

REALIZING THE RIGHT TO HOUSING IN CANADIAN MUNICIPALITIES

WHERE DO WE GO FROM HERE?



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THE SH/FT
#RIGHT2HOUSING

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EXECUTIVE SUMMARY

In June 2019, the National Housing Strategy Act (NHSA) received Royal Assent and for the first time in Canada's history the right to housing was enshrined in domestic legislation. The historic Act was preceded by Canada's first-ever National Housing Strategy (NHS), a 10-year, \$70 billion plan to advance the right to housing and significantly reduce homelessness and housing need. Through the NHSA, the Government of Canada has recognized that the Canadian housing crisis can only be addressed through a fundamental reorientation of how we view housing – from a commodity to a human right.

In order to meaningfully advance the right to adequate housing in Canada, all levels of government have a key role to play. Local governments are in a unique position to implement this new right to housing because of their proximity to residents and their responsibility for providing basic services, delivering housing and homelessness programs, leading urban planning, and enforcing building standards. Despite being most proximate to the housing challenges faced by residents, however, municipalities are often dependent on political choices at higher levels of government and lack some of the competencies, revenue, and policy frameworks critical to securing the right to housing.

In light of the potential for cities to emerge as right to housing leaders, *The Shift* undertook a pan-Canadian policy scan to explore how existing Canadian Federal/Provincial/Territorial (FTP) policy and legislation influences the adoption, implementation, and actualization of the right to housing at the local level. Relying on guidance provided by the UN Special Rapporteur on the Right to Adequate Housing in her 2020 report, Guidelines for the Implementation of the Right to Housing, this research provides insight into three areas:

- (1) federal and provincial/territorial policies and legislation that create barriers to advancing the human right to housing at the local level,
- (2) key opportunities and recommendations for how Canadian cities can progressively realize the right to housing locally, and
- (3) promising rights-based practices and policies from across Canada and around the world that could be scaled in Canadian cities to advance the right to housing.

Drawing on a pan-Canadian policy scan and literature review, key informant interviews, and analysis of meeting minutes from the Right to Home Canadian Municipal Working Group, our review highlights 7 key priority areas that are central to realizing the right to housing at the local level. Backed by the NHSA, Canadian cities can become international human rights leaders in all of these areas.

ADVANCING THE RIGHT TO HOUSING IN CANADIAN MUNICIPALITIES

– 7 KEY PRIORITIES

1. Human Rights Infrastructure

The right to housing – in the absence of the legislative and policy architecture to implement and defend it – is illusory. In order to meaningfully implement the right to housing at the local level, cities might consider establishing human rights infrastructure that formally recognizes this right, establishes accountability mechanisms, and provides avenues for community members to claim their right and participate in policymaking and progress monitoring. Our review suggests that such human rights infrastructure might include:

- Recognizing the human right to housing in local charters, declarations, or ordinances, as was done in the *Toronto Housing Charter* or Victoria's *Housing Strategy 2016-2025*.
- Implementing local accountability and enforcement mechanisms to secure the right to housing, such as a Housing Commissioner or Ombudsperson.
- Collecting real-time, person-specific data capable of assessing progress towards realizing the right to housing locally, including in relation to homelessness and core housing need. *Medicine Hat, Alberta*, is a strong example of success in this area.

While municipalities have important opportunities to create such infrastructure, research indicate some federal and provincial/territorial decisions and policies impede progress. Our review suggests that the failure to recognize the right to housing in provincial/territorial legislation or policy is a key barrier. It has meant that provinces/territories are not required to align their policy, programming, or funding with a rights-based approach to housing and homelessness, making it more difficult for municipalities to do so. Further, many policy areas that shape the human rights landscape in housing are cross-jurisdictional or occur at the provincial/territorial level (e.g., child welfare). Despite this, there remain few tools for collaborative, rights-based policymaking across policy areas and jurisdictions. The coordinated or collaborative creation of such human rights infrastructure at the provincial/territorial and municipal levels would greatly assist local progress on the right to housing.

2. Progressive Realization

The most egregious violations of the right to housing are often the result of governments' failures to take *positive measures* to address unacceptable housing conditions.¹ In light of this, all governments must take progressive steps towards ensuring adequate housing for all. Under international human rights law, progressive realization requires that measures taken to ensure the right to housing are reasonable and proportionate to the circumstances of rights holders, and that such measures are immediate and match the urgency and scale of rights violations experienced.² The scale and severity of housing need and homelessness in Canadian municipalities underscores how important it is for cities to take this obligation seriously. Municipal efforts towards progressive realization might include:

¹ A/HRC/43/43, No. 2, para 17.

² A/HRC/43/43, para 19 (c, d).

- Adopting rights-based budgeting across city departments and divisions, seeking to use maximum available resources to address the housing needs of those most marginalized. Existing mechanisms like Equity Responsive Budgeting in the City of Toronto can serve as models.
- Embedding Indigenous Peoples' right to housing and distinct rights under United Nations Declaration on the Rights of Indigenous Peoples in municipal housing strategies and plans to end homelessness, transferring decision-making power and resources wherever possible. A powerful example of progress in this area at the provincial level is Aboriginal Housing Management Association (AHMA) in BC.
- Training municipal staff to understand the human right to housing and meet their human rights obligations, including in departments like urban planning and parks and recreation.

Our research suggests that the capacity of municipalities to progressively realize the right to housing locally is powerfully shaped by decisions made at the federal and provincial/territorial level. While the COVID-19 pandemic has powerfully shaped fiscal spending since 2020, our review nonetheless indicates that many provinces and territories have not yet allocated the maximum resources available towards supportive, social, or affordable housing, making it difficult for municipalities to address the scale of need they are experiencing. This underinvestment is reflected at the federal level as well, with the Parliamentary Budget Officer concluding that in the first three years of the NHS, "CMHC spent less than half the funding allocated for two key initiatives, the National Housing Co-Investment Fund and Rental Construction Financing Initiative."³ Given that the NHS is aligned with the NHA and its commitment to progressive realization, there are important opportunities for the NHS to be revised to reflect rights-based principles such as the maximum allocation of resources, the swift delivery of programming, and the prioritization of those most in need.

3. Meaningful Participation

Meaningful participation is grounded in the idea that people have the right to shape policies that affect them. Rather than a secondary consideration, rights-based participation "is a core element of the right to housing and critical to dignity, the exercise of agency, autonomy and self-determination."⁴ Under international human rights law, people experiencing housing need have the right "to influence the outcome of decision-making processes"⁵ at the highest levels. In seeking to advance meaningful participation, our review suggests that cities should consider opportunities to:

- Develop municipal infrastructure that embeds the meaningful participation of people with lived expertise⁶ into all policy development relevant to housing and homelessness.

³ Office of the Parliamentary Budget Officer. (2021). *Federal program spending on housing affordability in 2021*. Ottawa, ON: Parliamentary Budget Officer, p. 2. <https://distribution-a617274656661637473.pbo-dpb.ca/c14c97d8ca19d3036782918415de2bd3c976a66ed53e0030daf83b206c8d36e1>

⁴ A/HRC/43/43, No. 3.

⁵ A/HRC/43/43, No. 3.

⁶ The term "people with lived expertise" is used throughout this report to refer to people who have experienced homelessness or housing precarity (currently or in the past). The term "lived expertise" is used, rather than "lived experience," to acknowledge that these experiences generate knowledge and insights that constitute a form of expertise. This expertise is critical to generating policy and programs that meaningfully improve housing conditions for people who are homeless or precariously housed.

- Advance the participation of Indigenous Peoples in all municipal policy areas that affect the right to housing locally, in alignment with UNDRIP.
- Adopt the Lived Experience Advisory Council Principles within local policy making processes related to housing and homelessness, seeking to ensure equitable decision-making power is allocated to people with lived expertise.

Despite the centrality of meaningful participation to actualizing the right to housing, our review suggests that the inclusion of people with lived expertise in housing policy and design within Canada has been largely ad hoc and piecemeal. At present, there are limited mechanisms through which people with lived expertise can participate in program or policy design, and where these opportunities do exist, this inclusion is often not accompanied by respective authority or power. Municipalities have a unique opportunity to change this due to their particular proximity to residents, and can serve as leaders for other orders of government.

4. Ending Homelessness and the Criminalization of Homelessness

Homelessness is one of the most urgent human rights issues facing cities across Canada. Under international human rights law, homelessness is a *prima facie* violation of the right to housing.⁷ Human rights standards require that all governments eliminate homelessness in the shortest possible time, allocating the maximum available resources in order to achieve this.⁸ In response to the crisis of homelessness, cities across Canada have employed a range of policy and programmatic tools in their attempts to stem the number of people living without housing. Despite these efforts, many cities have continued to see their homeless populations grow, and some cities have increasingly used law enforcement and other punitive measures in response to this issue.⁹ In order to adopt a human rights-based approach to homelessness, our review suggests that Canadian cities might consider:

- Re-deploying city-owned land and buildings, and acquiring existing distressed properties, to create permanent housing for people experiencing homelessness on an urgent basis. The NHS's Rapid Housing Initiative has supported many cities to do just this, including the Tłıchō Region of the Northwest Territories.¹⁰ Other cities have chosen to sell city-owned properties to non-profit housing providers, such as Winnipeg (MB), who approved selling 15 properties for \$1 each in order to create new affordable housing units.
- Implementing local anti-discrimination campaigns focused on eliminating stigma and discrimination on the basis of housing status.
- Adopting a human rights-based approach to encampments, using A National Protocol for Homeless Encampments in Canada to guide the development of a local strategy.

⁷ A/HRC/31/54, para. 4.

⁸ A/HRC/31/54, para. 4.

⁹ See e.g., Van Dongen, M. (2020 April 21). "I Can't Pay It Anyway": Why Are Hamilton Police Ticketing The Homeless During The Covid-19 Pandemic?." *Toronto Star*. www.thestar.com/news/gta/2020/04/21/i-cant-pay-it-anyway-why-are-hamilton-police-ticketing-the-homeless-during-the-covid-19-pandemic.html

¹⁰ Tłıchō Government. (2021, 26 July). "Canada Supports Rapid Housing Project in the Tłıchō Region." <https://www.tlicho.ca/news/canada-supports-rapid-housing-project-t%C5%82%C4%B1%CC%A8ch%C7%AB-region>

- Ensure that local homelessness and Violence Against Women (VAW) housing and service providers have the training and supports they need to employ a rights-based approach to service delivery.

Despite municipal progress in this area, our review emphasized the impact of jurisdictional disconnects between revenue and responsibility, with municipalities often bearing the burden of addressing homelessness but lacking the tax base to address the scale of the issue. Our review also indicates that federal and provincial/territorial governments have not specifically sought to address the widespread discrimination faced by people who are homeless or precariously housed, and protection against this form of discrimination is not well established in provincial/territorial legislation or policy.¹¹ This has meant that local governments have had to contend with discriminatory opposition to the creation of supportive housing, provision of services, and temporary shelters as they seek to improve their communities.¹² Our findings suggest that further FTP leadership on rights-based solutions to homelessness, combined with interjurisdictional cooperation and sufficient investments, will help cities achieve progress on ending homelessness.

5. Advance Substantive Equality for Marginalized Groups and Prioritize those Most in Need

Under international human rights law, governments must “prioritize the needs of disadvantaged and marginalized individuals or groups living in precarious housing conditions” in all efforts to secure the right to housing.¹³ Those identified as ‘most in need’ – defined intersectionally and in relation to and the immediacy and urgency of housing rights violations¹⁴ – must be prioritized in the allocation of resources. This means that municipal governments have an obligation to rectify discriminatory policies, practices, and systems that marginalize particular groups and impede their enjoyment of the right to housing, as well as adopt positive measures to prevent discrimination and advance substantive equality.¹⁵ To do so, our review suggests municipalities might consider the following:

- Setting local targets, timelines, outcomes, and indicators that redress systemic barriers to adequate housing experienced by those most in need.
- Conducting Gender-Based Analysis Plus (GBA+), rights-based audits of local policies and programs relevant to securing the right to housing.
- Engaging in interjurisdictional and cross-sectoral cooperation in order to transform public system policies that undermine the right to housing. A good example of this at the provincial level is BC’s Office of Homelessness Coordination, which works with municipalities to ensure a more coordinated approach to homelessness in British Columbia.

Our review indicates that policy choices at federal and provincial/territorial levels impact enjoyment of the right to housing for marginalized groups at the local level. In our review we focused on inequities experienced by women

¹¹ Centre for Equality Rights in Accommodation (CERA), National Right to Housing Network (NRHN), & Social Rights Advocacy Centre (SRAC). (2021). *Housing Discrimination and Spatial Segregation in Canada*. Ottawa, ON: CERA, NRHN, & SRAC.

<https://www.ohchr.org/Documents/Issues/Housing/SubmissionsCERAhousingdiscrimin/CERA-NRHN-SRAC.pdf>.

¹² Krishnan, M. (2021, March 1). “NIMBYs Want to Save This Parking Lot from Becoming Affordable Housing.” *Vice*.

<https://www.vice.com/en/article/pkd9qm/toronto-residents-east-york-parking-lot-homeless-housing>

¹³ A/HRC/43/43, No. 3, para 19 (b).

¹⁴ UN Human Rights Council. (2018, January 15). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. A/HRC/37/53. <http://www.undocs.org/A/HRC/37/53>

¹⁵ A/HRC/43/43, No. 8.

and girls (cis and trans), highlighting a few policy barriers to substantive equality for this group. These included: (1) failure to capture the experiences of women within federal definitions of chronic homelessness; (2) provincial/territorial underinvestment in Violence Against Women Shelters and services; and (3) conflicting and contradictory policies across provincial/territorial public systems that can undermine housing stability for women and exacerbate family dissolution. Such examples illustrate that advancing non-discrimination and substantive equality in housing involves centering equity and human rights in all stages of the policy process, both within and outside of the housing policy domain. This must involve working with people with lived expertise to ensure policy creation and implementation is responsive to lived realities and does not undermine equality or deepen exclusion.

6. Regulate the Private Sector and Address the Financialization of Housing

In Canada and around the globe, housing is increasingly positioned as a financial asset and commodity for global investors, rather than a place to live in security and dignity.¹⁶ Cities often bear the consequences of financialization, including increased housing insecurity and need (particularly amongst marginalized and disadvantaged groups), increased evictions, decreased affordability, eroding housing conditions, and escalating homelessness.¹⁷ International human rights standards require that governments, including municipalities, “regulate business in order to prevent investments having any negative impacts on the right to housing.”¹⁸ In order to address the effects of financialization locally, our review suggests that municipalities might consider:

- Embedding the right to housing in urban planning processes and practices.
- Preserving the existing stock of affordable housing through community-based, non-market acquisition of distressed housing. A good example of this is the *Right of First Refusal* bylaw adopted by the City of Montreal in 2020, which gives the City the ability to exercise a right of first refusal (a pre-emptive right) to purchase properties for social housing.
- Maximizing land use, zoning, and other bylaw opportunities to increase the availability of affordable housing and preserve existing affordable housing units. BC, for example, adopted a *Speculation and Vacancy Tax* that contributes to turning empty homes into affordable housing initiatives.
- Regulating short-term rentals, such as Airbnb and VRBO, as is being done in Toronto with the adoption of a 4% *Municipal Accommodation Tax* on all registered short-term rentals.

Federal and provincial/territorial leadership is critical in this area. As it currently stands, the financialization of housing is poorly regulated in federal and provincial/territorial legislation and policy, making it difficult for cities to produce affordable housing at the rate that it is being lost.¹⁹ Our review also indicated that some government programs are subsidizing corporate landlords and other developers in the place of creating deeply affordable

¹⁶ UNHRC. (2017, January 10). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. A/HRC/34/51. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/009/56/PDF/G1700956.pdf?OpenElement>

¹⁷ NRHN & CERA, 2021.

¹⁸ A/HRC/43/43, para 69.

¹⁹ Pomeroy, S. (2020). *Recovery for All: Proposals to Strengthen the National Housing Strategy and End Homelessness*. Calgary, AB: Canadian Alliance to End Homelessness. <https://caeh.ca/wp-content/uploads/Recovery-for-All-Report-July-16-2020.pdf>.

housing.²⁰ Gaps in FTP regulation of businesses in alignment with the right to housing is likely connected to the fact that many Canadian governments rely heavily on tax revenue produced through real estate development to fund their budgets, creating a disincentive for them to adopt policies that would curb the financialization of housing.²¹ Our review suggests that policy change and oversight is needed at higher levels of government to enable municipal governments to prevent financialization locally and adopt creative solutions to preserving affordable housing stock.

7. Prevent Evictions and Prohibit Forced Evictions

Evictions are one of the most urgent crises currently facing Canadian cities, underpinned by the widespread unaffordability of housing. International human rights law recognizes that eviction is a significant threat to security, dignity, and may even put one's life at risk.²² Eviction into homelessness is considered a gross human rights violation,²³ and forced evictions are strictly prohibited.²⁴ Human rights standards require that governments implement programs to actively prevent evictions, such as rent stabilization and controls, rental assistance, land reforms, and measures to eliminate underlying causes of eviction.²⁵ At the municipal level, such efforts might include:

- Developing screening programs to identify individuals and families at risk of eviction, providing immediate interventions to stabilize housing. The City of Toronto's *Eviction Prevention in the Community* (EPIC) is a great example of such a program, with *evaluation data* indicating 90% of EPIC clients were stabilized in their current housing during the first year of the program.²⁶
- Analyzing local data on evictions to better understand and address systemic and neighbourhood-based inequities. *Research on evictions in Toronto*, for example, has demonstrated that Black households are at significantly greater risk of experiencing eviction, even after controlling for poverty and other factors. Such data can be used to target interventions and supports
- Investing in emergency financial supports for tenants at risk of eviction, such as rent banks or emergency cash relief programs.

²⁰ This is perhaps most evident in the case of the *Rental Construction Financing Initiative* (RCFI). The RCFI provides low-interest loans for the construction of rental housing, and only requires that developers offer 20% of their units at 30% of the median total income for families in the area (over a duration of ten years). That 80% of the rental units constructed in this program have no affordability requirements, and only 20% have such a criteria for 10 years, reveals a structural bias towards the interests of housing developers and their investors, rather than the needs of those experiencing deep core housing need

²¹ August, M. (2020). The financialization of Canadian multi-family rental housing: From trailer to tower. *Journal of Urban Affairs*, 42(7), 975-997.

²² Committee on Economic, Social and Cultural Rights. (1997, May 20). *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions*. E/1998/22, para 4. <https://undocs.org/en/E/1998/22>

²³ See Committee on Economic, Social and Cultural Rights, General Comment No. 7 on forced evictions, para 16.

²⁴ 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." See CESCR General Comment No.7.

²⁵ A/HRC/43/43.

²⁶ Ecker, J. Holden, S. & Schwan, K. (2018). *Eviction Prevention in the Community (EPIC) Pilot Program Evaluation*. Toronto, ON: Canadian Observatory on Homelessness. <https://www.homelesshub.ca/resource/eviction-prevention-community-epic-pilot-program-evaluation#:~:text=The%20EPIC%20program%20was%20launched,facing%20imminent%20risk%20of%20eviction.>

- Improving access to legal information, advice, and representation for persons at risk of eviction. Examples of organizations that provide strong eviction prevention and legal supports include the *Centre for Equality Rights in Accommodation*, *Pivot Legal Society*, and *Justice for Children and Youth*.

Preventing evictions at the municipal level is deeply intertwined with provincial/territorial policy choices, given that evictions are the outcome of processes defined under provincial or territorial landlord/tenant legislation. Our review indicated that some legal loopholes in provincial/territorial legislation can enable landlords to raise rents above rent control guidelines, contributing to evictions and the loss of naturally-occurring affordable housing (NOAH) at the municipal level. Some provinces and territories have also significantly reduced spending on legal aid supports in recent years,²⁷ including supports for tenants facing eviction, despite evidence of the efficacy of such programs.²⁸ Fortunately, there are many domestic and international examples of successful programmatic and policy interventions that can help cities prevent evictions. In order to advance eviction prevention, higher levels of government should consider supporting and advancing these local innovations, while also addressing policy choices that contribute to poverty and put individuals at risk of eviction (e.g., low social assistance rates and minimum wage).

²⁷ Hasham, A. (2020, July 13). Legal Aid Ontario facing up to \$70 million funding drop amid COVID-19 'perfect storm.' *Toronto Star*. <https://www.thestar.com/news/canada/2020/07/13/legal-aid-ontario-facing-up-to-70-million-funding-drop-amid-covid-19-perfect-storm.html>

²⁸ Seron, C., Frankel, M., Van Ryzin, G. & Kovath, J. (2001). The impact of legal counsel on outcomes for poor tenants in New York city's housing court: Results of a randomized experiment. *Law & Society Review*, 35(2), 419-434.

INTRODUCTION

The COVID-19 pandemic has revealed that access to adequate housing is undeniably necessary for the preservation of human life. In effect, COVID-19 has “powerfully exposed that having a home is a matter of life or death.”²⁹ Almost two years into the pandemic, the effects of the pandemic continue to contribute to housing inequities across Canada, making it all the more urgent to secure the right to housing. The effects of the pandemic and the subsequent economic fallout have been acutely felt by those who have been victim to the decades-old housing crisis, including those living in homelessness, encampments, unaffordable and/or overcrowded housing, and those suffering the effects of an overheated housing market.³⁰ COVID-19 has also increased the scale of housing issues, with most cities seeing increases in the number of people living in homelessness, encampments, and precarious housing situations.³¹ As the pandemic has stretched on, more and more households suffering economic insecurity find themselves overburdened with debt or facing eviction.³² These conditions make it almost impossible for these populations to enjoy the right to adequate housing and all that it entails. The scale of the crisis and its human rights dimensions requires urgent action.

Importantly, the COVID-19 pandemic occurs in the wake of a watershed moment in Canada: the adoption of the National Housing Strategy Act (NHSA).³³ In June 2019 the NHSA received Royal Assent and for the first time in the country’s history the right to housing was enshrined in domestic legislation. The historic Act was preceded by Canada’s first-ever National Housing Strategy (NHS), a 10-year, \$70 billion plan to advance the right to housing and significantly reduce homelessness and housing need.³⁴ Through the NHSA, the Government of Canada has recognized that the Canadian housing crisis can only be addressed through a fundamental reorientation of how we view housing – from a commodity to a human right.

“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.”

- Article 25, Universal Declaration of Human Rights

In order to meaningfully advance the right to adequate housing in Canada, all levels of government have a key role to play. Municipal governments, and their staff and delegated decision makers, have human rights obligations as articulated in provincial/territorial human rights legislation, federal human rights legislation (e.g., NHSA), and the Canadian Charter of Rights and Freedoms. Further, Canada’s obligations under international human rights law to secure social and

²⁹ 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*, p. 356. Ottawa: University of Ottawa Press. <https://ruor.uottawa.ca/handle/10393/40726>.

³⁰ Federation of Canadian Municipalities. (2020). *COVID-19 and housing: Critical need, urgent opportunity*. Ottawa, ON: FCM. <https://data.fcm.ca/documents/resources/covid-19-and-housing.pdf>

³¹ *Ibid.*

³² Tranjan, R. (2021, March 30). *With more than 250,000 households in arrears, its time for rent forgiveness*. Montreal, QC: Policy Options. <https://policyoptions.irpp.org/magazines/march-2021/with-more-than-250000-households-in-arrears-its-time-for-rent-forgiveness/>

³³ Government of Canada. (2019, June 21). *National Housing Strategy Act*. Ottawa, ON: Government of Canada. <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>

³⁴ *Ibid.*

economic rights, such as the right to housing, also extend to municipal governments.³⁵ Importantly, local governments are in a unique position to implement the right to housing because of their proximity to residents and their responsibility for providing basic services, delivering housing and homelessness programs, leading urban planning and land-planning, and enforcing building standards. In addition, municipal governments are often the first point of contact for residents experiencing housing rights violations. As a result, local government decisions often have a direct and immediate impact on housing rights for residents.

Despite being most proximate to the housing challenges faced by residents, municipalities lack some of the competencies, revenue, and policy frameworks to advance the right to housing locally. Cities are often dependent on political choices at higher levels of government, sporadic or insufficient funding streams to address housing need, and significant barriers to the interjurisdictional coordination and cooperation that would assist them in securing the right to housing for their constituents. While the NHSA provides a new and groundbreaking framework for municipal approaches to housing need in Canada, federal and provincial/territorial legislation and policies will significantly impact municipalities' ability to fully implement the NHSA at the local level. In order to make the NHSA meaningful in communities across the country, scholars and experts have suggested that a new form of cooperative federalism is needed to ensure that cities have the tools, resources, and competencies to secure the right to housing locally.³⁶

Report Purpose & Approach

The purpose of this report is to explore how existing Canadian policy and legislation influences the adoption, implementation, and actualization of the right to housing at the local level. This research provides insight into three areas: (1) federal and provincial/territorial policies and legislation that create barriers to advancing the human right to housing at the local level, (2) key opportunities and recommendations for how Canadian cities can progressively realize the right to housing locally, and (3) promising rights-based practices and policies from across Canada and around the world that could be scaled in Canadian cities to advance local progress on the right to housing.

This report relies on both domestic and international human rights law to guide analysis of Canadian legislation and policy. We specifically rely upon guidance provided by the UN Special Rapporteur on the Right to Adequate Housing in her 2020 report, *Guidelines for the Implementation of the Right to Housing* ("Implementation Guidelines").³⁷ These Implementation Guidelines provide authoritative human rights directives by which to assess governments' progress towards realizing the right to housing for all. Given that the NHSA is explicitly grounded in international human rights law,³⁸ the Implementation Guidelines provide Canada with a helpful 'roadmap' for such an assessment.

This report is not exhaustive, nor does it individually assess each of the 16 Implementation Guidelines outlined by the Rapporteur. However, it highlights key priority areas and systemic issues that are central to realizing the right to housing at the local level in Canada. Seven key human rights areas (and their associated Guidelines) are considered

³⁵ Social Rights Advocacy Centre (SRAC) & Centre for Equality Rights in Accommodation (CERA). (2008). *A Social Charter for the City*. Toronto, ON: SRAC & CERA. <https://static1.squarespace.com/static/5e3aed3ea511ae64f3150214/t/5e7b8fee641f644d83506856/1585156078611/Municipal-Charter-Report-Final.pdf>

³⁶ Fyfe, T., & Van Dine, S. (14 September 2021). "Canadians should elect a government committed to co-operate federalism." *Policy Options*. <https://policyoptions.irpp.org/magazines/septembre-2021/canadians-should-elect-a-government-committed-to-co-operative-federalism/>

³⁷ United Nations, General Assembly. (2019, December 26). *Guidelines for the Implementation of the Right to Adequate Housing*. <https://www.ohchr.org/EN/Issues/Housing/Pages/GuidelinesImplementation.aspx> (A/HRC/43/43)

³⁸ Government of Canada. (2019). *National Housing Strategy Act*. Ottawa, ON: Government of Canada. <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>

in this report: (1) human rights infrastructure; (2) progressive realization; (3) meaningful participation; (4) ending homelessness and the criminalization of homelessness; (5) advancing substantive equality for marginalized groups and prioritize those most in need; (6) regulating the private sector and address the financialization of housing; and (7) preventing evictions and prohibiting forced evictions. These 7 areas synthesize the 16 Guidelines that are of particular relevance to municipal decision-making.³⁹ These 7 areas are analyzed in relation to federal and provincial/territorial (FTP) policy and legislation that affects the right to housing, offering an analysis of the challenges and opportunities municipalities face in trying to realize the right to housing.

This research is undertaken in support of the “The Shift: Supporting Human Rights-based Housing Strategies” Demonstration Project (2020 – 2023) – a project funded by the Canada Mortgage and Housing Corporation under the NHS Demonstrations Initiative. This project constitutes the first national effort to operationalize a human rights approach to housing at the local level, building on the tenants of the NHSA. To do so, the Shift Demonstration Project aims to foster the connections, knowledge, and practices necessary to apply a human rights-based lens to housing policies and strategies within four Canadian cities: Yellowknife (NWT), Victoria (BC), Toronto (ON), and Kitchener (ON). The Shift team supports these governments through collaborative research, human rights training, capacity building, and knowledge exchange. A national policy scan was undertaken to support this project, the results of which are presented in this report. Given the location of participant cities, this report primarily focuses on policies within British Columbia, the Northwest Territories, and Ontario. This research was funded through CMHC National Housing Strategy research funding and released in partnership with the *Canadian Urban Institute*.

We hope that this research will prove useful to local governments in this new landscape and support cities’ efforts to build the knowledge, practices, and policies necessary to ensure that the right to housing is meaningfully implemented and realized at the local level.

³⁹ The 16 Guidelines include: (1) Guarantee the right to housing as a fundamental human right linked to dignity and the right to life; (2) Take immediate steps to ensure the progressive realization of the right to adequate housing in compliance with the standard of reasonableness; (3) Ensure meaningful participation in the design, implementation and monitoring of housing policies and decisions; (4) Implement comprehensive strategies for the realization of the right to housing; (5) Eliminate homelessness in the shortest possible time and stop the criminalization of persons living in homelessness; (6) Prohibit forced evictions and prevent evictions whenever possible; (7) Upgrade informal settlements incorporating a human rights-based approach; (8) Address discrimination and ensure equality; (9) Ensure gender equality in housing and land; (10) Ensure the right to adequate housing for migrants and internally displaced persons; (11) Ensure the capacity and accountability of local and regional governments for the realization of the right to adequate housing; (12) Ensure the regulation of businesses in a manner consistent with State obligations and address the financialization of housing; (13) Ensure that the right to housing informs and is responsive to climate change and address the effects of the climate crisis on the right to housing; (14) Engage in international cooperation to ensure the realization of the right to adequate housing; (15) Ensure effective monitoring and accountability mechanisms; and (16) Ensure access to justice for all aspects of the right to housing.

METHODOLOGY

In order to assess how existing FTP policy and legislation influences the realization of the right to housing in Canadian municipalities, this research was guided by the following questions:

1. What Canadian federal and provincial/territorial policy and legislation might affect the adoption, implementation, and realization of the right to housing at the local level?
 - a. What federal and provincial/territorial policy and legislation might *support, enable, or accelerate* the realization of the right to housing at the local level?
 - b. What federal and provincial/territorial policy and legislation might *create barriers to* the adoption of the right to housing at the local level?
2. What existing federal or provincial/territorial policies are inconsistent with the right to housing as articulated in the NHTS and the *UN Guidelines for the Implementation of the Right to Housing*, and how might these impact the realization of the right to housing in Canadian municipalities?
3. What roles, responsibilities, and funding falls outside of municipal jurisdiction and may affect the ability of municipalities to implement a rights-based approach to housing and homelessness?
4. Where are there opportunities, within existing policy infrastructure, for partnership and collaboration between municipalities, provinces, territories, and the federal government to advance rights-based approaches to housing at the local level?

These research questions are explored through three primary methods: (a) a pan-Canadian policy scan and literature review, with a particular focus on federal and provincial/territorial housing and homelessness policies; (b) key informant interviews; and (c) analysis of meeting minutes from the Right to Home Canadian Municipal Working Group.

a) Policy Scan and Literature Review

A policy scan of federal, provincial/territorial, and municipal policies and legislation was conducted, with a particular focus on policy and legislation that may impact the realization of the right to housing at the local level. Exploration of relevant cross-jurisdictional policy and legislation was also included, as was a review of key expenditures across federal and provincial/territorial jurisdictions in the area of housing (including specifically through the NHTS).

The policy scan focused on 4 areas of policy and legislation that are importantly linked to the actualization of the right to housing:

- Housing affordability and availability
- Policies relevant to homelessness (e.g., encampments, shelter standards)
- Policies linked to eviction and the financialization of housing (e.g., regulation of developers, housing finance)
- Policies linked to disadvantaged and marginalized groups' experiences of housing

Given the breadth of policy within each of these areas, this scan did not seek to be exhaustive. Rather, it provides a map of key policy issues that municipalities should consider when seeking to advance the right to housing locally.

The scan was complemented by a scoping literature review of existing scholarship, grey literature, and government data on housing and homelessness issues in Canada in order to maximize insights into relevant policy and legislation. Additional policies, legislation, and literature for analysis were identified through key informant interviews. See the Bibliography for a full list of sources.

In addition to these data sources, the authors drew on international examples of promising policies and practices that have been implemented in cities around the world.

b) Key Informant Interviews

Key informant interviews were conducted with Indigenous leaders, human rights experts, and civil society leaders concerning each of the research questions (see Appendix B). Participants were selected based on their leadership in the area of the right to housing in their respective communities and fields. They were purposively sampled to represent diverse areas of expertise and regions of Canada. Interview participants are identified in the Appendix.

c) Right to Home Canadian Municipal Working Group – Meeting Minutes

The Right to Home Canadian Municipal Working Group, convened by The Shift and the Canadian Urban Institute, is a group of elected officials and city staff working together to address the housing crisis in Canada and implement the human right to housing. The Working Group has participants from cities across the country, including: Victoria, Vancouver, Yellowknife, Edmonton, Saskatoon, Winnipeg, London, Ottawa, Toronto, Halifax, Kitchener, and Fredericton. The authors thematically analyzed the meeting minutes of 8 sessions of the Right to Home Canadian Municipal Working Group that were conducted over the course of 2020. This dataset provided insight into ongoing challenges municipalities are facing with respect to housing and homelessness in the midst of COVID-19 pandemic, including jurisdictional challenges.

