of homeless encampments, while simultaneously recognizing residents as rights holders who are advancing a legitimate human rights claim. Their efforts to claim their rights to home

[40] A/73/310/Rev.1.

[41] The *National Housing Strategy* of Canada mirrors many of the commitments made in the *2030 Agenda*. However, the *Strategy* only commits Canada to reducing chronic homelessness by 50%, despite the *2030 Agenda*'s imperative to eliminate homelessness and provide access to adequate housing for all.

[42] A/73/310/Rev.1, para 15.

[43] A/73/310/Rev.1.

and community must be supported, not thwarted, criminalized, or dismissed as illegitimate or gratuitous protest.[44]

PRINCIPLE 2: Meaningful engagement and effective participation of encampment residents

41 Ensuring encampment residents are able to participate in decisions that directly affect them is "critical to dignity, the exercise of agency, autonomy and self-determination."[45] As rights holders, encampment residents are entitled to "participate actively, freely and meaningfully in the design and implementation of programmes and policies affecting them."[46] Meaningful engagement must be grounded in recognition of the inherent dignity of encampment residents and their human rights, with the views expressed by residents of homeless encampments being afforded adequate and due consideration in all decision-making processes.

42 Governments and other actors must engage encampment residents in the early stages of discussion without using the threat of eviction procedures or police enforcement to coerce, intimidate, or harass.[47] Engagement should proceed under the principle that residents are experts in their own lives and what is required for a dignified life.[48] Indigenous residents of encampments should also be engaged in decision-making processes in a manner that is culturally-safe and trauma informed.

43 In the context of homeless encampments, the right to participate requires that all residents be provided with information, resources, and opportunities to directly influence decisions that affect them. All meetings with government officials or their representatives regarding the encampment should be documented and made available to encampment residents upon request.

44 Participation processes must comply with all human rights principles, including non-discrimination. Compliance with international human rights law requires:

i. **Provision of necessary institutional, financial, and other resources to support residents' right to participate**
In order to participate in decisions that affect them, encampment residents should be provided with financial and institutional resources (e.g., wifi/internet access, meeting spaces) that support their active participation in decision-making. Such supports should include, but are not

[44] A/73/310/Rev.1.
[45] A/HRC/43/43, para 20.
[46] Ibid. See also the Committee on the Rights of the Child's General Comment No. 21 (2017) on children in street situations.
[47] A/HRC/40/61, para 38.
[48] A/HRC/43/43, para 21.

limited to: legal advice, social service supports, Indigenous cultural supports, literacy supports, translation, mobility supports, and transportation costs to attend consultations or meetings.[49] These resources should support democratic processes within the encampment, including community meetings, the appointment of community leaders, and the sharing of information.[50] Residents must be granted a reasonable and sufficient amount of time to consult on decisions that affect them.

ii. **Provision of relevant information about the right to housing**
Encampment residents must be provided with information about their right to housing, including information about procedures through which they can hold governments and other actors accountable, as well as specific information about the rights of Indigenous Peoples.[51]

iii. **Provision of relevant information concerning decisions that affect residents, ensuring sufficient time to consult**
Encampment residents must be provided with all relevant information in order to make decisions in matters that affect them.[52]

iv. **Establishment of community engagement agreement between homeless encampment residents, government actors, and other stakeholders**
In order to facilitate respectful, cooperative, and non-coercive communication between residents, government, and other stakeholders, government may seek to collaborate with residents to create a formal community engagement agreement (when appropriate and requested by residents).[53] This agreement should outline when and how encampment residents will be engaged,[54] and should be ongoing and responsive to the needs of the encampment residents.[55] It should allow the residents of homeless encampments to play an active role in all aspects of relevant proposals and policy, from commencement to conclusion. Residents should be able to challenge any decision made by government or other actors, to propose alternatives, and to articulate their own demands and priorities. Third party mediators should be available to protect against power imbalances that may lead to breakdown in negotiations or create

[49] Committee on Economic, Social and Cultural Rights' General Comment No. 4, para. 12, and the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 39).
[50] A/73/310/Rev.1.
[51] A/73/310/Rev.1, para 19.
[52] A/73/310/Rev.1.
[53] A/73/310/Rev.1.
[54] A/73/310/Rev.1.
[55] United Nations. *Guiding Principles on Extreme Poverty and Human Rights*, foundational principles, para 38.

unfair results.[56] Relevant government authorities and professionals should also be provided with "training in community engagement and accountability."[57]

v. **Provision of equitable opportunities for the meaningful participation of all encampment residents**

As a matter of human rights law, particular efforts must be taken to ensure equitable participation by women, persons with disabilities, Indigenous Peoples, migrants, and other groups who experience discrimination or marginalization.[58] Where possible, members of these groups should be afforded central roles in the process.[59]

Principle 2 in Action – The "People's Process" in Kabul, Afghanistan

The upgrading of informal settlements was identified as a key goal in the *2030 Agenda for Sustainable Development*, committing States to "upgrade slums" by 2030 (target 11.1). As identified by the UN Special Rapporteur on the right to adequate housing, "Participation in upgrading requires democratic processes through which the community can make collective decisions." Under international human rights law, the democratic processes required to upgrade slums mirrors encampment residents' right to participate in plans to resolve their housing needs. As such, democratic processes implemented to upgrade informal settlements in cities around the world can provide helpful examples for Canadian homeless encampments.

One such example is the "people's process" in Kabul, Afghanistan. This process delineates community leadership and control over the upgrading process, and includes an organizational structure that enables the community to engage different levels of government. As part of this process, "local residents elect community development councils responsible for the selection, design, implementation and maintenance of the projects." City staff are trained to work alongside informal settlement residents to implement and complete upgrading.

[56] A/HRC/43/4, para 42.
[57] A/73/310/Rev.1, para 20.
[58] A/HRC/43/4.
[59] Committee on Economic, Social and Cultural Rights, General Comment No. 21 (2009) on the right of everyone to take part in cultural life, in particular para 16.

PRINCIPLE 3: Prohibition of forced evictions of encampments

45 Under international human rights law, forced evictions constitute a gross violation of human rights and are prohibited in all circumstances, including in the context of encampments.[60]

46 Forced evictions are defined as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection … in conformity with the provisions of the International Covenants on Human Rights."[61]

47 Forced evictions are impermissible irrespective of the tenure status of those affected. This means that the forced eviction of encampments is prohibited if appropriate forms of protection are not provided – including all of the requirements described in this Protocol.[62] It may also be considered a forced eviction when governments' and those acting on their behalf harass, intimidate, or threaten encampment residents, causing residents to vacate the property.[63]

48 Common reasons used to justify evictions of encampments, such as 'public interest,' 'city beautification', development or re-development, or at the behest of private actors (e.g., real estate firms), do not justify forced evictions.[64] Evictions (as opposed to "forced evictions") may be justified in rare circumstances, but they may only be carried out after exploring all viable alternatives with residents, in accordance with law and consistent with the right to housing, as described in this Protocol.

