

# NRHN and WNHHN-NGO-Canada-Session

Submission Regarding the Government of Canada's Response to Questions 10 and 16 of List of Issues (CRC/C/CAN/Q/5-6)

Regarding violations of articles 3, 16 and 27 of the Convention on the Rights of the Child

April 20, 2022

Submitted by:

The National Right to Housing Network and The Women's National Housing and Homelessness Network

Drafted by: Bruce Porter, Kaitlin Schwan, & Sahar Raza

## I. Overview

This submission addresses Canada's response to the following two questions:

Question 10 (c)

Requesting information on:

(c) the impact of the National Housing Strategy on children including measures taken to ensure coordination across provinces and territories of efforts to address child poverty and homelessness;

and

Question 16

Requesting updates on:

(a) New bills or laws, and their respective regulations;

(b) New institutions (and their mandates) or institutional reforms;

Overview: The human rights crisis in housing facing families with children

The crisis of homelessness and unaffordable housing for low-income and Indigenous families with children, and the consequences of homelessness and mass eviction on children, is probably the most serious systemic issue affecting the human rights of children in Canada.

It is important that in this periodic review the Committee provide explicit and concrete recommendations about how this human rights crisis for children can be addressed to protect and ensure children's rights under the Convention on the Rights of the Child (CRC). Canada's response to questions 10 and 16 of the List of Issues omitted critical information that will be important for the Committee to identify key concerns and helpful recommendations.

Canada neglected to identify widespread concerns that the National Housing Strategy (NHS) has, to date, failed to adequately address the housing needs of low-income families and Indigenous households with children, and failed to implement clear goals and timelines for the elimination of homelessness among families with children.

In addition, Canada neglected to inform the Committee of the historic National Housing Strategy Act (NHSA) adopted federally in 2019, which, for the first time in Canadian legislation, recognizes the right to adequate

housing as defined in international human rights law. This legislation is distinguished from the National Housing Strategy itself. Indeed, the NHSA requires the NHS to be revised to conform with international human rights. The NHSA is therefore a critical means through which Canada can achieve compliance with children's right to housing under articles 3, 16 and 27 of the CRC. If properly implemented, the NHSA should ensure that the National Housing Strategy is revised and enhanced to realize the right to adequate housing of families with children.

This submission will focus on two particular areas that we hope the Committee will address in its review:

i) ensuring that the historic recognition of the right to adequate housing in the 2019 National Housing Strategy Act is implemented in good faith and in accordance with the CRC so as to fully protect the rights of children;

and

ii) ensuring that all administrative decisions affecting children's housing, including eviction proceedings, consider and address the best interests of the child, the right to protection of home and family, and the duty of relevant governments to take appropriate measures to assist parents and others responsible for the child.

The following are key recommendations that would be particularly helpful in addressing the crisis of homelessness and inadequate housing facing children in Canada. These recommendations pertain to both federal and provincial/jurisdictions, noting that the federal government has an obligation to ensure these changes are made at the provincial/territorial level.

Introduction: Families with children and the human rights crisis in housing in Canada

Canada faces an unprecedented housing and homelessness crisis that has disastrous consequences for children. More than 235,000 people in Canada experience homelessness in any given year, and 25,000 to 35,000 people may be experiencing homelessness on any given night. These numbers are expected to rise in the coming year. Importantly, the Canadian Housing Survey found that 13% of homeless people are under the age of 16 and a further 13% are between 16 and 24 years of age. Approximately 90% of adults with children in shelters are women. Indigenous families are disproportionately represented among homeless families. Indigenous people make up approximately 30% of the homeless population in Canada, while representing just 5% of the general population.

There are a number of significant issues facing children who are homeless or precariously housed in Canada today. Homeless shelters for families with children are often at capacity. 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%)." The data suggests that few women and their children transition from shelters into safe, affordable, and adequate housing. In fact, 1 in 5 women—often with their children—return to live with their abuser. Shelter data in Toronto show recent increases in the number of homeless children. On average, families stay in shelters twice as long as individuals because it is so difficult to find any affordable housing to move to. Further, women and children in transitional housing lack any protection of security of tenure.

Most homelessness among families with children, however, is invisible, so the number of families with children experiencing homelessness is much higher than reported. Women with children will often take extreme measures to avoid homelessness or exposing their children to the trauma of moving into a shelter. Women experiencing homelessness with their children may also avoid shelters for fear of child apprehension or exposure to violence, making it more difficult to access necessary supports and services.