Analysis

Findings from each method were triangulated to identify common themes in answer to the above research questions, with the authors exploring particular legislative and policy examples to deepen analysis. Common themes were identified across datasets and were analyzed in relation to the standards outlined in the UN Guidelines for the Implementation for the Right to Housing (2020) in order to identify key priority areas for advancing the right to housing at the local level.

ADVANCING THE RIGHT TO HOUSING IN CANADIAN MUNICIPALITIES

– 7 KEY PRIORITIES

This report identifies seven key priority areas and systemic issues that are central to realizing the right to housing at the local level in Canada. These seven priority areas are identified in relation to the guidance provided by the UN Special Rapporteur on the Right to Adequate Housing in her 2020 report, *Guidelines for the Implementation of the Right to Housing* (“Implementation Guidelines”).⁴⁰ Rather than assess all 16 Guidelines outlined by the Special Rapporteur, this section considers seven priority areas that are central to implementing the right to housing at the local level: (1) human rights infrastructure; (2) progressive realization; (3) meaningful participation; (4) ending homelessness and the criminalization of homelessness; (5) advancing substantive equality for marginalized groups and prioritize those most in need; (6) regulating the private sector and address the financialization of housing; and (7) preventing evictions and prohibiting forced evictions. These priority areas are analyzed in relation to federal and provincial/territorial (FTP) policy and legislation that affects the right to housing locally, offering an analysis of the challenges and opportunities municipalities face in trying to realize the right to housing.

⁴⁰ A/HRC/43/43.

PRIORITY 1: HUMAN RIGHTS INFRASTRUCTURE

The right to housing – in the absence of the legislative and policy architecture to implement and defend it – is illusory. In order to be meaningfully implemented in Canada, the right to housing requires robust human rights infrastructure at both national and subnational levels. While human rights infrastructure takes different form across these jurisdictions, at the municipal level this might include: (1) recognition of the right to housing within local charters, ordinances, plans, or declarations; (2) the mainstreaming of the right to housing, including through rights-based audits and training of city staff; (3) participatory governance and inclusion, which enables rights holders to participate in policymaking and the monitoring of progress; or (4) monitoring and accountability mechanisms, ensuring access to justice for rights holders.⁴¹

In the Canadian context, the NHSA provides a broad framework upon which this ‘architecture’ can be built, including at the municipal level. However, Canada has additional obligations under international human rights law with respect to the right to housing that fall outside of the NHSA and under the jurisdiction of provinces, territories, and municipalities, such as zoning and land development, evictions and tenant rights, bylaws concerning public space, and housing development. Given this, there is a need to understand how federal and provincial/territorial policies and legislation help or hinder the creation of the human rights architecture needed to realize the right to housing at the local level.

International Human Rights Standards

The human rights infrastructure needed to implement the right to housing engages all 16 *Implementation Guidelines* outlined by the UN Special Rapporteur on the Right to Adequate Housing.⁴² Amongst these, four Guidelines are particularly relevant with respect to human rights infrastructure (see Table 1). While these four Guidelines do not exhaustively outline human rights standards in this regard, they provide an important lens for exploring whether and how federal and provincial/territorial policies and legislation are creating barriers to, or opening doors for, advancing the right to housing within Canadian municipalities.

Table 1 – Guidelines related to Human Rights Infrastructure

Guideline	Key Elements for Implementation
No. 1. Guarantee the right to housing as a fundamental human right linked to dignity and the right to life	<ul style="list-style-type: none"> States, including their judiciaries, must ensure that the right to adequate housing is recognized and enforceable as a fundamental human right through applicable constitutional and legislative provisions or through interpretations of interdependent rights such as the right to life. The right to housing should be defined as the right to live in a home in peace, security and dignity, and include security of tenure, availability of services, affordability, habitability, accessibility, appropriate location and cultural adequacy.
No. 4. Implement comprehensive strategies for the realization of the right to housing	<ul style="list-style-type: none"> Housing strategies must identify the State’s obligations to be realized progressively, based on clear goals and timelines for achieving specific outcomes and the right to adequate housing for all in the shortest possible time.

⁴¹ These four key elements are adapted from the human rights infrastructure proposed in Dragicevic, N., & Porter, B. (2020). *Human rights cities: The power and potential of local government to advance economic and social rights*. Toronto, ON: Maytree. <https://maytree.com/publications/human-rights-cities/>.

⁴² A/HRC/43/43.

	<ul style="list-style-type: none"> Strategies should provide coherence and coordination in all relevant policy areas, particularly urban planning, land regulation, taxation and finance, social benefits and services.
No. 11. Ensure the capacity and accountability of local and regional governments for the realization of the right to adequate housing	<ul style="list-style-type: none"> The obligations of local and regional governments to implement the right to housing within clearly delineated areas of responsibilities must be established in legislation. Local and regional governments should implement human rights-based housing strategies, consistent with those implemented at the national level and establish their own monitoring and accountability mechanism. States must ensure that local or regional housing strategies are adequately resourced and that local governments have the capacity to implement them. The right to housing should be incorporated into relevant municipal laws, plans and programmes.
No. 15. Ensure effective monitoring and accountability mechanisms	<ul style="list-style-type: none"> Independent monitoring bodies should be mandated and properly resourced to monitor the realization of the right to housing in a transparent and participatory manner. They should have the capacity to hear complaints from concerned people or groups, undertake visits, conduct investigations, commission surveys and convene public hearings to gather information. Monitoring progress on the implementation of the right to housing should be focused on assessing compliance with the obligation to progressively realize the right. It should include the collection of qualitative and quantitative data related to dignity and the experience of rights holders with respect to all aspects of the right to housing, including security of tenure, availability of services, affordability, habitability, accessibility, location, cultural adequacy, homelessness and evictions.⁴³

Developing the Human Rights Infrastructure – Key Challenges and Concerns

Municipalities' ability to implement the right to housing locally – and to leverage the NHSA in doing so – is significantly impacted by a range of federal and provincial/territorial policies. These policies span across departments and ministries, including departments and ministries that do not necessarily see themselves as implicated in actualizing the right to housing (e.g., child welfare). Based on key informant interviews, a pan-Canadian policy scan, and a review of the literature, there are several key areas of concern within federal and provincial/territorial (FTP) policy and legislation that create barriers to advancing the human rights architecture needed to realize the right to housing at the local level. These include: (1) Gaps between international human rights law and the National Housing Strategy that create barriers for municipalities to access resources, implement policies, assess their progress, and develop local strategies in alignment with their human rights obligations; (2) Limited infrastructure or mechanisms to support coordination and coherence across provincial/territorial policy areas that impact the right to housing, such as child welfare, social assistance, and policies related to disability; (3) Failure to recognize the right to housing in provincial/territorial legislation or policy; and (4) Limited provincial/territorial and federal judicial recognition of the right to housing, preventing the accumulation of jurisprudence that could be used to advance the right to housing locally.

1. Gaps between international human rights law and the National Housing Strategy that create barriers for municipalities to access resources, implement policies, assess their progress, and develop local strategies in alignment with their human rights obligations.

⁴³ Content from this table is drawn directly from: United Nations Office of the High Commissioner. (2019). *Summary: Guidelines for the Implementation of the Right to Housing*. (2019). United Nations Office of the High Commissioner. <https://www.ohchr.org/EN/Issues/Housing/Pages/GuidelinesImplementation.aspx>.

There are some significant gaps between what is outlined in international human rights law and what is articulated in the NHS with respect to the right to housing. These gaps exist despite specification that the NHS – itself grounded in international human rights law – would guide the NHS.⁴⁴ These gaps between international standards and domestic policy make it more difficult for cities to access resources, implement policies, assess their progress, and develop local strategies that would enable them to advance the right to housing quickly and efficiently, or make good on their international human right obligations. A recent report commissioned by the Canadian Human Rights Commission outlines these gaps comprehensively.⁴⁵ With respect to human rights infrastructure, key gaps include:

- **Tools for Measurement** – The NHS currently lacks some of the necessary tools to collect qualitative and quantitative data on the housing challenges and housing rights violations experienced by people in Canada, including for those experiencing the greatest level of housing need.⁴⁶ While some federal data is collected and applied to policymaking (e.g., census data, Point-in-Time count data), such measurement tools have been critiqued for failing to adequately capture the experiences of particular groups (e.g., women and gender diverse people⁴⁷ or people residing in institutions, such as prisons⁴⁸). Further, there remains key data gaps at the provincial/territorial levels as well (e.g., with respect to eviction⁴⁹) that hinder the monitoring of progress on the right to housing nationally and regionally.⁵⁰ In the absence of regular collection and analysis of this data, it is difficult for all levels of government to assess where resources should be directed or re-allocated, or when strategies or tactics are successful or should be readjusted.
- **Clear Goals & Timelines** – While the NHS does outline some goals and timelines (e.g., a commitment to reducing chronic homelessness by 50% by 2030, later amended to the full elimination of chronic homelessness⁵¹), clear targets and timelines are largely absent for priority populations identified in the NHS.⁵² Further, the NHS does not provide a framework for disaggregating the impact of distinct NHS programs and investments on housing outcomes, nor does it do so with respect to particular sub-populations who face the most severe forms of housing marginalization (e.g., Indigenous Peoples, persons with disabilities, refugees and newcomers).⁵³ This makes it difficult for all levels of government, including municipalities who are in receipt of NHS funds, to assess outcomes against articulated goals and ensure

⁴⁴ Government of Canada, 2019. The NHS states “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” (n.p.).

⁴⁵ Biss, M., & Raza, S. (2021). *Implementing the Right to Housing in Canada: Expanding the National Housing Strategy*. Ottawa, ON: National Right to Housing Network. <https://housingrights.ca/wp-content/uploads/NRHN-OFHA-Expanding-the-NHS-2021.pdf>

⁴⁶ *Ibid.*

⁴⁷ Schwan, K., Vacarro, M., Reid, L., Ali, N., & Baig, K. (2021). *Implementation of the Right to Housing for Women, Girls, and Gender Diverse People in Canada*. Toronto, ON: Women’s National Housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/EN_CHRC_13-1.pdf

⁴⁸ The National Law Center on Homelessness & Poverty. (2017). *Don’t Count on It: How the HUD Point-in-Time Count Underestimates the Homelessness Crisis in America*. Washington, DC: The National Law Center on Homelessness & Poverty. <https://nlchp.org/wp-content/uploads/2018/10/HUD-PIT-report2017.pdf>

⁴⁹ 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/>

⁵⁰ As articulated in an early **policy brief** on the National Housing Strategy developed by Maytree, “an essential part of both a human rights approach and modern public governance is embedding strong measurement, evaluation, and accountability mechanisms.” See Aldridge, H., Zon, N., & Nelles, H., (2017, July 21). *Three ways the National Housing Strategy can support the right to housing*. Toronto, ON: Maytree. <https://maytree.com/publications/three-ways-national-housing-strategy-can-support-right-housing/>.

⁵¹ Government of Canada. (2020, September 3). *Speech from the Throne - A stronger and more resilient Canada*. Ottawa, ON: Government of Canada. <https://www.canada.ca/en/privy-council/campaigns/speech-throne/2020/speech-from-the-throne.html>

⁵² Biss & Raza, 2021.

⁵³ Biss & Raza, 2021.

equitable funding decisions. Further, it does not provide an incentive or framework for municipalities to track their own progress towards the progressive realization of the right to housing.

2. Limited infrastructure or mechanisms to support coordination and coherence across provincial/territorial policy areas that impact the right to housing, such as child welfare, social assistance, and policies related to disabilities.

The roots of housing rights violations are “multidimensional, involving many different areas of policy and programmes and requiring comprehensive plans to effect meaningful change over time.”⁵⁴ In light of this, it is necessary for governments to adopt rights-based housing strategies that ensure coherence and coordination across policy areas that impact peoples’ access to adequate housing, including social benefits, taxation, planning and development, and public systems (e.g., healthcare).⁵⁵ The failure to do so can directly or inadvertently undermine the right to housing, including at the local level. Policies within two public systems under provincial/territorial jurisdiction exemplify the impacts of gaps in coordination across policy areas:

- **Provincial/Territorial Child Welfare Policies** – *Research* consistently demonstrates that the child welfare system is a ‘pipeline’ into homelessness, with a large pan-Canadian study indicating that children and youth who have had child welfare involvement are 193 times more likely to experience youth homelessness.⁵⁶ To date, many provincial and territorial child welfare systems have failed to provide transitional supports for young people leaving care, and studies have shown that this policy gap directly contributes to homelessness or housing precarity for many youth.⁵⁷ In a pan-Canadian consultation with youth experiencing homelessness, multiple young people reported aging out of foster care on their 18th birthday and being handed their possessions in a garbage bag as they were turned out onto the streets.⁵⁸ Despite these realities, very few regional or municipal homelessness strategies address the intersection between homelessness and child welfare policies,⁵⁹ and the NHS makes no mention of this policy domain.
- **Provincial/Territorial Social Assistance Rates & Minimum Wage Policies** – Housing need and homelessness is critically driven by “the insufficient stock of existing rental units with rents that align with the capacity to pay – both relative to the shelter allowance within social assistance, or at 30% of minimum wage.”⁶⁰ Research shows that provincial and territorial social assistance rates and minimum wages are grossly inadequate for the procurement of adequate housing in most Canadian communities,⁶¹ and that poverty is

⁵⁴ A/HRC/43/43 No. 4, para 25.

⁵⁵ A/HRC/43/43.

⁵⁶ Nichols, N., Schwan, K., Gaetz, S., Redman, M., French, D., Kidd, S., & O’Grady, W. (2017). *Child Welfare & Youth Homelessness in Canada – A Proposal for Action*. Toronto: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/childwelfare>

⁵⁷ 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>

⁵⁸ 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>

⁵⁹ 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>

⁶⁰ Pomeroy, S. (2020). *Recovery for All: Proposals to Strengthen the National Housing Strategy and End Homelessness*. Calgary, AB: Canadian Alliance to End Homelessness. <https://caeh.ca/wp-content/uploads/Recovery-for-All-Report-July-16-2020.pdf>.

⁶¹ As documented by Pomeroy (2020), “the gap between the income assistance benefit intended to cover housing cost and the median bachelor (for single) or two-bed (lone parent with one child) apartment ranges from \$0 in PEI up to almost \$700 in BC, with an average of \$390 for singles and \$478 for the lone parent. These are based on the provincial average rent – the gap will be greater in higher cost markets” (p. 16).

the primary driver of homelessness for many groups.⁶² 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.⁶³ These rental costs are at least \$5 an hour more than the highest provincial minimum wage in Canada (\$15 in Alberta).⁶⁴ Without social assistance rates or minimum wages that genuinely lift people out of poverty, these programs often keep individuals and families stuck in core housing need and at risk of homelessness.

While these represent two key policy areas that are deeply implicated in housing need and homelessness, rarely are they addressed in provincial and territorial housing plans or homelessness strategies. As a result, there are gaps between these plans and strategies and human rights standards with respect to comprehensiveness and coordination across policy areas, making it more difficult for municipalities to meaningfully target and address policy issues that are creating pipelines into homelessness and housing need locally (e.g., discharge policies in healthcare and rehabilitation centres,⁶⁵ child apprehension due to poverty⁶⁶).

Looking at it through the federal lens, one of the challenges you might face and opportunities is, developing a theory and matrix of how funding flows, when funding flows, to municipalities and what are the expectations of those municipalities in utilizing that funding. So as Canada is putting money into the National Housing Strategy, municipalities accessing it should be brought into the ethos of the Act, and there should be expectations attached in that regard.

- DJ Larkin
Human Rights Lawyer

3. Failure to recognize the right to housing in provincial/territorial legislation or policy.

While the right to housing is now recognized in federal legislation, it has yet to be recognized in provincial or territorial legislation or policy across Canada. This means that provincial and territorial governments are not required to align their policy, programming, or funding with a rights-based approach to housing and homelessness.⁶⁷ Several advocates have argued that to date, "there has been little indication of interest on the part of other governments" in directly adopting the right to housing in provincial/territorial jurisdiction.⁶⁸ Based on our review, no provincial/territorial housing plans or homelessness strategies have specifically adopted the right to housing.

⁶² Pomeroy, 2020.

⁶³ Macdonald, D. (2019). *Unaccommodated: Rental Housing Wage in Canada*. Ottawa, ON: Canadian Centre for Policy Alternatives.

<https://www.policyalternatives.ca/unaccommodating>

⁶⁴ *Ibid*.

⁶⁵ Canham, S. L., et al. (2019). Health supports needed for homeless persons transitioning from hospitals. *Health & Social Care in the Community*, 27(3): 531-545

⁶⁶ See OACAS (Ontario Association of Children's Aid Societies). (2016). *One vision one voice. Changing the Ontario child welfare system to better serve African Canadians*. Toronto, ON: OACAS. <http://www.oacas.org/what-we-do/onevisiononevoice/>. See also Trocmé, N., Knoke, D., & Blackstock, C. (2004). Pathways to the overrepresentation of Aboriginal children in Canada's child welfare system. *Social Service Review*, 78: 577-600.

⁶⁷ For example, the right to housing is not recognized in any BC provincial plans, laws, or programs. Neither the Homes for BC 10-Year Plan nor the Poverty Reduction Strategy recognize housing as a human right. Similarly in 2002, BC's Human Rights Commission was disbanded, making it the only province in the country without a commission. The BC Human Rights Commission was restored in 2018 with an independent Human Rights Commissioner (Government of BC, 2019, p. 35), however the Commission does not explicitly recognize the right to housing.

⁶⁸ Morrison, J. (2019, July 5). *The Right to Housing is Now Law in Canada: So Now What?*. Ottawa, ON: Canadian Housing & Renewal Association. https://chra-achru.ca/blog_article/right-to-housing-is-now-law-in-canada-so-now-what-2/

While some municipalities have adopted the right to housing, municipalities have a much smaller tax base and do not have jurisdictional competency over many policy areas central to the realization of the right to housing (e.g., evictions). Many policy areas that shape the human rights landscape are cross-jurisdictional, but there remain few tools for collaborative, rights-based policymaking in these areas. As Bruce Porter (Social Rights Advocacy Centre) articulates, “We have no framework agreement by the provinces, territories, and federal government that recognizes social values, rights, or aspirations.”⁶⁹ As a result, municipalities lack some of the key partners and policy or legislative frameworks that would assist in enabling local rights-based approaches to housing.

“Until and unless the provinces and territories are on board, so much of this [realizing the right to housing in Canada] will be constrained. Because the reality of federalism in Canada is that they are a key player, and in many cases the NHS funding will flow through the provinces, and there are provinces not even acknowledging their human rights obligations.”

- Elizabeth McIsaac
President, Maytree

4. Limited provincial/territorial and federal judicial recognition of the right to housing, preventing the accumulation of jurisprudence that could be used to advance the right to housing locally.

Guideline 1 of the Implementation Guidelines asserts the need for judiciaries to recognize the right to housing as “enforceable as a fundamental human right.”⁷⁰ Despite this, Canadian courts have been hesitant to do so in part because they still view positive obligations as non-justiciable (i.e., not capable of being decided by a court of law or legal principles).⁷¹ This is in part linked to the expectation that economic and social rights demand action on the part of governments (i.e., positive duties), thus raising the concern that it is undemocratic to enable unelected courts to interfere with government policy. As articulated in *Gosselin v Quebec*, this is based in the general assertion that “positive claims against the state for the provision of certain needs are not justiciable because they would require courts to dictate to the state how it should allocate scarce resources, a role for which they are not institutionally competent.”⁷² This trend continues despite the fact that international human rights scholars have rejected the “positive” and “negative” rights dichotomy,⁷³ and critiqued the false ‘negative inference’ drawn from the absence of the right to housing in the Canadian Charter.⁷⁴ The limited recognition of the right to housing in FTP courts has meant that there is limited jurisprudence to guide municipalities in their efforts to secure the right to housing.

Municipal Progress on Local Human Rights Infrastructure

Despite these challenges, a growing number of Canadian municipalities have adopted the right to housing or have embedded rights-based approaches to housing in their housing or homelessness charters, strategies, or plans.

⁶⁹ Interview participant, Bruce Porter.

⁷⁰ A/HRC/43/43, para 7.

⁷¹ Moore, K. (2021). *The Right to Housing in Canada*. Montreal, QC: McGill Human Rights. <https://blogs.mcgill.ca/humanrightsinterns/tag/jurisprudence/>

⁷² *Gosselin v Quebec (AG)*, para 330.

⁷³ *Ibid.*

⁷⁴ Centre for Equality Rights in Accommodation (CERA), National Right to Housing Network (NRHN), & Social Rights Advocacy Centre (SRAC). (2021). *Housing Discrimination and Spatial Segregation in Canada*. Ottawa, ON: CERA, NRHN, & SRAC. <https://www.ohchr.org/Documents/Issues/Housing/SubmissionsCFIhousingdiscrim/CERA-NRHN-SRAC.pdf>, p. 8.

Municipalities include: Montreal (QC), Toronto (ON), Victoria (BC), Yellowknife (NWT), London (ON),⁷⁵ Kitchener (ON), and others. The City of Toronto, for example, adopted its 2020-2030 Housing Charter and Action Plan five months after the NHSA became law. The City of Toronto Charter mirrors the wording of the NHSA almost exactly, affirming the human right to housing and outlining accountability mechanisms at the municipal level that parallel federal accountability mechanisms. The key policy objective of Toronto's Housing Charter is to move "deliberately to further the progressive realization of the right to adequate housing as recognized in ICESCR."⁷⁶

Yellowknife similarly recognized housing as a human right in its 10-Year Plan to End Homelessness,⁷⁷ and the City of Victoria's Housing Strategy Phase Two (2019-2022) explicitly presents housing as a human right. The Victoria Housing Strategy for 2016 to 2025 is the current guiding document for creating housing affordability and availability and is a notable document for two reasons: it acknowledges that housing is a human right and recognizes that current approaches to policy position housing as a commodity, rather than a social good and a place to live.⁷⁸ Despite such positive examples, it appears that few Canadian cities (including those that have adopted housing charters/strategies grounded in the right to housing) reference the right to housing in other municipal resources, plans, or policies in policy areas that affect the realization of that right (e.g., by implementing rights-based budgeting processes within urban planning departments).

WHERE DO CITIES GO FROM HERE?

The establishment of concrete infrastructure is central to actualizing the right to housing. As identified in the challenges explored above, this infrastructure is necessarily interjurisdictional and requires participation from all levels of government. In addition to engaging in advocacy to promote the adoption of the right to housing and rights-focused policies at provincial/territorial levels, there are several promising avenues for action that could be pursued by cities:

1. Recognize the human right to housing in local charters, declarations, or ordinances.

Scholarship on 'human rights cities' demonstrates the value and utility of the local recognition of human rights, suggesting that such recognition is critical to progressive change.⁷⁹ As the Centre for Equality Rights in Accommodation and Social Rights and Advocacy Centre articulate in A Social Charter for the City,

⁷⁵ London (ON) acknowledged housing as a human right in one of its four fundamental principles guiding its 2019-2024 homelessness and housing strategy. See City of London. (2020). *Reaching Home: The City of London Homelessness Plan 2019 – 2024*. London, ON: City of London. <https://www.homelesshub.ca/sites/default/files/attachments/Finalized%20Community%20Plan%20-%20London.pdf>

⁷⁶ City of Toronto. (2019). *HousingTO 2020-2030 Action Plan*. Toronto, ON: City of Toronto. <https://www.toronto.ca/legdocs/mmis/2019/ph/bgrd/backgroundfile-140650.pdf>

⁷⁷ Yellowknife Community Advisory Board on Homelessness. (2017). *Everyone is Home: Yellowknife's 10 Year Plan to End Homelessness*. Yellowknife, NWT: City of Yellowknife. <https://www.yellowknife.ca/en/living-here/resources/Homelessness/EVERYONE-IS-HOME---YELLOWKNIFE-10-YEAR-PLAN-TO-END-HOMELESSNESS-FINAL-REPORT-JULY-2017.pdf>

⁷⁸ City of Victoria. (2019). *The Victoria Housing Strategy 2016 – 2025 Phase Two: 2019 – 2022*. Victoria, BC: City of Victoria. https://www.victoria.ca/assets/Departments/Planning~Development/Community~Planning/Housing~Strategy/The%20Victoria%20Housing%20Strategy_Phase%20Two_FINAL%20Web.pdf, pp. 7, 12.

⁷⁹ Dragicevic & Porter, 2020.

“Entrenching commitments to social and economic human rights, international human rights values, participatory governance and social inclusion at the municipal level is now emerging as a new frontier of municipal governance and a critical new dimension of the international human rights movement.”⁸⁰

Local recognition can occur in the form of a declaration, charter, or ordinance that draws on international human rights standards and articulates the city’s obligations and responsibilities for meeting these (including accountability mechanisms for doing so).⁸¹ As discussed above, this is being done in a number of Canadian municipalities with respect to the right to housing. With the implementation of the NHSA, however, cities now have the opportunity to mirror the federal legislation in their local charters or declarations. Many interview participants discussed the advantages of this, including because municipalities can use the federal legislation to “backup” progressive policy-making and counter resistance to rights-based policies at the local level. DJ Larkin (human rights lawyer), for example, commented:

“The NHSA provides language to city councilors who need the ability to be able to explain these issues within their local context, and why they might be taking certain steps that may seem contentious but are actually not, and are really just based in their obligation to think this through a human rights and right to housing lens.”⁸²

2. Implement local accountability and enforcement mechanisms to secure the right to housing, seeking to ensure rights-based participation in the creation of these mechanisms and ongoing assessment of their efficacy.

Access to justice is critical to the realization of the right to housing. Without avenues for people to claim their right to housing, and accountability mechanisms to ensure governments are progressively realizing that right, the right to housing remains out of reach. While such accountability mechanisms should go hand-in-hand with local recognition of the right to housing,⁸³ not all Canadian cities have implemented accountability mechanisms alongside commitments to advance the right to housing. Our review indicating that in many cases, the local commitment to the right to housing is framed as aspirational or a ‘core value,’ with little infrastructure or operational details to support its implementation or enforcement.

“There is a huge opportunity to take the federal model of the mechanisms and the infrastructure that are being built out right now and translate those into the local level, in the way that Toronto is working through right now.”

- Alyssa Brierly
Executive Director, CERA

The City of Toronto is an important exception in this regard. Toronto’s 10-year housing plan (*HousingTO 2020-2030 Action Plan*) establishes a Housing Commissioner who will “address, within the City’s jurisdiction, systemic discrimination and barriers to the progressive realization of the adequate right to housing recognized in international law.”⁸⁴ To this end, the Housing Commissioner will:

“work with City divisions, agencies, boards and commissions to review housing programs and policies to ensure that they align with and advance the principles expressed in the Toronto Housing Charter and support their implementation over the next decade. Additionally, the Housing Commissioner of Toronto will

⁸⁰ SRAC & CERA, 2008, p. 2.

⁸¹ Dragicevic & Porter, 2020.

⁸² Interview Participant, DJ Larkin.

⁸³ A/HRC/43/43.

⁸⁴ City of Toronto, 2019.

monitor the progress in consultation with groups vulnerable to housing insecurity and report annually to City Council regarding systemic issues related to the City's compliance with the Toronto Housing Charter."⁸⁵

While several interview participants noted that there have been delays with regards to the implementation of the Housing Commissioner, the infrastructure that the City of Toronto has put in place provides an excellent example of how cities can adopt the language and mechanisms of the NHSA at the local level. In order to advance the right to housing locally, municipalities have opportunities to explore how best to implement local accountability and monitoring mechanisms that reflect the unique realities of their communities and local Indigenous nations, working alongside people with lived expertise and Indigenous leaders to ensure such mechanisms are equitable and effective.

3. Collect real-time, person-specific data capable of assessing progress towards realizing the right to housing locally, including in relation to homelessness and core housing need.

Monitoring progress towards realizing the right to housing requires the collection of robust qualitative and quantitative data, such as data on: shelter occupancy rates, eviction rates, homelessness, food bank usage, renovations and demovictions, and the use of social or legal services related to housing issues.⁸⁶ To this end, cities should consider how best to collect real-time, person-specific data locally in ways that are rights-compliant. Given that rights-based approaches to housing require the involvement of rights-claimants in policy development and monitoring,⁸⁷ our review suggests that cities should consider how best to involve people with lived expertise in developing such data collection techniques, drawing on this group's expertise to ensure that the collection of such data does not violate the rights or privacy of those in need.

Integrated data collection across systems (e.g., housing and healthcare) may assist in assessing progress towards the realization of the right to housing. Cities may want to explore the use of coordinated access or by-name lists to this end, as is being done in a number of cities across the country.⁸⁸ For example, in June 2021 Medicine Hat, Alberta, reported being the first community in Canada to end chronic homelessness. This was attributed in part to the use of by-name lists and "a strong culture of data-driven decision-making – where data informs policy, program, and system improvement."⁸⁹ Cities might consider exploring the intersection of human rights and such data collection methods in their efforts to measure progress towards realizing the right to housing.

⁸⁵ *Ibid.*

⁸⁶ A/HRC/43/43.

⁸⁷ A/HRC/43/43.

⁸⁸ Canadian Alliance to End Homelessness. (2021). *What is a Coordinated Access System?* Calgary, AB: CAEH. <https://caeh.ca/cas/>

⁸⁹ Built for Zero. (2021). *Medicine Hat, Alberta: Functional Zero Chronic Homelessness Case Study*. Calgary, AB: CAEH. <https://bfzcanada.ca/wp-content/uploads/Medicine-Hat-AB-Chronic-Functional-Zero-Case-Study.pdf>

SUMMARY: PRIORITY 1 – HUMAN RIGHTS INFRASTRUCTURE

Key Challenges	Recommendations for Municipalities
1. Gaps between international human rights law and the National Housing Strategy that create barriers for municipalities to access resources, implement policies, assess their progress, and develop local strategies in alignment with their human rights obligations.	<ul style="list-style-type: none"> • Recognize the human right to housing in local charters, declarations, or ordinances. • Implement local accountability and enforcement mechanisms to secure the right to housing, seeking to ensure rights-based participation in the creation of these mechanisms and ongoing assessment of their efficacy. • Collect real-time, person-specific data capable of assessing progress towards realizing the right to housing locally, including in relation to homelessness and core housing need.
2. Limited infrastructure or mechanisms to support coordination and coherence across provincial/territorial policy areas that impact the right to housing, such as child welfare, social assistance, and policies related to disabilities.	
3. Failure to recognize the right to housing in provincial/territorial legislation or policy.	
4. Limited provincial/territorial and federal judicial recognition of the right to housing, preventing the accumulation of jurisprudence that could be used to advance the right to housing locally.	

PRIORITY 2: PROGRESSIVE REALIZATION

The most egregious violations of the right to housing are often the result of governments' failures to take *positive measures* to address unacceptable housing conditions.⁹⁰ In light of this, all governments must take progressive steps towards ensuring adequate housing for all. In the Canadian context, this commitment is enshrined in the NHSA, and is also articulated in many bilateral agreements between the federal government and the provinces/territories negotiated as part of the National Housing Strategy.⁹¹

International Human Rights Standards

The principle of progressive realization states that all levels of government 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.”⁹² Progressive realization requires that measures taken to ensure the right to housing are reasonable and proportionate to the circumstances of rights holders, and that such measures are immediate and match the urgency and scale of rights violations experienced.⁹³ Implementation of this principle means that governments must:

- Fulfil the right to housing for all as swiftly and efficiently as possible;
- Take measures that are deliberate, concrete and targeted towards the fulfilment of the right to housing within a reasonable time frame;
- Allocate sufficient resources;
- Prioritize the needs of disadvantaged and marginalized individuals or groups living in precarious housing conditions;
- Ensure transparent and participatory decision-making; and
- Demonstrate that they have utilized the maximum of available resources and all appropriate means, including through legislative measures.⁹⁴

This principle, outlined in Guideline 4 in the Implementation Guidelines, provides a key framework for assessing how federal and provincial/territorial policies impact the localization of the right to housing in Canada.

Progressively Realizing the Right to Housing – Key Challenges and Concerns

Our review indicated that there are multiple FTP policies that are inconsistent with the principle of progressive realization and create barriers to realizing the right to housing at the local level. This section explores such concerns in relation to the National Housing Strategy and provincial/territorial policy, legislation, and investments.

Key Challenges and Concerns with respect to the National Housing Strategy

⁹⁰ A/HRC/43/43, No. 2, para 17.

⁹¹ Government of Canada. (2021). *Federal/Provincial/Territorial Housing Agreements*. Canadian Mortgage and Housing Corporation. <https://www.cmhc-schl.gc.ca/en/nhs/federal-provincial-territorial-housing-agreements>

⁹² A/HRC/43/43, para 18.

⁹³ A/HRC/43/43, para 19 (c, d).

⁹⁴ A/HRC/43/43, No. 2, para 16(b) and 19(a). See also *Ben Djazia and Bellili v. Spain*, para. 15.3.

1. The funding provided through the NHS does not yet meet the standard of utilizing maximum available resources to support those in greatest need. As of 2021, NHS funds have been underspent and alternative revenue-generating opportunities have not yet been maximized.