49 Governments must repeal any laws or policies that sanction forced evictions and must refrain from adopting any such laws, including for example anti-camping laws, move-along laws, laws prohibiting tents being erected overnight, laws prohibiting personal belongings on the street, and other laws that penalize and punish people experiencing homelessness and residing in encampments.[65]

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[60] A/HRC/43/43, para 34; CESCR General Comment No.7.
[61] CESCR General Comment No.7.
[62] A/HRC/43/43, para 34; also see: "Security of tenure under domestic law should not, consequently, be restricted to those with formal title or contractual rights to their land or housing. The UN guiding principles on security of tenure (A/HRC/25/54, para. 5), states that security of tenure should be understood broadly as "a set of relationships with respect to housing and land, established through statutory or customary law or informal or hybrid arrangements, that enables one to live in one's home in security, peace and dignity."
[63] UN Office of the High Commissioner. (2014). *Forced Evictions: Fact Sheet No. 25/Rev.1*. Available from: https://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf
[64] A/HRC/43/43, para 36.
[65] See, for example, Ontario's *Safe Street's Act* (1999).

Principle 3 in Action: Forced Eviction & Harassment of Homeless Encampment Residents

In cities around the world, people experiencing homelessness are frequently subject to discriminatory treatment, harassment, and extreme forms of violence because of their housing status. People residing in homeless encampments are exposed to similar or worse treatment, particularly when faced with pressure to relocate or disperse.

In some cases, local laws, policies, or practices can provide the mechanisms for this harassment. For example, in British Columbia local authorities enforced a bylaw prohibiting overnight shelters in parks by using tactics that included spreading chicken manure and fish fertilizer on a homeless encampment. Residents and allies of the homeless encampment subsequently filed a human rights complaint with regard to these practices (*Abbotsford (City) v. Shantz)*, and the BC Supreme Court found that certain bylaws violated encampment residents' constitutional rights to life, liberty and security of the person.

Under international human rights law, such activities are strictly prohibited and constitute instances of forced eviction, even if they align with local laws or policies. Given this, it is critical that Canadian governments review local and national policies and laws to ensure they do not violate the prohibition against the forced eviction of homeless encampments.

PRINCIPLE 4: Explore all viable alternatives to eviction

50 Government authorities must explore all viable alternatives to eviction, in consultation with encampment residents.[66] This means ensuring their meaningful and effective participation in discussions regarding the future of the encampment.

51 Free and independent legal advice should be made available to all residents to help them understand the options, processes, and their rights. Consultations should be conducted at times and locations that are appropriate and accessible for residents to ensure their participation is maximised. Financial and other support should be available to residents so that they can fully participate in all discussions regarding the future of the encampment and so that residents can retain outside consultants (e.g., environmental engineers, architects) where needed to assist them in developing alternative options to eviction.

52 Discussions regarding viable alternatives to eviction must include meaningfully engagement with Indigenous Peoples and be grounded in principles of self-determination, free, prior and informed consent. In urban contexts, for example, urban Indigenous organisations should be engaged early in the planning process to establish service delivery roles and to ensure the availability of culturally appropriate services.

[66] A/HRC/43/4.

53 Where personal needs differ amongst residents of encampments such that a singular best alternative is not unanimous, governments will have to develop several solutions each of which is consistent with the principles outlined in this Protocol.

PRINCIPLE 5: Ensure that any relocation is human rights compliant

54 Homeless encampments are not a solution to homelessness, nor are they a form of adequate housing. Governments have an urgent, positive obligation to ensure encampment residents have access to long-term, adequate housing that meets their needs, accompanied by necessary supports. Rather than eviction, governments must engage with homeless encampments with a view to ensuring residents are able to access such housing.

55 Despite this obligation, many governments respond to encampments by simply moving residents from one bad site to another through the use of law enforcement, physical barriers, or other means, and without meaningfully engaging residents. This in no way addresses the underlying violations of the right to housing experienced by residents of encampments, is often costly, and can contribute to increased marginalization. If relocation is deemed necessary and/or desired by encampment residents, it is critical that it is conducted in a human rights compliant manner.

56 As a starting point, meaningful, robust, and ongoing engagement with residents (as defined in Principle 2) is required for the development of any relocation of homeless encampments or of their residents. Meaningful engagement with communities should ensure the development of plans that respect the rights of residents and can be implemented cooperatively, without police enforcement.[67] Considerations regarding relocation must be grounded in the principle that "the right to remain in one's home and community is central to the right to housing."[68] If relocation is consistent with the human rights of residents, it will almost always be achievable without the use of force.

57 If government authorities propose the relocation of residents of homeless encampments, and the residents desire to remain in situ, the burden of proof is on the government to demonstrate why in situ upgrading is unfeasible.[69]

58 If, after meaningful engagement with those affected, relocation is deemed necessary and/or desired by encampment residents, adequate alternative housing must be provided in close proximity to the original place of residence and source of livelihood.[70] If governments have failed to provide residents with housing options that

[67] A/HRC/40/61, para 38.
[68] A/73/310/Rev.1, para 26.
[69] A/73/310/Rev.1, para 32.
[70] A/HRC/4/18, annex I, para. 60.

they find acceptable, residents must be permitted to remain or be provided with a satisfactory alternative location, while adequate permanent housing options are negotiated and put in place.

59 If, in the exceptional case there is no viable alternative to eviction by authorities, eviction must be compliant with all aspects of international human rights law.[71] Compliance with international human rights law requires:

i. **Prohibition against the removal of residents' private property without their knowledge and consent**
The removal of residents' private property by governments and those acting on their behalf, including the police, without their knowledge and consent, in strictly prohibited.[72] Such actions are contrary to the rights of residents and may contribute to the deepening of residents' marginalization, exclusion, and homelessness.[73] Governments and police must also seek to actively prevent the removal of homeless residents' private property by private actors or any other form of harassment.

ii. **Adherence to the right to housing and other human rights standards when relocation is necessary or preferred**
Adequate alternative housing, with all necessary amenities (particularly water, sanitation and electricity), must be in place for all residents prior to their eviction.[74] Alternative housing arrangements should be in close proximity to the original place of residence and to services, community support, and livelihood.[75] It is critical that all encampment residents be allowed to participate in decisions regarding relocation, including the timing and site of relocation.[76] A full hearing of the residents' concerns with the proposed relocation should be held, and alternatives explored.

