

THE RIGHT TO HOUSING IN CANADA

BACKGROUND & FACT SHEET



THE NATIONAL
RIGHT TO HOUSING
NETWORK

1 Overview

2 The Right to Housing in Canada

4 Core Components of Rights-Based Accountability in the NHS Act

9 Realizing the Right to Housing in Canada

12 FAQ

- What is the right to housing in the Canadian context?
- Doesn't recognizing housing as a human right mean the government must provide everyone with housing?
- What does 'progressive realization of the right to housing' mean?
- What is the Housing Advocate's role?
- What is the role of the National Housing Council and why do we need one?
- What is the role of the review panel? What types of issues will be heard and what will the hearings be like?
- How can I access the right to housing under the new legislation?
- Will the accountability to the right to housing in the NHS Act address the housing crisis in Canada? How does this help people who are homeless or living in inadequate or unaffordable housing?
- How does Canada's right to housing measure up to the International Covenant?
- Will this legislation create meaningful change?
- How does the legislation implement a participatory rights-based approach?
- How can provinces and cities adopt similar strategies and align the programs with the right to housing and the NHS?

19 How We Got Here

- Who We Are

21 Get Involved

Overview

The National Housing Strategy (NHS) introduced on November 22, 2017, promised rights-based legislation to implement the government's commitment to the progressive implementation of the right to housing, as guaranteed in the International Covenant on Economic, Social and Cultural Rights. That promised legislation, [the National Housing Strategy Act](#), received Royal Assent on June 21, 2019.

The NHS Act brings Canada in line with international standards, which require the right to housing to be ensured not only through policies and programs but also through independent monitoring and access to hearings and effective remedies. It does so through a unique model that does not rely on courts but on alternative, accessible and participatory mechanisms that give a meaningful voice and role to rights-holders and provide for investigation, hearings and recommendations to ensure compliance with the commitment to the progressive realization of the right to housing.

This legislation affirms that the government's housing policy is based on the recognition of the right to housing as it is understood in international human rights law. This means recognizing that all people have the "right to live somewhere in security, peace and dignity," according to the United Nations. It requires the government to implement reasonable policies and programs to ensure the right to housing for all within the shortest possible timeframe. It also means priority must be given to vulnerable groups and those in greatest need of housing.

After the NHS Act was first introduced in late 2017, on August 14, 2018, advocates released an open letter to Prime Minister Justin Trudeau, signed by over 170 organizations and prominent Canadians (totaling 1,100 signatories), urging him to enshrine the right to housing in the Act. On April 8, 2019 the NHS Act was introduced in the Budget Implementation Act, 2019 (Bill C-97). The legislation, as first introduced, affirmed a commitment to the progressive realization of the right to housing as recognized under international human rights law, requires that future governments adopt and maintain a national housing strategy, and established a National Housing Council and federal Housing Advocate. It lacked, however, any meaningful accountability for the commitment to the right to housing and didn't provide for hearings.

The Right to Housing Campaign—building off of over 30 years of grassroots advocacy, engagement with UN human rights bodies and court challenges proposed critical amendments pressing for a stronger commitment to the right to housing and the addition of appropriate rights-based accountability mechanisms, including access to hearings into important systemic issues. Our proposed changes were eventually supported in large part by the government and the government introduced amendments to clarify and enhance the rights-based approach.

Amendments to the Act were tabled on May 31, 2019 in the House of Commons to clarify and enhance the rights-based approach, reflecting many of the recommendations made by a broad range of civil society organizations, housing experts, as well as by United Nations human rights bodies.

After Bill C-97 received Royal Assent on June 21, 2019, the **National Right to Housing Network** formed to mobilize a broad-based, grassroots civil society network to fully realize the right to housing in Canada.

The Right to Housing in Canada

In the NHS Act, Canada has recognized its commitment to the right to housing in federal legislation for the first time in its history. The legislation recognizes that housing is a fundamental human right and commits the government of Canada to the progressive realization of the right to housing as guaranteed in international human rights law ratified by Canada.

Canada's innovative model does not give rise to legally binding orders from a court or an official tribunal, but it creates meaningful accountability and access to justice for the right to housing through other means. Issues of compliance with the right to housing can be submitted to the Housing Advocate for investigation and recommendations. Rights holders will have access to accessible hearings into key systemic issues, before a panel with expertise in human rights and housing with at least one representative of affected communities. The legislation ensures that findings and recommendations from the Housing Advocate and the Review Panel will not be ignored and must be responded to by the federal government in a timely and meaningful fashion.