Under international human rights law, governments must utilize the *maximum level* of resources available for the progressive realization of the right to housing, including ensuring sufficient resources to urgently address the needs of disadvantaged and marginalized individuals.⁹⁵ Canada's adherence to the principle of maximum of available resources must be measured against its relative economic standing. As the country with the 9th largest GDP in the world, Canada should be ready to both allocate and raise sufficient revenue in order to meet the funding needs for the full realization of the right to housing.⁹⁶ In light of Canada's economic standing, available analyses indicate that the monetary commitments of the National Housing Strategy are inconsistent with the principle of maximum of available resources,⁹⁷ therefore making it more difficult for municipalities themselves to deliver on the promises outlined in the NHS. This underfunding has occurred, however, in the midst of the COVID-19 pandemic, which has hampered and complicated the provision of funding, and has caused labour, supply chain, and construction material shortages.⁹⁸ Nonetheless, some examples of gaps in funding include:

- **Insufficient investment in and scaling of the Canada Housing Benefit (CHB)** – The CHB provides “affordability support directly to families and individuals in housing need,”⁹⁹ providing an average of \$2,500 per year to eligible households,¹⁰⁰ with the goal of supporting at least 300,000 households over the course of the program. However, the level and scale of support offered through the CHB is insufficient on two fronts. First, the subsidy is too shallow to meet the housing needs of families who are experiencing the most severe forms of housing exclusion and poverty and for whom housing stability could not be attained with an additional \$2,500.¹⁰¹ Second, it does not address the scale of core housing need being experienced throughout the country. According to recent data collected by CMHC, there are 1,693,775 households in core housing need (12.7% of all households in Canada).¹⁰² Such data suggests the CHB does not align with human rights standards regarding the allocation of sufficient resources to meet the level of housing need currently being experienced in Canada.
- **Failure to allocate sufficient monetary commitments within the NHS relative to the scale of need (as of Fall 2021)** – A majority of the investments of the National Housing Strategy are allocated in the latter 10 years of the Strategy, despite the severity of the current housing crisis. An exhaustive review of the NHS by the Parliamentary Budget Officer found that the National Housing Strategy “largely maintains current funding

⁹⁵ A/HRC/43/43.

⁹⁶ Biss & Raza, 2021.

⁹⁷ See Biss & Raza, 2021. See also Schwan, K., Vaccaro, M., Reid, L., & Ali, N. (2021). *Implementation of the Right to Housing for Women, Girls, and Gender Diverse People*. Toronto, ON: Women's National housing & Homelessness Network. https://womenshomelessness.ca/wp-content/uploads/EN_CHRC_13-1.pdf

⁹⁸ OECD. (2020, July 22). “Housing Amid Covid-19: Policy Responses and Challenges.” *OECD – Better Policies for Better Lives*. https://read.oecd-ilibrary.org/view/?ref=135_135322-lju8yj5sib&title=Housing-Amid-Covid-19-Policy-Responses-and-Challenges&ga=2.39802912.241639011.1638763234-920395653.1638763233

⁹⁹ Government of Canada. (2017). *National Housing Strategy*. Ottawa, ON: Government of Canada. <https://www.placetocallhome.ca/>

¹⁰⁰ Canadian Alliance of Non-Profit Housing Associations. (2019). *Canada Housing Benefit – Policy Principles*. https://chra-achru.ca/wp-content/uploads/2019/04/canada_housing_benefit_-_canpha_key_principles_0.pdf

¹⁰¹ See Biss & Raza, 2021; Schwan et al., 2021.

¹⁰² Canada Mortgage and Housing Corporation. (2020). *Characteristics of Households in Core Housing Need: Canada, P/T, CMAs*. Ottawa, ON: CMHC. <https://www.cmhc-schl.gc.ca/en/data-and-research/data-tables/characteristics-households-core-housing-need-canada-pt-cmas>

levels for current activities and slightly reduces targeted funding for households in core housing need” and further concludes that the anticipated impacts of the NHS “do not reflect the likely impact of those programs on the prevalence of housing need.”¹⁰³ In 2021 the *Parliamentary Budget Officer* assessed spending in the three years of the NHS, concluding that there is significant underspending and that “CMHC spent less than half the funding allocated for two key initiatives, the National Housing Co-Investment Fund and Rental Construction Financing Initiative.”¹⁰⁴

Moreover, there may be additional revenue raising opportunities that could be used to advance the progressive realization of the right to housing under the NHS. These might include increased taxation on private equity firms and Real Estate Investment Trusts, vacant unit taxation, and increased taxation of short-term rental platforms. Our findings suggest that to date, NHS funding allocations are inconsistent with the principle that the maximum available resources should be allocated to realize the right to housing.

“These cost-matching models are very challenging to implement ... How much time has been spent negotiating these bilaterals - pulling the teeth - when the money could have flowed and we could have had shovels in the ground. This has human rights implications because it leads to delays in the work being done, in some cases the work not getting done, in some cases the work getting done in a manner not contemplated by the policies and priorities of the federal government. So I’m not sure to what extent this model is set up for success.”

– Alyssa Brierly
Executive Director, CERA

2. The delivery of NHS programs through cost-sharing, bilateral agreements with the provinces/territories prevents the swift allocation of funds at the municipal level, creating barriers to alleviating housing need and homelessness quickly.

A majority of the NHS programs are facilitated through bilateral, cost-sharing agreements between the federal government and the provinces and territories. Research and advocates suggest that this arrangement has prevented the swift allocation of funds. For example, housing starts in the first two years of the program have fallen well below the target of 15,000 units outlined in the NHS.¹⁰⁵ In some cases programs (e.g., the Canada Housing Benefit) have not yet begun in provinces or territories because bilateral agreements have not yet been secured. Ontario is the first province to roll out this initiative. It is reported that since the Canada-Ontario Housing Benefit program launched on April 1, 2020, approximately 3,800 households have received CHB assistance - representing just 1.2% of the 300,000 households meant to benefit from the program.¹⁰⁶ International human rights law requires that Canada “move as expeditiously and effectively as possible” towards the full realization of the right to adequate housing.¹⁰⁷ Consequently, governments in Canada must look to remove all barriers which reduce the efficiency and speed of the

¹⁰³ Office of the Parliamentary Budget Officer. (2019). *Federal program spending on housing affordability*. Ottawa, ON: Office of the Parliamentary Budget Officer. [https://www.pbo-](https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2019/Housing_Affordability/Federal%20Spending%20on%20Housing%20Affordability%20EN.pdf)

[dpb.gc.ca/web/default/files/Documents/Reports/2019/Housing_Affordability/Federal%20Spending%20on%20Housing%20Affordability%20EN.pdf](https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2019/Housing_Affordability/Federal%20Spending%20on%20Housing%20Affordability%20EN.pdf)

¹⁰⁴ Office of the Parliamentary Budget Officer. (2021). *Federal program spending on housing affordability in 2021*. Ottawa, ON: Parliamentary Budget Officer, p. 2.

<https://distribution-a617274656661637473.pbo-dpb.gc.ca/c14c97d8ca19d3036782918415de2bd3c976a66ed53e0030daf83b206c8d36e1>

¹⁰⁵ Pomeroy, 2020.

¹⁰⁶ CMHC. (2020, November 13). *Canada and Ontario Invest in Affordable Housing in Ottawa*. Ottawa, ON: CMHC. <https://www.newswire.ca/news-releases/canada-and-ontario-invest-in-affordable-housing-in-ottawa-835283535.html>

¹⁰⁷ CESCR. (1990). *General Comment No. 3: The Nature of States Parties’ Obligations* (Art. 2, Para. 1, of the Covenant), para 9. <https://www.refworld.org/pdfid/4538838e10.pdf>

implementation of the NHS and the right to housing more generally. The removal of such barriers at the national level is critical for human rights outcomes at the local level.

3. Gaps in the NHS's prioritization of resources for those most in need, and the failure to specifically target available resources, has contributed to sub-optimal progress on improving the housing conditions of those who are most marginalized.

While the NHS outlines a commitment to address the unique housing challenges faced by a number of priority populations (e.g., newcomers and refugees, Indigenous Peoples, persons with disabilities),¹⁰⁸ programs within the NHS do not always integrate such commitments in their terms and conditions. For example, the NHS commits to ensuring that 25% of investments go to housing for women and girls.¹⁰⁹ However, many of the NHS programs do not have gender-specific targets attached to them and lack transparent accountability mechanisms to assess where investments are allocated (and their impact). As Leilani Farha, Global Director of The Shift, explains:

"Progressive realization means that measures are *deliberate, concrete, and targeted* towards the fulfillment of the right to housing ... that's not just any old measure, that's not just 'build housing.' Who is the housing for? Who will it benefit? Have you done a needs assessment to ensure that every measure you're taking is actually addressing specific and targeted needs? ... We need to audit our housing system if we want to take progressive realization seriously."¹¹⁰

This is certainly evident when looking at the scale of NHS investments that do not actually reach those in deep poverty or core housing need. For example, the *Rental Construction Financing Initiative* (RCFI) – a key pillar of the NHS – only requires that developers offer 20% of their units at 80% of median market rent for 10 years.¹¹¹ The cost of rent in these units far exceeds what is feasible for those receiving social assistance, disability benefits, or working minimum wage jobs, despite the NHS's expressed prioritization of low-income households.¹¹² This makes it difficult for municipalities receiving NHS funds to actually address the housing needs of those who are most marginalized within their communities.

4. The federal government has not yet established an Urban, Rural, and Northern Indigenous Housing Strategy, despite its commitment to do so and the severity of housing inequities faced by Indigenous communities.

The severe housing inequities faced by Indigenous Peoples in Canada are well-documented and rooted in ongoing and historic forms of violence.¹¹³ The unique housing challenges experienced by diverse Indigenous groups are recognized in the National Housing Strategy, which includes an explicit commitment to realize the right to housing for Indigenous Peoples.¹¹⁴ More specifically, the NHS commits the Canadian government to develop "distinction-

¹⁰⁸ Government of Canada, 2017.

¹⁰⁹ Government of Canada, 2017, p. 11.

¹¹⁰ Interview participant, Leilani Farha.

¹¹¹ A proposal may also be funded if it has been approved by a housing affordable housing initiative from another level of government. See Canada Mortgage Housing Corporation. (n.d.). *Rental Construction Financing*. <https://assets.cmhc-schl.gc.ca/sites/cmhc/nhs/rental-construction-financing/nhs-rcfi-highlight-sheet-en.pdf?rev=e821c3c7-9991-42e2-947d-5f50e28e1126>

¹¹² See Pomeroy, S. (2021). *Toward Evidence Based Policy: Assessing the CMHC Rental Housing Finance Initiative (RCFI)*. <https://carleton.ca/cure/wp-content/uploads/CURE-Brief-12-RCFI-1.pdf>

¹¹³ Truth and Reconciliation Commission of Canada. (2015). *Honouring the truth, reconciling for the future – Summary of the Final Report for the Truth and Reconciliation Commission of Canada*. http://publications.gc.ca/collections/collection_2015/trc/IR4-7-2015-eng.pdf

¹¹⁴ Government of Canada, 2017.

based” Indigenous housing strategies in partnership with national Indigenous organizations. However, numerous First Nations, Metis, and Inuit leaders have highlighted the Strategy’s neglect of urban Indigenous communities across the country,¹¹⁵ with many Indigenous service providers and organizations declaring that the Strategy “fails the 79.7% of Indigenous people who are not living on reserve.”¹¹⁶ A 2019 statement prepared by leaders from Indigenous communities across Canada, urban Indigenous housing and homelessness service providers, and the United Nations Special Rapporteur on the right to adequate housing stated:

“Though elected officials have indicated that the government will address gaps in current policies with respect to urban, rural, and northern Indigenous housing, there is a risk that this commitment will fall short of a robust strategy capable of providing Indigenous housing and service providers with a mechanism for meaningful, ongoing engagement ... Without a strategic approach to implementing the rights-based structures of the National Housing Strategy Act in conjunction with the principles of the United Nations Declaration of the Rights of Indigenous People that is rooted in the experience of Indigenous housing and service providers, the right to housing in Canada will not be meaningful implemented and realized for Indigenous people.”¹¹⁷

A 2018 paper from the Canadian Housing Renewal Association (CHRA) Indigenous Housing Caucus similarly called on the government to fund a distinct housing strategy for households in urban, rural, and northern communities.¹¹⁸ In 2020, the CHRA Indigenous Housing Caucus released a further report with a survey of the state of urban, rural, and northern Indigenous housing, with recommendations to involve Indigenous housing providers in a partnership that supports reconciliation.¹¹⁹ Despite years of advocacy, there still remains no federal targeted strategy to address the urgent housing needs of Indigenous Peoples not living on reserves.

Key Provincial/Territorial Challenges & Concerns

1. In some cases, provincial/territorial governments have failed to allocate maximum resources available towards supportive, social, or affordable housing, including for those most in need.

Across Canada, many provinces and territories have failed to allocate maximum or sufficient resources to address the severe housing crisis at their doorsteps. Major cities like Toronto depend on provincial dollars to create and operate supportive and social housing, but consistently decry a scarcity of provincial investments relative to need. For example, the 2021 Ontario Budget did not earmark any funds for social housing for the City of Toronto, despite the

¹¹⁵ Ontario Federation of Indigenous Friendship Centres (OFIFC). (2018), *Response to the National Housing Strategy*. <https://ofifc.org/wp-content/uploads/2020/03/2018-policy-housing-strategyPRINT.pdf>

¹¹⁶ Ontario Aboriginal Housing Services. (2019). *Statement on National Urban Indigenous Housing Strategy*. <https://www.ontarioaboriginalhousing.ca/news/statement-on-national-urban-indigenous-housing-strategy>, p. 1.

¹¹⁷ Ontario Aboriginal Housing Services, 2019.

¹¹⁸ Indigenous Housing Caucus Working Group, Canadian Housing and Renewal Association. (2018). *A By Indigenous For Indigenous National Housing Strategy: Addressing the Housing Needs of Indigenous Families and Individuals in the Urban, Rural and Northern Parts of Canada*. https://chra-achru.ca/wp-content/uploads/2015/09/2018-06-05_for-indigenous-by-indigenous-national-housing-strategy.pdf

¹¹⁹ Brant, D., & Irwin-Gibson, C. (2019). *Urban, Rural, and Northern Indigenous Housing – The Next Step*. https://chra-achru.ca/wp-content/uploads/2019/09/20190802-urn_indigenous_housing_final_report.aug26.2019.pdf

City having secured nearly 1,250 new supportive housing units through federal dollars.¹²⁰ These provincial funds were necessary for covering the operating costs of these units, but were not prioritized in the 2021 Budget.¹²¹

Other provinces have also failed to allocate sufficient or maximum resources to address the housing needs of groups experiencing distinct forms of marginalization, including gender diverse people¹²² and people with disabilities,¹²³ contravening the human rights principle of non-discrimination with respect to funding. The *Disability Rights Coalition of Nova Scotia* recently brought a case to the provincial human rights tribunal on this basis.¹²⁴ Through this case, many individuals being forced to remain in institutional settings “challenged the province’s decision to severely restrict funding for support services and housing for Community Living as discriminatory under provincial human rights legislation.”¹²⁵ While the tribunal upheld the individual claims of discrimination, it dismissed the claim that it was part of a systemic pattern of discrimination.¹²⁶ Nonetheless, the case exemplifies the discriminatory effects of provincial under-investments in supportive housing, which in turn creates barriers for municipalities seeking to make progress towards the realization of the right to housing.

2. Many provincial/territorial governments fail to sufficiently invest in homelessness shelters and services relative to need, and in some cases existing investments are not equitably distributed.

Homelessness shelters and services are largely funded through the provinces and territories. Data from *Statistics Canada*,¹²⁷ *Employment and Social Development Canada*,¹²⁸ *parliamentary reports*,¹²⁹ *municipal data and research*,¹³⁰ and independent studies¹³¹ consistently indicate that emergency shelters across the country are operating at (or over) capacity, suggesting many provinces and territories are not utilizing the maximum resources available to address homelessness. While such services are a stop-gap measure and do not actively prevent or end homelessness, these services are life-saving and must be adequately funded in alignment with human rights standards.¹³²

Further, shelters and services are not funded equitably across groups experiencing homelessness. For example, there continues to be a lack of equitable investment in emergency homeless shelters and shelter beds for women and gender diverse people across the country,¹³³ contravening the human rights obligation of non-discrimination in funding allocation. The most recent pan-Canadian data indicates that 68% of all shelter beds in Canada are designated for men or are co-ed (which many women and gender diverse people avoid due to experiences of

¹²⁰ Quiser, S. (2021, March 26). *Ontario Budget: Provincial Government Once Again Fails Communities and Nonprofits*. Toronto, ON: Social Planning Toronto. https://www.socialplanningtoronto.org/ontario_2021_budget

¹²¹ *Ibid.*

¹²² Schwan et al., 2020.

¹²³ CERA, NRHN, & SRAC, 2021.

¹²⁴ *Ibid.*

¹²⁵ CERA, NRHN, & SRAC, 2021, p. 18.

¹²⁶ *Ibid.*

¹²⁷ Statistics Canada. (2019). *Canadian residential facilities for victims of abuse, 2017/2018*. Statistics Canada Catalogue. Ottawa, ON: Statistics Canada. <https://www150.statcan.gc.ca/n1/daily-quotidien/190417/dq190417d-eng.htm>

¹²⁸ Employment and Social Development Canada. (2019). *Highlights of the National Shelter Study 2005 to 2016*. Ottawa, ON: ESDC. <https://www.canada.ca/en/employment-social-development/programs/homelessness/reports-shelter-2016.html>

¹²⁹ Vecchio, 2019.

¹³⁰ For example, see City of Toronto. (2018). *Street Needs Assessment*. Toronto, ON: City of Toronto. <https://www.toronto.ca/wpcontent/uploads/2018/11/99be-2018-SNA-Results-Report.pdf>.

¹³¹ Jadidzadeh, A., & Kneebone, R. (2018). Patterns and Intensity of Use of Homeless Shelters in Toronto. *Canadian Public Policy*, 44(4), 342–355.

¹³² A/HRC/43/43.

¹³³ Schwan et al., 2020.

violence within them), compared to 13% dedicated specifically to women.¹³⁴ The consequence is that women's shelters in cities across Canada are frequently at or above capacity, and women in crisis are turned away at the door every day.¹³⁵

3. Failure to adopt the United Nations Declaration on Indigenous Peoples within provincial/territorial legislation or policy.

In interviews with leaders of Indigenous organizations across with country, many suggested that the *United Nations Declaration of the Rights of Indigenous Peoples* (UNDRIP), in concert with the Truth and Reconciliation Commission's *Final Report*, the *Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, and the NHTS, provides a framework for advancing Indigenous peoples' self-determination at the municipal level, including with respect to housing. Unfortunately, very few provinces or territories have adopted UNDRIP in legislation or policy. Failure to do so means that municipalities may lack some of the critical resources, policy frameworks, competencies, and accountability mechanisms that would assist in embedding UNDRIP within local efforts to advance the right to housing for Indigenous Peoples.

An important exception to this is British Columbia. In 2019 the government of British Columbia adopted the UNDRIP, which includes, at Article 21, the right of Indigenous Peoples to "the improvement of their economic and social conditions, including ... housing."¹³⁶ The *Declaration on the Rights of Indigenous Peoples Act* passed in 2019, making BC the first Canadian province to introduce legislation to implement UNDRIP.¹³⁷ The *Act* requires that provincial laws are compliant with UNDRIP, sets out a process to align BC's laws with UNDRIP, and requires the government to monitor progress and report to the Legislature.¹³⁸ By adopting UNDRIP, the province explicitly recognizes international human rights obligations towards Indigenous Peoples, including the right to housing for Indigenous Peoples. As such, this legislation provides a mechanism through which Indigenous Peoples can hold the British Columbia government accountable for the progressive realization of the right to housing for all Indigenous Peoples (including those living off reserve), as well as a framework through which access to justice could be pursued. In partnership with Indigenous governments and communities, municipalities can utilize this legislation to create local targets, timelines, and indicators on progress towards realizing the right to housing for Indigenous Peoples locally.

WHERE DO CITIES GO FROM HERE?

The progressive realization of the right to housing in Canada will require addressing both gaps in the NHS and provincial/territorial policies that create barriers for cities to make rights-based progress. Despite the shortcomings

¹³⁴ Employment and Social Development Canada. (2019). *Highlights of the National Shelter Study 2005 to 2016*. Ottawa, ON: ESDC.

<https://www.canada.ca/en/employment-social-development/programs/homelessness/reports-shelter-2016.html>

¹³⁵ Schwan et al., 2020. See also 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>

¹³⁶ United Nations, General Assembly. (2007). *United Nations Declaration on the Rights of Indigenous Peoples*, Article 21. <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

¹³⁷ BC Housing. (n.d.). *Addressing Indigenous Housing Needs*. Vancouver, BC: BC Housing. <https://www.bchousing.org/indigenous/addressing-indigenous-housing-needs>

¹³⁸ BC Housing. (n.d.). *Community Housing Fund – Program and Proposal Process*. Vancouver, BC: BC Housing. <https://www.bchousing.org/projects-partners/Building-BC/CHF>

discussed above, the National Housing Strategy represents a significant commitment from the federal government to address the housing crises facing cities across Canada. Our review suggests that cities would benefit from a National Housing Strategy that reflects rights-based principles such as the maximum allocation of resources, the swift delivery of programming, the prioritization of those most in need, and the establishment of accessible mechanisms for accessing justice for those whose rights have been violated. Nonetheless, cities themselves can take steps to progressively realize the right to housing locally. To this end, cities might consider the following:

“There is a whole gap in education around what the right to housing is, and what safe and affordable housing means. I don’t think that there’s any standardization of that language across the municipalities.”

- Margaret Pfoh
CEO, Aboriginal Housing Management
Association

1. Train and support municipal staff to understand the human right to housing and meet their human rights obligations

In most interviews, and a majority of Right to Home Municipal Working Group meetings, stakeholders repeated the same thing: a vast majority of municipal government staff and elected officials do not understand what the right to housing is. For many interviewees, this gap in knowledge was linked to a broader lack of human rights practice and engagement at the municipal level in Canada. As Emily Paradis (Canadian Human Rights Commission) explained:

“Municipalities haven’t traditionally been engaged in human rights-type processes, and don’t see themselves as duty bearers in relation to human rights. They are new to thinking about that, and in Canada at the level of jurisprudence, there is failure to recognize social and economic rights, and a tendency to bundle human rights under non-discrimination. So there is a lack of capacity in Canada in general with respect to social and economic rights, but especially at the city level.”¹³⁹

This sentiment is echoed in scholarship as well. In urban planning, for example, prominent scholar Sandeep Agrawal articulates: “Despite such a historically noteworthy legislative environment for human rights in this country, many Canadian scholars and practitioners in planning are still unsure – or worse, unaware – of how these constitutional and quasi-constitutional requirements apply to planning matters at the municipal level.”¹⁴⁰

Many interviewees also emphasized that there is a particular lack of understanding within ministries and departments that impact the right to housing but are not directly involved in housing policy or provision. For example, there are many city staff that are implicated in the realization or violation of the right to housing, including: city bylaw officers, park rangers, library staff, police officers, city planners, and many others. Given this, in seeking to progressively realize the right to housing, cities might consider prioritizing training city staff and elected officials on the right to housing and its relevance to their work. This will require addressing differing levels of knowledge within diverse municipal departments and ministries, as well as fostering a rights-based culture across a range of

¹³⁹ Interview Participant, Emily Paradis.

¹⁴⁰ Agrawal, S. (2021). Human Rights and the City: A View From Canada. *Journal of the American Planning Association*, 87:1, p. 3, DOI: [10.1080/01944363.2020.1775680](https://doi.org/10.1080/01944363.2020.1775680)

municipal departments and ministries. To achieve this, much can be learned from the mainstreaming of rights in so-called ‘human rights cities.’¹⁴¹

2. Adopt rights-based budgeting across city departments and divisions, seeking to use maximum available resources to address the housing of needs of those most marginalized.

Housing insecurity and homelessness is a policy fusion issue, meaning that multiple policy areas fuse together to shape peoples’ access to, and experience of, housing.¹⁴² This means that in order to progressively realize the right to housing, cities will need to establish rights-based targets, indicators, and budgeting not just within housing departments, but within other departments that impact the right to housing, such as social services, law enforcement, parks and recreation, public health, and real estate management.¹⁴³ To this end, municipal governments will need to adopt a “whole of government” approach to securing the right to housing that extends across city budgeting.¹⁴⁴ Given that the “city budget is the most significant local policy and planning tool,”¹⁴⁵ applying a rights-based approach to municipal budgeting will be an important tool for advancing the right to housing locally. For example, data and research on spending in many major Canadian cities reveals continued increases in spending on police while stagnant or decreased spending on social housing or social services.¹⁴⁶ Adopting rights-based budgeting processes at the city level, in addition to rights-based audits of city spending, can assist cities in assessing such budgeting choices in alignment with the right to housing. Such audits could be modelled from already existing mechanisms like *Equity Responsive Budgeting* in the City of Toronto, which “embeds equity impact analyses throughout the development and decision-making stages of the budget process.”¹⁴⁷

“When the opportunities come - and if it’s infrastructure dollars for housing, that’s great - but we will have to ask ourselves, did we get the housing at the cost of decent work for jobs that were made? Did we get the housing at the cost of effective transit from one community to another? Are we building out agreements in a way that has a coherent human rights approach? There has to be a broader rights-based sensibility.”

- Elizabeth McIsaac
President, Maytree

3. Embed Indigenous Peoples’ right to housing and distinct rights under UNDRIP in municipal housing strategies and plans to end homelessness, transferring decision-making power and resources to local Indigenous communities wherever possible.

While failure to recognize the right to housing for Indigenous Peoples is evident at all levels of government, it is perhaps most tangibly visible at the municipal level – where Indigenous Peoples are enormously over-represented in populations who are rough sleeping, experiencing chronic homelessness, residing in encampments, or experiencing

¹⁴¹ Dragicevic & Porter, 2020.

¹⁴² Oudshoorn A. (2020). Homelessness as a Fusion Policy Problem. In Lersch K., Chakraborty J. (eds) *Geographies of Behavioural Health, Crime, and Disorder*. GeoJournal Library, vol 126. Springer, Cham. https://doi.org/10.1007/978-3-030-33467-3_8

¹⁴³ A/HRC/43/43.

¹⁴⁴ A/HRC/43/43.

¹⁴⁵ Dragicevic & Porter, 2020.

¹⁴⁶ Defund the Police. (2021). *Police Expenditures*. <https://defundthepolice.org/canada/>

¹⁴⁷ City of Toronto. (2021). *2021 Operating Budget Briefing Note - Equity Impacts of Changes in the 2021 Operating Budget*. <https://www.toronto.ca/legdocs/mmis/2021/bu/bgrd/backgroundfile-159896.pdf>

other forms of socio-economic and housing marginalization.¹⁴⁸ Despite this, our review suggests that many provinces, territories, and municipalities have not explicitly centred reconciliation in their approaches to housing or homelessness. In the province of British Columbia, for example, only 56% of municipalities have made a commitment of some kind towards reconciliation, and only 9% of BC municipalities mention Indigenous Peoples in their housing or homelessness strategy.¹⁴⁹ In the absence of such commitments, the progressive realization of housing for Indigenous Peoples remains unattainable.

Given that Indigenous Peoples experience some of the most egregious housing rights violations in Canada, cities must centre Indigenous Peoples' right to housing in municipal efforts to progressively realize this right, in alignment with principles of self-determination.¹⁵⁰ There are some important models across Canada wherein Canadian municipalities are working in partnership with Indigenous Nations and communities to advance housing rights, guided by Indigenous Peoples' right to self-determination. As Chelsea Combot (Housing Policy Analyst, Ontario Federation of Indigenous Friendship Centres) explains,

"There are some instances where municipalities are working fairly well with Indigenous organizations and communities, and often the reason for that is that the City is approaching the Indigenous community in the way that the community would like to be approached. So there is an element of self-determination that is being respected and being engaged with. The Indigenous community may be self-organizing and may have created their own leadership table, or some form of organizing body that works for them ... In this model Indigenous communities have decided for themselves how they would like to represent and organize themselves, how they would like to make decisions on housing and homelessness at the city or regional level, and the City meets them equally at that juncture. And they put into place processes and agreements that work so that investments that are to be made into Indigenous initiatives, those decisions aren't made by the City, but it will be the Indigenous-led body that will make decisions about how to allocate investments intended for the community."¹⁵¹

¹⁴⁸ 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*. <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. <https://www.homelesshub.ca/sites/default/files/AboriginalLiteratureReview.pdf>.

¹⁴⁹ Breton, C. (2020). *Summary Report - Urban Indigenous Housing in BC: Municipal response through housing policies and plans*. Vancouver, BC : AHMA. <https://static1.squarespace.com/static/573e02ab62cd943531b23633/t/5fb41e6cb2154e39747715e6/1605639792311/Final+Report.pdf>

¹⁵⁰ A/HRC/43/43.

¹⁵¹ Interview Participant, Chelsea Combot.

“Legislating the right to housing offers a lot of opportunities for Indigenous communities, and especially as we make our claims to self-determination and organization on community priorities as these are supported through UNDRIP. Urban Indigenous communities are self-determining and are an important and vital part of the landscape, and have been for decades. So building our voice, backed by UNDRIP, backed by the TRC and the National Inquiry, and framing out our positions on serving our own communities as needing to be part of the right to housing – I think that’s our biggest task right now.

What success would look like through that work comes down to what our communities really want to see. We’re hearing more and more ... they want to be building affordable housing for community members that is safe and reflective of culture. So that is all encompassing; that means housing which is reflective of ways living, that is accommodating to multigenerational families, accommodating to ways of life that are maybe more communal ... it means a design element that is meaningful to the community. It also means thinking about land use and climate change, and the way that living on the land might be incorporated into housing, and how technology can be used to adapt new builds in relation to the climate. And also thinking about the needs of new generations, and that might include having an influx of new Indigenous neighbours because Northern communities are going to get flooded out or evacuated because of forest fires... This involves community planning and city planning that looks into a future that is much more self-determining, that is much more open to having Indigenous-led housing opportunities in a mainstream community. So the fact that we have legislation that we can draw from now, and we can point to in our work and in our advocacy, is really important and it’s a building block.”

- Chelsea Combot, Housing Policy Analyst, Ontario Federation of Indigenous Friendship Centres

4. Maximize all available jurisdictional powers to implement zoning policies, municipal bylaws, and other policies that can accelerate the creation of affordable housing.

While municipalities are more limited in their tax base with respect to key policies and programs that impact the right to housing,¹⁵² they nonetheless have important competencies regarding urban planning, zoning, municipal bylaws, and other policies that can accelerate the creation of affordable housing. Municipal governments should consider conducting an audit of such competencies and identifying opportunities where revisions to existing policies or bylaws might assist in the creation or acceleration of affordable housing options, and where collaboration with provincial/territorial governments might assist in this regard. A human rights framework should guide such audits and has the added value of helping re-frame public discourse on the purpose of social policy towards one that is rooted in inclusion and equity. As articulated in Ontario Human Rights Commission’s report, *In the Zone – Housing, Human Rights, and Municipal Planning*:

“A key part of achieving inclusive neighbourhoods where all residents feel welcome to live, work, and play is taking steps to overcome community opposition to affordable housing. One way to overcome these barriers

¹⁵² Pomeroy, S., & MacLennan, D. (2019, April). *Rental Housing in Canada’s Cities: Challenges & Responses*. The Urban Project. https://www.focus-consult.com/wp-content/uploads/RentalHousing-ChallengesResponses_Urban-Project-FCM_Maytree.pdf

is to clearly and consistently make the connection between human rights and the bylaws, policies and procedures that govern housing.”¹⁵³

British Columbia is a good example of a province that has adopted provincial legislation that provides municipalities with increased flexibility to advance the creation of affordable housing through zoning, bylaws, and other policy tools. For example, under the Local Government Act and Community Charter, local governments can implement policies that support the creation of social and affordable market housing, and target affordable rental housing or ownership options. The *Local Government Act* requires local governments to create Regional Growth Strategies (RGS) outlining a region’s plan for growth and development over a minimum 20-year period.¹⁵⁴ A key focus of RGS is how municipalities and regions will work towards “adequate, affordable and appropriate housing.”¹⁵⁵ For example, the *Local Government Act* also allows local governments to exchange bonus density for amenities or affordable housing by including relevant provisions in their bylaws.¹⁵⁶ Cities such as Victoria have been able to adopt zoning and bylaws under this Act that preserve existing affordable housing, such as rental-only zoning to preserve existing and future rental stock.¹⁵⁷ As such, this provincial legislation provides municipalities with a broader set of competencies and tools to create affordable housing more swiftly, creatively, and in a manner that targets the local housing needs, thereby advancing the progressive realization of the right to housing.

“Looking at it through the federal lens, one of the challenges and opportunities you might face is developing a theory and matrix of how funding flows, when funding flows, to municipalities and what are the expectations of those municipalities in utilizing that funding. So as Canada is putting money into the National Housing Strategy, municipalities accessing it should be brought into the ethos of the *Act*, and there should be expectations attached in that regard.”