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[72] A/HRC/4/18, *Basic Guidelines on Development Based Evictions,* see para 50: "States and their agents must take steps to ensure that no one is subject to direct or indiscriminate attacks or other acts of violence, especially against women and children, or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment. Property and possessions left behind involuntarily should be protected against destruction and arbitrary and illegal appropriation, occupation or use."
[73] National Law Centre on Homelessness & Poverty. (2017). *Violations of the Right to Privacy for Persons Experiencing Homelessness in the United States*. Available from: https://nlchp.org/wp-content/uploads/2018/10/Special-Rapporteur-Right-to-Privacy.pdf. See para 7: "For them, whatever shelter they are able to construct, whether legally or illegally, is their home, and their right to privacy should inhere to that home the same as it would for any regularly housed person. To deny them that right is to further marginalize and dehumanize this already highly marginalized and dehumanized population."
[74] A/73/310/Rev.1, para 34.
[75] Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 60) and A/HRC/4/18, annex I, para. 60.
[76] A/73/310/Rev.1, para 31.

iii. **Relocation must not result in the continuation or exacerbation of homelessness, or require the fracturing of families or partnerships**

Relocation must not result in the continuation or deepening of homelessness for residents.[77] Relocation must not require the separation of families or partners, as defined by rights-holders themselves, including chosen family and other kinship networks.[78] Governments should engage encampments with a view to keeping the community intact, if this is desired by the residents.[79] Governments should also ensure that relevant housing policies are supportive of the ways in which rights-holders define their own families, partnerships, communities and extended Indigenous kindship structures, and accommodate these whenever possible in public or social housing.

iv. **Access to justice to ensure procedural fairness and compliance with all human rights**

Access to justice must be ensured at all stages of government engagement with encampment residents, not just when eviction is imminent.[80] Access to justice and legal protection must meet international human rights law standards,[81] including the provision of due process, access to legal aid, access to fair and impartial legal advice, and the ability to file complaints in a relevant forums (including Indigenous forums) that are geographically proximate.[82]

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[77] A/73/310/Rev.1.

[78] UN Office of the High Commissioner. (2014). *Forced Evictions: Fact Sheet No. 25/Rev.1*. Available from: https://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf. See para 52: "States should also ensure that members of the same extended family or community are not separated as a result of evictions."; also, UNHR Summary Conclusions on the Family Unit, Available at https://www.unhcr.org/protection/globalconsult/3c3d556b4/summary-conclusions-family-unity.html , see para 8:"International human rights law has not explicitly defined 'family' although there is an emerging body of international jurisprudence on this issue which serves as a useful guide to interpretation. The question of the existence or non-existence of a family is essentially a question of fact, which must be determined on a case-by-case basis, requiring a flexible approach which takes account of cultural variations, and economic and emotional dependency factors. For the purposes of family reunification, 'family' includes, at the very minimum, members of the nuclear family (spouses and minor children)."

[79] A/HRC/43/43, para 42.

[80] A/HRC/43/43.

[81] Committee on Economic, Social and Cultural Rights, General Comment No. 7, para 3.

[82] It should be noted that broad and inclusive participatory-based processes can potentially foster access to justice for equity-seeking groups, and such processes should be responsive to the unique barriers to justice these groups face.

Principle 5 in Action - *Melani v. City of Johannesburg*

Globally, there are many compelling examples of courts upholding the rights of informal settlements or homeless encampments right to remain in place ("in situ") in their community. One such example is *Melani v. City of Johannesburg* in South Africa. In this case, the Slovo Park informal settlement challenged the City of Johannesburg's decision to relocate the community to an alternative location 11 km away. The court held that the Government's upgrading policy, as required by the constitutional right to housing, envisages "a holistic development approach with minimum disruption or distortion of existing fragile community networks and support structures and encourages engagement between local authorities and residents living within informal settlements." The Court concluded that relocation must be "the exception and not the rule" and any relocation must be to a location "as close as possible to the existing settlement." The Court ordered the City of Johannesburg to reverse the decision to relocate the community, and mandated the city to apply for funding for in situ upgrading.

The South African approach is an example of how some national courts are making the shift to adopt a human rights-based approach to encampments. This is a shift that moves in the right direction and should be applied by all courts in Canada.

PRINCIPLE 6: Ensure encampments meet basic needs of residents consistent with human rights[83]

60 Much of the stigma attached to residents of encampments is a result of governments failing to ensure access to basic services, including access to clean water, sanitation facilities, electricity, and heat, as well as support services.[84] These conditions violate a range of human rights, including rights to housing, health, physical integrity, privacy, and water and sanitation.[85] In these conditions, residents face profound threats to dignity, safety, security, health, and wellbeing.[86] The denial of access to water and sanitation by governments constitutes cruel and inhumane treatment, and is prohibited under international human rights law.[87]

[83] Details regarding securing basic needs consistent with human rights can be found in Schedule B.
[84] A/73/310/Rev.1.
[85] A/HRC/43/4.
[86] UN Water. *Human Rights to Water and Sanitation*. Available from: https://www.unwater.org/water-facts/human-rights/
[87] A/73/310/Rev.1, para 46: "Attempting to discourage residents from remaining in informal settlements or encampments by denying access to water, sanitation and health services and other basic necessities, as has been witnessed by the Special Rapporteur in San Francisco and Oakland, California, United States of

61 Canadian governments must ensure, at a minimum, that rudimentary adequacy standards are ensured in homeless encampments on an urgent and priority basis, while adequate housing options are negotiated and secured. Government's compliance with international human rights law requires:

i. Access to safe and clean drinking water
Water and sanitation are critical to health for all people. Through *Resolution 64/292*, the United Nations explicitly recognized the right to safe and clean drinking water and sanitation as a "human right that is essential for the full enjoyment of life and all human rights."[88] The *Resolution* calls upon States and international organizations "to provide safe, clean, accessible and affordable drinking water and sanitation for all." This obligation extends to those residing in homeless encampments.[89]

ii. Access to hygiene and sanitation facilities
Homeless encampments must be provided with sufficient resources and supports to ensure access to hygiene and sanitation facilities – toilets, showers, hand-washing stations, for example – within the encampment, or within very close proximity. Using existing facilities that remain open to the general public will not be appropriate. Facilities should ensure the hygiene and dignity of all residents irrespective of needs or identity. Peer-led hygiene and sanitation facilities have worked well in some contexts.

iii. Resources and support to ensure fire safety
General safety precautions should be implemented in an encampment environment to ensure residents are safe from fire and chemical exposure. Fire Departments should assist residents in developing a harm reduction approach to fire safety.

iv. Waste management systems
The lack of waste management systems in encampments has serious health and safety implications. Encampments necessarily create garbage during the course of daily activities. Garbage piles can become combustible fire hazards and can increase the risk of exposure to chemical waste. Human and animal biological waste also poses a particular danger. Without sanitary facilities, accumulated fecal waste can contaminate the

America, 29 constitutes cruel and inhuman treatment and is a violation of multiple human rights, including the rights to life, housing, health and water and sanitation."
[88] A/RES/64/292, para 2. Available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.
[89] A/RES/64/292, para 3. Available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.

ground and transmit diseases.[90] The improper disposal of needles can also transmit diseases through puncture wounds or re-use of needles. It is the responsibility of governments to ensure that homeless encampments have sufficient resources for the establishment of waste management systems.

v. Social Supports and Services

Residents of homeless encampments should be ensured access to health, mental health, addiction, and broader social services in a manner equitable to other community residents and consistent with human rights. All supports should be culturally appropriate and anti-oppressive. Governments should consult encampment residents on how best to provide access to these services, including through approaches such as outreach and/or on-site service provision. The provision of social services should not be linked to data gathering of any kind.

vi. Guarantee Personal Safety of Residents

Although research indicates that unsheltered people in Canada are disproportionately targets of violence, rather than perpetrators,[91] interpersonal violence and exploitation can occur within encampments. interpersonal violence is often exacerbated when people do not have their basic needs met,[92] thus the provision of meaningful resources and supports will likely help ameliorate issues of safety.