As it is written, the legislation:

- Declares that it is the housing policy of the Government of Canada to recognize housing as a fundamental human right and to progressively realize this right in accordance with international human rights law;
- Requires future governments to develop and maintain a national housing strategy to further this policy commitment, taking into account key principles of a human rights-based approach;
- Establishes a National Housing Council to further the commitment to the right to housing and advise the Minister on the effectiveness of the Housing Strategy;
- Establishes a Federal Housing Advocate, supported by the Canadian Human Rights Commission to:
 - Assess and advise the federal government on the implementation of its commitment to the right to housing, particularly with respect to vulnerable groups and those who are homeless;
 - Initiate inquiries into incidents or conditions in a community, institute, industry or economic sector;
 - Monitor progress in meeting goals and timelines policy;
 - Receive and investigate submissions on systemic issues from affected groups;
 - Submit findings and recommended action to the designated Minister to which the Minister must respond within 120 days; and
 - Refer key systemic issues for accessible hearings before a Review Panel.
- Provides for a Review Panel, made up of three members appointed by the National Housing Council to hold hearings into selective systemic issues affecting the right to housing and submit its findings and recommended measures to the government through the designated federal Minister.
- Requires the Minister to respond to findings and recommendations within 120 days.

If these mechanisms are properly implemented, with adequate resources and qualified staff and appointments, the NHS Act will create a vibrant human-rights culture within which to reorient and invigorate housing policy and programs, creating a space for multi-stakeholder engagement around a shared commitment to reducing and eliminating homelessness and reclaiming housing as a fundamental human right.

See Elizabeth Mclsaac and Bruce Porter's article in the Literary Review of Canada:

"Housing Rights - Ottawa takes a historic step forward."

Core Components of Rights-Based Accountability in the NHS Act

The legislated right to housing includes infrastructure to implement a rights-based approach to housing including a Housing Advocate, Housing Council and support for community-based tenant initiatives. The core principles of the legislation incorporate a framework of human rights accountability. It situates the Housing Advocate as an independent office within the Canadian Human Rights Commission, provides for petitions raising systemic issues to be investigated by the Housing Advocate and enables the Housing Advocate to refer selective systemic issues related to the progressive realization of the right to adequate housing (not individual complaints) for hearings before a specialized panel with expertise in housing and human rights. The Housing Advocate and the Review Panel will issue findings and recommendations for action to which the government, through the designated Minister, is required to respond within 120 days.

All the components in the legislation are important, but the following list provides context to the components necessary to meaningful, rights-based accountability to the right to housing.

Accountability to the progressive realization of the right to housing consistent with international human rights (i.e. not just an affirmation of a government commitment to the right to housing).

The Act affirms the government's commitment to the progressive realization of the right to housing and, most importantly, ensures accountability to that commitment. The Housing Council has the mandate to further the policy and provide advice on how to implement it effectively; the Housing Advocate monitors progress, receives submissions from affected groups about systemic issues; investigates areas of concern; refers systemic issues to hearings; makes findings and recommends actions to be taken by the government, requiring a response within 120 days; Review Panels hold hearings into systemic issues related to the right to housing and submit opinions and recommended action to the government, requiring a response within 120 days.

EXTRACT 1:

Housing Policy Declaration

Declaration

- 4** It is declared to be the housing policy of the Government of Canada to
- (a) recognize that the right to adequate housing is a fundamental human right affirmed in international law;
 - (b) recognize that housing is essential in the inherent dignity and well-being of the person and to building sustainable and inclusive communities;
 - (c) support improved housing outcomes for the people of Canada; and
 - (d) further the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights.

EXTRACT 2:

Development and maintenance

5 (1) The minister must develop and maintain a national housing strategy to further the housing policy, taking into account key principles of a human rights-based approach to housing.

Targets, timelines, and independent monitoring consistent with human rights obligations (e.g. not just reducing homeless by half by 2030 but eliminating homelessness in the shortest possible time).

EXTRACT 1:

Content

(b) establish national goals relating to housing and homelessness and identify related priorities, initiatives, timelines and desired outcomes.

EXTRACT 2

6 (1) A council, to be known as the National Housing Council, is established for the purpose of furthering the housing policy and the National Housing Strategy by

- (a) providing advice to the Minister, on its own initiative or at the request of the Minister, including, among other things, on the effectiveness of the National Housing Strategy; and
- (b) undertaking any other activity that the Minister specifies.

EXTRACT 3:

Federal Housing Advocate – Duties and Functions

b) monitor progress in meeting the goals and timelines — and in achieving the desired outcomes — set out in the National Housing Strategy;

An independent Housing Advocate to assess compliance with the progressive realization of the right to housing (i.e. not just to “report” on systemic issues). The Housing Advocate is independent of CMHC, housed within and provided with support from the Canadian Human Rights Commission. It’s role under the Act is clearly framed around the implementation of the right to housing as affirmed in the Housing Policy; monitoring progress in meeting goals and timelines; investigating systemic issues affecting the right to housing; engaging with rights-holders; making findings and recommendations to the government and working with affected groups to present systemic issues to the Review Panel.