– DJ Larkin, Human Rights Lawyer

¹⁵³ Ontario Human Rights Commission. (2012). *In the Zone – Housing, Human Rights, and Municipal Planning*. Ottawa, ON: Ontario Human Rights Commission. http://www3.ohrc.on.ca/sites/default/files/In%20the%20zone_housing_human%20rights%20and%20municipal%20planning_0.pdf

¹⁵⁴ Province of British Columbia. (2018, February 20). *Housing and Regional Growth Strategies*. Government of BC. <https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/policy-and-planning-tools-for-housing/housing-and-regional-growth-strategies>

¹⁵⁵ Province of British Columbia. (2018, February 20). *Housing and Regional Growth Strategies*. Government of BC. <https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/policy-and-planning-tools-for-housing/housing-and-regional-growth-strategies>

¹⁵⁶ Province of British Columbia. (2018, February 13). *Zoning for Housing*. Government of BC. <https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/policy-and-planning-tools-for-housing/zoning-for-housing>

¹⁵⁷ Boynton, S. (2019, June 28). *Victoria to consider rental-only zoning protection for over 500 properties*. Global News. <https://globalnews.ca/news/5444496/victoria-rental-only-zoning/>

SUMMARY: PRIORITY 2 – PROGRESSIVE REALIZATION

Key Challenges	Recommendations for Municipalities
<p>Federal Challenges</p> <ol style="list-style-type: none"> 1. The funding provided through the NHS does not yet meet the standard of utilizing maximum available resources to support those in greatest need. As of 2021, NHS funds have been underspent and alternative revenue-generating opportunities have not yet been maximized. 2. The delivery of NHS programs through cost-sharing, bilateral agreements with the provinces/territories prevents the swift allocation of funds at the municipal level, creating barriers to alleviating housing need and homelessness quickly. 3. Gaps in the NHS's prioritization of resources for those most in need, and the failure to specifically target available resources, has contributed to sub-optimal progress on improving the housing conditions of those who are most marginalized. 4. The NHS has not yet established an Urban, Rural, and Northern Housing Strategy, despite its commitment to do so and the severity of housing inequities faced by Indigenous communities. <p>Provincial/Territorial Challenges</p> <ol style="list-style-type: none"> 1. In some cases, provincial/territorial governments have failed to allocate maximum resources available towards supportive, social, or affordable housing, including for those most in need. 2. Many provincial/territorial governments fail to sufficiently invest in homelessness shelters and services relative to need, and in some cases existing investments are not equitably distributed. 3. Failure to adopt the United Nations Declaration on Indigenous Peoples within provincial/territorial legislation or policy. 	<ul style="list-style-type: none"> • Train and support municipal staff to understand the human right to housing and how to meet their human rights obligations. • Adopt rights-based budgeting across city departments and divisions, seeking to use maximum available resources to address the housing of needs of those most marginalized. • Embed Indigenous Peoples' right to housing and distinct rights under UNDRIP in municipal housing strategies and plans to end homelessness, transferring decision-making power and resources to local Indigenous communities wherever possible. • Maximize all available jurisdictional powers to implement zoning policies, municipal bylaws, and other policies that can accelerate the creation of affordable housing.

PRIORITY 3: MEANINGFUL PARTICIPATION

Meaningful participation is grounded in the idea that people have the right to shape policies that affect them. Rather than a secondary consideration, rights-based participation “is a core element of the right to housing and critical to dignity, the exercise of agency, autonomy and self-determination.”¹⁵⁸ Under international human rights law, people experiencing housing need have the right “to influence the outcome of decision-making processes”¹⁵⁹ at the highest levels. This stands in contrast to what often happens in practice. Much housing policy development and delivery in Canada occurs without the ongoing, meaningful participation of those who are most affected. Without feedback and consultation with people with lived expertise, programs and policies may inadvertently deepen social exclusion, discrimination, economic insecurity, or housing precarity. Given this, securing the right to housing in Canada is inseparable from guaranteeing the meaningful participation of rights-holders.

International Human Rights Standards

Human rights law outlines specific standards with respect to ensuring meaningful participation. Notably, rights-based participation requires that governments adopt a particular orientation towards people who find themselves experiencing homelessness, housing need, or other systemic housing issues. Rather than viewing these persons as recipients of charity, governments must engage them as experts in their own lives and as rights holders articulating human rights claims.¹⁶⁰ Rights holders should be involved not only in claims-making, but in meaningfully identifying, implementing, and monitoring outcomes of housing programs, policies, and investments.¹⁶¹

Implementation mechanisms for ensuring meaningful participation include:

- “(a) The right to free and meaningful participation in housing policies must be guaranteed in law and include the provision of necessary institutional and other supports;
- (b) Affected individuals must be able to influence the outcome of decision-making processes based on knowledge of their rights and have access to relevant information and sufficient time to consult; socioeconomic, linguistic, literacy and other barriers to participation must be addressed;
- (c) Participation in the design, construction and administration of housing should reflect the diversity of communities and ensure that the needs of all residents are represented. Equal participation must be ensured for women, informal and homeless residents, persons with disabilities and other groups experiencing discrimination or marginalization;
- (d) Indigenous peoples have the right to be actively involved in developing and determining housing programmes that affect them. States must consult with indigenous peoples to obtain their free, prior and informed consent before adopting or implementing administrative and legislative measures that may affect them.”¹⁶²

¹⁵⁸ A/HRC/43/43, No. 3.

¹⁵⁹ *Ibid.*

¹⁶⁰ A/HRC/43/43, No. 3, para 21.

¹⁶¹ *Ibid.*

¹⁶² *Ibid.*

Implementing Meaningful Participation - Key Challenges and Concerns

The inclusion of people with lived expertise in housing policy and design within Canada has been largely ad hoc and piecemeal across all levels of government.¹⁶³ Our review indicates there remains no consistent standards employed with respect to the inclusion of persons with lived expertise of homelessness. In some cases this means that inclusion occurs at the discretion of those in positions of power and in the manner they define and articulate, despite best intentions.¹⁶⁴ Such engagement falls short of human rights standards concerning meaningful participation. Indeed, when the National Housing Council (a key enforcement mechanism of the NHSA) was announced, it failed to explicitly include persons with lived expertise of housing need or homelessness in its membership.¹⁶⁵ This is despite the NHSA explicitly stating such inclusion was a requirement for implementing and monitoring the Act.¹⁶⁶ Such instances suggest that significant progress is needed to ensure meaningful participation is centered in all efforts to secure the right to housing in Canada. While there are a number of challenges and issues with respect to meaningful participation, our review and interviews with lived expert leaders suggested that there are limited mechanisms through which people with lived expertise can participate in program or policy design, and where these opportunities do exist, this inclusion is often not accompanied by respective authority or power.

1. FTP and municipal governments have implemented limited mechanisms through which people with lived expertise can participate in program or policy design. Individuals experiencing the most severe forms of housing marginalization often face the greatest barriers to participation, including due to language, ability, citizenship status, and/or systemic discrimination.

Disadvantaged and marginalized groups face many barriers to participating in the creation, implementation, and monitoring of housing programs and policies. These barriers include access to transportation, access to childcare, language and literacy barriers, barriers related to health or disability, and many others – in addition to various forms of stigma and discrimination that people with lived expertise may experience in spaces where decision-making occurs.¹⁶⁷ These barriers accumulate and compound for those facing intersecting forms of marginalization and discrimination, meaning that persons experiencing some of the worst forms of housing injustice often face the greatest barriers to transforming the systems that erode their rights. Unfortunately, there remain limited mechanisms at FTP and municipal levels through which people with lived expertise participate in program or policy design, and even fewer for those who face additional barriers due to marginalization or discrimination.

One such group during the pandemic has been people residing in homeless encampments. In addition to experiencing a severe form of homelessness, people residing in encampments are regularly subject to criminalization, destruction of their private property, forced evictions, and denial of basic necessities (e.g., potable

¹⁶³ Interview Participant, Al Wiebe. See also Paradis, E. (2016). Outsiders within: Claiming discursive space at national homelessness conferences in Canada. *Social Inclusion*, 4(4), 97-107.

¹⁶⁴ Lived Experience Advisory Council (LEAC). (2014). *Nothing About Us Without Us: Seven principles for leadership & inclusion of people with lived experience of homelessness*. <https://www.homelesshub.ca/sites/default/files/attachments/LEAC-7principles-final.pdf>

¹⁶⁵ See, for example, comments from the National Right to Housing Network: <https://housingrights.ca/national-housing-council-reaction/>

¹⁶⁶ One of four priorities within the NHSA is to “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.” See Government of Canada. (2019, June 21). *National Housing Strategy Act*. <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>

¹⁶⁷ LEAC, 2014.

water) – all human rights violations in and of themselves.¹⁶⁸ Canadian municipal governments often deploy various bylaws and zoning policies to displace people residing in encampments – a practice that has been shown to increase exclusion and contribute to compromised physical and psychological health for people who have nowhere else to go.¹⁶⁹ Despite both increases in encampments during the pandemic, as well as increased public discourse and debate on encampments, residents themselves have been decidedly absent in decision-making processes concerning government responses to encampments. Provincial/territorial and municipal actions across Canada have overwhelmingly proceeded without the involvement of, or consultation with, encampment residents themselves.¹⁷⁰ The absence of meaningful participation raises additional human rights concerns with respect to Indigenous Peoples, who are overrepresented in populations experiencing rough sleeping¹⁷¹ and to whom the Canadian government has additional human rights obligations.¹⁷²

2. Where Canadian governments have created opportunities for people with lived expertise to participate in policymaking processes, this inclusion is often not accompanied by respective authority or power.

Over the last number of years, there has been a growing movement across Canada to centre the experiences and voices of people with lived expertise. It is increasingly common to include persons with lived experiences of poverty, housing precarity, homelessness, and other forms of marginalization on policymaking tables, the boards of social services, and advisory bodies addressing issues of housing, poverty, and human rights.¹⁷³ However, people with lived expertise have long identified that these positions are often tokenistic and not accompanied by real power or decision-making authority.¹⁷⁴ Some interview participants expressed that this is rooted in discriminatory and problematic views about people who have experienced homelessness. As Al Wiebe of the Canadian Lived Experience Leadership Network articulated, “When people speak to people experiencing homelessness or people with lived experience, they speak to them in a maternal manner, they speak to them at an angle – like they are 15 years old.”¹⁷⁵

“People who are homeless feel like they are second-class citizens; we’re not treated as equals, not treated as part of general society ... Everyone has a right to housing ... my vision for Canada is that everybody is housed.”

- Debbie McGraw, Co-Chair, Canadian Lived Experience Leadership Network

¹⁶⁸ 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. <http://www.unhousingrapp.org/user/pages/07.press-room/A%20National%20Protocol%20for%20Homeless%20Encampments%20in%20Canada.pdf>

¹⁶⁹ *Abbotsford (City) v. Shantz* (2016 BCSC 2437). <https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1>

¹⁷⁰ In Toronto, for example, the Encampment Support Network reports that the City and City Councilors have consistently refuses to meet with encampment residents and their allies during the COVID-19 pandemic, and that the City continues to take unilateral action that deepens homelessness, exclusion, and health risks for people who are already profoundly marginalized. See <https://www.encampmentsupportnetwork.com/>

¹⁷¹ 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*. <https://www.canada.ca/en/employment-social-development/programs/homelessness/reports/highlights-2018-point-in-time-count.html#3.5>

¹⁷² United Nations, General Assembly. (2007). *United Nations Declaration on the Rights of Indigenous Peoples*. <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

¹⁷³ Interview Participant, Al Wiebe.

¹⁷⁴ Interview Participant, Debbie McGraw, 29 January 2021. Interview Participant, Al Weibe, 30 January 2021.

¹⁷⁵ Interview Participant, Al Wiebe.

Exclusion of people with lived expertise from positions of power are often built into organizational and administrative processes, including through neglecting to adequately compensate these experts for their time. For example:

Under Section 10 of British Columbia's *Poverty Reduction Strategy Act*, the Minister of Social Development and Poverty Reduction must establish an Advisory Committee to advise on poverty reduction and prevention. This Committee must include a representative from several groups, including Indigenous Peoples, persons living in poverty, persons with disabilities, and persons living in rural and remote communities.¹⁷⁶ While the Minister must consult with the representatives, no decision-making power is afforded to the Advisory Committee and the Minister not obliged to provide the monetary or other supports to enable participation.¹⁷⁷

When governments or organizations fail to provide people with lived expertise with adequate resources to participate (e.g., fair compensation) or authority to shape decision-making, they undermine meaningful participation and thus the right to housing. As articulated by the *Lived Experience Advisory Council*, "Too often we are given lip service to placate us, and not enough say when the rubber hits the road."¹⁷⁸

Progress on Meaningful Participation – Spotlight on LEAC & AHMA

While there are strong examples of lived expert inclusion in communities across Canada, in many cases this inclusion has been the result of significant advocacy by people with lived expertise and their allies. At the national level, the Lived Experience Advisory Council (LEAC) has played a central role in laying the foundation for this inclusion. LEAC was formed in 2014 and published the *Seven Principles for Leadership and Inclusion of People with Lived Experience of Homelessness*, which aligns with many human rights standards with respect to meaningful inclusion. The seven principles include:

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

LEAC offers tangible guidance on how to implement each of these principles for all levels of government, guidance that can be implemented in concert with human rights standards regarding meaningful consultation. As articulated by LEAC, "Service providers, researchers and policy-makers need to work alongside people with lived experience to create new structures in which we come together as equals."¹⁷⁹ In addition to LEAC, the newly established *Canadian*

¹⁷⁶ *Poverty Reduction Strategy Act*, 2018, s. 10(3).

¹⁷⁷ *Ibid.*

¹⁷⁸ LEAC, 2014, p. 2.

¹⁷⁹ LEAC, 2014, p.1.

Lived Experience Leadership Network is a critical voice advancing meaningful inclusion for persons with lived experience of homelessness and housing instability.

Meaningful participation grounded in the distinct rights of Indigenous Peoples is particularly central to any engagement between Canadian governments and First Nations, Metis, and Inuit Peoples. Under international human rights law, any engagement must be guided by the obligation to respect, protect, and fulfill the distinct rights of Indigenous Peoples as articulated in the United Nations Declaration on the Rights of Indigenous Peoples.¹⁸⁰ International human rights law specifies that 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.”¹⁸¹ A powerful example of progress on this priority area is the leadership of Aboriginal Housing Management Association (AHMA) in BC. AHMA describes itself as:

“an umbrella organization composed of 41 Members that are each Indigenous Housing and Service providers. Our members represent over 5000 Indigenous families living in urban, rural and northern regions of British Columbia. Created for Indigenous Peoples by Indigenous Peoples, we are the first Indigenous Housing Authority in Canada and only second in the world.”¹⁸²

“This new post-TRC, post-Inquiry era means that we can no longer ignore Indigenous self-determination at the local level with municipalities. This new era needs to be embraced, and that new way of working with Indigenous organizations needs to be the norm.”

- Chelsea Combot, Housing Policy Analyst, OFIC

In 2013, the BC government transferred the administration of all Indigenous housing units and programs to AHMA, including emergency shelters and the Aboriginal Homeless Outreach Program.¹⁸³ This was done to promote Indigenous self-management and coincides with the human rights principle of self-determination and meaningful participation. AHMA “administers subsidy payments and operating agreements for 40 Indigenous non-profit housing providers” and more than 4,000 Indigenous units have been transferred to AHMA.¹⁸⁴

WHERE DO CITIES GO FROM HERE?

Because of their particular proximity to residents, cities have a unique opportunity and obligation to meaningfully engage rights holders and people with lived expertise in shaping the policies, programs, and practices that affect their enjoyment of the right to housing. As articulated by the UN Special Rapporteur on Adequate Housing:

“Participation is central to human rights-based housing strategies because it challenges exclusion and silencing. Strategies must recognize that violations of the right to housing and other human rights emanate

¹⁸⁰ United Nations, General Assembly. (2007). *United Nations Declaration on the Rights of Indigenous Peoples*. <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

¹⁸¹ 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.”

¹⁸² Aboriginal Housing Management Association. (2021). *About AHMA*. <http://www.ahma-bc.org/>

¹⁸³ BC Housing. (n.d.). *Addressing Indigenous Housing Needs*. Vancouver, BC: BC Housing. <https://www.bchousing.org/indigenous/addressing-indigenous-housing-needs>

¹⁸⁴ *Ibid.*

from failures of democratic accountability to people... Local governments have a critical bridging role to play in supporting participation because they are often best situated to engage directly with local communities and bring their concerns into local governance, intergovernmental negotiations and national level strategies.”¹⁸⁵

To take advantage of this opportunity, municipal avenues for action might include the following:

1. Develop municipal infrastructure that embeds the meaningful participation of people with lived expertise into all policy development relevant to housing and homelessness. Such mechanisms should be co-developed with these experts, based in rights-based principles of participation, and be equitably and permanently funded.

Under international human rights law, lived experts and rights holders must not only be included in the creation of housing policy and programming, but must play critical roles (and have associated power) in monitoring governments’ progress towards the progressive realization of the right to housing.¹⁸⁶ This should occur at all levels of government, including the municipal level. In seeking to do so, Canadian cities can draw on promising practices internationally. Other cities around the world have implemented unique and powerful accountability mechanisms that are participatory and specifically include those facing disadvantage. For example:

- **Seoul, South Korea** – The City of Seoul has implemented a number of participatory mechanisms to facilitate oversight by citizens, including those experiencing marginalization. For example, Seoul established a citizen jury to provide local residents the opportunity to oversee and provide feedback on decisions made by the local ombudsperson.¹⁸⁷ The citizen jury was integral in establishing more stringent legal protections for tenants and improved guidelines for evictions, for instance.¹⁸⁸
- **Minneapolis, Minnesota** – The City of Minneapolis has implemented a ‘Renters First Policy’ that guides city action, policies, and services to support renters in Minneapolis. Importantly, the policy includes a framework and mechanism for guaranteeing the participation of renters in regulation and enforcement consultation, as well as in decision-making.¹⁸⁹
- **Barcelona, Spain** – The City of Barcelona has established a Citizen Rights and Diversity Department, a mechanism through which citizens of Barcelona can influence city actions in alignment with international and domestic human rights law. This includes supporting the city to work across departments and divisions to advance rights-based outcomes and embed human rights decision-making in everyday government operations.¹⁹⁰

¹⁸⁵ UN Special Rapporteur on Adequate Housing. (2018). *Report on Key principles of a human rights-based housing strategy*. United Nations doc A/HRC/37/53 (2018), para. 61 and 67.

¹⁸⁶ A/HRC/43/43, No. 3, para 21.

¹⁸⁷ Dragicevic & Porter, 2020.

¹⁸⁸ *Ibid.*

¹⁸⁹ Minneapolis Community Planning and Economic Development. (2021, August 20). *Our Commitment to Renters*. Government of Minneapolis. <http://www.minneapolismn.gov/cped/housing/WCMSP-217816>

¹⁹⁰ Citizens Rights and Diversity. (n.d.). *About Us*. City of Barcelona. <https://ajuntament.barcelona.cat/dretsdiversitat/en/about-us>

2. Advance participation of Indigenous Peoples in all municipal policy areas that affect the right to housing locally, in alignment with UNDRIP and the principles of free, prior, and informed consent.

City governments are responsible for ensuring the meaningful participation of Indigenous Peoples in all decision-making processes that affect them with respect to housing, including through the principles of free, prior, and informed consent.¹⁹¹ In the case of encampments, for example, the UN Special Rapporteur on the Right to Adequate Housing has offered the following guidance with respect to the meaningful participation of Indigenous Peoples:

“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 ... Engagement with Indigenous communities should involve genuine dialogue and should be guided by ‘mutual respect, good faith and the sincere desire to reach agreement.’ This consultation process must engage representatives chosen by Indigenous Peoples themselves, in accordance with their own procedures and practices. 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. Indigenous women and girls must be consulted on a priority basis.”¹⁹²

Interviews with Indigenous leaders in Canada also emphasized the importance of ensuring early, ongoing, and culturally-appropriate engagement with Indigenous communities in the formation of housing policy and practices. This requires centering Indigenous self-determination in all instances, including in the context of incongruent approaches, worldviews, and values between Indigenous communities and municipal governments. As Chelsea Combot (Housing Policy Analyst, OFIFC) explains,

“What happens at the municipal level, at least in Ontario for Indigenous organizations and Indigenous communities, is that unless there is already a functioning and positive relationship, then things will not change at the local level. Because municipalities are so stretched thin, and in Ontario they are not allowed to run a deficit ... by necessity, they are always talking about the bottom line. Of course they care about the people they are serving, and they are conscious of being major employers but they have to be really careful about budgets and be careful about budgets and fiscal constraints ... So it’s almost like cities are created as organisms that need to be run like business, and then having a relationship with Indigenous organizations or Indigenous communities – where there is a direct conflict in those values and in those principles from the get-go. The fact that Indigenous organizations have the needs, vision, and priorities of the community at the forefront of their work – at least I can speak to Friendship Centres on that – it’s a different approach to how municipalities are planning and developing policy.”¹⁹³

3. Adopt LEAC Principles within local policy making processes related to housing and homelessness, seeking to ensure equitable decision-making power is allocated to people with lived expertise.

¹⁹¹ United Nations, General Assembly. (2007). *United Nations Declaration on the Rights of Indigenous Peoples*.

<https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

¹⁹² Farha & Schwan, 2020, para 69.

¹⁹³ Interview Participant, Chelsea Combot.

LEAC's Principles, aptly named '*Nothing About Us Without Us*,' provides guidance to municipalities on meaningful inclusion that has been generated by people with lived expertise themselves. These Principles are aligned with human rights standards and provide an important starting point for cities seeking guidance on *how* to embed lived expertise in policymaking and human rights mechanisms at the city level. Municipalities should consider formally adopting these Principles in relevant plans, processes, practices, and policies. In so doing, municipalities should seek to ensure that lived expert inclusion is accompanied by respective decision-making authority and equitable compensation.

"People with lived experience need to be put at tables where there are decisions that are going to be made, and at Advisory Tables - whether they are ready to speak or not. And give them that experience to move forward. I learned from those hard days. People need the experience of being put in a position where they can contribute if they're able to. Put them at tables, give them a voice."

- Al Wiebe, Co-Chair, Canadian Lived Experience Leadership Network

SUMMARY: PRIORITY 3 – MEANINGFUL PARTICIPATION

Key Challenges	Recommendations for Municipalities
<p>1. FTP and municipal governments have implemented limited mechanisms through which people with lived expertise can participate in program or policy design. Individuals experiencing the most severe forms of housing marginalization often face the greatest barriers to participation, including due to language, ability, citizenship status, and/or systemic discrimination.</p>	<ul style="list-style-type: none"> • Develop municipal infrastructure that embeds the meaningful participation of people with lived expertise into all policy development relevant to housing and homelessness. Such mechanisms should be co-developed with these experts, based in rights-based principles of participation, and be equitably and permanently funded. • Advance participation of Indigenous Peoples in all municipal policy areas that affect the right to housing locally, in alignment with UNDRIP and the principles of free, prior, and informed consent. • Adopt LEAC Principles within local policy making processes related to housing and homelessness, seeking to ensure equitable decision-making power is allocated to people with lived expertise.
<p>2. Where Canadian governments have created opportunities for people with lived expertise to participate in policymaking processes, this inclusion is often not accompanied by respective authority or power.</p>	

PRIORITY 4: END HOMELESSNESS & THE CRIMINALIZATION OF HOMELESSNESS

Homelessness is one of the most urgent human rights issues facing cities across Canada. The COVID-19 pandemic has not only deepened exclusion for people experiencing homelessness, but has transformed the experience of homelessness (e.g., due to service closures¹⁹⁴) and increased the number of people at risk of homelessness.¹⁹⁵ Farha and Schwan (2020) argue that, “Given that the Government of Canada’s primary public health directive in response to COVID-19 was to ‘stay home,’ the policy response should have been the immediate elimination of street homelessness.”¹⁹⁶ Instead, many policy responses took the form of abandonment, emergency relief, or heightened law enforcement, though some cities have invested in housing-led responses.¹⁹⁷ As Canada moves into post-pandemic recovery, there is a need to understand how FTP policies and legislation shape Canadian cities’ ability to secure the right to housing for people experiencing homelessness.

International Human Rights Standards

Under international human rights law, homelessness is a *prima facie* violation of the right to housing.¹⁹⁸ As articulated in the *Implementation Guidelines*,

“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.”¹⁹⁹

Human rights standards require that all governments eliminate homelessness in the shortest possible time, allocating the maximum available resources in order to achieve this.²⁰⁰ The UN Special Rapporteur on the Right to Adequate Housing has identified the following key mechanisms as critical to compliance with this standard:

- “(a) States should provide access to safe, secure and dignified emergency accommodation, with necessary supports and without discrimination on any grounds, including migration status, nationality, gender, family status, sexual identity, age, ethnic origin, disability, dependence on alcohol or drugs, criminal record, outstanding fines or health. States should take special measures to protect the rights of children in street situations;
- (b) Individuals and families should be provided access to adequate permanent housing so as not to be compelled to rely on emergency accommodation for extended periods. “Housing first” approaches that

¹⁹⁴ Donato, A. (2020, April 18). Homeless Canadians Face Increasing Danger Because Of COVID-19 Lockdowns. *Huffington Post*. www.huffingtonpost.ca/entry/homeless-canadians-danger-coronavirus_ca_5e83665fc5b62dd9f5d6a72d

¹⁹⁵ Centre for Equality Rights in Accommodation & National Right to Housing Network. (2021, Feb 18). *Addressing the Evictions and Arrears Crisis: Proposal for a Federal Government Residential Tenant Support benefit*. <http://housingrights.ca/wp-content/uploads/CERA-NRHN-2021-Addressing-the-Evictions-and-Arrears-Crisis.pdf>

¹⁹⁶ Farha & Schwan, 2020, p. 359.

¹⁹⁷ Farha & Schwan, 2020.

¹⁹⁸ A/HRC/31/54, para. 4.

¹⁹⁹ A/HRC/43/43, No. 5, para 30.

²⁰⁰ A/HRC/31/54, para. 4.

centre on quickly moving people experiencing homelessness into permanent housing should provide all necessary supports for as long as required for sustaining housing and living in the community;

(c) States should prohibit and address discrimination on the ground of homelessness or other housing status and repeal all laws and measures that criminalize or penalize homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces. The forced eviction of homeless persons from public spaces and the destruction of their personal belongings must be prohibited. Homeless persons should be equally protected from interference with privacy and the home, wherever they are living;

(d) States should provide, within their justice system, alternative procedures for dealing with minor offences of homeless people to help them break the cycle of criminalization, incarceration and homelessness and secure the right to housing. Police should be trained to interact with homeless persons in a manner that respects and promotes their dignity and rights.”²⁰¹

Ending Homelessness in Canada – Key Challenges and Concerns

Many cities across Canada have sought to prevent and end homelessness for decades, employing a range of policy and programmatic tools in their attempts to stem the number of people living without housing. Despite these efforts, most cities have continued to see their homeless populations grow,²⁰² and some cities have increasingly used law enforcement and other punitive measures in response to this issue.²⁰³ This section considers some of the federal and provincial/territorial policies and realities that create challenges or barriers for cities to prevent and end homelessness.

1. There is a jurisdictional disconnect between revenue and responsibility with regards to the realization of the right to housing, with municipalities often bearing the burden of addressing homelessness but lacking the tax base to address the scale of the issue.

While cities are primarily responsible for addressing homelessness, funding to support these efforts largely depend on investments from higher levels of government. The federal *Reaching Home* program has been an important funding mechanism for addressing homelessness in Canada. However, cities, communities, and service providers have long emphasized that existing federal funding is insufficient to address the level of need they are seeing. In the Right to Home Municipal Working Group’s *Call to Action*, for example, city leaders articulated:

“Cities in Canada rely on FPT governments for the necessary resources to tackle the housing crisis, but these funds are often insufficient and flow sporadically. Because cities are on the frontlines, city officials know what steps are needed to address the housing crisis.”²⁰⁴

²⁰¹ A/HRC/43/43, No. 5, para 33.

²⁰² Government of Canada. (2019). *Everyone Counts 2018: Highlights – Report*. Ottawa, ON: Employment and Social Development Canada. [https://www.canada.ca/content/dam/esdc-edsc/documents/programs/homelessness/reports/1981-Reaching_Home-PIT-EN_\(3\).pdf](https://www.canada.ca/content/dam/esdc-edsc/documents/programs/homelessness/reports/1981-Reaching_Home-PIT-EN_(3).pdf)

²⁰³ This has been particularly evident in the midst of the COVID-19 pandemic. For example, in cities such as Hamilton and Vancouver, people experiencing homelessness report being ticketed \$880 for failing to physically distance. See e.g. Van Dongen, M. (2020 April 21). “I Can’t Pay It Anyway”: Why Are Hamilton Police Ticketing The Homeless During The Covid-19 Pandemic?. Toronto Star. www.thestar.com/news/gta/2020/04/21/i-cant-pay-it-anyway-why-are-hamilton-police-ticketing-the-homeless-during-the-covid-19-pandemic.html

²⁰⁴ Right to Home Municipal Working Group, 2021.

According to interviews with study participants and discussions in the Right to Home Municipal Working Group, this creates a threefold challenge for cities: (1) cities do not have sufficient, predictable revenue to address the level of homelessness and core housing need they are seeing (including because Canadian cities cannot run a deficit budget by law); (2) each city is experiencing unique local housing challenges, some of which are not reflected in FTP funding priorities and mechanisms, making it harder for them to respond to local needs, and (3) cities are held responsible by constituents for addressing homelessness issues that are interjurisdictional or for which they have limited funds to address. With regards to the latter point, some interview participants emphasized that the accessibility of municipal governments can actually contribute to political pressure on city officials to take actions that are *contrary* to human rights. As DJ Larkin (human rights lawyer) explains:

“At the municipal level, if someone is angry – doesn’t matter at what level of government they are angry with – you can get to City Council’s door. So, they hear it. And they feel it. And so there is a desire to be responsive at the municipal level in a way that can almost create a false equivalency. For example, ‘I heard from this person that they don’t have housing and I want to do something about that. But I’ve also heard from this person that they just think that everyone should get treatment and drug testing before they are housed.’ And [there is a belief that] we should listen to each of these voices equally, because there is a lack of human rights analysis that allows you to say this is a false equivalency. One is kind of an ill-informed opinion, and the other is a human being with inherent dignity who is coming to you about an abuse of their rights.”²⁰⁵

“The most obvious challenge [with respect to realizing the right to housing locally], and the one that municipalities will focus on the most, is revenues. And that the orders of government that take in all the revenue - especially the federal government - are separated from the order of government where the failure to realize the right to housing really lands ... That gap between whose got the revenues and whose got the responsibilities.”

- Emily Paradis
Canadian Human Rights
Commission

Municipalities proximity to housing rights violations, but distance from some of the revenue-generating mechanisms that would make it easier to address homelessness, was a common challenge identified by government officials and city staff.

2. There has been limited action from federal or provincial/territorial governments to address widespread discrimination against people on the basis of housing status, and protection against this form of discrimination is not well established in provincial/territorial legislation or policy.

Discrimination in the area of housing is prevalent throughout the country, and often presents a barrier for government implementation of the right to housing, particularly local governments.²⁰⁶ Perhaps the most common theme in discussions amongst participants of the Right to Home Municipal Working Group was the scale of opposition elected municipal officials face when attempting to address homelessness through the creation of affordable or low-income housing projects, shelters, food banks, or support services for those experiencing homelessness. As the *Right to Home Canadian Municipal Working Group* articulates,

²⁰⁵ Interview Participant, DJ Larkin.

²⁰⁶ CERA, NRHN, & SRAC, 2021.

“Discrimination and stigmatization of low-income households and those experiencing homelessness or living in encampments has created a significant barrier for cities to secure affordable housing and integrating social services and supports for these populations. Too often, when cities attempt to create new low-income housing, shelters, or support services, or when we provide services for encampments in keeping with human rights norms, we receive complaints from other constituents, including threats to withhold property taxes and demands for police intervention.”²⁰⁷

“We can’t even talk about shelters in Regina, let alone talk about rights.”

– Robert Byers
CHRA Indigenous Caucus

Despite the fact that the opposition is discriminatory and based on myths, discussions with in the Right to Home Municipal Working Group revealed it can effectively thwart local government efforts to fulfil their human rights obligations and secure access to affordable housing or necessary supports for the most vulnerable and marginalized of our communities. Moreover, it may sometimes increase the costs of projects and divert public funds towards appeals processes and away from investments in affordable and supportive housing. In worst-case scenarios, in order to appease the opposition, local governments and developers may feel forced to make accommodations in their projects that would never be demanded from other developments. For example, the Ontario Human Rights Commission has heard from their consultations in this matter that housing providers have been asked to “install windows that cannot be opened by tenants, or that are frosted so that tenants cannot look at their neighbours.”²⁰⁸

“The stigma around people who lack housing and who are marginalized in their housing can be quite magnified at the municipal governance level. It is something that manifests in bylaws, city planning, social planning, parks management, enforcement, policing – you name it. It is imbued into every aspect of city governance, and even in aspects where cities may not be aware of it.”