It is the State's duty to protect the safety of all residents, particularly those who may be particularly vulnerable to abuse, harm, trafficking, or exploitation. Responses to violence must be guided by principles of transformative justice, rather that reproduce punitive outcomes and must be based in community-developed safety protocols. Governments must recognize that engaging police or other state authorities as a response to violence in encampments may put people at increased risk of harm, including due to risks of being criminalized or incarcerated.

vii. Facilities and resources that support food safety

Consuming contaminated food or water can cause a variety of foodborne

[90] CalRecycle. *Homeless Encampment Reference Guide*. Available at: https://www.calrecycle.ca.gov/illegaldump/homelesscamp#SolidWaste

[91] Sylvia, N., Hermer, J., Paradis, E., & Kellen, A. (2009). "More Sinned Against than Sinning? Homeless People as Victims of Crime and Harassment." In: Hulchanski, J. David; Campsie, Philippa; Chau, Shirley; Hwang, Stephen; Paradis, Emily (Eds.), *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book), Chapter 7.2. Toronto: Cities Centre, University of Toronto. www.homelesshub.ca/FindingHome

[92] Slabbert, I. (2017). Domestic violence and poverty: Some women's experiences. *Research on social work practice*, *27*(2), 223-230.

illnesses. Encampments are often more susceptible to foodborne illnesses due to a lack of storage, cooling appliances, improperly cooked foods, and limited or no access to clean water. Diseases can spread quickly in an encampment setting.

One of the best ways to prevent the spread of illness is to for governments to provide resources that enable the encampment to implement food safety measurements such as refrigeration facilities, which are also important for storing medicines.

viii. Resources to support harm reduction

Governments must provide encampments with the resources to implement effective harm reduction measures. Appropriate professionals should support residents to establish emergency protocols for responding to overdoses and other health emergencies.

ix. Rodent and pest prevention

The presence of rodents and pests can pose a significant threat to the health of residents. Appropriate prevention and treatment options should be available for pest management that are safe for use in human environments. Encampment residents should be provided with the resources to prevent and address the presence of rodents and pests.

62 In implementing these standards, it must be recognized that residents of encampments are experts with respect to their living spaces — they often know what resources are needed and how best to mobilize them. As a matter of human rights, residents must be engaged in planning and carrying out any measures developed to improve access to basic services. Practices, systems, and agreements residents have already put in place should be respected by government officials and should inform any further improvements.

PRINCIPLE 7: Ensure human rights-based goals and outcomes, and the preservation of dignity for encampment residents

63 As a matter of international human rights law, the rights and dignity of residents must be at the heart of all government engagement with homeless encampments.[93] Dignity is an inherent human rights value that is reflected in the *Universal Declaration of Human Rights*. As such, Canadian governments have an obligation to bring about positive human rights outcomes in all of their activities and decisions concerning homeless encampments.

[93] ICESCR.

64 Where Canadian governments at any level make decisions with regards to encampments, it is essential that they do so taking into account the full spectrum of human rights of residents and ensure that their enjoyment of those rights is enhanced by all decisions. Any decision that does not lead to the furthering of human rights, fails to ensure their dignity, or represents a backwards step in terms of their enjoyment of human rights, is contrary to human rights law.

65 More broadly, the Canadian government has an obligation to the progressive realization of the right to housing, alongside all other human rights.[94] A central component of that obligation is to address on an urgent basis the needs of those in the greatest need. This means that Canadian governments must move, as a matter of priority, towards the full enjoyment of the right to housing for encampment residents.[95] When governments fail to bring about positive human rights outcomes for encampment residents, they fail their obligation to progressively realize the right to housing.[96]

PRINCIPLE 8: Respect, protect, and fulfill the distinct rights of Indigenous Peoples in all engagements with encampments

66 Indigenous Peoples in Canada experience some of the most severe and egregious forms of housing need, and are dramatically overrepresented in homeless populations across the country, including specifically amongst those who are sleeping rough.[97] Under these conditions, many Indigenous Peoples experience profound violations of the right to housing and the right to self-determination, as well as violations of the right to freely pursue their economic, social, and cultural development.[98]

67 For Indigenous Peoples in Canada, encampments and political occupation may occur simultaneously as a means of survival and a means of asserting rights to lands and

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[94] ICESCR, in General Comment No.3 on the nature of states parties' obligations under Art 2(1) of the ICESCR.

[95] ICESCR, Article 2(1).

[96] Further, if governments failed to ensure human rights outcomes were obtained for encampment residents, and residents suffered some detriment to their enjoyment of their rights (e.g., loss of dignity or ended up street homeless without any shelter at all), this might be classed as retrogression and a breach of obligations.

[97] See ESDC (Employment and Social Development Canada). (2019). *Everyone counts highlights: Preliminary results from the second nationally coordinated point-in-time count of homelessness in Canadian communities.* Retrieved from https://www.canada.ca/en/employment-social-development/programs/homelessness/reports/highlights-2018-point-in-time-count.html#3.5. Similarly, the 2018 Toronto Street Needs Assessment documented that 16% of those enumerated were Indigenous, and 38% of those sleeping rough were Indigenous. See also Patrick, C. (2014). *Aboriginal Homelessness in Canada: A Literature Review. Toronto: Canadian Homelessness Research Network Press*. Retrieved from https://www.homelesshub.ca/sites/default/files/AboriginalLiteratureReview.pdf.

[98] Article 3 of the *Declaration* and article 1 of the *Covenant*.

territories within cities and elsewhere. Whatever the impetus, any government engagement with Indigenous Peoples in encampments must be guided by the obligation to respect, protect, and fulfil their distinct rights. These rights are outlined in the United Nations Declaration on the Rights of Indigenous Peoples, as well as many other international human rights treaties.

68 Under international human rights laws, the enjoyment of the right to housing for Indigenous Peoples is "deeply interconnected with their distinct relationship to their right to lands, territories and resources, their cultural integrity and their ability to determine and develop their own priorities and strategies for development."[99] Recognition of the indivisible nature of Indigenous Peoples' human rights, and the obligation to uphold these rights, must shape all government engagement with Indigenous encampment residents, as well as the Indigenous Peoples who own or occupy the land or territories upon which the encampment is located.