EXTRACT 1:

Federal Housing Advocate

Duties and functions

13 (1) There is to be a Federal Housing Advocate whose mandate is to

- (a) monitor the implementation of the housing policy and assess its impacts on persons who are members of vulnerable groups, persons with lived experience of housing need and persons with lived experience of homelessness;
- (b) monitor progress in meeting the goals and timelines – and in achieving the desired outcomes – set out in the National Housing Strategy;

- (c) analyze and conduct research, as the Advocate see fit, on systemic housing issues, including barriers faced by persons referred to in paragraph (a);
- (d) initiate studies, as the Advocate sees fit, into economic, institutional or industry conditions – respecting matters over which Parliament has jurisdictions – that affect the housing system;
- (e) consult with persons referred to in paragraph (a) and civil society organizations with respect to systemic housing issues;
- (g) provide advice to the minister;
- (h) submit a report to the Minister on the Advocate’s findings and any recommendations to take measures to respecting matters over which Parliament has jurisdiction, to further the housing policy, including the progressive realization of the right to adequate housing, and the National Housing Strategy; and
- (i) participate in the work of the National Housing Council.

Meaningful participation of affected groups in all aspects of the housing strategy and the implementation of the right to housing. (i.e. not just consultations with affected groups but a rights-claiming mechanism for meaningful participation and accountability). The Act ensures that there will be representation of affected groups in all aspects of the implementation of the right to housing, including representation on the Housing Council, representation on the Review Panel and direct engagement with the Housing Advocate in identifying systemic issues and presenting them to review panels.

EXTRACT 1:

National Housing Council: Factors to consider in Appointments

- (3) In appointing members, the Minister is to take into consideration the importance of representation on the Council of
 - (a) persons who are members of vulnerable groups;
 - (b) persons with lived experience of housing need, as well as those with lived experience of homelessness;
 - (c) persons who reflect the diversity of Canadian society; and
 - (d) persons who have expertise in human rights.

EXTRACT 2:

Federal Housing Advocate

Duties and functions

- (a) monitor the implementation of the housing policy and assess its impact on persons who are members of vulnerable groups, persons with lived experience of housing need and persons with lived experience of homelessness;
- (c) analyze and conduct research, as the Advocate sees fit, on systemic housing issues, including barriers faced by persons referred to in paragraph (a);
- (e) consult with persons referred to in paragraph (a) and civil society organizations with respect to systemic housing issues;
- (f) receive submissions with respect to systemic housing issues

Federal Housing Advocate

Submissions – power to review issues

13.1 (1) The Federal Housing Advocate may conduct a review of any systemic housing issue that is raised in a submission received under paragraph 13(f)

Submissions – power to request establishment of review panel

(2) The Federal Housing Advocate may request that the National Housing Council establish a review panel to hold a hearing to review any systemic housing issue within the jurisdiction of Parliament that is raised in a submission received under paragraph 13(f).

Review Panel

Factors to consider

- (2) In appointing members to a review panel, the National Housing Council is to take into consideration the importance of representation on the review panel of
- (a) persons who are members of vulnerable groups;
 - (b) persons with lived experience of housing need, as well as those with lived experience of homelessness; and
 - (c) persons who have expertise in human rights.

Report

(4) If the Federal Housing Advocate conducts a review of the systemic housing issue, he or she must, at the conclusion of the review, provide the Minister and the person or group that presented the submission with a report setting out the Advocate's opinion on the issue and any recommendation to take measures – respecting matters over which Parliament has jurisdiction – to further the housing policy, including the progressive realization of the right to adequate housing, or the National Housing Strategy.

Annual Report

16 (1) The Federal Housing Advocate must, within 30 days after the end of each fiscal year, submit a report to the Minister for that year on systemic housing issues faced by persons who are members of vulnerable groups and by persons with lived experience of housing need, as well as those with lived experience of homelessness, and in that report to the Advocate is to

- (a) provide a summary of his or her activities, any submissions received, the results of the consultations and of any analysis and research; and
- (b) recommend measures within the authority of the Government of Canada to address those issues, taking into account the housing policy.

Providing affected groups and advocates with access to public hearings into important systemic issues related to the right to housing before a panel with expertise in the right to housing. The NHS Act introduces a participatory and innovative model of human rights review outside of the court system, in which systemic issues can be presented by affected groups, with the support of the Housing Advocate and presenting evidence from experts.

EXTRACT 1:

Power to request establishment of review panel

13.2 (1) If the Federal Housing Advocate, at any time, identifies a systemic housing issue that is within the jurisdiction of Parliament and that is not the subject of a submission, he or she may request that the National Housing Council establish a review panel to hold a hearing to review the issue.

EXTRACT 2:

Duties

16.3 A review panel must

- (a) hold a hearing to review the systemic housing issue in respect of which it was established;
- (b) hold the hearing in a manner that offers the public, particularly members of communities that are affected by the issue and groups that have expertise in human rights and housing, an opportunity to participate;
- (c) prepare a report that sets out the panel's opinion on the issue and any recommendations to take measures – respecting matters over which Parliament has jurisdiction – to address the issue; and
- (d) submit the report to the Minister.

Meaningful and timely response by government to findings and remedial recommendations (i.e. not just receiving reports or policy recommendations but responding to human rights remedies recommended by an authoritative body).

EXTRACT 1:

Accountability

Minister's response

17 (1) The Minister must respond to the annual report of the Federal Housing Advocate.

Tabling of response

- (2) The Minister must cause the response to be tabled in each House of Parliament on any of the first 120 days after the Minister has caused the annual report to be tabled in both Houses of Parliament or, if either House is not sitting on the last day of that period, on any of the first 15 days on which that House of Parliament is sitting.