- DJ Larkin, Human Rights Lawyer

During a global pandemic that has shown the nation that housing is a matter of life and death, local governments across Canada have still had to contend with discriminatory opposition to the creation of supportive housing, provision of services, and temporary shelters.²⁰⁹ While these issues often land at the doorstep of municipalities who are challenged most fervently by this discriminatory opposition, interviews and discussions at the Right to Home Working Group revealed that the lack of action at higher levels of government has made it more difficult for cities to overcome discrimination and meet their obligations under international human rights law. For example, while the first chapter of the National Housing Strategy, *Housing Rights are Human Rights*, calls for a public engagement campaign that will seek to reduce stigma and discrimination and highlight the benefits of inclusive housing.²¹⁰ As of fall 2021 – three years into the NHS – this has not yet begun. More broadly, existing legislation at

207 Right to Home Municipal Working Group, 2021, p.4.

208 Ontario Human Rights Commission. (n.d.) *Human rights and not-in-my-back-yard (NIMBY)*. Ottawa, ON: Ontario Human Rights Commission. <http://www.ohrc.on.ca/en/human-rights-and-not-my-back-yard-nimby>

209 Krishnan, M. (2021 March 01). *NIMBYs Want to Save This Parking Lot From Becoming Affordable Housing*. Vice. <https://www.vice.com/en/article/pkd9qm/toronto-residents-east-york-parking-lot-homeless-housing>

210 Government of Canada, 2017, p. 8.

the federal and provincial/territorial levels has not meaningfully protected against discrimination on the basis of housing status.²¹¹ As DJ Larkin (Human Rights Lawyer) explains,

“At the federal and provincial level, human rights codes and acts largely do not protect people on the basis of social status, including housing, and even where they do, there have been struggles to determine what that means in terms of providing real protections for people. There may be an opportunity here [with the NHSA] in terms of combining the bringing of the right to housing into Canadian law, and the idea of protecting people on the basis of social status – that may be allow us an opportunity to provide some protections for people.”²¹²

In light of this, the Right to Home Canadian Municipal Working Group has proposed that, in alignment with the NHSA and the NHS, a national coalition of stakeholders be established to lead the development of a country-wide campaign aimed at addressing housing discrimination.

3. Some of the affordability metrics used to allocate federal homelessness and housing funds fail to reflect the depth of housing marginalization and poverty experienced by people who are homeless. This makes it more difficult for cities to eliminate homelessness swiftly and in alignment with their human rights obligations.

There is a significant disconnect between the affordability metrics employed in many federal housing and homelessness programs (e.g., 30% of market rent, 20% of median income for the region) and what would make housing affordable and attainable for those most in need in cities across Canada.²¹³ As noted by the *Parliamentary Budget Officer*, key programs within the NHS (e.g., the National Housing Co-Investment Fund (NHCF) and the Rental Construction Financing Initiative (RCFI)) do not require investments to target low-income households.²¹⁴ For example, the RCFI - the “centrepiece” of the NHS²¹⁵ - only requires that developers offer 20% of units at 30% of the median total income for families in the area for ten years.²¹⁶ Other federal, provincial, and territorial housing initiatives tie affordability to a percentage of average market rent for the area.²¹⁷ However, studies have consistently shown that tying affordability criteria to median income or median rent in no way reflects the capacity of low-income renters or households to pay.²¹⁸ For example, in Toronto, a unit offered at 80% of market rent would still be three

²¹¹ While discrimination on the basis of housing status is not well established, there is provincial jurisprudence regarding discrimination on the basis of social condition. For example, the Ontario human rights code recognizes receipt of social assistance as a prohibited ground of discrimination. The Quebec Charter for Human Rights and Freedom also recognizes social condition as a prohibited ground of discrimination. Similarly, the Nova Scotia Court of Appeal (*Sparks v. Dartmouth/Halifax County Regional Housing Authority*, 1993) found that poverty is a personal characteristic analogous to those grounds that are enumerated under s.15 of the Canadian Charter of Rights and Freedoms, including race, national or ethnic origin, and sex, and is a prohibited ground of discrimination.

²¹² Interview Participant, DJ Larkin.

²¹³ Biss & Raza, 2021.

²¹⁴ Office of the Parliamentary Budget Officer. (2019, June 18). *Federal program spending on housing affordability*.

https://www.pbodpb.gc.ca/web/default/files/Documents/Reports/2019/Housing_Affordability/Federal%20Spending%20on%20Housing%20Affordability%20EN.pdf

²¹⁵ Pomeroy, 2021.

²¹⁶ A proposal may also be funded if it has been approved by a housing affordable housing initiative from another level of government. See: Canada Mortgage Housing Corporation. (n.d.). *Rental Construction Financing*. <https://assets.cmhc-schl.gc.ca/sites/cmhc/nhs/rental-construction-financing/nhs-rcfi-highlight-sheet-en.pdf?rev=e821c3c7-9991-42e2-947d-5f50e28e1126>

²¹⁷ Biss & Raza, 2021.

²¹⁸ Pomeroy, 2021.

times the housing benefit allocated under Ontario Disability Support (\$375).²¹⁹ This suggests that a vast majority of the 'affordable' housing produced under the RCFI will be inaccessible to people who are homeless and/or living on social assistance, disability benefits, or minimum wage, including those who are caring for children or other dependents. Given that Indigenous, Black, racialized persons, and persons with disabilities disproportionately experience deep core poverty,²²⁰ these criteria will have a particularly exclusionary impact on those groups. More broadly, these federal investments – including the most expensive NHS program (currently 25.7 billion²²¹) - will simply not reach those who are experiencing homelessness and seeking to transition off the streets. These findings suggest that existing affordability metrics in federal programs do not align with actual need, contravening human rights standards and making it more difficult for cities to eliminate homelessness.

Progress on Eliminating Homelessness – Spotlight on the Federal Rapid Housing Initiative

Given the severe lack of affordable housing available to people experiencing homelessness and deep core housing need, even when governments establish rent banks or other housing benefits, there is an urgent need to expand housing options for people on social assistance or very low incomes.²²² One recent federal initiative has been particularly promising in this regard. In response to COVID-19 in 2020, the federal government introduced the *Rapid Housing Initiative* (RHI) aimed at the rapid creation of 3,000 deeply affordable homes over the next year. The initiative "provides capital contributions to develop new, permanent affordable housing by covering costs associated with modular multi-unit rental construction; conversion of non-residential to affordable multi-residential homes, and; rehabilitation of buildings in disrepair and/or abandoned to affordable multi-residential homes."²²³ *Budget 2021* added an additional \$1.5 billion to the RHI, with this new funding creating a minimum of 4,500 affordable housing units across Canada.²²⁴

A recent acquisition example is the 42-unit motel property acquired by the *Yellowknife Women's Society*. The 2-story property was well suited for conversion into permanent supportive housing, offering women who were experiencing homelessness self-contained units with kitchenettes and bathrooms. In addition to the speed associated with conversion rather than building new, the acquisition was cost-effective: "acquisition cost plus minor renovation of the office and restaurant for staff offices, counselling and common dining is estimated at under \$100,000 per unit, well below the cost to build new in the Northwest Territories."²²⁵ Advocates, scholars, and government officials alike have lauded the RHI for its flexibility, speed, and its focus on permanent and supportive housing for people

²¹⁹ Whitzman, C. (2020). *A Canada Wide Definition of Affordable Housing and Housing Need*. Ottawa, ON: University of Ottawa.

²²⁰ Hudon, T. (2015). *Immigrant Women*. Ottawa, ON: Statistics Canada. <https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14217-eng.pdf?st=XpDIKSs>. See also 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://online.flowpaper.com/76fb0732/MMIWReportFinalMarch10WEB/#page=1>

²²¹ Pomeroy, S. (2021). *Toward Evidence Based Policy: Assessing the CMHC Rental Housing Finance Initiative (RCFI)*. <https://carleton.ca/cure/wp-content/uploads/CURE-Brief-12-RCFI-1.pdf>

²²² Pomeroy, 2020.

²²³ Canada Mortgage and Housing Corporation. (2021, March 19). *Rapid Housing Initiative will exceed targets by creating more than 4,700 new homes for Canadians*. Newswire. <https://www.newswire.ca/news-releases/rapid-housing-initiative-will-exceed-targets-by-creating-more-than-4-700-new-homes-for-canadians-898115184.html>

²²⁴ Canada Mortgage and Housing Corporation. (2021). *Rapid Housing Initiative*. Ottawa, ON: CMHC. <https://www.cmhc-schl.gc.ca/en/professionals/project-funding-and-mortgage-financing/funding-programs/all-funding-programs/rapid-housing>

²²⁵ Pomeroy, 2020, p. 16.

experiencing homelessness. In March 2021, this funding stream was expanded to increase the number of affordable homes to over 4,700 given the success and level of interest in the program.²²⁶

Promising International Practice – Housing Guarantee in Odense, Denmark

The Municipality of Odense has implemented a 'Housing Guarantee' for people experiencing homelessness in February 2019. Under the Guarantee, people in Odense experiencing homelessness will be offered a home within 3 months, provided through a social housing provider. The Guarantee is accessible when an individual is approved for municipal housing, and is upheld through a joint effort between municipal housing services and the housing organizations' rental departments. The Guarantee employs a Housing First model and has had significant success in transitioning people out of homelessness. Over a ten-year period, Odense reduced the number of people experiencing homelessness by 40%, compared to the 29% increase in homelessness experienced across Denmark during that same period.

(See FEANTSA, 50 Out-of-the-Box Solutions to Homelessness & Housing Exclusion (2019), p. 70-71).

WHERE DO CITIES GO FROM HERE?

While municipalities do not have the revenue-generating capacity of higher levels of government, and lack some important competencies relevant to securing the right to housing for people experiencing homelessness (e.g., social assistance rates, landlord-tenant legislation), cities have many opportunities to advance the right to housing for people experiencing homelessness, with the objective of eliminating homelessness in the shortest time possible. Key avenues for action might include:

1. Re-deploy city-owned land and buildings, and acquire existing distressed properties, to create permanent housing for people experiencing homelessness on an urgent basis.

Research indicates that acquiring existing properties to create permanent affordable housing, or re-deploying city-owned buildings or land, is a far faster and often more cost-effective solution than building new affordable housing.²²⁷ Given that housing is a matter of life and death, and intimately tied to the right to life (during the pandemic and beyond), cities should pursue all options available to them in order to urgently create permanent housing for people experiencing homelessness.²²⁸ The COVID-19 pandemic has, for example, resulted in many businesses transitioning online and choosing to sell existing offices or not renew existing leases²²⁹ - buildings which could be acquired by municipalities. Cities can also choose to sell existing City-owned distressed or abandoned properties or land to non-profit housing providers at less than the assessed value, enabling the creation of affordable housing that would typically be out of reach for these providers. This is already being pursued in some

²²⁶ Canada Mortgage and Housing Corporation. (2021, March 19). *Rapid Housing Initiative will exceed targets by creating more than 4,700 new homes for Canadians*. CMHC – SCHL. https://www.cmhc-schl.gc.ca/en/media-newsroom/news-releases/2021/canada-provides-update-rapid-housing-initiative?utm_source=twitter&utm_medium=cmhc_ca_organic&utm_campaign=news-org&utm_term=f5426dac-fea0-43e1-b120-5bdad329b6ca

²²⁷ Pomeroy, 2020.

²²⁸ This guidance has been provided to the federal government by the UN Special Rapporteur on the Right to Adequate Housing since the emergence of the pandemic in March 2020.

²²⁹ See, for example, Demand for Office Space. (n.d.). *How Will Covid-19 Change Demand For Office Space?*. WSP. <https://www.wsp.com/en-GL/insights/how-will-covid-19-change-demand-for-office-space>

cities. For example, in January 2021 Winnipeg's City Council unanimously approved selling up to 15 properties for \$1 each in order to create new affordable housing units.²³⁰ Further, many municipalities have been leasing motels or hotels to temporarily house people experiencing homelessness for years. Given the significant depression in tourism and hotel usage during the pandemic, cities may have the opportunity to purchase rather than lease these hotels/motels, thereby creating additional permanent housing at a lower cost than building new.²³¹

2. Work with provincial/territorial and federal governments to identify and implement additional revenue-generating mechanisms at the local level to address homelessness, such as tourist tax, excise tax, or congestion pricing.

Canadian cities can be actively seeking to identify additional revenue-generating mechanisms that could be established with shifts in competencies and policy at the provincial/territorial or federal level. As articulated by the *Right to Home Canadian Municipal Working Group*:

"Insofar as cities continue to bear substantial responsibility for addressing the housing crisis without sufficient resources from FPT governments, we require new revenue-raising opportunities to leverage diverse resources, such as congestion pricing, excise taxes, municipal income tax, tourist tax, or the allocation of PST generated in municipalities to those same municipalities. This may require reviewing existing municipal acts and implementing enabling legislation to strengthen cities' revenue-generating capacity."²³²

Efforts that can be taken in this regard might also include the implementation of additional federal taxes in order to generate income which can be directed to municipalities to enable them to reduce and end homelessness. Scholars and advocates have suggested that this should include increasing the tax burden of those who are seeking to utilize housing as a commodity and a means of generating wealth, particularly where such turns housing into a financial asset.²³³ Real estate investment trusts (REITs), in particular, are exempt from paying income tax as long as they pay 100 percent of their taxable income to shareholders in the form of distributions.²³⁴ By imposing tax burdens on REITs, or by increasing the levels of taxation payable by those who invest in, and gain from, REITs, the federal government would be able to generate significant revenues that can be distributed, proportionately, to municipalities to assist them in their programs to realize the right to adequate housing.

Importantly, the distribution of revenue from the federal government to municipal governments should be undertaken in a seamless way to avoid the recognized problems which currently exist regarding complexity and delays in cities receiving funding to address housing need. Equally, our findings suggest that any increase in tax liabilities on REITs or other housing providers should be accompanied by increased tenant protections to prevent landlords from seeking to recoup reduced revenue from them, either in the form of increased rents or by using other methods, for instance by decreasing spending on maintenance and services.

²³⁰ Winnipeg City Council proceedings in the regard can be accessed here: <http://clkapps.winnipeg.ca/DMIS/ViewDoc.asp?DocId=20698&SectionId=589781&InitUrl=>

²³¹ Pomeroy, 2020.

²³² Right to Home Municipal Working Group, 2021, p. 3.

²³³ August, 2020.

²³⁴ PwC. (2019). *Worldwide Real Estate Investment Trust (REIT) Regimes*. <https://www.pwc.com/gx/en/asset-management/assets/pdf/worldwide-reit-regimes-nov-2019.pdf>, p. 19.

3. Implement local anti-discrimination campaigns focused on eliminating stigma and discrimination on the basis of housing status.

While the federal government has not yet developed a national campaign to eliminate discrimination on the basis of housing status, cities have the opportunity to develop local campaigns that can deconstruct the myths upon which much discriminatory beliefs are based (e.g., that the introduction of low-income t affordable housing will negatively impact surrounding property values²³⁵). The adoption of the National Housing Strategy Act also provides the opportunity for cities to educate the public on the right to housing and address ill-informed opinions at the municipal level. As DJ Larkin (Human Rights Lawyer) identifies, the NHTSA can also be an educational tool within municipal governments as well:

“One of the sticking points in a lot of municipalities is that the pervasive nature of stigma against people who are marginalized in their housing, and this [the National Housing Strategy Act] is an opportunity to shift the language around it. But municipalities also need help in terms of unpacking it – either because they are not aware, or because they are aware and they believe these stigmatizing attitudes.”

In seeking to develop anti-discrimination campaigns, municipalities can look to successful non-profit and advocacy organizations that have developed Yes In My Backyard (YIMBY) groups and campaigns. In the city of Guelph (ON), for example, the Guelph Wellington Task Force for the Elimination of Poverty has developed an extensive [YIMBY campaign](#) which includes resources for citizens to take action in support of affordable housing, such as a [toolkit for how citizens can show support at public meetings](#).

4. Adopt a human rights-based approach to encampments, using A National Protocol for Homeless Encampments in Canada to guide the development of a local strategy.

Homeless encampments threaten many human rights, including most directly the right to housing. As encampments have increasingly emerged across Canada in the midst of COVID-19, many cities have responded through ‘street sweeps,’ ticketing, destruction of property, the denial or removal of access to water and other basic necessities, and other measures that directly violate the human rights of people residing in encampments.²³⁶ Given the urgency and severity of these human rights violations, cities could make considerable steps towards the progressive realization of the right to housing by formally adopting [A National Protocol for Homeless Encampments in Canada](#) and using it to develop a local strategy to address encampments. The National Protocol was developed in early 2020 by the UN Special Rapporteur on the Right to Adequate Housing, Leilani Farha (Global Director of The Shift),

“Housing elitism has infiltrated Canada. That elitism comes with housing playing such a huge part of our economy, and a certain *vision* and *value* of housing playing such a huge part of our economy. I think that feeds into an elitism that then doesn’t serve low-income people well because of their frail and precarious housing status. One’s housing status is an unrecognized ground of discrimination – you won’t find it in any human rights legislation in this country. And we don’t talk about housing status discrimination very much, and yet it is such an entrenched part of how Canadian society is structured.”

- Leilani Farha
Global Director, The Shift

²³⁵ See, e.g., Nguyen, M. T. (2005). Does affordable housing detrimentally affect property values? A review of the literature. *Journal of Planning Literature*, 20(1), 15-26. According to this literature review, negative effects do not occur, and when they do they are small and often in neighbourhoods which are already disadvantaged or declining.

²³⁶ Farha & Schwan, 2020.

and Dr. Kaitlin Schwan (Director of Researcher for The Shift and co-author of this report) 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.²³⁷ This Protocol outlines 8 broad human rights-based Principles²³⁸ which municipalities can use to guide their response to homeless encampments.

5. Ensure that local homelessness and VAW housing and service providers have the training and supports they need to employ a rights-based approach to service delivery.

Research suggests that some policies, practices, and processes within the homelessness and Violence Against Women (VAW) sectors inadvertently create harm and are contrary to human rights standards.²³⁹ This includes discriminatory policies (e.g., on the basis of gender identity), duty to report policies, barriers to access based on acuity criteria, and invasive or demeaning practices (e.g., requiring individuals to request menstrual hygiene products one at a time, in public spaces²⁴⁰).²⁴¹ In some cases seemingly benign or very minor operational policies within shelters, drop-ins, transitional housing, and other emergency services can deepen homelessness, exclusion, trauma, and exposure to violence for those seeking help.²⁴² Given this, municipalities may want to explore how homelessness and VAW service providers can be provided with training on human rights-based approaches to service delivery. While municipalities may not be best positioned to provide such training or supports, they may choose to contract or partner with human rights experts who can do so (e.g., provincial/territorial human rights commissions, the Office of the Federal Housing Advocate).

As part of their own efforts to realize the right to housing, cities might consider supporting homelessness and VAW service providers to conduct participatory, rights-based audits of their practices, operations, and decision-making at all levels. Municipalities may also want to explore how best to implement a rights-based approach to a coordinating service delivery across the VAW sector, youth sector, homelessness sector, and other spaces of social provision, recognizing that marginalized persons often move between services across sectors and deserve to have their right to housing upheld within and between each.

²³⁷ Farha & Schwan, 2020.

²³⁸ The National Protocol articulates 8 principles that governments must comply with: (1) Recognize residents of encampments as rights holders, (2) Meaningful engagement and effective participation of encampment residents, (3) Prohibit forced evictions of homeless encampments, (4) Explore all viable alternatives to eviction, (5) Ensure that any relocation is human rights compliant, (6) Ensure encampments meet basic needs of residents consistent with human rights, (7) Ensure human rights-based goals and outcomes, preserve dignity for encampment residents, and (8) Respect, protect, and fulfill the distinct rights of Indigenous Peoples in all engagements with homeless encampments.

²³⁹ Schwan et al., 2020.

²⁴⁰ For documentation of this, see Dej, E. (2020). *A Complex Exile: Homelessness and Social Exclusion in Canada*. Vancouver, BC: UBC Press.

²⁴¹ 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>

²⁴² Schwan et al., 2020.

SUMMARY: PRIORITY 4 – END HOMELESSNESS & THE CRIMINALIZATION OF HOMELESSNESS

Key Challenges	Recommendations for Municipalities
<p>1. There is a jurisdictional disconnect between revenue and responsibility with regards to the realization of the right to housing, with municipalities often bearing the burden of addressing homelessness but lacking the tax base to address the scale of the issue.</p> <p>2. There has been limited action from federal or provincial/territorial governments to address the widespread discrimination against people on the basis of housing status, and protection against this form of discrimination is not well established in provincial/territorial legislation or policy.</p> <p>3. Some of the affordability metrics used to allocate federal homelessness and housing funds fail to reflect the depth of housing marginalization and poverty experienced by people who are homeless. This makes it more difficult for cities to eliminate homelessness swiftly and in alignment with their human rights obligations.</p>	<ul style="list-style-type: none"> • Re-deploy city-owned land and buildings, and acquire existing distressed properties, to create permanent housing for people experiencing homelessness on an urgent basis. • Work with provincial/territorial and federal governments to identify and implement additional revenue-generating mechanisms at the local level to address homelessness, such as tourist tax, excise tax, or congestion pricing. • Implement local anti-discrimination campaigns focused on eliminating stigma and discrimination on the basis of housing status. • Adopt a human rights-based approach to encampments, using <u><i>A National Protocol for Homeless Encampments in Canada</i></u> to guide the development of a local strategy. • Ensure that local homelessness and VAW housing and service providers have the training and supports they need to employ a rights-based approach to service delivery.

PRIORITY 5: ADVANCE SUBSTANTIVE EQUALITY FOR MARGINALIZED GROUPS & PRIORITIZE THOSE MOST IN NEED

Under international human rights law, governments must “prioritize the needs of disadvantaged and marginalized individuals or groups living in precarious housing conditions” in all efforts to secure the right to housing.²⁴³ Those identified as ‘most in need’ – defined intersectionally and in relation to and the immediacy and urgency of housing rights violations²⁴⁴ – must be prioritized in the allocation of resources. Such efforts require that governments not only rectify discriminatory policies, practices, and systems that marginalize particular groups and impede their enjoyment of the right to housing, but also adopt positive measures to prevent discrimination and advance substantive equality.²⁴⁵ These human rights standards suggest that the impact and value of the NHSA should be measured in relation to its ability to meaningfully change housing outcomes for those most in need.

“States must prohibit all forms of discrimination in housing by public or private actors and guarantee not only formal but also substantive equality, which requires taking positive measures to address housing disadvantages and ensure equal enjoyment of the right to housing.”
A/HRC/43/43, No. 8, para. 48 (a)

International Human Rights Standards

Non-discrimination, substantive equality, and the obligation to prioritize those most in need are embedded within all 16 Guidelines outlined by the UN Special Rapporteur on the Right to Adequate Housing. Most specifically, these standards are central components of progressive realization of the right to housing (Guideline 2). Nonetheless, three Guidelines are particularly relevant with respect to advancing the right to housing for marginalized groups:

Table 2 – Guidelines related to Substantive Equality

Guideline	Key Elements for Implementation
No. 8. Address discrimination and ensure equality	<ul style="list-style-type: none"> States must prohibit all forms of discrimination in housing by public or private actors and guarantee not only formal but also substantive equality, which requires taking positive measures to address housing disadvantages and ensure equal enjoyment of the right to housing. The right to equality requires that housing and related social programmes be non-discriminatory in their effect. It also requires that such programmes be adequate to alleviate the effects of discrimination against marginalized groups and address their unique circumstances.
No. 9. Ensure gender equality in housing and land	<ul style="list-style-type: none"> 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. In that regard, States should amend or repeal, as appropriate, provisions in family, inheritance and other relevant laws that restrict women’s access to housing and land title.

²⁴³ A/HRC/43/43, No. 3, para 19 (b).

²⁴⁴ UN Human Rights Council. (2018, January 15). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. A/HRC/37/53. <http://www.undocs.org/A/HRC/37/53>

²⁴⁵ A/HRC/43/43, No. 8.

	<ul style="list-style-type: none"> • Women should be guaranteed equal access to credit, mortgages, home ownership and rental housing, including through subsidies, to ensure that their lower incomes do not exclude them from housing. • In situations of household violence, legislation should ensure that, regardless of whether a woman has title, formal ownership or tenancy rights, she is able to remain in her own home where appropriate and have the perpetrator removed. • Women should have a guaranteed right to participate in all aspects of housing-related policymaking, including housing design and construction, community development and planning, and transportation and infrastructure.
No. 10. Ensure the right to adequate housing for migrants and internally displaced persons	<ul style="list-style-type: none"> • States must ensure the equal enjoyment of the right to housing without discrimination for all internally displaced persons and all migrants, regardless of documentation, in conformity with international human rights and humanitarian law. Reception and other centres for migrants must meet standards of dignity, adequacy and protection of the family and other requirements of international human rights law and international humanitarian law. Migrant children should never be separated from their parents or guardians, and families that have been separated by displacement should be reunited as quickly as possible. • Any differential treatment in qualifying for different types of housing based on immigration status must be reasonable and proportional, and not compromise the protection of the right to housing for all people within the State's territory or jurisdiction.²⁴⁶

Advancing Substantive Equality and Prioritizing those Most in Need: Key Challenges and Concerns

Particular groups face unique challenges and discrimination with regards to accessing adequate housing, including Indigenous persons, racialized communities, persons with disabilities, newcomers and refugees, and those facing discrimination on the basis of their gender or sexuality. One group facing some of the most severe housing challenges and housing rights violations in the midst of the COVID-19 pandemic is women.²⁴⁷ In this section we highlight federal and provincial/territorial policies that have a discriminatory impact on women in the area of housing, as well as gaps in policy and funding that undermine substantive equality for this group with regards to enjoyment of the right to housing. These are key challenges that cities across the country face in their efforts to secure the right to housing, particularly in the context of a post-pandemic Canada. For additional information on Canadian policies that have discriminatory effects on other groups (e.g., persons with disabilities, newcomers) in the area of housing, see *Housing Discrimination and Spatial Segregation in Canada* (2021).²⁴⁸

²⁴⁶ A/HRC/43/43.

²⁴⁷ For example, research indicates "income loss and job losses have been disproportionately experienced by women and lower income workers who predominantly rely on rental housing. More than 20,000 women left the workforce between February and October 2020, while about 68,000 men joined it. While women made up just under half of all paid workers in Canada, one month into the pandemic they accounted for two-thirds (63%) of all job losses, and 70% of all job losses among workers aged 25 to 54 years. The loss of jobs and incomes has contributed to an arrears and evictions crisis across the country, and women are bearing the brunt of this crisis as they are forced to decide between paying rent or putting food on the table, which is especially difficult for single mothers and low-income workers." See NRHN & CERA, 2021, p. 1.

²⁴⁸ CERA, NRHN, & SRAC, 2021.

Policy Barriers to Realizing the Right to Housing for Women

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.²⁴⁹ In the Canadian context, women and girls experience disproportionate levels of core housing need,²⁵⁰ and there is a severe lack of affordable and appropriate housing that meets the needs of diverse women and women-led families.²⁵¹ Systemic issues keep many marginalized women and girls trapped in poverty and struggling to obtain housing assistance, particularly those who are Indigenous, racialized, persons with disabilities, or facing intersecting forms of discrimination and exclusion.²⁵² A federal and provincial/territorial policy scan identified many key areas of concern. Some examples include the following:

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

- **Failure to capture the experiences of women within federal definitions of chronic homelessness** - Reaching Home has sought to prioritize addressing chronic homelessness in its programs, and the *2020 Throne’s Speech* committed the federal government to ending chronic homelessness in Canada. However, the definition of chronic homelessness employed by Reaching Home²⁵³ has been critiqued for failing to account for the ways in which women experience homelessness.²⁵⁴ Studies consistently show that women are much more likely to experience hidden forms of homelessness and “avoid services and use informal or relational supports to maintain themselves in situations of hidden homelessness.”²⁵⁵ Because of this, women and girls are 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.²⁵⁶ This gap in enumeration deepens the invisibility of women, girls, and gender diverse peoples’ homelessness, contributing to inequitable and insufficient federal investments in

²⁴⁹ A/HRC/43/43, No. 9, para 4.

²⁵⁰ Canada Mortgage and Housing Corporation. (2019). *Core Housing Need Data – By the Numbers*. Ottawa, ON: 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>

²⁵¹ Schwan et al., 2020.

²⁵² Schwan et al., 2020.

²⁵³ As of 2021, Reaching Home employs the following definition of chronic homelessness: “Chronic homelessness refers to individuals who are currently experiencing homelessness and who meet at least 1 of the following criteria: they have experienced a total of at least 6 months (180 days) of homelessness over the past year; or they have had recurrent experiences of homelessness over the past 3 years, with a cumulative duration of at least 18 months (546 days).” See Government of Canada. (2021). *Reaching Home: Canada’s Homelessness Strategy Directive*. Ottawa, ON: Employment and Social Development Canada. <https://www.canada.ca/en/employment-social-development/programs/homelessness/directives.html#h2.2>

²⁵⁴ For example, the Ontario Federation of Indigenous Friendship Centre states “...established targets may not adequately address the needs of youth, LGBTQ2S persons, and women fleeing violence who are more likely to experience other intersectional barriers that prevent or preclude them from accessing mainstream shelters when trying to break out of cycles of poverty and homelessness. If the government is seeking to apply a Gender Based Analysis to the National Housing Strategy, rates of shelter use alone is not a suitable metric to measure progress” See: OFIFC. (2018). *Response to the National Housing Strategy*. Toronto, ON: OFIFC. <https://ofifc.org/wp-content/uploads/2020/03/2018-policy-housing-strategyPRINT.pdf>

²⁵⁵ Bretherton, J. (2017). Reconsidering Gender in Homelessness. *European Journal of Homelessness*, 11(1), p. 6.

²⁵⁶ 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 in statistical portraits of homelessness and housing need 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, challenges to enumerating situations of overcrowding). See Bretherton, 2017.

homelessness programs to meet the needs of women and girls.²⁵⁷ This contravenes human rights standards with respect to non-discrimination and substantive equality in program design and delivery.

- **Chronic provincial/territorial underinvestment in Violence Against Women Shelters and services** – VAW shelters and services are funded provincially/territorially in Canada. Research shows that VAW shelters across Canada are chronically underfunded and have been so for decades,²⁵⁸ with 46% of VAW shelters in Canada reporting that the top challenge facing service delivery was a lack of sustainable funding.²⁵⁹ This results in dire consequences for women and children fleeing violence. For example, a Statistics Canada report, *Canadian Residential Facilities for Victims of Abuse 2017/2018*, 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%).”²⁶⁰ Given that many of women return to live with their abuser after being turned away or transitioning out of VAW shelters,²⁶¹ this underinvestment has significant implications with regards to the right to life for women and their children.
- **Conflicting and contradictory policies across provincial/territorial public systems that can undermine housing stability for women and exacerbate family dissolution** – Researchers and advocates have identified numerous conflicting and contradictory policies in provincial/territorial public systems that can undermine housing stability for marginalized and low-income women and their families. For example, housing providers often consider a woman immediately over-housed if she loses custody of her children to the child welfare system, and many women face eviction due to changes in family composition.²⁶² Similarly, women – particularly Indigenous women – regularly have their children apprehended due to a problematic conflation between poverty and neglect,²⁶³ resulting in a loss in income supports and resultant difficulties affording rent. These experiences of eviction and income loss make it difficult for women to re-gain housing or custody of their children, contributing to deepened exclusion and ongoing housing precarity.²⁶⁴

Progress on Substantive Equality in Housing – Spotlight on Women and Their Children

Research indicates that poverty and housing instability significantly undermines women’s ability to remain with their children, and that child apprehension is a severe trauma that contributes to homelessness for women.²⁶⁵ Given that young people who have had child welfare involvement are more likely to experience homelessness themselves,²⁶⁶

²⁵⁷ Schwan et al., 2021.

²⁵⁸ Schwan et al., 2020.

²⁵⁹ Statistics Canada. (2019). *Canadian residential facilities for victims of abuse, 2017/2018*. Statistics Canada Catalogue. Ottawa. <https://www150.statcan.gc.ca/n1/en/catalogue/85-002-X201900100007>

²⁶⁰ Statistics Canada, 2019, p. 3.

²⁶¹ Statistics Canada, 2019.

²⁶² 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>

²⁶³ Trocmé, N., Knoke, D., & Blackstock, C. (2004). Pathways to the overrepresentation of Aboriginal children in Canada’s child welfare system. *Social Service Review*, 78: 577-600.

²⁶⁴ Maki, 2017.

²⁶⁵ Schwan et al., 2020.

²⁶⁶ Nichols et al., 2017.

there is evidence to suggest that mother-child separation and child apprehension are key policy areas implicated in intergenerational housing instability and homelessness. Fortunately, there are a number of provincial/territorial initiatives that are supporting low-income women to remain with their children, as well as preventing child apprehension. For example:

- **British Columbia: The Huu-ay-aht First Nations Social Services Project** - *The Huu-ay-aht First Nations Social Services Project* is focused on forming 'circles of protection' around families, extended families, house groups, and the Nation. Through increased services like family support liaison workers, pregnancy support, anti-violence intervention, crisis intervention, and transitional living support for low-income families, the goal is to prevent children from being placed in government care. No child will age out of care and wrap-around supports will be available for any community member who assists in child care and child rearing.²⁶⁷
- **Quebec: Quebec Child Care Program** - Quebec is the only province that provides universal child care, including generous parental leave (55 weeks of paid leave), monthly cash benefits to families with children, and a heavily subsidized child care system. Research indicates that these programs have had a significant impact on employment levels for the families most likely to live on low-incomes and be led by a single parent. Employment rates for single mothers of young children in Quebec increased from 38% in 1996, the year prior to the introduction of the program, to 68% in 2014. Single women-led households have also seen their poverty rates decline from 52% in 1996 to 31% by 2011, significantly contributing to housing stability for families on low-incomes.²⁶⁸

While such programs may appear distant from the securing of the right to housing for women, they are important illustrations of how policies within other provincial/territorial policy domains can help secure the right to housing, including specifically for marginalized groups.