69 Compliance with international human rights law requires:

i. **Recognition of the distinct relationship that Indigenous Peoples have to their lands and territories**

In order to ensure adequate housing for Indigenous Peoples, States, Indigenous authorities, and other actors must recognize the distinct spiritual and cultural relationships that Indigenous Peoples have with their lands and territories.[100] This recognition includes protection for Indigenous residents of encampments, who have the right to utilize their lands and territories in line with their own economic, social, political, spiritual, cultural, and traditional practices (as defined and assessed by the Peoples themselves).[101]

Under international human rights law, governments "should respect those housing structures which an Indigenous community deems to be adequate in the light of their own culture and traditions."[102] In the context of encampments, governments must respect Indigenous Peoples' right to construct shelter and housing in ways that incorporate their lived histories, cultures, and experiences.[103]

ii. **Guarantee of self-determination, free, prior and informed consent and**

[99] A/74/183, particularly para 6: "The right to adequate housing can be enjoyed by Indigenous Peoples only if its articulation under article 11 (1) of the International Covenant on Economic, Social and Cultural Rights is understood as interdependent with and indivisible from the rights and legal principles set out in the United Nations Declaration on the Rights of Indigenous Peoples."
[100] A/74/183.
[101] A/74/183.
[102] A/74/183, para 62.
[103] A/74/183.

meaningful consultation of Indigenous Peoples

Governments must ensure the participation of Indigenous Peoples in all decision-making processes that affect them.[104] Governments must consult with Indigenous encampment residents in order to obtain their free, prior, and informed consent before taking any action that may affect them.[105] Engagement with Indigenous communities should involve genuine dialogue and should be guided by "mutual respect, good faith and the sincere desire to reach agreement."[106] This consultation process must engage representatives chosen by Indigenous Peoples themselves, in accordance with their own procedures and practices.[107] As outlined in Principle 2, governments must provide Indigenous residents with necessary institutional, financial, and other resources in order to support their right to participate.[108] Indigenous women and girls must be consulted on a priority basis.[109]

iii. Prohibition against the forced eviction, displacement, and relocation of Indigenous Peoples

Indigenous Peoples' access to and control over their lands, territories and resources constitute a fundamental element of the realization of their right to adequate housing.[110] As such, international human rights law strictly prohibits the relocation of Indigenous Peoples in the absence of free, prior, and informed consent.[111]

iv. Protection and guarantees against all forms of violence and discrimination for Indigenous women, girls, and gender diverse peoples

Indigenous women, girls, gender diverse, and Two-Spirit peoples experience particular forms of violence – including sexual violence and

[104] United Nations Declaration on the Rights of Indigenous Peoples.
[105] United Nations Declaration on the Rights of Indigenous Peoples, in particular arts. 10, 19, and 23.
[106] A/74/183, para 56.
[107] United Nations Declaration on the Rights of Indigenous Peoples, art. 18. See also Indigenous and Tribal Peoples Convention, 1989 (No. 169), art. 6(1)(b); American Declaration on the Rights of Indigenous Peoples, arts. XXI (2) and XXIII (1); and A/HRC/18/42, annex (Expert Mechanism advice No. 2 (2011)). See also Human Rights Committee, General Comment No. 23 (1994) on the rights of minorities, para 7.
[108] Committee on Economic, Social and Cultural Rights' General Comment No. 4, para 12, and the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para 39).
[109] A/74/183, para 59.
[110] A/74/183, para 51. See also A/HRC/7/16, paras 45–48; The United Nations Declaration of the Rights of Indigenous Art. 26.2: "Indigenous Peoples have the right to own, use, develop, and control the lands, territories and resources that they possess by reason of traditional occupation or use, as well as those which they have otherwise acquired."
[111] United Nations Declaration on the Rights of Indigenous Peoples, Art. 10: "Indigenous Peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the Indigenous Peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."

homicide – in relation to the intersection of their indigeneity, gender identity, socioeconomic and cultural status, and their housing status.[112] Canadian law recognizes the concept of multiple and intersecting forms of discrimination, and under international human rights law all Indigenous women, girls, and those who are gender diverse or Two-Spirited "must enjoy full protection and guarantees against all forms of violence and discrimination, whether inside or outside their communities."[113]

It is incumbent upon governments to provide Indigenous women and girls protection and guarantee against all forms of violence and discrimination within encampments, including from state authorities, in a manner that is consistent with Indigenous self-determination and self-governance.

[112] A/74/183, para 59.
[113] A/74/183, para. 59.

SCHEDULE A: Select Case Law on Homeless Encampments in Canada

Victoria (City) v. Adams, 2009 BCCA 563[114]

The City of Victoria made an application for an injunction to remove a "tent city" at Cridge Park. The City relied on its *Streets and Traffic Bylaw* and *Parks Regulation Bylaw, which* prohibits loitering and taking up an overnight temporary residence in public places. On appeal, the Court of Appeal established that the Victoria City bylaws violated section 7 of the *Canadian Charter* "in that they deprive homeless people of life, liberty and security of the person in a manner not in accordance with the principles of fundamental justice," and the provisions were not saved by section 1 of the *Charter* (para. 42). The Court of Appeal confirmed that the bylaw was overbroad "because it is in effect at all times, in all public places in the City."[115]

Abbotsford (City) v. Shantz, 2015[116]

The City of Abbotsford applied for an interim injunction requiring the defendants to remove themselves and their encampment from a city park. The Court concluded that the bylaws were "grossly disproportionate" because:

> "the effect of denying the City's homeless access to public spaces without permits and not permitting them to erect temporary shelters without permits is grossly disproportionate to any benefit that the City might derive from furthering its objectives and breaches the s. 7 *Charter* rights of the City's homeless."[117]

The Court concluded that allowing the City's homeless to set up their shelters overnight and taking them down during the day would "reasonably balance the needs of the homeless and the rights of other residents of the City."[118]

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[114] *Victoria(City) v. Adams* (2009, BCCA 563). Online, https://www.canlii.org/en/bc/bcca/doc/2009/2009bcca563/2009bcca563.html?resultIndex=1

[115] The Court of Appeal stated at para. 116 that: "The prohibition on shelter contained in the Bylaws is overbroad because it is in effect at all times, in all public places in the City. There are a number of less restrictive alternatives that would further the City's concerns regarding the preservation of urban parks. The City could require the overhead protection to be taken down every morning, as well as prohibit sleeping in sensitive park regions." This case is perhaps one of the most notable successes in homeless litigation in Canada.

[116] *Abbotsford (City) v. Shantz* (2016 BCSC 2437). Online, https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1

[117] Para 224

[118] The Court stated, "The evidence shows, however, that there is a legitimate need for people to shelter and rest during the day and no indoor shelter in which to do so. A minimally impairing response to balancing that need with the interests of other users of developed parks would be to allow overnight shelters to be erected in public spaces between 7:00 p.m. and 9:00 a.m. the following day."[para 276]

British Columbia v. Adamson, 2016 BCSC 584 [*Adamson #1*] and 2016 BCSC 1245 [*Adamson #2*][119]

The Province of BC applied for an interlocutory injunction to restrain the defendant encampment residents from trespassing on the Victoria courthouse green space. On the first application, the court concluded that the balance of convenience did not favour the granting of the injunction, stating

> "the balance of convenience is overwhelmingly in favour of the defendants, who simply have nowhere to move to, if the injunction were to issue, other than shelters that are incapable of meeting the needs of some of them, or will result in their constant disruption and a perpetuation of a relentless series of daily moves to the streets, doorways, and parks of the City of Victoria."[120]

Following this, a second injunction was filed based on new evidence of the encampment deterioration conditions, as well as supporting evidence that the Province would make housing available to encampment residents. The court made an order requiring the encampment to be cleared, but granting residents to stay until alternate housing options were made available to them.[121]

Vancouver (City) v. Wallstam, 2017 BCSC 937[122]