Minister's response to Advocate's reports

17.1 The Minister must respond to each report provided by the Federal Housing Advocate under paragraph 13(h) and subsection 13.1(4) within 120 days after the day on which it is received.

Minister's response to review panel reports

17.2 (1) The Minister must respond to a report submitted by a review panel under paragraph 16.3(d) within 120 days after the day on which it is received.

Tabling in Parliament

- (2) The Minister must cause the response to be laid before each House of Parliament on any of the first 30 days after the day on which it is provided to the review panel or, if either House is not sitting on the last day of that period, on any of the first 15 days on which that House of Parliament is sitting.

Realizing the Right to Housing in Canada

The passage of the NHS Act marked a major milestone for human rights and housing in Canada. The achievement of a legislated right to housing was the product of over 30 years of grassroots advocacy, engagement with UN human rights bodies, court challenges and a focused lobbying effort over 2019. These efforts cultivated a broad-based, engaged and effective civil society movement and demonstrated the potential influence of civil society on federal social policy.

However, the National Right to Housing Network identifies five immediate challenges to ensure the right to housing takes root and thrives in Canada:

- 1. Building housing rights architecture** – The National Housing Strategy Act creates an independent Housing Advocate and National Housing Council to hold the government accountable to the commitment to the progressive realization of the right to housing. It is urgently important that both bodies are strong, well led, free from political influence, well resourced and effective in implementing a rights-based approach.
- 2. Public Engagement / Community Initiatives** – For the right to housing to be fully realized, Canada must develop a human rights culture in housing that also accounts for the rights of Indigenous people per the UNDRIP. This rights culture will require building public support for the right to housing and developing rights education for the public, key stakeholders and all levels of government.
- 3. Testing the right to housing** – The National Housing Strategy Act has created the offices the Housing Advocate and the National Housing Council as well as an investigative and hearings process before a Review Panel, to hear cases of systemic rights violations. It will be important to ensure there is pipeline of systemic cases developed and brought to the Advocate and the Review Panel to test the right to housing, set precedent (through recommendation and adoption by government), address key gaps in the National Housing Strategy (e.g. targets and timelines for the elimination of homelessness; inadequate funding commitments; an urban, Indigenous housing strategy for Indigenous Peoples in addition to the distinctions-based strategies that have been negotiated) and ensure accountability to disproportionately impacted communities in housing policy and funding to ensure the application of the right to housing effectively addresses housing need and reduces and ultimately eliminates homelessness.
- 4. Expanding the right to housing to provincial, territorial, and municipal jurisdiction** – Federal legislation applying to federal jurisdiction is not enough. All levels of government are obligated to implement Canada's commitment to the right to housing under international law and we'll need to expand the right to housing to other jurisdictions and ensure more effective collaboration among all levels of government.

Achieving a legislated right to housing proves that civil society can play a powerful and effective role in social policy. While achieving right to housing legislation was a major milestone, an effective right to housing requires much more than legislation and it's clear civil society must remain engaged in the process.

Advocacy efforts to achieve a legislated right to housing were conducted by a small and informal 'campaign' that worked closely together to develop (and rapidly adapt) draft legislation, connect with activists and supporters and lobby the federal government.

The next chapter in the right to housing is going to require an effort that is sustainable over a longer term, involving ongoing interaction with policy makers across the federal government, engaging a broader cross section of community leaders, people with lived experience, Indigenous peoples, legal experts and activists while mobilizing a politically impactful grassroots network of influence.

The National Right to Housing Network was created to establish working groups to develop coalition strategies, develop and implement work plans with pooled resources. The network isn't intended to be a permanent body or new organization, rather a time-limited collaboration designed to ensure the right to housing is robustly implemented.

The network's desired outcomes are:

- **Permanent federal commitment to the progressive realization of the right to housing:**
 - National Housing Strategy Act is implemented in accordance with its commitment to the progressive realization of the right to housing as guaranteed under international human rights law.
 - National Housing Strategy is expanded and adapted to reflect the obligations of the right to housing and the requirements of the NHS Act including:
 - goals and timelines for the reduction and elimination of homelessness that are consistent with international human rights obligations to realize the right to housing within the shortest possible time based on available resources
 - measures to eliminate the deep disparities in access to adequate, affordable, safe, and secure housing for Indigenous peoples, women, members of racialized communities, persons with disabilities, trans and gender-diverse people, older adults, children and young people, migrants, refugees, asylum-seekers and stateless persons.
 - Rights-based monitoring of NHS and other federal housing funding, so that resources and programs are directed to priority areas and adequate to address need.
 - The co-development of a national urban Indigenous housing strategy, co-developed with urban and rural Indigenous people, their organisations and institutions.
- **The federal government develops required housing rights architecture including:**
 - A Housing Advocate and National Housing Council that are strong, well led, well resourced and effective at ensuring accountability to the right to housing.
 - Well-resourced infrastructure to support rights-based participation and leadership of communities directly affected
- **Community initiatives are in place to develop a housing rights culture in Canada including:**
 - building public support for the right to housing
 - developing rights education for the public, key stakeholders and all levels of government

- **The right to housing is tested to set precedent, address key gaps in the National Housing Strategy and drive changes in housing policy and funding.**
 - Develop a pipeline of systemic cases and bring those to the Advocate and Housing Council
- **Expand the right to housing to provincial, territorial, and municipal jurisdiction**
- **Change and additions to NHS outcomes consistent with the right to housing.**
 - Targets and timelines for the elimination of homelessness with appropriate prioritization of resources
 - Targets and timelines for the elimination of core housing need
 - Housing market regulatory framework
 - Addressing financialization of housing market

Frequently Asked Questions

What is the right to housing in the Canadian context?