WHERE DO CITIES GO FROM HERE?

While this section has focused on federal and provincial/territorial policy barriers to the equal enjoyment of the right to housing for women and girls in Canada, other marginalized groups similarly face significant inequitable enjoyment of this right because of policy choices at federal and provincial/territorial levels. Nonetheless, cities have an obligation to ensure equitable enjoyment of the right to housing for all people, which includes advancing non-discrimination and substantive equality within municipal jurisdictions. There are many avenues for action that cities can pursue to progressively realize the right to housing for those most in need. Cities might consider the following:

1. Set local targets, timelines, outcomes, and indicators that redress systemic barriers to adequate housing experienced by those in the most need.

²⁶⁷ Huu-ay-aht First Nations Social Services Panel. (2017). *Huu-ay-aht First Nations Social Services Project*. https://huuayaht.org/wp-content/uploads/2017/08/hfn-social-services-panel-recommendations_final.pdf

²⁶⁸ 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/OS120_Summer2015_Family_policies.pdf

Utilizing a human rights lens, municipalities have the opportunity to ensure that municipal spending on housing goes to those in greatest need, and that equity and non-discrimination guides all municipal programming and investments. Cities can adopt targets and timelines with respect to groups identified as experiencing the most severe forms of housing marginalization in their communities, in alignment with human rights standards. Identifying these groups requires meaningful participation and engagement with rights holders by city officials, given that marginalization may not be readily visible within city services or systems (e.g., as is the case with respect to women and girls experiencing hidden homelessness).

In order to make substantive progress on equity across investments and programming, cities would benefit from adopting and mobilizing rights-based indicators capable of tracking progress on the progressive realization of the right to housing for groups most in need, as well as transparent reporting on how funds are spent and what housing outcomes are associated with spending. To support such indicators, cities might consider adopting measurement tools and data collection methods capable of collecting meaningful, disaggregated data on the experiences of diverse vulnerable groups. In addition to providing cities with meaningful information to drive rights-based decision-making at the municipal level, such data can assist cities in advocating for additional supports and competencies from higher levels of government. The UN Office of the High Commissioner on Human Rights published a guide to support governments in rights-based data collection methods, *Human Rights Indicators – A Guide to Measurement and Implementation* (2012).

2. Conduct GBA+, rights-based audits of local policies and programs relevant to securing the right to housing.

Research consistently shows that policies, even very minor or seemingly benign policies or procedures, can deepen homelessness or create pathways into homelessness for those who are already marginalized or experiencing discrimination.²⁶⁹ For example, young people experiencing homelessness or housing instability regularly discuss how being unable to list a home address on an official form for a healthcare provider, employment application, or a school application can have severe consequences for health, income, educational horizons, and housing stability.²⁷⁰ Similarly, in some cases individuals are unable to access social housing or rent-geared-to-income (RGI) housing if they have not completed their income tax return.²⁷¹ While some of these challenges occur at the provincial/territorial levels, cities can assist in preventing housing instability and homelessness by conducting *Gender-based Analysis Plus* (GBA+), rights-based audits of policies and programs that may create barriers to accessing affordable housing or transitioning out of homelessness. Given that the right to housing can be undermined by policies related to parking, libraries, sitting in public, or public transportation, such policy audits should be cross-departmental and reflective of lived expertise. Audits of this sort may also provide insight into what

“There are all of these avenues and really amazing ways in which to imbue the concept that everyone has the right to adequate housing in municipal governance ... And that goes all the way to library policy. The federal government doesn’t send someone to kick you out of the library because you have a backpack.”

- DJ Larkin, Human Rights Lawyer

²⁶⁹ See, for example, Schwan et al., 2020.

²⁷⁰ Schwan et al., 2018.

²⁷¹ See, for example, City of Toronto. (2021). *Rent-Geared-to-Income Subsidy*. Toronto, ON: City of Toronto. <https://www.toronto.ca/community-people/employment-social-support/housing-support/rent-geared-to-income-subsidy/>

programs are needed at the municipal level (e.g., the establishment of tax clinics in homeless encampments to assist residents in qualifying for social housing).

3. Actively participate in interjurisdictional and cross-sectoral cooperation in order to transform public system policies that undermine the right to housing.

Provincial and territorial public systems like criminal justice, child welfare, and immigration all play key roles in exacerbating exclusion that undermines the right to housing for many. This is particularly true in the lives of people experiencing multiple forms of discrimination and inequity, and for whom public system policies may explicitly or inadvertently conspire to deepen their exclusion. Cities often end up bearing the downstream consequences of these public systems failures, and thus should consider actively participating in – or convening – cross-ministerial and cross-departmental coordination with higher levels of government to advance the right to housing in policy areas that have been shown to contribute to housing instability in the lives of disadvantaged groups. The Federation of Canadian Municipalities – Canada’s national voice for municipal governments – might help facilitate such convening between cities and provinces/territories. This type of interjurisdictional collaboration and coordination has been called for by the Right to Home Municipal Working Group, whose Call to Action stated:

“Jurisdictional battling is resulting in people dying on our streets.”

– Margaret Pfoh, CEO, AHMA

“In light of the urgency created by COVID-19, the Government of Canada must work specifically to ensure cities—those closest to the needs of all people—have the necessary capacities and tools to achieve the goals enshrined in the NHSA. This will require stronger interjurisdictional cooperation, as occurred under the National Housing Act of 1944, when the federal government responded to the acute housing, slum, and eviction crisis facing the nation during a wartime period.”²⁷²

In seeking to improve interjurisdictional coordination, cities and provinces/territories can look to successful models domestically and internationally. For example, Portugal developed an inter-ministerial commission to oversee the implementation of its plan to eliminate homelessness.²⁷³ The province of British Columbia similarly established the Office of Homelessness Coordination to ensure a more coordinated and effective approach that prevents people from becoming homelessness, with priority areas including: prevention, immediate response, stability, and working better together.²⁷⁴ Such models can be explored as part of efforts to mobilize the NHSA locally. As Bruce Porter (Social Rights Advocacy Centre) commented, “We have to leverage from the NHSA this notion of shared obligations under international human rights law, which requires that federal commitments be supported by and integrated with commitments and initiatives made by municipalities and provinces and territories ... we have the chance to create this new model of human rights-based cooperative federalism.”²⁷⁵

²⁷² Right to Home Municipal Working Group, 2021, p. 2.

²⁷³ UN Human Rights Council. (2018, January 15). *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*. <http://www.unhousingrapp.org/user/pages/04.resources/Thematic-Report-1-Human-Rights-Based-National-Housing-Strategies.pdf>

²⁷⁴ Province of British Columbia, 2018, p. 29.

²⁷⁵ Interview Participant, Bruce Porter.

SUMMARY: PRIORITY 5 – ADVANCE SUBSTANTIVE EQUALITY FOR MARGINALIZED GROUPS & PRIORITIZE THOSE MOST IN NEED

Key Challenges	Recommendations for Municipalities
<p>SPOTLIGHT: Women, Girls, & Gender Diverse People</p> <ol style="list-style-type: none"> 1. Inequitable federal investments in emergency shelter beds. 2. Chronic provincial/territorial underinvestment in Violence Against Women Shelters and Services. 3. Conflicting and contradictory policies across provincial/territorial public systems can undermine housing stability for women and exacerbate family dissolution. 	<ul style="list-style-type: none"> • Set local targets, timelines, outcomes, and indicators that redress systemic barriers to adequate housing experienced by those in the most need. • Conduct GBA+, rights-based audits of local policies and programs relevant to securing the right to housing. • Actively participate in interjurisdictional and cross-sectoral cooperation in order to transform public system policies that undermine the right to housing.

PRIORITY 6: REGULATE THE PRIVATE SECTOR & ADDRESS THE FINANCIALIZATION OF HOUSING

In Canada and around the globe, housing is increasingly positioned as a financial asset and commodity for global investors, rather than a place to live in security and dignity.²⁷⁶ The 'financialization of housing' refers to "structural changes in housing and financial markets and global investment whereby housing is treated as a commodity, a means of accumulating wealth and often as security for financial instruments that are traded and sold on global markets."²⁷⁷ It is the "direct result of a two-fold move by governments: (1) the adoption of legislation and policies that transform housing into advantageous investment opportunities, and (2) withdrawal from policies and legislation that recognize housing as a social good and human right."²⁷⁸ The consequences include escalating housing inequities, increased housing insecurity and need (particularly amongst marginalized and disadvantaged groups), increased evictions, decreased affordability and housing conditions, and homelessness.²⁷⁹

COVID-19 and its socio-economic consequences are powerfully shaping, and shaped by, the financialization of housing domestically and globally. Many governments around the world have responded to increased economic instability by generating liquidity for companies and banks, reducing interest rates, and implementing financial assistance mechanisms in the hopes that people and businesses can survive pandemic-related income losses.²⁸⁰ However, FTP government measures to stabilize economies have also created opportunities for financial actors (e.g., equity firms, REITs) to profit from the pandemic, including in the area of residential real estate.²⁸¹ Investors have been able to take advantage of a growing pool of distressed housing assets that they can purchase at a lower cost.²⁸² Importantly, global real estate actors have also been influencing post-pandemic policymaking in Canada since the beginning of the pandemic. For example, in spring 2020, BlackRock (the world's largest asset manager) was brought in by the Bank of Canada to help develop an economic recovery plan for the country.²⁸³ Such decisions not only chart the course for pandemic recovery, but also have significant implications for whether the right to housing will be progressively realized in Canada's post-pandemic housing markets.

In this section we consider how FTP policies and legislation shape Canadian cities' ability to secure the right to housing in the context of the financialization of housing, exploring where there has been progress and how cities might leverage the NHSA and the pandemic to regulate the private sector in the area of housing.

²⁷⁶ UNHRC. (2017, January 10). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. A/HRC/34/51. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/009/56/PDF/G1700956.pdf?OpenElement>

²⁷⁷ *Ibid*, para 1.

²⁷⁸ 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*. Cheltenham, UK: Edward Elgar Publishing.

²⁷⁹ NRHN & CERA, 2021.

²⁸⁰ Farha & Schwan, 2021.

²⁸¹ See Farha, L. (2020). *Guidance Note – Protecting Housing from Financialization & Building Back Better*. The Shift. <https://www.make-the-shift.org/protecting-housing-from-financialization-building-back-better/>

²⁸² *Ibid*.

²⁸³ Carmichael, K. (2020, April 1). "Why the Bank of Canada Needs BlackRock's Help While Fighting the Coronavirus Downturn." *Financial Post*. <https://financialpost.com/news/economy/why-the-bank-of-canada-needs-blackrocks-help-while-fighting-the-coronavirus-downturn>

International Human Rights Standards

The Implementation Guidelines outline the following human rights standards regarding the financialization of housing and regulating the private sector in the area of housing:

“(a) States must regulate business in order to prevent investments having any negative impacts on the right to housing, including by:

- (i) Preventing any privatization of public or social housing that would reduce the capacity of the State to ensure the right to adequate housing;
- (ii) Maintaining a rental regulatory framework that preserves security of tenure and affordable housing for tenants, including through rent caps, controls or rent freezes where needed;
- (iii) Requiring full and public disclosure of all investments in residential housing to help prevent corruption, money-laundering, tax evasion and tax avoidance;
- (iv) Establishing independent monitoring bodies to oversee developments, business plans or private investor activity that may have a significant impact on the right to housing;
- (v) Imposing taxes on residential real estate and land speculation to curb the short-term resale of properties and on residential real estate left vacant;
- (vi) Removing preferential tax breaks on homeowners and on real estate investment trusts;
- (vii) Removing incentives for foreign residential real estate investment such as preferential visa and citizenship awards;

(b) States must regulate business to comply with States’ obligation to realize the right to housing by all appropriate means, including by:

- (i) Adopting planning and development approval criteria to ensure that any proposed housing development responds to the actual needs of residents, including affordable housing for low-income households and employment opportunities;
- (ii) Adjusting taxation measures to incentivize affordable housing and discourage speculation or ownership of housing or land left vacant;
- (iii) Enabling innovative financing models for affordable housing or upgrading projects;
- (iv) Requiring the negotiation of binding, human rights-compliant social benefits agreements with local authorities, residents and civil society organizations before any development is approved;
- (v) Requiring pension funds and other investors to facilitate independent human rights impact assessments prior to investments being approved to ensure investments do not contribute to violations of the right to housing;

(c) States should support the important role that households play in producing and upgrading their own housing (through the social production of housing) by ensuring access to land, including through collective or cooperative ownership, commons and other alternative forms of tenure and affordable and sustainable materials;

(d) All laws and policies related to rent and mortgage arrears and foreclosures should be reviewed to ensure consistency with the right to adequate housing, including the obligation to prevent any eviction resulting in homelessness. States should require banks and other lenders to remove barriers to access to credit for women, young families, residents of informal settlements and others in need of housing finance.”²⁸⁴

²⁸⁴ A/HRC/43/43, para 69.

Regulating the Private Sector & Addressing the Financialization of Housing – Key Challenges & Concerns

There exist many complex and interrelated challenges and concerns with regards to the financialization of housing, many of them linked not only to the right to housing, but to broader human rights – including the right to non-discrimination and the right to life, liberty, and security of the person.²⁸⁵ Unfortunately, policy responses to financialization have been “overwhelming piecemeal and sporadic.”²⁸⁶ The following explores FTP legislation and policies that create challenges for Canadian cities seeking to curb financialization and regulate the private sector in line with their international human rights obligations.

1. The financialization of housing is poorly regulated in provincial/territorial legislation and policy, making it difficult for cities to produce affordable housing at the rate that it is being lost.

The financialization of housing remains largely unregulated by most levels of Canadian government. While some policy tools have been implemented at the provincial/territorial level – such as rent control or vacancy control – these remain inconsistently adopted across Canada (e.g., Alberta has no rent control) and contain various legal loopholes enabling financial actors to “renovict” tenants and raise rents above legislated standards or guidelines.²⁸⁷ Such “renovictions” typically involve a landlord evicting a tenant on the grounds that they need to complete major renovations or repairs, and then re-listing the unit for more than the original rent.²⁸⁸ In Ontario, for example, Doug Ford introduced a number of limitations to Ontario’s rent control legislation that benefits financializers and enable renovations, including exemptions for buildings built after 2018 or any additions to existing buildings.²⁸⁹ Speculation and money laundering exacerbate these issues. In Vancouver (BC), for example, home prices doubled between 2011 and 2021.²⁹⁰

This failure to regulate financial actors is particularly concerning in the context of COVID-19. Not unlike the 2008 financial crisis, the COVID-19 pandemic provides private equity firms, REITS, and other financial actors the chance to capitalize on distressed housing assets by purchasing cheap debt and foreclosed mortgages from banks. David Schechtman of the Meridian Capital Group describes this context in the following way: “Our thoughts and prayers are with all of our fellow Americans and nobody wants to capitalize on anybody’s misfortune. But I will tell you, real-estate investors—when you take the emotion out of it—many of them have been waiting for this for a decade.”²⁹¹ The benefit of COVID-19 to real estate investors is certainly reflected in the profit margins reported by major REITS during the pandemic, a majority of whom have continued to see extremely high profit margins despite global crises and economic security (see Table 1).

²⁸⁵ A/HRC/31/54; A/HRC/40/61, para 43.

²⁸⁶ Farha & Schwan, 2021.

²⁸⁷ Pomeroy, 2020.

²⁸⁸ RenovictionsTO. (2020). *Renovictions – Know Your Rights*. Toronto, ON: RenovictionsTO. <https://renovictionsto.com/know-your-rights>

²⁸⁹ The City of Toronto has called on the province to reinstate the original rent control rules. See, for example, O’Neil, L. (2019 November 28). *Toronto is Urging the Provincial Government to reinstate rent control rules*. BlogTO. <https://www.blogto.com/real-estate-toronto/2019/11/toronto-rent-control-rules-ontario/>.

²⁹⁰ Real Estate Board of Vancouver. (2021). *Monthly Market Report – October 2021*. <https://www.rebgv.org/market-watch/monthly-market-report/october-2021.html>.

²⁹¹ Putzier, K & Grant, P. (2020, April 7). “Real-Estate Investors Eye Potential Bonanza in Distressed Sales.” *Wall Street Journal*. www.wsj.com/articles/real-estate-investors-eye-potential-bonanza-in-distressed-sales-11586260801

Table 3 – Stabilized Net Operating Income (Profit) Margins of Major Landlords as of September 30, 2020

Landlord	CAPREIT	Boardwalk	Killam	InterRent	Minto	Morguard
NOI margin	65.0	59.6	65.0	65.0	62.3	55.7

Table source: Ali, N., Chan, Y., Vahid Shahidi, F., & August, M., 2021.

While FTP governments may attempt to produce affordable housing at a rate capable of meeting the level of housing need, these efforts pale in comparison to the speed at which corporate landlords and REITs are removing affordable housing units from the market.²⁹² In many cases these financial actors are actually being assisted by FTP governments to erode the availability of affordable housing units. For example, analysis of RHFI spending by housing policy researcher Steve Pomeroy indicated that,

“Between 2011 and 2016, for every new affordable unit that was created under the FPT Investments in Affordable Housing (IAH) and provincial initiatives, 15 existing lower rent affordable units (i.e. renting below \$750/month in nominal terms) were lost. During this time the number of such affordable rental units in Canada declined by 322,000. This erosion of affordable housing massively negates the efforts of the NHS to reduce housing unaffordability for tenants and decrease homelessness. Despite investment in new housing production, unless we can curtail the attrition of existing affordable rental units, there may be a steady rise in households in core housing need, facing eviction, or at-risk of homelessness. Much of this loss is associated with financialization of the rental market, which involves capital funds and particularly Real Estate Investment Trusts (REITs) seeking out properties with lower rent units (defined by REITs as ‘under-performing properties’) and seeking to raise rents to generate increased yield to investors”.²⁹³

The reality that 15 existing affordable units are lost for every 1 affordable unit created is contrary to the human rights obligations that are placed upon Canadian governments pursuant to the human right to adequate housing, which requires that efforts are taken to progressively realize the right, without taking any negative or backwards steps in this regard. That the provision of market housing is prioritised over affordable housing is a profound indictment of the current policymaking approach in Canada, and clearly indicates the urgent need for governments to curb the financialization of housing if they are genuine in their commitment to the right to housing.

2. Some government programs are subsidizing corporate landlords and other developers under the guise of creating affordable housing.

As discussed in Section 2 and a recent report commissioned by the Canadian Human Rights Commission,²⁹⁴ the NHS contains few measures to curtail the financialization of housing, and many programs actually create opportunities for large financial actors to expand their portfolios by committing to build some ‘affordable’ housing

²⁹² Pomeroy, 2020; Pomeroy, 2021.

²⁹³ Pomeroy, 2021, p. 8-9.

²⁹⁴ Biss & Raza, 2021.

units within their market-based development projects. This is perhaps most evident in the case of the *Rental Construction Financing Initiative* (RCFI).

The RCFI is the largest program in the NHS; it represents 40% of NHS funding and aims to produce 14,000 housing units over the life of the program. The RCFI provides low-interest loans for the construction of rental housing, and only requires that developers offer 20% of their units at 30% of the median total income for families in the area (over a duration of ten years).²⁹⁵ That 80% of the rental units constructed in this program have no affordability requirements, and only 20% have such a criteria for 10 years, reveals a structural bias towards the interests of housing developers and their investors, rather than the needs of those experiencing deep core housing need. Unsurprisingly, this has generated significant interest from developers. As one CMHC staff commented,

"All the developers are talking to us because interest rates are fantastic and we are making very collaborative efforts ... The developers who you would traditionally think of as condo developers, the finance organizations like REITs, pension funds, everybody in the entire sector who has an interest in owning and developing rental property is talking to us."²⁹⁶

In effect, the RCFI program ends up subsidizing large corporate landlords under the guise of creating 'affordable housing,' when in fact the housing produced remains unaffordable for most people living on low-incomes or social assistance.²⁹⁷ More broadly, developer-led development of social housing may lead to non-compliance with human rights. In other countries (such as the UK), this policy approach has generated social-spatial segregation (exactly what the policy set out to prevent) with social housing tenants collectively located in certain parts of a development and denied access to services.²⁹⁸

3. Financialization of housing deepens discrimination and inequities, creating further challenges for cities to advance non-discrimination and substantive equality.

The financialization of housing often has the most detrimental effects on groups that are already disproportionately marginalized and disadvantaged, including those receiving social assistance, people with disabilities, and Indigenous Peoples.²⁹⁹ Common experiences in corporate-owned rental properties include: illegal or dramatic rent increases, inadequate housing conditions, failure to complete renovations, poor maintenance, threats of eviction, and pressure to move out, with residents struggling to access supports or information from their landlords.³⁰⁰

²⁹⁵ A proposal may also be funded if it has been approved by a housing affordable housing initiative from another level of government. See Canada Mortgage Housing Corporation. (n.d.). *Rental Construction Financing*. <https://assets.cmhc-schl.gc.ca/sites/cmhc/nhs/rental-construction-financing/nhs-rcfi-highlight-sheet-en.pdf?rev=e821c3c7-9991-42e2-947d-5f50e28e1126>

²⁹⁶ Wall, D. (2019, September 13). "Feds' rental housing program proves a deal-maker." *Daily Commercial News*. <https://canada.constructconnect.com/dcn/news/projects/2019/09/feds-rental-housing-program-proves-a-deal-maker>

²⁹⁷ Schwan et al., 2021. See also Biss & Raza, 2021.

²⁹⁸ Osborne, H. (2014, July 25). "Poor doors: the segregation of London's inner-city flat dwellers." *The Guardian*. <https://www.theguardian.com/society/2014/jul/25/poor-doors-segregation-london-flats>; See also, Grant, H., & Michael, C. (2019, March 25). "Too poor to play: children in social housing blocked from communal playground." *The Guardian*. <https://www.theguardian.com/cities/2019/mar/25/too-poor-to-play-children-in-social-housing-blocked-from-communal-playground>

²⁹⁹ UN-Habitat. (2005). *Indigenous Peoples' Right to Adequate Housing: A Global Overview*. HS/734/05E. See also: UNHRC. (2017, December 7). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. A/72/128.

³⁰⁰ UNHRC. (2017, January 18). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. A/HRC/34/51.

Importantly, the disproportionate accumulation of these experiences amongst marginalized groups often does not need to occur through explicit discrimination, but is structurally embedded in the financialized housing model. As Bruce Porter (Social Rights Advocacy Centre) explains,

“The basic business model is that you purchase property in a mostly racialized, low-income neighbourhood with poor housing and you upgrade the housing. And that changes the demographics, and so that changes the value of the business model, based on moving these more disadvantaged groups out and moving these more advantaged groups in. Which you don’t have to do through explicit discrimination. All you have to do is change units that were rented for \$1000 a month to \$3000 a month, and the demographics change. What is astonishing is we’ve allowed that business model to be applied in ways that would never be thinkable if you were doing it in an employment context and saying, ‘Well, we have a new human resources model here where we’re pushing out women and we’re bringing in men.’ Somehow these kinds of discriminatory results for protected groups in housing are seen as acceptable as long as they are the result of ‘upgrading.’”³⁰¹

This model is grounded in broader taxation policies that tend to benefit REITS, equity firms, and other larger financial actors at the expense of rights holders, particularly those from equity-seeking groups. There are numerous tax advantages associated with investments in residential properties in many countries,³⁰² and homeowners often have tax advantages not provided to renters. Between 2008 and 2009 in Canada, for example, 93% of government housing subsidies went to homeowners, compared to just 7% to renters.³⁰³ Such subsidies and tax benefits accrue intergenerational wealth in ways that perpetuate inequities based on race, ethnicity, and gender. This is true in the case of tax abuse and corruption as well, with those experiencing the most disadvantage often suffering the worst consequences of tax policies that fail to prevent corruption (including corruption in the area of housing). For example, the *High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda* (FACTI), released a 2021 report that outlines how tax standards applied to multinational corporations – including many involved in housing – systematically disadvantage women. It explains:

“Women are disadvantaged the most by existing frameworks to address tax abuse and corruption, due to gender-based inequality in the ownership of wealth, enterprises, and offshore capital income, as well as unequal burdens of unpaid work when public services are insufficient.”³⁰⁴

The financialization of housing thus has significant implications with regards to governments’ human rights obligations to advance substantive equality and non-discrimination in the area of housing, including on the basis of gender.

³⁰¹ Interview participant, Bruce Porter.

³⁰² Fernandez, R., Hofman, A., & Aalbers, M. B. (2016). London and New York as a safe deposit box for the transnational wealth elite. *Environment and Planning A: Economy and Space*, 48(12), 2443-2461.

³⁰³ Clayton, F. (2010, August 30). *Government Subsidies to Homeowners versus Renters in Ontario and Canada*. Toronto, ON: Federation of Rental-Housing Providers of Ontario. www.frpo.org/wp-content/uploads/2015/04/FRPO-Government-Subsidies-Report.pdf

³⁰⁴ High Level Panel on International Financial Accountability, Transparency, and Integrity for Achieving the 2030 Agenda. (2021). *Financial Integrity for Sustainable Development*. United Nations. https://uploads-ssl.webflow.com/5e0bd9edab846816e263d633/602e91032a209d0601ed4a2c_FACTI_Panel_Report.pdf, p. 21.

Progress on Regulating the Financialization of Housing – Spotlight on Barcelona, Montreal, and British Columbia

As cities around the globe grapple with increasingly financialized housing markets, some cities have emerged as leaders in developing approaches to curbing financialization and its effects. Canadian cities can learn from both international and domestic municipal leadership in this area. Barcelona (Spain) and Montreal (QC) are two cities that provide unique models for addressing the financialization of housing, as does the province of British Columbia.

Barcelona (Spain)

- **Appropriation of empty properties** - In 2018, Barcelona announced that it would appropriate bank-owned properties that had been left empty for more than two years and turn them into social housing.³⁰⁵ The homes, pending appeal, could be overseen by the city for between four to ten years as medium-term residences for people on the public housing list. The city estimated that up to 600 empty apartments could ultimately be used for public service to ease Barcelona's affordable housing shortage.³⁰⁶
- **Forced sale of empty properties to produce low-income housing** - In 2020, the city of Barcelona exerted its power to expropriate and force the sale of empty properties owned by companies.³⁰⁷ In July 2020, the city wrote to 14 companies, collectively owning 194 empty apartments, to warn that if they do not find tenants within the month, the city could take possession of those properties and rent them as public housing to lower-income tenants.³⁰⁸ These companies could also face fines between €90,000 and €900,000 (\$103,000 and \$1,003,000).³⁰⁹

Montreal (QC, Canada)

- **Social & Affordable Housing Requirements** - A new Montreal bylaw set that came into force April 1, 2021, compels developers to offer social housing, affordable housing, and family housing.³¹⁰ To increase social housing, Section 3 of Article 9 requires residential projects totaling more than 450 square meters to do one of the following: (1) transfer a building to the City, (2) make a financial contribution to the City, or (3) a

³⁰⁵ O'Sullivan, F. (2018 April 17). "Barcelona Forces Banks to Turn Repossessed Homes Into Affordable Housing." *Bloomberg CityLab*. <https://www.bloomberg.com/news/articles/2018-04-17/in-search-of-affordable-housing-barcelona-turns-to-reposessed-homes>

³⁰⁶ *Ibid*.

³⁰⁷ Barcelona International Welcome. (2018, April 11). "Expropriation and social use of empty bank-owned flats to resume." *Barcelona International Welcome*. https://www.barcelona.cat/internationalwelcome/en/noticia/expropriation-and-social-use-of-empty-bank-owned-flats-to-resume_640261.

³⁰⁸ O'Sullivan, 2018.

³⁰⁹ *Ibid*, n.p.

³¹⁰ For the purposes of the bylaw, Article 1 states that: social housing is housing eligible for or receiving a subsidy under a municipal or provincial program, cooperatives, and houses developed by the Société d'habitation du Québec; affordable housing is housing in which the selling or rent price does not exceed 90% of the market value of affordable housing or real estate transferred for affordable housing; family housing is a home with a minimum of 3 bedrooms with a minimum living area of 96 square meters in sectors 4 and 5 and 86 square meters in sectors 1 and 2. See: City of Montreal. (2021). *Diverse Metropolis: An overview of the by-law*. Montreal, QC: City of Montreal. <https://montreal.ca/en/articles/diverse-metropolis-overview-law>.

combination of options one and two.³¹¹ For projects that are not in Montreal affordable housing zones,³¹² and exceed 450 square meters in size, developers must make a financial contribution.³¹³ Unfortunately, to date it appears that many developers are choosing to pay the penalty fee rather than build affordable housing.³¹⁴

- **Right of First Refusal** – On March 26, 2020, Montreal's agglomeration council (the government body that adopts bylaws and authorizes expenditures in shared services in Montreal) adopted a bylaw that gives the City of Montreal the ability to exercise a right of first refusal (a pre-emptive right) to purchase properties for social housing. Once a seller accepts an offer of purchase, they are required to send the City a notice of intent along with the purchase offer. The City has sixty days from receipt of the notice to waive the right of first refusal or to exercise the right and purchase the property at the same price and on the same terms and conditions in the offer. The City will then have sixty days to pay the purchase price. If the City exercises the right, it is required to reimburse the unsuccessful purchaser for reasonable expenses incurred in negotiating the purchase offer. The agglomeration council also adopted a resolution that designates the first 196 lots on which they will apply the right of first refusal, and on April 23, 2020 they adopted another resolution designating another 81 lots on which a right of first refusal will be imposed. These lots will be subject to the City's pre-emptive right for a period of 10 years.³¹⁵ Additional lots will be identified and considered for purchase on an ongoing basis under the bylaw.³¹⁶

This right was exercised in 2020 by the City to purchase Plaza Hutchison located in Parc Extension. This property has been empty for the past two-years and condo developers have been making increasingly high offers to purchase it. However, the City used its pre-emptive right of first refusal and matched the latest offer of \$6.5 million to purchase the property. The City plans on converting the building into 40 units of social housing.³¹⁷

British Columbia

- **Speculation and Vacancy Tax** – British Columbia adopted a *Speculation and Vacancy Tax* that contributes to turning empty homes into housing for people living and working in BC and supporting affordable housing initiatives. The tax was created to ensure that foreign owners contribute fairly to BC's tax system. The data

³¹¹ Articles 10 to 17 specify the required minimum financial contributions and the minimum required size for building transfers which depends on the size and location of the new development. See City of Montreal. (2021). Règlement visant à améliorer l'offre en matière de logement social, abordable, et familial. Montreal, QC: City of Montreal.

<https://res.cloudinary.com/villemontreal/image/upload/v1604590571/portail/vtiemm72liypyqnbvn34.pdf> at 5 to 7.

³¹² The bylaw identifies "affordable housing zones," which are zones that are "located in areas of the boroughs of Saint-Laurent and Île-des-Sœurs that have recently been subject to a density increase authorized in the City's urban plan. New affordable housing zones will be added to the bylaw as such urban plan is amended to increase the residential density in a sector." See: Arquin, A., Pignoly, A., & Godin, J. (6 November 2020). *City of Montréal Publishes New Draft of Bylaw 20-20-20 on*

Social, Affordable and Family Housing. Montreal, QC: Davies, Ward, Phillips, & Vineberg. <https://www.dwpv.com/en/Insights/Publications/2020/Nouveau-projet-du-reglement-20-20-20?mode=pdf>

³¹³ Calculation of this contribution is set out in article 22. See City of Montreal, 2021, p.10.

³¹⁴ McKenna, K. (2021, May 25). *Montreal calls a new housing bylaw 'the most powerful in North America' but critics say it'll drive up costs*. CBC News. <https://www.cbc.ca/news/canada/montreal/bylaw-mixed-metropolis-montreal-1.6034993>

³¹⁵ Arquin, A., & Pignoly, A. (2020, April 29). *City of Montréal's Right of First Refusal for Social Housing*. Bulletin. <https://www.dwpv.com/en/Insights/Publications/2020/Droit-de-premier-refus-Montreal-Logement-social>

³¹⁶ *Ibid.*

³¹⁷ Lurie, R., and Ross, S. (2020, September 10). *Parc-Ex building to be affordable housing after city matches developer's \$6.5 million offer*. CTV News. <https://montreal.ctvnews.ca/parc-ex-building-to-be-affordable-housing-after-city-matches-developer-s-6-5-million-offer-1.5100484>

gathering involved with this tax will also aid in detecting and prosecuting instances of money laundering.³¹⁸ The tax rate varies depending on the owner's tax residency status in Canada and on whether the owner is a Canadian citizen or permanent resident, or a 'satellite family'.³¹⁹ For 2019 and subsequent years, the tax rate is 2% for foreign owners and satellite families and 0.5% for Canadian citizens or permanent residents of Canada who are not members of a satellite family.³²⁰ According to the finance minister, the tax is working as intended. While 99% of property owners in BC are not paying the tax, more than 15% of the properties owned by foreigners, totaling 9,386, are not exempt from the tax. The government is forecasting revenue of \$185 million in 2019/20 from this tax.³²¹

- **Property Transfer Tax for Foreign Entities and Taxable Trustees** – In addition to the property transfer tax in BC, foreign nationals, foreign corporations, and taxable trustees may be subject to an additional property transfer tax on their share of a residential property transfer if the property is within specified areas of BC. The tax rate is 15% on transfers on or before February 20, 2018 within the Metro Vancouver Regional District. The tax rate is 20% for transfers made on or after February 21, 2018 within the following areas: Capital Regional District, Fraser Valley Regional District, Metro Vancouver Regional District, Regional District of Central Okanagan, and Regional District of Nanaimo. However, these additional taxes do not apply to properties located on Tsawwassen First Nation lands.³²²

WHERE DO CITIES GO FROM HERE?