While lone parent families have similar requirements for adequate shelter as other family types with children, they have far lower incomes and face widespread discrimination from landlords. 36% of lone-parent families with children are in core housing need compared to 5% of couples and 9% of couples with children (8%). 14% of children under 14 are in core housing need—a higher percentage than any other age group.

The effects of homelessness and precarious housing on children has been insufficiently researched in Canada and children have not been fully heard about their experiences of homelessness. It is clear, however, that homelessness has a particularly devastating effect on children, who can be severely traumatized both by homelessness and by its effect on the adults who care for them. As noted by the Office of the High Commissioner on Human Rights (OHCHR), homelessness and inadequate housing have severe effects on children's "growth, development and enjoyment of a whole range of human rights, including the right to education, health and personal security.... The impact on children of forced evictions is considered comparable to the effects of armed conflict."

## Key Concerns and Recommendations

### 1. Ensuring that Children's Right to Housing is Fully Recognized and Addressed under the National Housing Strategy Act (2019)

The National Housing Strategy Act (2019) (NHTA) is federal legislation which recognizes the right to housing as "a fundamental human right affirmed in international law," recognizes that "housing is essential to the inherent dignity and well-being of the person," and commits the federal government to "further the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights."

The NHTA also requires the government to adopt and maintain a rights-based National Housing Strategy to support the progressive realization of the right to housing. The Strategy must include national goals, timelines and desired outcomes; focus on improving housing outcomes for persons in greatest need; and 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.

The NHTA also requires the appointment of:

A Federal Housing Advocate who receives and reviews submissions on systemic issues and submits findings and recommendations to the Minister of Housing

A National Housing Council to advise the Minister on changes needed to the National Housing Strategy

A Review Panel of three members, appointed by and from the National Housing Council to hold participatory hearings into systemic issues referred by the Federal Housing Advocate.

The NHTA was the result of years of civil society advocacy and urging from UN treaty bodies and successive Special Rapporteurs on the Right to Adequate Housing. The innovative mechanisms for access to justice are seen internationally as an important initiative that may be applied in other countries. These mechanisms address systemic issues that are often neglected when courts adjudicate individual claims. Since the legislation was adopted by parliament in 2019, however, the federal government has largely ignored it.

A Federal Housing Advocate was, after significant delay, appointed in February of 2022. There is a new opportunity to realize the potential of Canada's historic commitment to the right to housing, including for children across Canada. The National Housing Council recently released a research report documenting the ways in which the current National Housing Strategy fails to improve housing conditions for those most in need, particularly low-income families and Indigenous households. Direction from the Committee on the Rights of the Child to clarify Canada's obligations to ensure children's right to housing and protection from being rendered homeless would be timely and important.

### 2. Adopting a Definition and Commitment to Eliminate Homelessness Inclusive of Families with Children

In the Canadian context, governmental policies and investments have focused on visible homelessness, often in the form of rough sleeping (or ‘unsheltered homelessness’), with the Canadian government prioritizing investments and programs for people experiencing chronic homelessness. This was emphasized in the 2020 Speech from the Throne, during which the federal government committed to eliminating chronic homelessness by 2030. However, chronic homelessness is typically interpreted as chronically homeless emergency shelter users, thereby excluding women and families with children who most often rely on other means to secure shelter for themselves and their children in order to avoid living on the street or in shelters. As a result, many women and children experiencing chronic housing precarity and violence are not considered chronically homeless and thus are excluded from prioritization, resources, and access to housing and services. This has a discriminatory impact on children experiencing homelessness, as well as their caregivers (often women). Direction from the Committee on the adopting a federal definition of chronic homelessness that is inclusive of children and families will be critical to advancing the rights of the child and the right to housing in Canada.

### 3. Ensuring that Federally-Financed Rental Housing is Fully Inclusive of Low-Income Families

In research prepared for the Office of the Federal Housing Advocate and the National Housing Council, a number of problems have been identified with the National Housing Strategy that directly impact homelessness and inadequate housing for families with children. The key programs through which the federal government supports the development of rental housing, the Rental Construction Financing Initiative (RCFI) and the National Housing Co-Investment Fund (NHCIF) have largely financed and supported housing that is unaffordable to low-income families with children. Remarkably, only 3% of units funded through the Rental Housing Financing Initiative—the largest program expenditure in the NHS—would be both suitable and affordable for low-income households (households which are disproportionately women-led and often include children).