The NHS Act recognizes housing as a “fundamental human right” as it is defined under international human rights law. The right to housing was recognized in the 1948 Universal Declaration of Human Rights. Canada formally agreed to comply with the right to housing under international human rights law in 1976 when it ratified the International Covenant on Economic, Social and Cultural Rights.

The right to housing under international human rights law is understood as the right to a safe and secure home in which to live in security, peace and dignity, meeting standards of adequacy, including standards relating to legal security of tenure, affordability, habitability, availability of services, accessibility, location and culture.

The NHS Act does not entrench the right to housing as an individual right that can be enforced in courts, but rather commits the government to the progressive realization of the right to housing through a rights-based housing strategy and ensures meaningful participation of rights-holders in identifying systemic issues and appropriate remedies. The individual right to access housing necessary for dignity and security is also recognized under international law and in other jurisdictions as necessary to the right to life, which is guaranteed under the Canadian Charter of Rights and Freedoms, along with the right to security of the person. Homelessness and inadequate housing is also often caused by discrimination against particular groups and by failures of governments to address the particular needs and circumstances of groups such as Indigenous women and girls, women escaping violence, persons with disabilities (including dependency on alcohol or drugs); persons needing support for independent living), young people, racialized groups, LGBTQ2I and others. Violations of the right to housing should also, therefore, be challenged in courts and before tribunals as violations of Charter rights and of rights under human rights legislation. The NHS Act does not in any way replace courts or human rights tribunals as the appropriate for a in which to enforce our human rights. Rather, it provides an important parallel means to claim the right to housing, to hold governments accountable to their obligations under international human rights law, and to address systemic issues that courts in Canada have failed to address.

Doesn't recognizing housing as a human right mean the government must provide everyone with housing?

The right to housing under international human rights law does not mean that the government must provide everyone with housing. It recognizes that all people have the “right to live somewhere in security, peace and dignity” and that governments must implement reasonable policies and programs which will ensure that everyone has access to adequate housing by one means or another, as soon as this can be achieved within available resources. The NHS Act affirms that this commitment must guide housing policy and programs, prioritizing those in the greatest need.

- Under international human rights law, the right to housing means that governments must, among other things:
- Refrain from actions that violate the right to housing, such as criminalizing those who are homeless or discriminating against particular groups;

- Protect the right to housing through appropriate legislation and regulation;
- Implement housing policies and programs focused on those most in need as well as on progressively ensuring access to housing for all;
- Prohibit all forms of discrimination and address systemic barriers to access to housing facing women, racialized groups, persons with disabilities, young people, LGBTQ, elderly people, and other groups; and
- Fulfil the right to housing over time through rights-based housing strategies and programs.
- Protect affordable housing and ensure security of tenure, including protection from unreasonable rent increases
- Ensure that any upgrading of existing housing or new developments are administered with meaningful participation of existing residents in their design and planning, ensuring that they are able to remain in, or return to their communities and are ensured access to adequate housing during any necessary relocation.

Some of these aspects of the right to housing are already protected in provincial, territorial or federal legislation in Canada. The NHS Act does not affect existing protections of security of tenure, non-discrimination property standards or planning law, though it is hoped that all levels of government may be encouraged to improve existing laws and regulations so as to conform with international human rights.

What does 'progressive realization of the right to housing' mean?

International human rights law recognizes that governments in most countries cannot be expected to ensure that everyone has access to adequate housing immediately. It recognizes that inadequate housing and homelessness are complex, structural and systemic problems that must be addressed and solved over time, through comprehensive strategies with achievable goals and timelines, engaging multiple levels of government and other actors. International law also requires that priority be given to vulnerable groups and those in greatest need of housing. The National Housing Strategy Act is founded on the government's explicit policy commitment to this understanding.

It requires that the housing strategy establish national goals, timelines and outcomes relating to housing and homelessness consistent with the commitment to the progressive realization of the right to housing; ensures that housing barriers or systemic issues related to access to housing will be identified through the Housing Advocate, National Housing Council and Review Panel by engaging meaningfully with affected groups and communities; and requires that these issues will be addressed in an ongoing process to fully implement housing as a human right.

The NHS Act also requires that the needs of those in the most desperate circumstances of homelessness or housing need are prioritized. Across Canada, an estimated 235,000 people experience homelessness each year, 35,000 experience homelessness on any given night.