The City of Vancouver applied for an interlocutory injunction requiring encampment residents to vacate and remove all tents and other structures from a vacant city lot. The Court relied on the injunction test set out in *RJR-MacDonald.*[123] The court noted that:

> "The test requires that the *applicant* prove *it will suffer irreparable harm* if the injunction is not granted...When I asked counsel what harm the *City* would suffer if the injunction was not granted, he answered that not granting the injunction would mean that a 'vital social housing project won't go ahead' and that interferes with the public good. He also points out the timeline for development of the project requires the injunction urgently … While everyone can agree that more social housing is an important goal, I must balance that general concern against the position of the occupants that the tent city, as it currently exists, is now providing shelter and safe living space for the occupants."[124]

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[119] *British Columbia v. Adamson* (2016 BCSC 1245). Online, https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc1245/2016bcsc1245.html?resultIndex=1
[120] Para 183.
[121] Paras 85-86,
[122] *Vancouver (City) v. Wallstam* 2017 BCSC 937 at para 60. Online, https://www.canlii.org/en/bc/bcsc/doc/2017/2017bcsc937/2017bcsc937.html?resultIndex=1
[123] In *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311
[124] Para 46-47.

The court concluded that the City failed to meet the *RJR-MacDonald* test and dismissed the City's application, but without prejudice to bring it forward again on a more complete factual record.[125]

[125] Para 64.

SCHEDULE B: An Elaboration on Principle 6

Ensure encampments meet basic needs of residents consistent with human rights

Canadian governments must ensure, at a minimum, that rudimentary adequacy standards are ensured in homeless encampments on an urgent and priority basis, while adequate housing options are negotiated and secured. Government's compliance with international human rights law requires:

i. **Access to safe and clean drinking water**

Water and sanitation are critical to health for all people. Through *Resolution 64/292*, the United Nations explicitly recognized the right to safe and clean drinking water and sanitation as a "human right that is essential for the full enjoyment of life and all human rights."[126] The *Resolution* calls upon States and international organizations "to provide safe, clean, accessible and affordable drinking water and sanitation for all." This obligation extends to those residing in homeless encampments.[127]

To ensure access to safe and clean drinking water, governments should provide homeless encampments with resources for:

- On site/close-proximity clean and safe drinking/potable water, ensuring a sufficient number of access points for water relative to the number of residents
- Dishwashing Station(s) with clean water, sufficient in number for the number of residents

ii. **Access to hygiene and sanitation facilities**

Homeless encampments must be provided with sufficient resources and supports to ensure access to hygiene and sanitation facilities – toilets, showers, hand-washing stations, for example – within the encampment, or within very close proximity. Using existing facilities that remain open to the general public will not be appropriate. Facilities should ensure the hygiene and dignity of all residents irrespective of needs or identity. Peer-led hygiene and sanitation facilities have worked well in some contexts.

Hygiene and sanitation facilities should include:

- Washing stations, including showers with privacy and safety for women and gender diverse peoples, stocked with soap, water, paper towels

[126] A/RES/64/292, para 2. Available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.
[127] A/RES/64/292, para 3. Available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.

- Adequate numbers of toilets based on the encampment population which must be accessible for residents with disabilities. Every toilet station must also have a hand-washing station
- Access to cleaning and bathing supplies
- Access to free laundry facilities
- Free feminine hygiene products
- Access to clean bedding

iii. Resources and support to ensure fire safety

General safety precautions should be implemented in an encampment environment to ensure residents are safe from fire and chemical exposure. Fire Departments should assist residents in developing a harm reduction approach to fire safety. Residents should be provided with resources to support best safety practices, including:

- Fire-safety approved sources of heat (e.g., safe metal vessels for heat)
- Warming tents
- In-tent heat sources
- Fire-proof tents
- Fire evacuation plan
- Signage indicating evacuation plans
- Accessible information on fire safety tips and how to handle and store flammable materials (e.g., gasoline, butane, propane)
- Fire extinguishers appropriately spaced and training for residents on how to operate them
- Electricity/charging stations for phones and laptops
- On-site ashtrays or cigarette disposal posts

iv. Waste management systems

The lack of waste management systems in homeless encampments has serious health and safety implications. Encampments necessarily create garbage during the course of daily activities, including during food preparation or shelter building. Unwanted materials can pile up quickly when there is no waste system in place to remove garbage from the area. Garbage piles can become combustible fire hazards and can increase the risk of exposure to chemical waste.

Human and animal biological waste also poses a particular danger. Without sanitary facilities, accumulated fecal waste can contaminate the ground and transmit diseases.[128] The improper disposal of needles can also transmit diseases through puncture wounds or re-use of needles.

[128] CalRecycle. *Homeless Encampment Reference Guide*. Online at https://www.calrecycle.ca.gov/illegaldump/homelesscamp#SolidWaste

It is the responsibility of governments to ensure that homeless encampments have sufficient resources for the establishment of waste management systems, which should include:

- Weekly garbage and recycling (more frequent if needed)
- Regular service for waste water and portable toilets
- Independent waste bins for flammable/hazardous waste (e.g., fuel, motor oil, batteries, light bulbs)
- Large rodent-proof waste bins with tight fitting lids
- Garbage bags, cleaning supplies, hand soap, hand sanitizer
- Waste water holding tanks (if there are no sewers near encampment)

v. Social Supports and Services

Residents of homeless encampments should be ensured access to health, mental health, addiction, and broader social services in a manner equitable to other community residents and consistent with human rights. All supports should be culturally appropriate and anti-oppressive. Governments should consult encampment residents on how best to provide access to these services, including through approaches such as outreach and/or on-site service provision. The provision of social services should not be linked to data gathering of any kind.

i. Guarantee Personal Safety of Residents

Although research indicates that unsheltered people in Canada are disproportionately targets of violence, rather than perpetrators,[129] interpersonal violence and exploitation can occur within encampments. interpersonal violence is often exacerbated when people do not have their basic needs met,[130] thus the provision of meaningful resources and supports will likely help ameliorate issues of safety.

It is the State's duty to protect the safety of all residents, particularly those who may be particularly vulnerable to abuse, harm, trafficking, or exploitation. Responses to violence must be guided by principles of transformative justice, rather that reproduce punitive outcomes and must be based in community-developed safety protocols. Governments must recognize that engaging police or other state authorities as a response to violence in encampments may put people at increased risk of harm, including due to risks of being criminalized or incarcerated.

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[129] Sylvia, N., Hermer, J., Paradis, E., & Kellen, A. (2009). "More Sinned Against than Sinning? Homeless People as Victims of Crime and Harassment." In: Hulchanski, J. David; Campsie, Philippa; Chau, Shirley; Hwang, Stephen; Paradis, Emily (Eds.), *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book), Chapter 7.2. Toronto: Cities Centre, University of Toronto. www.homelesshub.ca/FindingHome

[130] Slabbert, I. (2017). Domestic violence and poverty: Some women's experiences. *Research on social work practice*, *27*(2), 223-230.