### 4. Addressing the Financialization of Housing and the Loss of Affordable Housing for Families

The National Housing Strategy has failed to address the financialization of housing, through which investors buy up affordable rental housing and “upgrade” it to house more affluent households, displacing low-income families from the communities in which they have traditionally lived. These mass tenant displacement and gentrification projects, driven by large corporate landlords, most affect already-marginalized families and children like immigrants, racialized people, low-income tenants, and people receiving public assistance. Further, the federal government continues to provide tax breaks to corporate investors such as Real Estate Investment Trusts. The result is that more affordable housing for families is lost every year through speculation and gentrification than is being developed through newly built or acquired housing under federal and provincial/territorial housing programs.

### 5. Ensuring that Provincial/Territorial and Municipal Housing Programs Comply with Children’s Right to Housing through Bilateral housing and Funding Agreements

Bilateral agreements between the federal government and provinces/territories currently require adoption of provincial/territorial housing action plans to support the progressive realization of the right to housing. However, there has been no monitoring or accountability of provincial/territorial action plans or housing policies to ensure that the plans are in compliance with the obligation to realize the right to housing, including for children. Similarly, funding agreements with municipalities also lack any clear accountability to the right to housing. Direction from the Committee on this matter would assist in ensuring accountability towards realizing the right to housing for children at the provincial/territorial and municipal level.

### 6. Inadequacy of Social Assistance to Cover Housing Costs for Families with Children

A critical cause of inadequate housing and homelessness among children in Canada is the inadequacy of social assistance to cover actual housing costs. Until 1995, the federal government required provinces and territories to ensure that social assistance rates covered the cost of basic requirements, including housing, as a condition of cost-sharing agreements. These conditions were removed in 1996. Currently, the federal government plays no

role in ensuring that social assistance rates comply with Canada's international human rights obligations to ensure a level of income sufficient to cover the cost of housing.

The cost of housing has escalated dramatically in recent years while social assistance rates have had minimal increases. In Ontario, for example, a single mother on social assistance with 2 children receives a maximum shelter allowance of \$756. The rate has not changed since 2018. The average price of a two-bedroom apartment for rent in Toronto in April 2022 is \$2,776 per month, an increase of over 16% in one year. It is virtually impossible for a single mother on social assistance, facing widespread discrimination in the rental market, to obtain an apartment within the maximum shelter component. The inadequacy of social assistance rates has a direct bearing on the realization of the right to housing for children, and Canada would benefit from the Committee's guidance in this regard.

#### 7. Applying the Best Interest of the Child and Ensuring Protection from Eviction

Tribunals that oversee termination of tenancy and evictions in Canada provide very little information on who is being evicted, the reasons for eviction, and the outcomes for those affected. Where data has been made available, it is clear that the best interests of children and their right to the protection of home and family under the CRC have not been properly considered or applied. The Supreme Court of Canada has established that for administrative decisions to satisfy a standard of reasonableness, international human rights should be considered. Even in jurisdictions where adjudicators are able to exercise discretion not to evict families with children, the options are largely limited to providing families more time to repay arrears. Government agencies with responsibilities to assist families with children are not parties to eviction hearings, so tribunals and courts have been unable to ensure that assistance is provided where necessary or that where eviction is unavoidable, families with children are not rendered homeless.

While data on eviction is scarce, there is widespread indication that families across Canada are being evicted for minimal financial amounts or facing no-fault evictions. For example, a recent analysis of eviction data during the pandemic in Saskatchewan revealed that single mothers were evicted for as little as a month in arrears or even after rent had been paid. Given the significant consequences of eviction for children and their caregivers, including child apprehension and child-parent separation, the Committee should advise Canada on its obligation to uphold the right to housing in such instances, including its duty to prevent eviction into homelessness.

#### 8. Ensuring the Rights of Indigenous Children

Over 85% of Indigenous People in Canada live in urban centres and they experience disproportionate levels of core housing need and homelessness. For years, the government has promised an Urban, Rural, and Northern Indigenous Housing Strategy but has failed to deliver on this promise.

The recent Federal Budget 2022 proposes to invest \$300 million over five years to co-develop and launch an Urban, Rural, and Northern Indigenous Housing Strategy. However, the amount allocated is completely inadequate in relation to the needs to be addressed. Parliamentary committees, the Parliamentary Budget Officer and other experts have called for investments of \$1.5 to \$2 billion per year to address the critical housing needs of Indigenous Peoples living in urban, rural and northern communities. This has direct bearing on the human rights of Indigenous children, who continue to experience some of the most egregious housing conditions across Canada.