The legislation will ensure that the housing strategy is responsive to both the immediate needs of those who are homeless and to the structural causes of homelessness and inadequate housing as well as to emerging issues and challenges moving forward.

What is the Housing Advocate's role?

The role of the Housing Advocate is to promote and ensure compliance with the government's policy commitment to the progressive realization of the right to housing through a number of explicit mechanisms and mandates. The Advocate will assess and advise the Federal Government, through the designated Minister, on the implementation of the housing policy; initiate inquiries into incidents or conditions in a community, institution, industry or economic sector; and monitor progress in meeting goals and a timeline.

Most importantly, the Housing Advocate will ensure a meaningful voice and role for affected individuals and communities. The Advocate will receive submissions identifying systemic housing issues and measures necessary for compliance with the right to housing, conduct investigations, adopt opinions and make concrete recommendations about how to address identified problems. Recommendations with respect to actions to be taken by the federal government will be submitted to the designated Minister, who must provide a response within 120 days.

Where appropriate, the Advocate can also refer systemic housing issues to a three-person review panel, which will hold hearings, issue opinions and make recommendations to the Minister about what measures are required for compliance with the policy commitment to the right to housing. The members of the panel will be chosen based on expertise or experience in human rights and housing matters as well as lived experience of housing need or homelessness and members of vulnerable groups. Hearings will be public and conducted in an open and accessible manner and the Housing Advocate will work with communities that are affected by the issue being considered in presenting the issue to the panel.

Through these processes, the Housing Advocate will be able to ensure that information is brought to light about systemic issues faced by vulnerable groups, as well as their lived experience. The Advocate will also draw on other experts and the results of investigations and research in order to put forward practical, evidence-based recommendations to deal with specific problems as they emerge.

The rights-based approach put in place through the Housing Advocate is oriented around solving problems, making policies and programs more effective and responsive, engaging meaningfully with those affected and working collaboratively with multiple stakeholders.

What is the role of the National Housing Council and why do we need one?

The National Housing Council will further the National Housing Strategy and the right to housing by monitoring progress and effectiveness of the National Housing Strategy and providing advice to the federal Minister.

The council will include two co-chairpersons, the Housing Advocate, the Deputy Minister of housing, the Deputy Minister of Indigenous Services, and the President of the Canadian Mortgage and Housing Corporation. The appointment of other members by the federal Minister must consider representation of vulnerable groups, people with lived experience of housing need as well as homelessness. Three of the members of the Housing Council will also be appointed as members of the review panels convened to hold hearings into systemic housing issues identified by the Housing Advocate.

This puts affected people into a position where they will not only be heard but will be actively involved in critical decisions, in monitoring compliance with the right to housing, and able to build momentum toward the progressive realization of the right to housing. The Council should make certain that all housing policies and programs are consistent

with the commitment to the progressive realization of the right to housing, building a new human rights culture into housing policy and ensuring that rights-based approaches are embedded in all programs.

What is the role of the review panel? What types of issues will be heard and what will the hearings be like?

The review panel will only hear selected systemic issues regarding the progressive realization of the right to housing as referred by the Housing Advocate. It will not hear individual complaints about housing rights. It will hold hearings that offer the public, particularly members of affected communities and groups with expertise and experience in human rights and housing, an opportunity to participate and contribute effectively to ensuring that housing policy and programs are consistent with the recognition of housing as a human right.

After a hearing into a particular issue is completed, the panel will prepare a report for the federal Minister that states the panel's conclusions and its recommendations regarding the measures that must be taken to ensure compliance with the government's commitment to the right to housing. The Minister must then provide a response within 90 days, outlining what will be done, which then must be tabled in the Senate and House of Commons.

This innovative approach to rights claiming is designed to be efficient and targeted to the most important systemic issues, giving a meaningful voice to rights holders in identifying the most critical issues and the appropriate responses.

How can I access the right to housing under the new legislation?

As noted earlier, the NHS Act does not entrench the right to housing as an individual right that can be enforced in courts, but rather commits the government to the progressive realization of the right to housing through a rights-based housing strategy and ensures meaningful participation of rights-holders in identifying systemic issues and appropriate remedies.

The Advocate can also receive submissions from affected groups identifying systemic issues. These issues will be investigated by the Housing Advocate, who will either make findings and recommendations directly, or, where appropriate, refer the issue to the Review Panel for a public hearing. Although the Review panel will not hear individual complaints, issues that are referred to it will lead to hearings where the public, particularly members of affected communities and groups with expertise and experience in human rights and housing, will have an opportunity to participate and contribute.

Will the accountability to the right to housing in the NHS Act address the housing crisis in Canada? How does this help people who are homeless or living in inadequate or unaffordable housing?

The rights-based approach helps people in several important ways:

- It requires the federal government to maintain a National Housing Strategy based on the recognition of housing as a human right. This prevents housing issues from being ignored and ensures a coordinated and comprehensive approach.
- It empowers those affected by homelessness and inadequate housing as rights holders with a right to participate in a strategy to realize their rights, rather than as persons in need of charity.