In many places around the world, cities are on the frontlines of efforts to prevent or curb financialization – including through policies and bylaws targeted to prevent escalating rental prices, address low rental vacancy rates, and prevent people from falling into homelessness when they can't compete in overheated housing markets. In this section we consider some avenues for action that cities should consider when seeking to address the financialization of housing locally.

1. Embed the right to housing in urban planning processes and practices.

The right to housing, and human rights more broadly, rarely feature prominently in urban planning processes and practices. As Emily Paradis (Canadian Human Rights Commission) explains:

"The difficult part around planning – whether it is redevelopment, whether it is zoning – planners will tell you that as much as their training has trained them to think about things like gentrification, and land value increases, and the impact of speculation on residents – there is literally nothing in the Planning Act that

³¹⁸ Gordon, J. (2019, February 19). Comment: Confronting misinformation about B.C.'s speculation and vacancy tax *Vancouver Sun*. <https://vancouversun.com/opinion/op-ed/comment-confronting-misinformation-about-b-c-s-speculation-and-vacancy-tax>

³¹⁹ PwC Canada. (2018). *Tax Insights: British Columbia implements new speculation and vacancy tax*. <https://www.pwc.com/ca/en/services/tax/publications/tax-insights/british-columbia-implements-new-speculation-vacancy-tax.html#:~:text=The%20term%20E2%80%9Csatellite%20family%E2%80%9D%20refers,Canadian%20personal%20income%20tax%20return.>

³²⁰ Government of British Columbia. (n.d.). *Tax rates for the speculation and vacancy tax* <https://www2.gov.bc.ca/gov/content/taxes/speculation-vacancy-tax/how-tax-works/tax-rates>

³²¹ McElroy, J. (2019, September 12). More than 15% of B.C. properties owned by foreign nationals are paying speculation tax. *CBC*. <https://www.cbc.ca/news/canada/british-columbia/speculation-tax-results-2019-bc-1.5280905>

³²² Government of British Columbia. (n.d.). *Additional property transfer tax for foreign entities and taxable trustees*. <https://www2.gov.bc.ca/gov/content/taxes/property-taxes/property-transfer-tax/additional-property-transfer-tax#specified-areas>

requires ... them to think about the impact of new development on the socio-spatial equity of the neighborhood. Getting a rights-based approach to planning started, starting it at the city level with planning departments, starting it at the bureaucratic level – it could be enormously influential.”³²³

Like Emily, many interview participants discussed the need to bring the NHSA into urban planning conversations and policymaking in cities across Canada, and to train urban planners on what the right to housing is and how it can be applied to address the erosion of affordable housing by developers and investors. The NHSA can provide a framework for these discussions and support a philosophical reorientation towards seeing housing as a right and social good, rather than as a commodity or revenue-generating tool for cities. As articulated by the UN Special Rapporteur on the Right to Adequate Housing, all governments:

“must ensure that human rights are central to financial policy, economic governance, and financial supervisory frameworks, which have traditionally only been responsive to the idea of housing as an asset or investment tool, measured by economic principles such as risk to financial stability, market failure and behavioural economics.”³²⁴

Combined with rights-based approaches to addressing financialization at higher levels of government, centring the human right to housing in urban planning can create the foundation for municipalities to develop planning policies to benefit to residents and those experiencing housing marginalization, rather than developers, REITS, and private equity firms.

2. Preserve the existing stock of affordable housing through community-based, non-market acquisition of distressed housing.

In addition to regulating the role of financial actors in the housing market, cities can adopt a complementary approach of acquiring distressed buildings and transforming them into affordable housing. As explained by Steve Pomeroy, “If you can’t beat them join them – this suggests an approach that would enable community-based non-profit providers to emulate the behavior of the REITs and capital funds to acquire rental buildings with rents at or below the median market rent.”³²⁵ As articulated by the UN Special Rapporteur on the Right to Adequate Housing in her COVID-19 Guidance Note on Financialization, such acquisition strategies can take a number of forms. She advises that governments:

“Re-engage in the provision of housing by increasing stock through acquisitions. This can be initiated by enacting the right of first refusal legislation for sub-national and national governments to purchase for sale properties on the private market. This may include taking steps to convert purchased commercial real estate into temporary and emergency housing in the short-term, with a view to converting the units into affordable and social housing in the long-term. Care must be taken to avoid private investors utilizing their vast finances, which often exceed those of municipalities, to make bids for real estate that are far greater than the market value knowing these cannot be matched, and then implementing even higher rents to recoup the

³²³ Interview Participant, Emily Paradis.

³²⁴ Farha, L. (2020, April 29). *Protecting Housing from Financialization & Building Back Better*. The Shift. <https://www.make-the-shift.org/protecting-housing-from-financialization-building-back-better/>

³²⁵ Pomeroy, S. (2020, May). *Why Canada needs a non-market rental acquisition strategy*. Focus Consulting Inc. https://www.focus-consult.com/why-canada-needs-a-non-market-rental-acquisition-strategy/#_ftn1

higher purchase price. Once purchased, these public assets must be used as social and affordable housing. To this end, States should work collaboratively with national and local public housing providers, community housing associations, housing unions and housing cooperatives.”³²⁶

Relatedly, the Right to Home Municipal Working group has called for the expansion of policy tools to enable cities to expand public housing units,³²⁷ such as the right of first refusal which has been adopted in Montreal.³²⁸ Other cities have seen non-profits and grassroots groups implement models such as community land trusts to preserve affordable housing and land in communities experiencing renovations, gentrification, and other forms of financialization. Canadian cities can more actively support community land trusts through both policy and investments, with *Parkdale Land Trust* and *Hogan’s Alley* providing powerful examples of how this model can work in diverse contexts.

Vancouver has also invested in the community land trust model, with the City of Vancouver partnering with BC Housing, the Co-Operative Housing Federation of BC, Sanford Housing Society, and Tikva Housing Society to implement the Land Trust project which aims to develop 383 units of housing.³²⁹ The Land Trust creates and preserves low- and moderate-income households by holding them in trust so that people can enjoy quality housing at a fair price over the long-term.³³⁰

3. Leverage existing municipal taxation opportunities to generate additional revenue for affordable housing.

As noted, a key aspect of the human rights obligations of cities is the duty to increase the levels of resources that they have available to them in order to progressively realize the human right to housing. Consequently, cities should explore additional avenues for leveraging municipal taxation to support the creation of affordable housing, in addition to lobbying higher levels of government to provide the legislative framework for them to do so. An important avenue for reform is the implementation of taxes on investor-owned properties that remain empty. Global research shows that investors frequently leave properties empty, with recent research indicating that one fifth of investor-owned units in Melbourne were unoccupied,³³¹ as were 40 percent of units in the affluent borough of Kensington and Chelsea in London between 2013 and 2014.³³²

Given evidence that more than 20,000 units in Vancouver are empty or under-utilized,³³³ Vancouver adopted the *Empty Homes Tax*. In Vancouver, properties that are deemed empty are subject to a tax of 1% of the property’s 2019 assessed taxable value. This tax will increase to 1.25% for the 2020 vacancy reference year. Net revenues from the Empty Homes Tax are reinvested into affordable housing initiatives.³³⁴ Under this bylaw, every owner of residential property is required to make a property status declaration each year. Failure to make a declaration by the due date

³²⁶ Farha, 2020.

³²⁷ Right to Home Municipal Working Group, 2021.

³²⁸ Arquin & Pignoly, 2020.

³²⁹ BC Housing. (n.d.). *Vancouver - Land Trust Model Project Overview*. <https://www.bchousing.org/projects-partners/development-projects/vancouver-land-trust-model>

³³⁰ Community Land Trust (n.d.). *Our Growth Timeline*. Vancouver, BC: Community Land Trust. <https://www.cltrust.ca/>

³³¹ Cashmore, C. (2015). *Speculative Vacancies 8: The Empty Properties Ignored by Statistics*. Prosper Australia. www.prosper.org.au/wp-content/uploads/2015/12/11Final_Speculative-Vacancies-2015-1.pdf.

³³² For example, see MHCLG. (2020, May). *Vacant dwellings*. <https://data.london.gov.uk/dataset/vacant-dwellings/resource/c428a18b-9961-4b98-9cfe-b7f120114141>.

³³³ See City of Vancouver. (n.d.) *Empty Homes Tax*. City of Vancouver. <http://vancouver.ca/home-property-development/empty-homes-tax.aspx>

³³⁴ Ibid.

will result in a \$250 bylaw ticket and the property will automatically be deemed vacant and subject to the tax.³³⁵ The latest Empty Homes Tax Annual Report (2018) shows that empty and vacant homes were reduced between 2017 and 2018, and that revenue from the tax and penalties increased,³³⁶ suggesting that this is a model that other Canadian cities should consider.

Further to this, municipalities would benefit from knowing who actually *owns* much of the housing and buildings in their city, and implementing practices for ongoing monitoring of this ownership. While one might think that such information is readily available to municipal governments and other stakeholder groups, in many cases it is not. In recent years, advocacy groups and activists in different parts of the world have sought to identify and document housing ownership by large corporate landlords and REITs. In Germany, for example, *Netzwerk Steuergerechtigkeit und Wem gehört Berlin* is tracking speculative finance investment in housing, and *The Network of Akeilius Tenants* is tracking which buildings in Berlin are owned by Akeilius (a multinational housing corporation rebuked by the UN for its renovation practices³³⁷). Canadian cities and communities should consider investing in such tracking efforts in order to better understand and address the scale and effect of global financial investment in their city's housing.

4. Maximize land use, zoning, and other bylaw opportunities to increase the availability of affordable housing and preserve existing affordable housing units.

In addition to tax reform and community-based housing acquisition strategies, cities should explore what additional policy tools to curb the financialization of housing and preserve affordable housing stock, including those related to land use and zoning. For example, in response to the erosion of affordable housing units, some cities have adopted rental replacement bylaws (e.g., Toronto (ON), Surrey (BC)) whereby: “any existing rental units being demolished under intensification must be replaced, at similar rent levels and similar bedroom count, as part of the new development. This bylaw has a dual effect—it tends to either prevent demolition, or where there is potential for substantial density increase, as necessary to cover the replacement cost, results in a form of rental inclusion.”³³⁸ More broadly, cities may want to consider increased zoning flexibility where affordable or non-market housing is concerned, with planning applications assessed based on actual need, rather than on compliance with strict zoning or legal principles. City staff and officials in the Right to Home Municipal Working Group repeatedly expressed the tremendous difficulties many NGOs, housing providers, and social service organizations face in attempting to access land or housing that is zoned appropriately for them to create affordable or supportive housing (even when they have procured millions of dollars and many partners to advance the project). Reorienting urban zoning and planning using a rights-based approach would assist in addressing these challenges.

³³⁵ City of Vancouver. (n.d.). *Enforcement and penalties*. Vancouver, BC: City of Vancouver. <https://vancouver.ca/home-property-development/empty-homes-enforcement-penalties.aspx>

³³⁶ Housing Vancouver. (2019, November 1). *Empty Homes Tax Annual Report*. Vancouver, BC: City of Vancouver. <https://vancouver.ca/files/cov/vancouver-2019-empty-homes-tax-annual-report.pdf>, p. 2 - 4.

³³⁷ Smee, M. (2020, May 11). “UN accuses Toronto apartment owner of human rights abuses.” *CBC News*. <https://www.cbc.ca/news/canada/toronto/united-nations-toronto-apartment-human-rights-1.5563756>

³³⁸ Pomeroy, 2020.

In the face of deepening housing inequities, other cities have increasingly adopted local policies and bylaws that have helped deter financialization or mitigate its effects. In 2020, for example, Berlin froze rents for 5 years in response to the doubling of rent double over the previous 10 years.³³⁹ The Algerian government provides free government land for housing for those earning less than 1.5 times the minimum wage, and finances the development of such housing.³⁴⁰ Other cities across Canada have adopted inclusionary zoning that requires developers of new market-rate real estate to incorporate affordable housing, including Montreal (QC).³⁴¹ Canadian cities should avail themselves of domestic and international policy examples to guide their efforts to maintain affordable housing that might otherwise be lost to REITs and other developers or investors.

BIG IDEA

Deutsche Wohnen Enteignen

In Berlin, the *Deutsche Wohnen Enteignen campaign* has been fighting to get the expropriation of corporate real estate agencies passed into law. Landlords that own more than 3,000 flats within the city would be taken over by a public agency and would become socialized. Through support from the population of Berlin the campaign has managed to start a referendum that is currently being reviewed by Berlin's parliament.

5. Regulate short-term rentals, such as Airbnb and VRBO.

Global and domestic research has demonstrated the corrosive effect short-term rental housing has on the availability of affordable longer-term rental housing.³⁴² Many cities around the globe have been transformed by the short-term rental boom, which has enabled both corporations and wealthy individuals to enter the housing market and produce short-term (often luxurious) accommodation that removes rental housing stock from the market that could be used for long-term affordable housing.³⁴³ For example, between 7,000 and 13,500 units of long-term rental housing have been lost in New York City due to Airbnb.³⁴⁴ Nonetheless, the regulation of Airbnb and other short-term rental properties in several countries and cities around the world can serve as a model for Canadian cities. Some national governments, including France, have required that Airbnb landlords register their home and display their registration number when advertising.³⁴⁵ Such efforts assist in identifying and limiting commercial operators of short-term rental units, including those that operate so-called "ghost hotels" whereby they rent multiple units they don't actually live at.³⁴⁶ This type of registration also provides opportunities for municipalities to collect taxes that can be re-invested locally, as is being done in Toronto with the adoption of a 4% *Municipal Accommodation Tax* on all

³³⁹ Singh, G. (2020, February 7). "Berlin's rent freeze shows the city is not simply a playground for the rich." *Fair Planet*. www.fairplanet.org/editors-pick/berlins-rent-freeze-shows-the-city-is-not-simply-a-playground-for-the-rich/

³⁴⁰ See Centre for Affordable Housing Finance in Africa. (2014, November). Yearbook 2014 Housing Finance in Africa – A review of some of Africa's housing finance markets. CAHF. <http://housingfinanceafrica.org/documents/housing-finance-in-africa-2014-yearbook/>

³⁴¹ Goulet, F. (2019, June 15). "20-20-20: Montreal Sets New Goals for Inclusionary Zoning." *Planetizen*. www.planetizen.com/news/2019/06/104816-20-20-montreal-sets-new-goals-inclusionary-zoning

³⁴² Aalbers, M. (2016). *Financialization of Housing*. New York: Taylor & Francis. See also August, 2020.

³⁴³ Byrne, M. (2020). Generation rent and the financialization of housing: A comparative exploration of the growth of the private rental sector in Ireland, the UK and Spain. *Housing Studies*, 35(4), 743-765. See also Nethercote, M. (2020). Build-to-Rent and the financialization of rental housing: future research directions. *Housing Studies*, 35(5), 839-874.

³⁴⁴ Wachsmuth, D., Chaney, D., Kerrigan, D., Shillolo, A., & Basalaev-Binder, R. (2018). *The High Cost of Short-Term Rentals in New York City*. Montreal, QC: McGill Urban Planning and Governance Research Group. <https://mcgill.ca/newsroom/files/newsroom/channels/attach/airbnb-report.pdf>.

³⁴⁵ Airbnb. "Responsible Hosting in France." https://www.airbnb.ca/help/article/1383/responsible-hosting-in-france?locale=en&set_beve_on_new_domain=1632175546_NTA1YjFmZWNmZWew.

³⁴⁶ Gallichan-Lowe, S. (2020, August 25). "Toronto introduces new rules for AirBnB, other short term rental platforms." *CityNews*. <https://toronto.citynews.ca/2020/08/25/toronto-introduces-new-rules-for-airbnb-other-short-term-rental-platforms/>

registered short-term rentals.³⁴⁷ Similarly, in May 2018, the city of Barcelona instructed Airbnb to remove 2,577 listings that were found to be operating without a city-approved licence.³⁴⁸ Berlin also passed a law in 2014 that banned any short-term rental that had not received explicit permission to operate from the Berlin Senate.³⁴⁹ Canadian cities should explore these forms of regulation and registration in order to preserve local affordable housing stock.

SUMMARY: PRIORITY 6 – REGULATING THE PRIVATE SECTOR & ADDRESSING THE FINANCIALIZATION OF HOUSING

Key Challenges	Recommendations for Municipalities
<ol style="list-style-type: none"> 1. The financialization of housing is poorly regulated in provincial/territorial legislation and policy, making it difficult for cities to produce affordable housing at the rate that it is being lost. 2. Some government programs are subsidizing corporate landlords and other developers under the guise of creating affordable housing. 3. Canadian governments rely heavily on tax revenue produced through real estate development to fund their budgets, creating a disincentive for them to adopt policies that would curb the financialization of housing. 4. Financialization of housing deepens discrimination and inequities, creating further challenges for cities to advance non-discrimination and substantive equality. 	<ul style="list-style-type: none"> • Embed the right to housing in urban planning processes and practices. • Preserve the existing stock of affordable housing through community-based, non-market acquisition of distressed housing. • Leverage existing municipal taxation opportunities to generate additional revenue for affordable housing. • Maximize land use, zoning, and other bylaw opportunities to increase the availability of affordable housing and preserve existing affordable housing units. • Regulate short-term rentals, such as Airbnb and VRBO.

³⁴⁷ *Ibid.*

³⁴⁸ O'Sullivan, F. (2018, June 6). Barcelona Finds a Way to Control Its Airbnb Market. *CityLab*. <https://www.bloomberg.com/news/articles/2018-06-06/how-barcelona-is-limiting-airbnb-rentals>

³⁴⁹ Library of Congress. (2016, May 24). *Germany: Law Restricting Airbnb and Other Vacation Rentals Takes Effect in Berlin*. Library of Congress. <https://www.loc.gov/item/global-legal-monitor/2016-05-24/germany-law-restricting-airbnb-and-other-vacation-rentals-takes-effect-in-berlin/>

PRIORITY 7: PREVENT EVICTIONS AND PROHIBIT FORCED EVICTIONS

Evictions are one of the most urgent crises currently facing Canadian cities, underpinned by the widespread unaffordability of housing. In Ontario, for example, 40% of tenant households have less than one-month's savings in case of emergencies.³⁵⁰ In 2016, 47% of renters in Toronto lived in unaffordable housing, spending more than 30% of their monthly income on housing costs.³⁵¹ In the midst of the COVID-19 pandemic, these affordability challenges have deepened. Tenants are struggling to pay rent as they face reductions in work hours, new job losses, and ever-increasing housing costs.

International human rights law recognizes that eviction is a significant threat to security, dignity, and may even put one's life at risk.³⁵² This risk is made all the more evident during a global pandemic. The failure to address the evictions and arrears crisis in Canada thus represents a breach of the obligation to progressively realize the human right to housing, and a potential breach of the right to life. As articulated by the UN Special Rapporteur on the Right to Adequate Housing, "The right to adequate housing is not subject to derogation in times of emergency."³⁵³ In this section we consider how FTP policies and legislation shape Canadian cities' ability to prevent evictions and forced evictions, highlighting avenues for action at the municipal level.

International Human Rights Standards

Under international human rights law, eviction should only occur as a last resort. Eviction into homelessness is considered a gross human rights violation.³⁵⁴ Forced evictions are also strictly prohibited, and governments must repeal any laws or policies that facilitate or enable such evictions.³⁵⁵ Human rights standards require that governments implement programs to actively prevent evictions, such as rent stabilization and controls, rental assistance, land reforms, and measures to eliminate underlying causes of eviction.³⁵⁶ The Implementation Guidelines outline the following human rights standards as critical to preventing evictions and the prohibition of forced evictions:

"(a) Forced evictions as defined under international human rights law must be prohibited in all circumstances, regardless of ownership or tenure status of those affected. Victims of forced evictions must receive adequate compensation, reparation and access to housing or productive land as appropriate;

³⁵⁰ Tranjan, R. (2020, March 23). *The Rent is Due Soon: Financial Insecurity & COVID-19*. Ottawa, ON: Canadian Centre for Policy Alternatives. <https://www.policyalternatives.ca/publications/reports/rent-due-soon>

³⁵¹ Canadian Urban Institute. (2019, January). *Toronto Housing Market Analysis*. Toronto, ON: CUI. <https://www.toronto.ca/legdocs/mmis/2019/ph/bgrd/backgroundfile-140633.pdf>

³⁵² Committee on Economic, Social and Cultural Rights. (1997, May 20). *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions*. E/1998/22, para 4.

³⁵³ Farha, L. (2020, April 28). *COVID-19 Guidance Note - Prohibition on Evictions*. The Shift. <https://www.make-the-shift.org/prohibition-on-evictions/>, p. 1-2.

³⁵⁴ See Committee on Economic, Social and Cultural Rights, General Comment No. 7 on forced evictions, para 16.

³⁵⁵ 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." See CESCR General Comment No.7.

³⁵⁶ A/HRC/43/43.

(b) National laws governing evictions must be compliant with human rights norms, including the principle of respect for human dignity and the general principles of reasonableness, proportionality and due process, and should equally apply to those living in homeless encampments. Access to justice must be ensured throughout the process and not just when eviction is imminent. All feasible alternatives to eviction must be explored, in consultation with affected persons. If, after meaningful engagement with those affected, relocation is deemed necessary and/or desired by the community, adequate alternative housing of similar size, quality and cost must be provided in close proximity to the original place of residence and source of livelihood. Evictions must not render people homeless. Access to justice must be ensured throughout the process and not just when eviction is imminent;

(c) In instances of mortgage foreclosure or rent arrears, evictions should only occur as a last resort and after a full exploration of alternative means to resolve outstanding debt, such as through emergency housing benefits, debt rescheduling or, if required, relocation to more affordable housing units meeting adequacy standards;

(d) States should implement programmes to prevent evictions through measures such as rent stabilization and controls, rental assistance, land reform and other initiatives to promote land and tenure security in urban and rural settings. Preventive measures should also be adopted to eliminate the underlying causes of eviction and displacement, such as speculation in land, real estate and housing. No relocation of indigenous peoples is permitted without their free, prior and informed consent.”³⁵⁷

Preventing Evictions & Prohibiting Forced Evictions – Key Challenges & Concerns

Rather than a singular event, evictions are the outcome of processes defined under provincial or territorial landlord/tenant legislation. While this legislation varies across provinces and territories, tenants often face consistent challenges when seeking to avoid an eviction. Similarly, many municipalities face common challenges and barriers to preventing evictions within their city. In the following, we explore key provincial/territorial legislation and policies that are implicated in municipalities’ ability to prevent evictions locally.

1. Household incomes cannot keep up with the escalating cost of housing across Canada, including due to low provincial/territorial social assistance rates.

A critical factor in evictions is poverty; many tenants simply cannot afford to pay the rent. Current rental housing costs do not align with a low-income person’s capacity to pay, including those who are living on social assistance or working minimum-wage jobs.³⁵⁸ Even designated ‘affordable’ units – such as those offered through the RCFI program at 20% below market rent³⁵⁹ – are largely unaffordable for those who living on social assistance or disability benefits. In Toronto, for example a unit offered at 80% of market rent would still be three times the housing

³⁵⁷ A/HRC/43/43, para 38.

³⁵⁸ Pomeroy, 2020.

³⁵⁹ Government of Canada. (n.d.). *Rental Construction Financing*. Ottawa, ON: CMHC. <https://assets.cmhc-schl.gc.ca/sites/cmhc/nhs/rental-construction-financing/nhs-rcfi-highlight-sheet-en.pdf?rev=e821c3c7-9991-42e2-947d-5f50e28e1126>

benefit allocated under Ontario Disability Support (\$375).³⁶⁰ This suggests that the shelter component of social assistance is often severely insufficient to keep people housed or enable them to access housing if they have experienced an eviction. Given this, it is not surprising that a 2020 study in Toronto found that “75 per cent of formal eviction applications were linked to late or non-payment of rent alone.”³⁶¹ The gap between social assistance benefits and actual rental costs puts low-income families and individuals at significant risk of eviction.

2. Legal loopholes in provincial/territorial legislation enable landlords to raise rents above rent control guidelines, contributing to evictions and the loss of naturally-occurring affordable housing.

Even in provinces/territories with rent control guidelines, there are a number of legal loopholes that enable REITS, corporations, and other landlords to raise rents beyond what is outlined in provincial/territorial rent control guidelines. In Ontario, for example, this occurs through two primary mechanisms:

- **Vacancy Decontrol** – Established in 1997 in Ontario, vacancy decontrol means that landlords can increase the rent of units as much as they want between tenancies. In effect, landlords have an incentive to evict tenants from units they anticipate would generate greater revenues in the current market (including after renovations). In 2020, for example, Killam REIT increased rents by 5.6% across its portfolio (well above the standard rent control guidelines) and raised rents in suites that were renovated by 28.2%.³⁶² In effect, higher-income tenants were moved into neighbourhoods that were previously affordable to those with lower incomes, and those with lower incomes are pushed out of these neighbourhoods and often further away from city centres.³⁶³

“The dramatic erosion of existing naturally occurring affordable housing (NOAH) is perhaps the single most important issue and has the potential to completely negate investments under the NHS. The current targets in the NHS are insufficient to even offset these losses, so it is critical to increase targets for new affordable development – including deeply affordable rental homes.”

Above Guideline Increases – Provincial legislation allows above guideline increases which enables landlords to finance repairs, renovate units, or even make cosmetic makeovers to rental units by increasing rental rates by 3% per year above the rental control guideline, over a period of three years.³⁶⁴ These loopholes, similar to legal loopholes in other provinces, can facilitate renovictions, gentrification, and the eviction of those who are barely making ends meet in their current housing.³⁶⁵

3. While some provinces and territories adopted eviction moratoriums during the COVID-19 pandemic, most have now lapsed and a wave of evictions is occurring in many cities across the country.

³⁶⁰ Whitzman, C. (2020). *A Canada Wide Definition of Affordable Housing and Housing Need*.

³⁶¹ Leon & Iveniuk, 2020.

³⁶² See Killam REIT. (2020 November). *Q3-2020 Management's Discussion and Analysis*. Killam REIT.

<https://killamreit.com/sites/default/files/Killam%20Q3%2009-30-2020%20MDA%20FINAL.pdf>

³⁶³ Ali, N., Chan, Y., Vahid Shahidi, F., & August, M. (2021). *Stop COVID Evictions! Rent Relief Now! A demand for social justice and public health*. Keep Your Rent Toronto.

<https://static1.squarespace.com/static/5eb863c8122cea533e169834/t/5fc98b239c93c058c47ba9dc/1607043908077/StopCOVIDEvictions-Final.pdf>

³⁶⁴ Ali et al., 2021.

³⁶⁵ *Ibid.*

Of great relief to many tenants during the pandemic was the adoption of provincial/territorial eviction moratoriums, which sought to prevent landlords from evicting tenants due to non-payment of rent during the pandemic. However, such moratoriums were applied and enforced unevenly and inconsistently across provinces and territories, and a majority were lifted several months into the pandemic despite ongoing job losses and decreases in income.³⁶⁶ As eviction moratoriums have lifted, there has been an increase in online ‘eviction blitzes’ as provinces and territories seek to quickly process the unprecedented eviction applications filed by landlords.³⁶⁷ There are many human rights issues raised by the manner in which these eviction proceedings are occurring, as well as the repayment plans that some landlords are requiring tenants to sign. A recent report by Keep Your Rent Toronto explains:

“Eviction hearings are taking place online, with considerable technical difficulty and a shortage of duty counsel to provide legal advice to tenants. Evictions have been fast-tracked because many tenants have not received notices of their hearings. In many instances, tenants fearful of eviction have signed rent repayment plans with their landlords that can put them at greater risk of having ex parte eviction orders executed against them in case they are even ‘one day late or one dollar short’ in making a payment. Ex parte means there will be no hearing before the LTB to determine whether and why the tenant may have been short in payment.”³⁶⁸

Further, investigations have revealed that some of the LTB adjudicators are not trained in law or tenants rights, and some are political appointees with ties to the real estate industry.³⁶⁹ Given that access to justice is a central and vital component of the enjoyment of the human right to adequate housing, such proceedings raise significant human rights concerns and make breaches of the right both more likely to occur in the first place, as accountability is limited, and more likely to go without remedy.³⁷⁰ Similarly, such proceedings fail to comply with international human rights obligations that evictions only occur as a last resort, after all other options have been exhausted.

4. Provincial/territorial divestment from legal aid supports undermines marginalized groups’ ability to avoid evictions

In recent years, several provinces and territories have significantly reduced spending on legal aid supports, including supports for tenants facing eviction. In 2019, the Ontario government cut \$133 million in funding to Legal Aid Ontario. These cuts disproportionately impact Ontario’s most vulnerable people, including women fleeing domestic violence and refugees fleeing life-threatening persecution.³⁷¹ These are groups who need legal aid in order to address the complex challenges they face. Legal rights and the proper funding of legal aid services are critical to preventing evictions and realizing the right to housing, but provincial/territorial funding cuts are undermining legal aid clinics’ ability to provide these services. Where budgetary cuts lead to decreases in the enjoyment of the human right to adequate housing, such cuts represent retrogressive measures, which are prohibited under international human rights law. The obligation to utilise the maximum of their available resources to progressively realise the human right to housing means provincial and territorial governments should carefully assess spending areas to

³⁶⁶ For an exhaustive review of these moratoriums, see NRHN & CERA, 2021.

³⁶⁷ Ali et al., 2021.

³⁶⁸ *Ibid*, p. 6.

³⁶⁹ *Ibid*, p. 6.

³⁷⁰ A/HRC/40/61.

³⁷¹ Stop Legal Aid Cuts. (2019). *Fact Sheet: Legal Aid Cuts*. <https://www.stoplegalaidcuts.ca/resources>

determine whether introducing cuts would lead to a negative impact on peoples' enjoyment of the right. Should it be determined that cuts are unavoidable, yet certain cuts would decrease enjoyment of the right to housing, alternative sources of budgetary savings must be found.

Progress on Preventing Evictions & Prohibiting Forced Evictions – Programmatic & Policy Interventions

There is a growing evidence base on both policy and programmatic interventions that can help prevent evictions. While programmatic solutions often fail to address the underlying drivers of eviction – such as income inequality, discrimination, and the financialization of housing – they can be combined with structural interventions and policy reform to offer a more robust set of eviction prevention tools for cities. There are many domestic examples of successful programmatic and policy interventions that can help prevent evictions, including the following:

Programmatic Solutions

- **Toronto, ON: Eviction Prevention in the Community (EPIC)** - The City of Toronto's *Eviction Prevention in the Community* (EPIC) program provides eviction prevention services to individuals facing imminent risk of eviction.³⁷² The program offers: "Wrap around case management supports; Mediation with landlords to stabilize housing; Referrals to community legal supports; Navigation/accompaniment to the Landlord Tenant Board; Assistance securing income supports, trusteeship, or money management programs; System navigation and referral to other services and supports; and Rehousing supports and shelter diversion where the existing tenancy cannot be sustained."³⁷³ In its pilot year (2017-2018), 90% of EPIC clients were stabilized in their current housing, 8% were rehoused, and only 2% exited into homelessness.³⁷⁴ The success of the EPIC program was highlighted in the City of Toronto's *HousingTO 2020-2030 Action Plan*, which committed to expanding and extending the EPIC program and set a target of preventing eviction for 10,000 low-income households.³⁷⁵
- **BC: Homeless Prevention Program** - The BC government funds a *Homeless Prevention Program* which provides "individuals in identified at-risk groups facing homelessness with portable rent supplements and support services to help them access rental housing in the private (non-subsidized) housing market." The program seeks to support individuals who are at transition points which put them at heightened risk of eviction and homelessness, including youth transitioning out of foster care, women who have experienced or who are at risk of experiencing violence, individuals leaving correctional or hospital systems, and individuals with Indigenous heritage.³⁷⁶

Policy Solutions – Spotlight on BC

³⁷² HousingTO. (2019, December). *2020-2030 Action Plan*. Toronto, ON: City of Toronto. <https://www.toronto.ca/wp-content/uploads/2020/04/94f0-housing-to-2020-2030-action-plan-housing-secretariat.pdf> at 12.

³⁷³ Ecker, J. Holden, S. & Schwan, K. (2018). *Eviction Prevention in the Community (EPIC) Pilot Program Evaluation*. Toronto, ON: Canadian Observatory on Homelessness. <https://www.homelesshub.ca/resource/eviction-prevention-community-epic-pilot-program-evaluation#:~:text=The%20EPIC%20program%20was%20launched,facing%20imminent%20risk%20of%20eviction.>

³⁷⁴ *Ibid.*

³⁷⁵ City of Toronto, 2019.