Any approach to addressing interpersonal safety within encampments must:

- Center on the most vulnerable members of the encampment, namely: BIPOC, women, trans-people and other LGBTQ2S+ persons, persons with disabilities, and other groups who experience discrimination or marginalization.
- Provide resources and supports to allow for Indigenous and other non-colonial approaches to conflict resolution.
- Provide safe, confidential, accessible, and non-coercive mechanisms through which individuals experiencing violence can report these experiences and receive trauma-informed supports and services, ensuring that these individuals are able to access alternative safe housing (as desired).

vi. Facilities and resources that support food safety

Consuming contaminated food or water can cause a variety of foodborne illnesses. Encampments are often more susceptible to foodborne illnesses due to a lack of storage, cooling appliances, improperly cooked foods, and limited or no access to clean water. Diseases can spread quickly in an encampment setting.

One of the best ways to prevent the spread of illness is to for governments to provide resources that enable the encampment to implement food safety measurements. This includes:

- Rodent-proof storage containers, with lids that can be sealed
- Shelving units to ensure food is stored off the ground
- Soap and sanitizer to clean food preparation surfaces
- Cooling appliance(s) to prevent spoilage
- Cooking appliance(s) to ensure food is thoroughly cooked

vii. Resources to support harm reduction

Governments must provide homeless encampments with the resources to implement effective harm reduction measures within homeless encampments. Appropriate professionals should support residents to establish emergency protocols for responding to overdoses and other health emergencies. Encampment residents should be provided with:

- Overdose prevention training (e.g., CPR training)
- Overdose prevention supplies (e.g., Naloxone)
- Overdose Prevention Sites, where possible
- Puncture-proof containers for needle disposal
- Harm reduction outreach supports
- Regular servicing of puncture-proof containers by a certified waste-management company

- Information about available emergency services in the event of overdoses or other health-related crises

viii. Rodent and pest prevention

The presence of rodents and pests can pose a significant threat to the health of residents. Appropriate prevention and treatment options should be available for pest management that are safe for use in human environments (e.g., diatomaceous earth). Encampment residents should be provided with the resources to prevent and address the presence of rodents and pests, including:

- Resources and information on rodent and pest prevention
- A bait-station to detract rodents from sleeping tents, regularly serviced and monitored
- Cleaning materials and gloves to dispose of rodents

In implementing these standards, it must be recognized that residents of encampments are the experts of their living spaces — they often know what resources are needed and how best to mobilize them. As a matter of human rights, encampment residents must be engaged in planning and carrying out any measures developed to improve access to basic services for the encampment. Practices, systems, and agreements residents already have in place should be recognized by government officials and should inform any further improvements.

THIS IS **EXHIBIT "M"** REFERRED TO
IN THE AFFIDAVIT OF MARIE JOSEE HOULE
SWORN REMOTELY AT THE
CITY OF CANTLEY BEFORE ME AT THE REGION OF WATERLOO
DURING A ZOOM VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF AUGUST, 2025

_____

ASHLEY SCHUITEMA
A Commissioner, etc.,
Province of Ontario,
While a Barrister and Solicitor.
LSO # 68257G

B-1-10482

HOMELESS ENCAMPMENTS:

Municipal Engagement Guidance

National Working Group on Homeless Encampments

B-1-10482

A NOTE TO THE READER

The National Working Group on Homeless Encampments (NWG-HE) – convened by The Shift since January 2023 – presents a Municipal Engagement Guidance. This Guidance is intended to support municipalities in engaging homeless encampments in a constructive and peaceful manner. The Guidance is not a road map to solving homelessness. It is an effort to establish national standards, based in human rights, for municipal government engagement with encampments across the country. It is intended to help ensure the best outcomes for those living in encampments and their communities in the short term, while establishing a foundation for longer-term solutions.

The Municipal Guidance was drafted through discussions and with the input of the NWG-HE whose members include the Chair and Vice-Chair of the Big City Mayors caucus – Mayor Savage (Halifax) and Mayor Clark (Saskatoon), respectively – as well as Indigenous representatives, people with lived expertise, social medicine doctors, front line harm reduction workers, academics, and advocates. Representatives of federal and city governments and human rights institutions also participated as observers. The list of formal participants is at the close of the document. The Municipal Guidance was shared at the Big City Mayors Caucus in May 2023. It was also shared with the Federal Housing Advocate to inform her review of homeless encampments, expected to be concluded in early 2024.

THE SHIFT
#RIGHT2HOUSING

We would like to live in a Canada in which everyone is safely and adequately housed.

Homeless encampments are increasingly appearing in communities across Canada, whereby individuals erect tents or informal structures on public or private lands, including unceded territory, to provide themselves with shelter. Those residing in encampments live in very difficult circumstances and are often there because shelter spaces and appropriate long-term supportive housing options are either unavailable and/or do not provide adequate protections and supports for their specific needs.
This Guidance note is intended as a high-level road map to assist municipal governments in addressing homeless encampments by first advocating for appropriate long term supportive housing and in the absence of that, ensuring encampments support the human rights and dignity of those in them, in a manner that respects human rights and promotes human well-being and safe communities. It acknowledges that responsibility for addressing homelessness rests with the three orders of government which must act collaboratively and with a shared sense of urgency in the interest of those who are unhoused or at risk of becoming unhoused.

BASIC PRINCIPLES

The following basic principles should inform the approach:

- Homeless encampments will rarely satisfy the requirements of the human right to housing, and thus should not be understood as a solution to homelessness and should not be permanent.
- Residents of homeless encampments must be treated in a dignified, empathetic and culturally appropriate manner and are entitled to the necessities of life, including affordable, secure, and dignified housing.
- Municipalities do not always have the jurisdiction, capacity, and resources to ensure unhoused people have affordable, secure, and dignified housing. Significant support and intervention from other orders of government is required.
- Indigenous Peoples are dramatically overrepresented in homeless populations in many cities across the country, including in many encampments. Policies and approaches on encampments must be consistent with Truth and Reconciliation and the National Inquiry on Missing and Murdered Indigenous Women Calls to Action and Justice.
- Many encampment residents have complex mental and/or physical health needs that require an integrated approach with healthcare supports.
- Residents who neighbour encampments have legitimate experiences and concerns that require consideration.

WAYS FOR MUNICIPALITIES TO PREVENT HOMELESSNESS, ADDRESS ENCAMPMENTS AND SUPPORT PEOPLE WHO LIVE IN THEM

1. **Solicit Provincial and Federal Government Support**
   Coordinated, long-term financial and policy supports of federal and provincial governments are required for homeless encampments to be resolved. Municipalities should collectively escalate the issue on provincial and national political agendas as an urgent matter of fundamental human rights, for example by calling for an inter-governmental action-table on homelessness that includes Indigenous, civil society and lived-expertise participation. The focus should be twofold: preventing homelessness and addressing homeless encampments.

2. **Meaningfully Engage with those Living in Encampments**
   Better, more peaceful outcomes will be achieved if people living in homeless encampments and the individuals and organizations they choose to support them, are meaningfully engaged and have the capacity to shape and co-create solutions with the aim of closing the encampment. Successful meaningful engagement can be a long process often taking months and requires consistency and patience.