- It commits the government to implement reasonable policies and programs aimed at ensuring the right to housing for all. This commitment will be subject to ongoing, effective monitoring and accountability and engagement with affected communities.
- It means priority in housing policy must be given to vulnerable groups and those in greatest need of housing, recognizing homelessness as a violation of human rights and committing to addressing it as a human rights violation, eliminating it in the shortest possible time.
- It gives affected groups a voice and a role in the policy process and a means to get action in response to their circumstances.
- It creates accountability and independent oversight for the National Housing Strategy so that it will be constantly adjusted and altered to be made more effective and responsive to emerging issues.
- It changes the culture and political discourse around housing, because the government has now accepted in law that housing is a fundamental human right and committed itself to complying with its obligations under international human rights. It provides a basis for participatory and evidence-based decision-making that will make programs and policies more effective at addressing housing need.

How does Canada's right to housing measure up to the International Covenant?

International human rights require the right to housing to be ensured not only through policies and programs but also through independent monitoring and access to hearings and effective remedies. The NHS Act, if properly implemented, achieves this through a unique model that relies on accessible and participatory mechanisms that give a meaningful voice and role to rights-holders and provide for investigation, hearings and recommendations to ensure compliance with the commitment to the progressive realization of the right to housing.

This legislation affirms that the government's housing policy is based on the recognition of the right to housing as it is understood in international human rights law.

There are, however, many other elements of Canada's obligations with respect to the right to housing under international law that are not covered by the NHS Act. Protections from evictions, rent increases, health and safety requirements, from development-based displacement, discrimination, inclusive zoning and planning and many other components of the right to housing fall under other laws, many of them provincial or municipal. Many of these laws need to be improved in order to comply with the international law. It is hoped that the NHS Act and the procedures created by it will encourage many other initiatives and changes to other areas of law and policy to comply with the right to housing.

Will this legislation create meaningful change?

International human rights law does not treat the right to housing as a mere policy goal or aspiration. It imposes serious obligations on governments to move toward the fulfillment of the right to housing "by all appropriate means" and applying "the maximum of available resources." In other words, it requires governments to address inadequate housing and homelessness not just as policy issues but as human rights violations requiring urgent and concerted action. The Act is potentially transformative because it affirms this understanding of the right to housing based on international human rights.

Progressive realization has been interpreted in international human rights law as requiring that “reasonable” measures must be adopted, recognizing that there may be a variety of policy options that are available. It requires that reasonable goals and timelines be set out for achieving identified goals for the progressive realization of the right to housing.

The legislation is a practical, concrete approach that recognizes that the key to solving the housing crisis in Canada is to recognize it as a human rights crisis, give a meaningful voice to rights holders, engage with multiple stakeholders, identify and address systemic problems and develop practical solutions. This should occur through the National Housing Council, the submissions and hearings process through the Federal Housing Advocate and through many other rights-based processes in a range of housing and program areas.

How does the legislation implement a participatory rights-based approach?

The legislation requires 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 in all aspects of the housing strategy, with diverse membership on the National Housing Council and participation of persons with lived experience both as members of the panel and as petitioners in hearings into systemic issues.

It ensures that the circumstances of vulnerable groups will be brought to light through effective participation and prioritized in policy responses. At the same time, it will ensure that policies and programs adequately address broader systemic issues that affect housing markets that make housing unaffordable for low- and middle-income people.

The legislation will also ensure rights-based participation by:

- Hearing from those who are affected by the housing crisis, to better understand the problems they are facing;
- Ensuring their meaningful engagement with decision-makers in both the public and private sectors, facilitated by the Housing Advocate.

This participatory rights-based approach will take good faith on all sides. It will be based on the right to housing as a shared value and commitment in Canada that requires active engagement by civil society, different levels of government, tenants, housing providers and other stakeholders.

How can provinces and cities adopt similar strategies and align the programs with the right to housing and the NHS?

This legislation is a statement of a federal government housing policy based on the commitment to the right to housing. It establishes mechanisms to promote that policy and to hold the government accountable to it. It does not encroach on any areas of provincial/territorial jurisdiction in relation to housing.

The legislation responds to the need for more effective federal leadership in promoting compliance with the commitment to the right to housing under international human rights law.

It offers a rights-based process that provinces, territories and local government should affirm and join, since the right to housing under international human rights law also applies to provinces, territories and municipalities in Canada. We anticipate that the federal commitment to the right to housing will be translated in federal negotiations

and expectations in future agreements under the National Housing Strategy and that, in addition, provinces, territories and municipalities will create and adopt similar approaches through which to be held accountable to their obligations with respect to the right to housing.

There is no legal requirement in the legislation that provinces, territories or municipalities respond to the recommendations from the Federal Housing Advocate or the Review Panel. It is hoped, however, that these recommendations will be considered by all levels of government, and that provinces and territories will choose to participate in a meaningful, multi-stakeholder engagement for the progressive realization of the right to housing, in a collaborative effort across jurisdictions. It is also expected that the rights-based model implemented by this legislation will give rise to similar initiatives and legislation in provinces, territories and municipalities.