³⁷⁶ BC Housing. (n.d.). *Homeless Prevention Program*. Vancouver, BC: BC Housing. <https://www.bchousing.org/housing-assistance/homelessness-services/homeless-prevention-program>

British Columbia has the highest rate of evictions and foreclosures in the country according to a 2018 report from Statistics Canada.³⁷⁷ Data shows that BC's eviction rate is almost 70% higher than the rest of the country, and that 81,200 British Columbians were evicted or lost their home to foreclosure between 2013 and 2018.³⁷⁸ In the midst of these challenges, the BC government has adopted a range of policy tools to prevent evictions, support tenants rights, and improve access to affordable housing, including for those who are vulnerable:

- Given the significant challenges facing renters in BC, the *Rental Housing Task Force* was created in 2018 to advise the Province on how to improve security and fairness for renters and rental housing providers.³⁷⁹ The Task Force is led by and comprised of three Members of Legislative Assembly (MLAs). During 2018, the Task Force conducted a province-wide engagement with landlords, renters, and other citizens about provincial rental laws and policies. The *Rental Housing Review* compiles the findings and 23 recommendations on how to modernize “provincial tenancy laws and processes to provide a fair process for safe, secure and affordable housing.”³⁸⁰ The top recommendation is to stop renovictions.
- The BC Government has taken action in recent years to address housing insecurity caused by fixed-term tenancies, given that such agreements require tenants to move out at the end of the term. In 2017, the provincial government changed the law so that the “vacate clause” in fixed term tenancy agreements cannot be enforced except in some circumstances.³⁸¹ Similarly, in 2019, amendments were made to the Residential Tenancy Act to help renters escape household violence by providing the ability to end fixed-term leases if staying in the unit poses a risk to safety or security.³⁸²
- To improve accessibility of housing, the provincial government announced a \$26 million investment to remove administrative barriers preventing access to income and disability assistance in 2019. During that same year, the BC government committed to removing restrictions from the moving supplement for people on income or disability assistance to help people move to affordable housing.³⁸³ Analysis of the results and impact of these investments are forthcoming.
- In 2020, the provincial government enacted new security deposit rules to make it easier for tenants to recover funds from landlords. If a security or pet deposit is not returned within 15 days of the end of a rental agreement, tenants can submit an application to the RTB.³⁸⁴

³⁷⁷ Statistics Canada. (2019). *Indicators related to moving*. <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=4610004401>

³⁷⁸ St. Denis, 2019.

³⁷⁹ BC Rental Housing Task Force. (2018, December). *Rental Housing Review – Recommendations and Findings*.

https://engage.gov.bc.ca/app/uploads/sites/121/2018/12/RHTF-Recommendations-and-WWH-Report_Dec2018_FINAL.pdf.

³⁸⁰ BC Rental Housing Task Force, 2018, p. 5.

³⁸¹ Government of BC, 2018.

³⁸² Ministry of Municipal Affairs and Housing. (2020, February). *2020/21-2022/23 Service Plan*.

<https://www.bcbudget.gov.bc.ca/2020/sp/pdf/ministry/mah.pdf>

³⁸³ Government of BC, 2019, p. 30.

³⁸⁴ If the application is approved, the tenant “will receive an order for the return of the deposit that they can serve to the landlord or take to provincial small claims court” The new process is meant to be more efficient for both tenants and landlords because it eliminates the need to apply for a dispute resolution hearing with the RTB. See Holliday, 2020.

WHERE DO CITIES GO FROM HERE?

While much legislation and policy concerning tenants rests with provincial and territorial governments, municipal governments have numerous tools available to them to prevent evictions and help stabilize housing for those at risk of homelessness. Avenues for action include:

1. Invest in emergency financial supports for tenants at risk of eviction, such as rent banks or emergency cash relief programs.

For a significant number of people, eviction is linked to poverty, lack of affordable housing, or the result of a temporary or unexpected loss of income, or an unexpected cost or crisis (e.g., a healthcare emergency).³⁸⁵ Given this, the provision of even shallow rent subsidies or emergency cash relief can significantly impact housing retention and prevent homelessness. For example, an emergency cash assistance program in Chicago found that recipients who received a one-time benefit of \$1000 were 76% less likely to experience homelessness than those who did not.³⁸⁶ Given the efficacy of these interventions, and the downstream costs of evictions on governments and people's health and wellbeing, financial interventions should be a key component of Canadian cities' eviction prevention efforts. Nonetheless, rent subsidies are increasingly expensive in financialized housing markets³⁸⁷ and often fail to provide long-term or substantive supports that some tenants need. Rent subsidies may also be difficult to access for particular groups (e.g., youth,³⁸⁸ people with precarious immigration status) and do not redress the structural roots of financialized housing and widespread evictions.

"Right now if municipalities want to make a difference, the most pressing issue is security of tenure and rental arrears. They need to find ways in which they can protect their renters who have been financially impacted by the pandemic. Full stop."

- DJ Larkin, Human Rights Lawyer

2. Improve access to legal information, advice, and representation for persons at risk of eviction, particularly for those who face marginalization.

There is a strong evidence base indicating that legal information, advice, and representation has a significant impact on whether a person is evicted or not. Importantly, research shows even brief legal interventions can effectively prevent evictions. For example, a New York study reported a 98% efficacy rate of preventing evictions when tenants were provided access to an attorney during their court proceeding.³⁸⁹ The efficacy of legal support has even been tested in randomised control settings, with promising results. For example, Seron and colleagues (2001) found that tenants in New York City who received legal supports were significantly less likely to receive an eviction warrant (24% compared to 44% in the control group), and legal representation by an attorney in court significantly lowered eviction warrants for tenants (10% compared to 44% in the control group).³⁹⁰ Given the efficacy of providing legal

³⁸⁵ See Dana, D. A. (2017). An invisible crisis in plain sight: The emergence of the "eviction economy," its causes, and the possibilities for reform in legal regulation and education. *Michigan Law Review*, 115(6), 935-953. See also Desmond, M. (2016). *Evicted: Poverty and profit in the American city*. New York: Crown.

³⁸⁶ Evans, W., Sullivan, J. & Wallskog, M. (2016). The impact of homelessness prevention programs on homelessness. *Science*, 353(6300), 694-699.

³⁸⁷ Pomeroy, 2020.

³⁸⁸ Schwan et al., 2018.

³⁸⁹ Seedco. (2010). *Housing Help Program: Homelessness prevention pilot final report*. New York, NY: Seedco. <https://cdn2.hubspot.net/hubfs/4408380/PDF/General-Housing-Homelessness/Housing-Help-Program.pdf>

³⁹⁰ Seron, C., Frankel, M., Van Ryzin, G. & Kovath, J. (2001). The impact of legal counsel on outcomes for poor tenants in New York city's housing court: Results of a randomized experiment. *Law & Society Review*, 35(2), 419-434.

supports to prevent evictions, and the cost-benefit of such interventions, Canadian cities should significantly invest in programs that provide access to these types of supports. While data on program efficacy is less robust in the Canadian context, *best practice toolkits*³⁹¹ and *literature reviews*³⁹² illustrate the need for these interventions in Canada.

Examples of organizations that provide strong eviction prevention and legal supports include the *Centre for Equality Rights in Accommodation* (Toronto, ON), *Pivot Legal Society* (Vancouver, BC), and *Justice for Children and Youth* (Toronto, ON). In Ontario, one program that provides robust access to legal supports for tenants is the Tenant Duty Counsel Program (TDC). This program is funded by Legal Aid Ontario and provides summary advice and limited representation to tenants at the Landlord and Tenant Board Ontario Tribunal. The TDC equips tenants with knowledge of the law, prepares them for an unfamiliar and intimidating process, informs tenants of their options and rights, helps them to distinguish between their expectations about fairness and justice and the actual merits of their case, and assists them to improve the terms of even unfavorable outcomes.³⁹³ In her evaluation of the program, however, Paradis finds that "...while all informants agreed that summary advice works well for tenants who are capable of self-representation, most also raised the concern that not all tenants are able to apply TDC advice in a hearing or mediation on their own."³⁹⁴

The provision of information about tenant's rights is particularly important for groups who face unique challenges to accessing and maintaining rental housing. For example, research suggests that

"young people often do not know their rights, understand the process, may be intimidated, or are unaware that there are supports available, they may wait too long into the process to seek help. Some may simply cut short the process by leaving their housing prior to getting assistance or receiving a formal eviction order."³⁹⁵

Cities have an obligation to ensure that legal information, advice, and representation is equitably accessible for residents. Working alongside service providers and people with lived expertise can help identify how legal supports and interventions can best reach those who need it the most.

3. Analyze local data on evictions to better understand and address systemic and neighbourhood-based inequities.

The dearth of data on evictions in Canada makes it challenging to assess the scale and severity of housing precarity many people find themselves in, thereby creating barriers to effective policymaking. The data that is available, however, indicates that Black, Indigenous, and racialized persons, as well as single mothers and persons with disabilities, disproportionately experience evictions.³⁹⁶ While municipalities similarly have inconsistent data on evictions, existing research suggests that eviction often occurs at the intersection of race, income, and

³⁹¹ Distasio, J., & McCullough, S. (2016). *Eviction prevention: Toolkit of promising practices*. Winnipeg, MB: University of Winnipeg. <https://winnspace.uwinnipeg.ca/handle/10680/1200>

³⁹² Collins, D., de Vos, E., Evans, J., Mason, M., Anderson-Baron, J., Cruickshank, V., & McDowell, K. (2021) "When We Do Evict Them, It's a Last Resort": Eviction Prevention in Social and Affordable Housing. *Housing Policy Debate*, DOI: [10.1080/10511482.2021.1900890](https://doi.org/10.1080/10511482.2021.1900890)

³⁹³ Advocacy Center for Tenant Ontario. (n.d.). *Tenant Duty Counsel*. Toronto, ON: ACTO. <https://www.acto.ca/our-work/tenant-duty-counsel/>.

³⁹⁴ Advocacy Centre for Tenants Ontario. (2016). *Access to Justice: The Case for Ontario Tenants*. Toronto, ON: ACTO. https://www.acto.ca/production/wp-content/uploads/2017/07/TDCP_Report_2016.pdf, p.12.

³⁹⁵ See Gaetz, S., Schwan, K., Redman, M., French, D., & Dej, E. (2018). *Roadmap for the Prevention of Youth Homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://www.homelesshub.ca/youthpreventionroadmap>

³⁹⁶ NRHN & CERA, 2021.

neighbourhood. For example, a 2020 study by the Wellesley institute on evictions in Toronto (ON) found that “census tracts with 36 per cent Black renter households have twice the eviction filing rates compared to census tracts with 2 per cent Black households, even after controlling for poverty and other important factors.”³⁹⁷ Such findings demonstrate the value of collecting consistent, disaggregated data on evictions at the local level in order for cities to address the systemic and structural drivers of eviction at the municipal level. Given that many Canadian cities have made commitments towards reconciliation, such data will be critical for assessing the extent to which Indigenous community members are being dispossessed of their housing and the need for targeted, culturally-appropriate intervention efforts.

4. Develop screening programs to identify individuals and families at risk of eviction, providing immediate interventions to stabilize housing.

Tenants’ rights lawyers and those providing emergency legal aid often articulate that by the time a tenant seeks assistance, it is often too late in the process to significantly change the trajectory of the eviction.³⁹⁸ Given this, some cities have implemented ‘alarm systems’ across public and private housing systems in order to identify and refer households in need of housing assistance to legal, financial, and social supports or services.³⁹⁹ While there are limited evaluations of such programs to date in the academic literature,⁴⁰⁰ this may be a promising area for Canadian cities to explore as part of their eviction prevention efforts.

³⁹⁷ Leon & Iveniuk, 2020.

³⁹⁸ Jonathan Robart, 2020, personal communication.

³⁹⁹ See, e.g., Phinney, R., Danziger, S., Pollack, H. & Seefeldt, K. (2007). Housing instability among current and former welfare recipients. *American Public Health Association*, 97(5), 832-837; Salize, H., Dillmann-Lange, C., Kentner-Figura, B. & Reinhard, I. (2006). Threatened homelessness and mental disorders: Prevalence and influencing factors in populations at risk. *Der Nervenarzt*, 77(11), 1345-1354.

⁴⁰⁰ See 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>

SUMMARY: PRIORITY 7 – PREVENT EVICTIONS & PROHIBIT FORCED EVICTIONS

Key Challenges	Recommendations for Municipalities
<ol style="list-style-type: none"> 1. Household incomes cannot keep up with the escalating cost of housing across Canada, including due to low provincial/territorial social assistance rates. 2. Legal loopholes in provincial/territorial legislation enable landlords to raise rents above rent control guidelines, contributing to evictions and the loss of naturally-occurring affordable housing. 3. While some provinces and territories adopted eviction moratoriums during the COVID-19 pandemic, most have now lapsed and a wave of evictions is occurring in many cities across the country. 4. Provincial/territorial divestment from legal aid supports undermines marginalized groups' ability to avoid evictions. 	<ul style="list-style-type: none"> • Invest in emergency financial supports for tenants at risk of eviction, such as rent banks or emergency cash relief programs. • Improve access to legal information, advice, and representation for persons at risk of eviction, particularly for those who face marginalization. • Analyze local data on evictions to better understand and address systemic and neighbourhood-based inequities. • Develop screening programs to identify individuals and families at risk of eviction, providing immediate interventions to stabilize housing.

CONCLUSION

Municipalities in Canada currently stand at a crossroads, facing the intersecting crises of housing affordability, homelessness, the COVID-19 pandemic, the opioid emergency, escalating climate change, and the effects of historic and contemporary colonialism. As Canadian cities look ahead, they have the opportunity to become human rights leaders in all of these areas. As articulated in *A Social Charter for the City*,

“Municipal governments are in many cases more progressive forces for social justice and environmental reform [than other levels of government]. Cities have become a site for democratic reform at a time when provincial/territorial and national governments have become a far less accessible democratic influence. In addition, municipalities are critical actors in determining the extent to which social and economic human rights such as the right to housing, the right to food, the right to an adequate standard of living, the right to water and the right to health and education are realized in peoples’ lives.”⁴⁰¹

In light of this progressive potential, this report has explored some the opportunities and challenges Canadian municipalities face in seeking to advance the right to housing locally, identifying how federal and provincial/territorial policies and legislation may help or hinder these efforts. It has provided some key recommendations regarding where cities can go from here, identifying what a local human rights approach to housing might look like in practice.

While not exhaustive, this review suggests that cities will need to establish local human rights infrastructure capable of supporting the progressive realization of the right to housing at the municipal level. Through local charters or declarations, alongside accessible accountability mechanisms, the right to housing can be embedded in local policymaking in ways that transform how cities approach housing. Meaningful progress will require increased interjurisdictional cooperation, as well as bold efforts on the part of cities to assess how existing competencies can be maximized to address housing need within their jurisdictions. This will require a new approach to both budgeting and urban planning, one which centres human rights and the meaningful participation of people with lived expertise.

Across all of these efforts, cities must recognize the distinct rights of Indigenous Peoples, work with Indigenous communities on a nation-to-nation basis, and seek to transfer competencies and decision-making power to local Indigenous communities wherever possible. These principles should guide cities as they increasingly navigate the financialization of housing and the eviction of marginalized and poor community members, necessitating that municipal governments employ innovative strategies to prevent the erosion of affordable housing, re-deploy underused land and buildings, and develop knowledge and data systems capable of identifying and preventing homelessness and eviction.

At the heart of this work must be a commitment to understanding housing as “the right to live in a home in peace, security and dignity.”⁴⁰² Backed by the NHSA, Canadian cities can become international leaders in the area of housing and human rights. This leadership is necessary if we expect to address the challenges at our doorsteps. And if we get this right, cities across Canada can emerge with a housing system that is more inclusive, equitable, resilient, and just.

⁴⁰¹ SRAC & CERA, 2008.

⁴⁰² A/HRC/43/43, para 4.

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APPENDIXES

APPENDIX A – SUMMARY OF RECCOMENDATIONS

Key Challenges to Localizing the Right to Housing	Recommendations for Municipalities
PRIORITY 1: Human Rights Infrastructure	
<p>1. Gaps between international human rights law and the National Housing Strategy that create barriers for municipalities to access resources, implement policies, assess their progress, and develop local strategies in alignment with their human rights obligations.</p> <p>2. Limited infrastructure or mechanisms to support coordination and coherence across provincial/territorial policy areas that impact the right to housing, such as child welfare, social assistance, and policies related to disabilities.</p> <p>3. Failure to recognize the right to housing in provincial/territorial legislation or policy.</p> <p>4. Limited provincial/territorial and federal judicial recognition of the right to housing, preventing the accumulation of jurisprudence that could be used to advance the right to housing locally.</p>	<ul style="list-style-type: none">• Recognize the human right to housing in local charters, declarations, or ordinances.• Implement local accountability and enforcement mechanisms to secure the right to housing, seeking to ensure rights-based participation in the creation of these mechanisms and ongoing assessment of their efficacy.• Collect real-time, person-specific data capable of assessing progress towards realizing the right to housing locally, including in relation to homelessness and core housing need.
PRIORITY 2: PROGRESSIVE REALIZATION	
<p>Federal Challenges</p> <p>1. The funding provided through the NHS does not yet meet the standard of utilizing maximum available resources to support those in greatest need. As of 2021, NHS funds have been underspent and alternative revenue-generating opportunities have not yet been maximized.</p>	<ul style="list-style-type: none">• Train and support municipal staff to understand the human right to housing and how to meet their human rights obligations.• Adopt rights-based budgeting across city departments and divisions, seeking to use maximum available resources to address the housing of needs of those most marginalized.

2. The delivery of NHS programs through cost-sharing, bilateral agreements with the provinces/territories prevents the swift allocation of funds at the municipal level, creating barriers to alleviating housing need and homelessness quickly.
3. Gaps in the NHS's prioritization of resources for those most in need, and the failure to specifically target available resources, has contributed to sub-optimal progress on improving the housing conditions of those who are most marginalized.
4. The NHS has not yet established an Urban, Rural, and Northern Housing Strategy, despite its commitment to do so and the severity of housing inequities faced by Indigenous communities.

Provincial/Territorial Challenges

1. In some cases, provincial/territorial governments have failed to allocate maximum resources available towards supportive, social, or affordable housing, including for those most in need.
2. Many provincial/territorial governments fail to sufficiently invest in homelessness shelters and services relative to need, and in some cases existing investments are not equitably distributed.
3. Failure to adopt the United Nations Declaration on Indigenous Peoples within provincial/territorial legislation or policy.

- Embed Indigenous Peoples' right to housing and distinct rights under UNDRIP in municipal housing strategies and plans to end homelessness, transferring decision-making power and resources to local Indigenous communities wherever possible.
- Maximize all available jurisdictional powers to implement zoning policies, municipal bylaws, and other policies that can accelerate the creation of affordable housing.

PRIORITY 3: MEANINGFUL PARTICIPATION

1. FTP and municipal governments have implemented limited mechanisms through which people with lived expertise can participate in program or policy design. Individuals experiencing the most severe forms of housing marginalization often face the greatest barriers to participation, including due to language, ability, citizenship status, and/or systemic discrimination.
2. Where Canadian governments have created opportunities for people with lived expertise to participate in policymaking processes, this inclusion

- Develop municipal infrastructure that embeds the meaningful participation of people with lived expertise into all policy development relevant to housing and homelessness. Such mechanisms should be co-developed with these experts, based in rights-based principles of participation, and be equitably and permanently funded.
- Advance participation of Indigenous Peoples in all municipal policy areas that affect the right to housing locally, in alignment with UNDRIP and the principles of free, prior, and informed consent.

is often not accompanied by respective authority or power.

- Adopt LEAC Principles within local policy making processes related to housing and homelessness, seeking to ensure equitable decision-making power is allocated to people with lived expertise.

PRIORITY 4: End Homelessness & the Criminalization of Homelessness

1. There is a jurisdictional disconnect between revenue and responsibility with regards to the realization of the right to housing, with municipalities often bearing the burden of addressing homelessness but lacking the tax base to address the scale of the issue.

2. There has been limited action from federal or provincial/territorial governments to address the widespread discrimination against people on the basis of housing status, and protection against this form of discrimination is not well established in provincial/territorial legislation or policy.

3. Some of the affordability metrics used to allocate federal homelessness and housing funds fail to reflect the depth of housing marginalization and poverty experienced by people who are homeless. This makes it more difficult for cities to eliminate homelessness swiftly and in alignment with their human rights obligations.

- Re-deploy city-owned land and buildings, and acquire existing distressed properties, to create permanent housing for people experiencing homelessness on an urgent basis.
- Work with provincial/territorial and federal governments to identify and implement additional revenue-generating mechanisms at the local level to address homelessness, such as tourist tax, excise tax, or congestion pricing.
- Implement local anti-discrimination campaigns focused on eliminating stigma and discrimination on the basis of housing status.
- Adopt a human rights-based approach to encampments, using [*A National Protocol for Homeless Encampments in Canada*](#) to guide development of a local strategy.
- Ensure that local homelessness and VAW housing and service providers have the training and supports they need to employ a rights-based approach to service delivery.

PRIORITY 5: Advance Substantive Equality for Marginalized Groups & Prioritize Those Most in Need

SPOTLIGHT: Women, Girls, & Gender Diverse People

1. Inequitable federal investments in emergency shelter beds.
2. Chronic provincial/territorial underinvestment in Violence Against Women Shelters and Services.
3. Conflicting and contradictory policies across provincial/territorial public systems can undermine

- Set local targets, timelines, outcomes, and indicators that redress systemic barriers to adequate housing experienced by those in the most need.
- Conduct GBA+, rights-based audits of local policies and programs relevant to securing the right to housing.
- Actively participate in interjurisdictional and cross-sectoral cooperation in order to transform public system policies that undermine the right to housing.

housing stability for women and exacerbate family dissolution.

PRIORITY 6: Regulate the Private Sector & Address the Financialization of Housing

1. The financialization of housing is poorly regulated in provincial/territorial legislation and policy, making it difficult for cities to produce affordable housing at the rate that it is being lost.

2. Some government programs are subsidizing corporate landlords and other developers under the guise of creating affordable housing.

3. Financialization of housing deepens discrimination and inequities, creating further challenges for cities to advance non-discrimination and substantive equality.

- Embed the right to housing in urban planning processes and practices.
- Preserve the existing stock of affordable housing through community-based, non-market acquisition of distressed housing.
- Leverage existing municipal taxation opportunities to generate additional revenue for affordable housing.
- Maximize land use, zoning, and other bylaw opportunities to increase the availability of affordable housing and preserve existing affordable housing units.
- Regulate short-term rentals, such as Airbnb and VRBO.

PRIORITY 7: Prevent Evictions & Prohibit Forced Evictions

1. Household incomes cannot keep up with the escalating cost of housing across Canada, including due to low provincial/territorial social assistance rates.

2. Legal loopholes in provincial/territorial legislation enable landlords to raise rents above rent control guidelines, contributing to evictions and the loss of naturally-occurring affordable housing.

3. While some provinces and territories adopted eviction moratoriums during the COVID-19 pandemic, most have now lapsed and a wave of evictions is occurring in many cities across the country.

4. Provincial/territorial divestment from legal aid supports undermines marginalized groups' ability to avoid evictions.

- Invest in emergency financial supports for tenants at risk of eviction, such as rent banks or cash relief programs.
- Improve access to legal information, advice, and representation for persons at risk of eviction, particularly for those who face marginalization.
- Analyze local data on evictions in order to better understand and address systemic and neighbourhood-based inequities.
- Develop screening programs to identify individuals and families at risk of eviction, providing immediate interventions to stabilize housing.

APPENDIX B – GLOSSARY OF TERMS⁴⁰³

Affordable Housing: Any type of housing - including rental/home ownership, permanent/temporary, for-profit/non-profit - that costs less than 30% of a household's pre-tax income.

At-Risk of Homelessness: People who are not currently experiencing homelessness, but whose current economic and/or housing situation is precarious or does not meet public health and safety standards.

Canadian Human Rights Act: A federal law that protects all people who are legally in Canada from discrimination by federally regulated employers and service providers.

Chronic Homelessness: According to *Reaching Home: Canada's Homelessness Strategy Directives*, chronic homelessness refers to individuals who are currently experiencing homelessness AND who meet at least 1 of the following criteria:

- Experienced at least 6 months (180 days) of homelessness over the past year
- Recurrent experiences of homelessness over the past 3 years, with a cumulative duration of at least 18 months (546 days).

Core Housing Need: As defined by Statistics 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.).

Demoviction: A demoviction is when a tenant is displaced from their rental unit as a result of their home being demolished by their landlord or other actor.

Financialization of Housing: As defined by the United Nations Special Rapporteur on the Right to Adequate Housing, the 'financialization of housing' refers to "structural changes in housing and financial markets and global investment whereby housing is treated as a commodity, a means of accumulating wealth and often as security for financial instruments that are traded and sold on global markets. It refers to the way capital investment in housing increasingly disconnects housing from its social function of providing a place to live in security and dignity and hence undermines the realization of housing as a human right" (A/HRC/34/51, para 1).

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

⁴⁰³ This Glossary of Terms is drawn from existing the glossary of terms made available through the Canadian Human Rights Commission, the Homeless Hub, the National Housing Strategy, The Shift, and RenovictionsTO unless otherwise specified.

Inclusion: An approach that aims to reach out to and include all people, honouring the diversity and uniqueness, talent, beliefs, backgrounds, capabilities, and ways of living of diverse individuals and groups.

Intersectionality: An analytical framework for understanding how aspects of a person's social and political identities combine to create different models and experiences of discrimination and privilege.

Renoviction: Renoviction is when a landlord evicts a tenant on the basis that they need to complete major renovations to the unit. This can be through displacing the tenant to perform the renovations, or after the renovations have been completed and the tenant cannot afford the rent increase that follows. This can be done formally or informally, and landlords may pressure tenants to move using various strategies.

People with Lived Expertise - The term "people with lived expertise" is used throughout this report to refer to people who have experienced homelessness or housing precarity (currently or in the past). The term "lived expertise" is used, rather than "lived experience," to acknowledge that these experiences generate knowledge and insights that constitute a form of expertise. This expertise is critical to generating policy and programs that meaningfully improve housing conditions for people who are homeless or precariously housed.

APPENDIX C – INTERVIEW PARTICIPANTS

Interviewee	Profile
Michèle Biss	Michèle Biss is the Project Manager of the National Right to Housing Network at the Canadian Alliance to End Homelessness (CAEH). Prior to her work at the CAEH, Michèle was the Policy Director and Human Rights Lawyer at Canada Without Poverty. She is a human rights lawyer and was called to the Ontario bar in 2014. As an expert in economic and social rights, she has presented at several United Nations treaty body reviews and at Canadian parliamentary committees on issues related to poverty.
Alyssa Brierly	A lawyer and public policy professional, Alyssa Brierley works to advance human rights in housing as Executive Director and General Counsel for the Centre for Equality Rights in Accommodation. Previously she was a senior advisor to the Minister of Economic Development, Employment, and Infrastructure and to the President of the Treasury Board. In 2012, Alyssa was awarded the Queen's Diamond Jubilee Medal for her dedication to community service.
Robert Byers	Robert Byers is Chief Executive Officer of Namerind Housing Corporation (Winnipeg) and Director of Indigenous Communities for Canadian Housing and Renewal Association, for which he chairs the association's Indigenous Housing Advisory Caucus. Recently he was elected Chair to the Executive Leadership Council for Regina's Plan to End Homelessness. Additionally, as a member of the National Advisory Committee on Homelessness, Robert provided input to preventing and reducing homelessness and how to redesign the Homelessness Partnering Strategy post-2019.
Chelsea Combot	Chelsea Combot is Policy Coordinator and a Housing Policy Analyst at Ontario Federation of Indigenous Friendship Centres. She is a Métis graduate of the University of Winnipeg who holds a degree in Politics and a certificate in Public Policy and Administration. She is responsible for advancing policy positions that reflect urban Indigenous communities' needs.
Leilani Farha	Leilani Farha is the former <i>UN Special Rapporteur on the Right to Housing</i> and Global Director of The Shift. Leilani has helped develop global human rights standards on the right to housing, including through her topical reports on homelessness, the financialization of housing, informal settlements, rights-based housing strategies, and the first UN Guidelines for the implementation of the right to housing. She is the central character in the documentary <i>PUSH</i> regarding the financialization of housing, screening around the world. Leilani Launched The Shift in 2017 with the UN Office of the High Commissioner for Human Rights and United Cities and Local Government.
DJ Larkin	DJ Larkin is a lawyer experienced in human rights and constitutional law. They have worked as a staff lawyer, campaigner and researcher with the Pivot Legal Society, a Vancouver-based human rights organization that uses the law to address the root causes of marginalization and social exclusion, and presently sit on the steering committee of the National Right to Housing Network.
Debbie McGraw	Debbie McGraw is Co-Chair of the Canadian Lived Experience Leadership Network and has worked tirelessly since 1995 on eliminating poverty in Saskatchewan, as well as in Canada. She spent many years as an advocate, activist and researcher on social issues, such as housing, homelessness, women's issues and poverty. She spent eight years on the Canada Without Poverty board and recently co-founded the Lived Experience Advisory Council Canada (now the Canadian Lived Experience Leadership Network) who developed the "Seven Principles of Inclusion". Debbie's strength for this work came from her own lived experiences.

Elizabeth McIsaac	Elizabeth McIsaac is the President of Maytree, a Canadian NGO working to advance systemic solutions to poverty through a human rights approach. She previously served as Maytree's Director of Policy and was the executive director of the Toronto Region Immigrant Employment Council (TRIEC). Elizabeth established and led Mowat NFP (a research hub for Not-for-Profit Policy) at the Mowat Centre. Elizabeth holds an MA in Sociology in Education from the University of Toronto – Ontario Institute for Studies in Education.
Emily Paradis	Emily Paradis has been an activist, researcher, advocate and front-line service provider on issues of housing and homelessness for more than 30 years. Her research and practice aim to support marginalized communities in claiming spaces and rights in the city. Dr. Paradis recently joined the Office of the Federal Housing Advocate at the Canadian Human Rights Commission. She has been an instructor with the Urban Studies Program of Innis College at University of Toronto, a <u>Maytree</u> fellow, a collaborator with the <u>Canadian Observatory on Homelessness</u> , member of <u>Right to Housing Toronto</u> and the <u>Right to Housing Coalition</u> , Co-Chair of <u>Build a Better Bloor-Dufferin</u> , and former research manager of the <u>Neighbourhood Change Research Partnership</u> . As an independent consultant, she has conducted research and evaluation with partners including <u>Advocacy Centre for Tenants Ontario</u> , Legal Aid Ontario, <u>Parkdale Neighbourhood Land Trust</u> , Sistering, <u>Social Planning Toronto</u> , and the City of Toronto. Her areas of focus include human rights in housing; participatory research and policy; homelessness among women and families; preservation of low-barrier affordable housing; and municipal policies on housing and homelessness.
Margaret Pfoh	<p>Margaret is Tsimshian from the Eagle Clan of the Gitga'a't First Nation. She joined the non-profit housing sector 25 years ago and is the CEO of the Aboriginal Housing Management Association (AHMA). Margaret's career has been built on her dedication to serve and support the Indigenous Peoples of British Columbia and she currently serves on both the CHRA's Indigenous Housing Advisory Caucus and the CHRA's Board of Directors. Her devotion to Indigenous communities expands far beyond the Provincial Housing Sector. Margaret actively represents the urban Indigenous voice at both national and international levels, addressing human rights violations and advancing housing rights for all Indigenous Peoples in Canada.</p> <p>Margaret's dedication to AHMA propelled her into a variety of influential roles, from President to Director and now welcomes in her fourth year as CEO. AHMA is the first housing authority of its kind in Canada and only second in the world. In 2019 Margaret lead AHMA to partner with the government of British Columbia to create the historic Building BC: Indigenous Housing Fund (IHF). This monumental initiative made BC the first province in Canada to offer provincial funding to all Indigenous Peoples living both on-reserve and in Urban, Rural and Northern regions.</p> <p>Margaret is an impactful public speaker and continues to advocate and protect the inherent human rights of Indigenous Peoples at conferences and engagements worldwide. She was a key note speaker and panelist at the largest affordable housing conference in the southeast Asian hemisphere, the 2019 National Housing Conference in Darwin, Australia. Margaret was also part of a nation wide coalition with the United Nations Special Rapporteur to the Right to Adequate Housing Leilani Farha and Indigenous Housing leaders from across Canada.</p>
Bruce Porter	Bruce Porter is the Executive Director of the Social Rights Advocacy Centre and a leading Canadian and international expert on the right to housing with a lifelong commitment to working collaboratively with people living in poverty and homelessness.
Effie Vlachoyanacos	Effie Vlachoyanacos (she/her) is Director of Community Investment and Engagement at Maytree. She leads Maytree's grants program and engagement work to build participation in, and the development of, civic processes that include the voices of people with lived experience of poverty. Effie has spent over 15 years working with resident and tenant leaders, and communities across Toronto's inner suburbs in systems change work that has resulted in progressive changes in affordable housing, public transit and community economic development. She holds a BA and a BSW from York University.

Al Weibe	<p>Al Weibe is Co-Chair of the Canadian Lived Experience Leadership Network and Chair of the Lived Experience Circle in Winnipeg. Al spent 26 months homeless on the streets of Winnipeg and is now a 24/7 advocate for people experiencing homelessness and those in poverty. Al directs a lived experience led empathy-driven housing program in Winnipeg, Toronto, and Vancouver. He is facilitating a lived experience leadership program that promotes Persons with Lived Experience to leadership roles in a 3-year national project. Al hosts a radio show "Of no fixed address" to help educate and advocate for poverty and homelessness and specializes in Community and peer engagement. He serves on many boards and committees from homelessness, to poverty health, and human rights with the city's "Human rights committee of council." Al also serves on the Reaching Home Community Advisory board in Winnipeg.</p>