   Municipal governments, working with Indigenous partners, must consult with Indigenous residents of encampments and their representatives where appropriate, securing their free, prior, and informed consent with respect to any decision or measure that will impact them.

   All engagement must be culturally appropriate.

   See Appendix for the elements of successful meaningful engagement.

3. **Explore all viable alternatives to encampment eviction or removal**
   While homeless encampments should not be permanent, every effort should be taken to avoid forced removal of encampments, recognizing court rulings in British Columbia and Ontario indicating that in some circumstances to do so violates the Charter of Rights and Freedoms.

   Meaningful engagement with encampment residents (see below), good faith dialogue, and the offer of reasonable alternative housing options (eg: rent supplements; tiny homes; hotel rooms; modular units) will dramatically reduce the need to remove people involuntarily from encampments.

   Issuing trespass notices, enforcing prohibitive bylaws, or otherwise coercing people in encampments into housing should be considered a last resort after all viable alternatives are exhausted.

   Where an encampment is erected in a dangerous (eg: construction site) or inappropriate (eg: cemetery, playground, school, daycare) location, the municipality should engage those in the encampment to relocate to a more suitable site, even if it is an alternate tenting site.

4. Essential Services for Encampment Residents

Homeless encampments do not satisfy the requirements of the right to housing. However, where they exist, municipalities, working with their government and community partners, should ensure that to the greatest extent possible encampments meet the basic needs for survival of those living there. This will make encampments safer for those residing therein, as well as for neighbouring homes and businesses.

See Appendix for examples of essential services.

5. Encampments and Safety

People who reside in encampments must always be safe as must those living near encampments. Safety within an encampment is more likely if trusting relationships are built between residents (alongside those they rely upon for support), and municipal officials (including fire departments, emergency responders and police) healthcare providers, outreach workers and others supporting the encampment. Indigenous-led supports are critical to the safety of Indigenous persons living in encampments, and foundational to trust-building.

Municipalities should work with the above and other actors as appropriate to develop an encampment safety protocol, taking into consideration relevant power imbalances. This protocol should outline under what circumstances police and security personnel should be called into the encampment community and by whom. It should also include measures to address sexual assault, physical assault, and exploitation of vulnerable groups, such as women, gender-diverse populations, minors, and racialized populations.

People living in encampments should be provided training in safety procedures including with respect to potentially hazardous equipment and materials.
Personal belongings of encampment residents should always be treated with care, regardless of the security issue at hand, except in the case of an emergency, i.e. fire, extreme weather event.

APPENDIX

MUNICIPAL ENGAGEMENT WITH THOSE LIVING IN ENCAMPMENTS WILL BE MOST SUCCESSFUL IF IT:

I. INCLUDES TRAINING FOR ENCAMPMENT RESIDENTS WITH RESPECT TO THEIR HUMAN RIGHTS, AND SAFETY PROTOCOLS AND REQUIREMENTS;

II. INCLUDES THE INDIVIDUALS AND ORGANIZATIONS ENCAMPMENT RESIDENTS RELY UPON FOR SUPPORT IF SO REQUESTED;

III. IS IMMEDIATE, REGULAR AND ONGOING;

IV. IS PRACTICED IN GOOD FAITH;

V. IS INCLUSIVE, CULTURALLY APPROPRIATE AND NON-DISCRIMINATORY;

VI. OCCURS AT APPROPRIATE AND ACCESSIBLE TIMES AND LOCATIONS;

VII. PROVIDES AN OPPORTUNITY FOR ENCAMPMENT RESIDENTS TO RAISE CONCERNS AND ISSUES AND TO RECEIVE IMMEDIATE FEEDBACK AND/OR A COMMITMENT TO RETURN WITH INFORMATION AT A SPECIFIED TIME; AND

VIII. IS BASED ON THE UNDERSTANDING THAT ENCAMPMENT RESIDENTS ARE NOT HOMOGENOUS AND WILL ACCEPT AND REQUIRE DIFFERENT SOLUTIONS.

ESSENTIAL SERVICES

In consultation with those living in encampments, municipalities, working with other orders of government and community partners, should ensure the following are available on-site or within reasonable proximity to encampments:

- Durable tents or building code compliant structures that are fire retardant + can withstand inclement weather, that provide privacy, cots to sleep on, and bedding
- Access to safe and clean drinking water
- Access to warming/cooling areas
- Access to sufficient and appropriate quality clothing
- Resources and supports to ensure fire safety (eg: training on fire safety for those living on site)
- Assistance for those living in encampments to develop social protocols. For example: zero-violence policy; anti-racism and harassment policy for encampment residents as well as other users and abutters of public spaces where encampments exist.
- Access to hygiene and sanitation facilities
- Waste management systems including for drug-use related waste (needles, pipes).
- Power sources
- Facilities and resources that support access to healthy food supply and its storage
- Garbage facilities
- Proximate safe and secure storage facilities for personal belongings
- Rodent and pest deterrence
- Resources to support harm reduction
- Creation of safe areas where women, LGBTQ2S+ and others at risk of violence and exploitation may reside

NATIONAL WORKING GROUP ON HOMELESS ENCAMPMENT PARTICIPANT LIST

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Dr. Andrew Boozary	Executive Director, Population Health & Social Medicine at UHN
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Charlene Lee	Lived Expert, Kitchener
Mayor Charlie Clark	Mayor, Saskatoon
Infrastructure Canada Observer	Infrastructure Canada
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Leilani Farha	Global Director of The Shift
City of Kitchener Observer	City of Kitchener
Mayor Michael Savage	Mayor, Halifax Regional Municipality
Stephanie Lowe	Senior Housing Policy Analyst, Aboriginal Housing Management Association (AHMA)

THE REGIONAL MUNICIPALITY OF WATERLOO Applicants	and	**PERSONS UNKNOWN AND TO BE ASCERTAINED** Respondents

Court File No.: CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at KITCHENER

AFFIDAVIT OF MARIE JOSEE HOULE

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TAB 15

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

ACKNOWLEDGMENT OF EXPERT'S DUTY

1. My name is Marie-Josee Houle. I live at the City of Cantley, in the Province of Quebec.

2. I have been engaged by or on behalf of the Waterloo Region Community Legal Services to provide evidence in relation to the above-noted court proceeding.

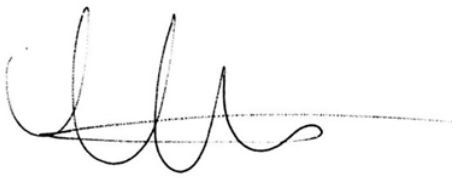
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:

   (a) to provide opinion evidence that is fair, objective and non-partisan;

   (b) to provide opinion evidence that is related only to matters that are within my area of expertise; and

   (c) to provide such additional assistance as the court may reasonably require, to determine a matter in issue.

4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.



Date August 15, 2025

Signature

THE REGIONAL MUNICIPALITY OF WATERLOO Applicants	and	**PERSONS UNKNOWN AND TO BE ASCERTAINED** Respondents

Court File No.: CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at KITCHENER

SUPPLEMENTAL RESPONDING APPLICATION RECORD
Volume 3

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