How We Got Here – The Historic Fight for the Right to Housing in Canada

The United Nations General Assembly adopted the treaty, **The International Covenant on Economic, Social and Cultural Rights** on December 16, 1966. It is part of the International Bill of Human Rights and contains the right to an adequate standard of living (including a right to food, water, housing and clothing). Canada ratified the covenant on May 19, 1976

For the next 30-plus years, advocates, organizations, civil society, people with lived experience of homelessness or inadequate housing called on the federal government to officially recognize the right to housing as a fundamental human right in legislation, backed up by meaningful policy to see its implementation and prioritization for society's most vulnerable and affected groups. The most critical issue raised by the UN during these years, with increasing levels of concern and alarm, was the absence of a housing strategy based on the right to housing. In the face of widespread homelessness and serious issues of housing need in one of the most affluent countries in the world, the UN was alarmed that Canada had not adopted and implemented a National Housing Strategy based on the obligation to eliminate homelessness as an urgent priority and to progressively realize the right to housing based on available resources and all appropriate means, including legislation.

The federal government's decision to adopt the NHS Act in June 2019 by declaring housing as a fundamental human right backed up by an innovative rights-based framework was a direct result of the hard-fought battles by civil society groups and concerted efforts by UN human rights bodies to convince Canada to respond to an obvious human rights crisis.

In 2010, a group of people with lived experience of homelessness, academics, lawyers and advocates in Ontario launched a right to housing legal challenge. The groups were frustrated with a lack of action on the rising homelessness and inadequate housing crisis, which was due to federal policy changes and divestments that emerged from the '80s and '90s. The *Tanudjaja v Attorney General of Canada and Attorney General of Ontario*, also known as the Right to Housing challenge, charged that the federal and provincial governments' refusals to address homeless as required under international human rights law had resulted in violations of the right to life, security of the person and equality for the groups most adversely affected by homelessness. Those rights, according to the Supreme Court of Canada, must be interpreted consistently with Canada's international human rights obligations. Four individuals, Ansar Mahmood, Janice Arsenault, Jennifer Tanudjaja and Brian DuBourdieu, and the Centre for Equality Rights in Accommodation (CERA) stepped forward as applicants to launch the challenge.

Surprisingly, the Court of Appeal, in a split 2-1 decision, dismissed the application in *Tanudjaja* and declined to hear the extensive evidence that had been compiled by the applicants. The issue of whether the right to life and equality of those who are homeless is protected by the Charter is still an open question that must be determined in a future case by the Supreme Court of Canada. In the meantime, however, the case had led to an extensive process of building relationships, mobilizing supporters and exceptional community organizing. In the face of a housing and homelessness crisis that grew worse, even during years of economic prosperity in Canada, the call for governments to recognize housing as a fundamental human right in law, to implement a rights-based framework to ensure accountability and to adopt a rights-based national housing strategy continued to grow louder.

On November 22, 2017, on National Housing Day, we secured our first victory. The federal government announced that it was adopting a National Housing Strategy, committing to the progressive realization of the right to housing and promising to introduce legislation after holding consultations on what a rights-based approach should look like.

The Right to Housing Campaign released an open letter to Prime Minister Justin Trudeau on August 14, 2018 with 170 signatories (totaling over 1,100 by the end of the campaign a year later). The letter urged Trudeau to make good on his commitment on the right to housing by enshrining that right in the National Housing Strategy legislation with meaningful accountability mechanisms, goals and timelines, independent monitoring, participation by rights-holders and access to hearings into systemic issues affecting the right to housing.

The campaign also drafted legislation outlining how this could be done based on the announced elements of the NHS. The federal government also held a consultation process with groups across Canada to inform the legislation.

When the NHS Act was introduced on April 8 in the Budget Implementation Act, 2019, (Bill C-97) it had some of the key elements but lacked any meaningful accountability to the right to housing and didn't include access to hearings. The campaign pushed for further amendments pressing for a stronger commitment to the right to housing and to add appropriate rights-based accountability mechanisms, including access to hearings

Amendments to the NHS Act were tabled by the government on May 29, 2019 at the House of Commons Standing Committee on Finance and on May 31, 2019 in the House of Commons. These amendments were largely consistent with the campaign's proposed changes needed to ensure a decisive and unambiguous commitment in legislation to the right to housing with critical accountability mechanisms in place.

On June 20, 2019, Bill C-97 containing the NHS Act and the right to housing passed the Senate and then received Royal Assent on June 21.

Achieving a legislated right to housing in Canada is the product of advocacy by countless individuals and organizations from coast to coast to coast to coast who have fought tenaciously for decades with protest, advocacy and court challenges to make this day possible.

The challenge now is to use this new protection to actually eliminate homelessness and realize the right to housing for all.

Who We Are

The National Right to Housing Network's Steering Committee is comprised of national and international leaders on the right to housing, including persons with lived experience.

Get Involved

The National Right to Housing Network's website contains a compilation of resources on the right to housing and links to campaigns pushing for local and provincial support and buy-in on the federal right to housing legislation.

Visit housingrights.ca

Stay up-to-date on the progress of right to housing in Canada! We will share new campaigns and ways to take action.

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