

APRIL 2023

# STRENGTHENING THE RIGHT TO HOUSING IN CANADA

---

**JOINT SUBMISSION TO  
CANADA'S FOURTH UNIVERSAL  
PERIODIC REVIEW 2023**

By the Canadian Centre for Housing Rights  
and National Right to Housing Network



# **SUBMISSION TO CANADA'S FOURTH UNIVERSAL PERIODIC REVIEW 2023**

## **ABOUT CANADIAN CENTRE FOR HOUSING RIGHTS**

The Canadian Centre for Housing Rights (CCHR) is one of Canada's leading non-profit organizations working to advance the right to housing. Founded in 1987, CCHR has worked tirelessly for 35 years at the intersection of human rights and housing. We advance the right to housing by serving renters to help them stay housed, providing education and training about housing rights, and advancing rights-based housing policy through research, policy development, advocacy and strategic litigation.

## **ABOUT NATIONAL RIGHT TO HOUSING NETWORK**

The National Right to Housing Network (NRHN), a group of over 1,000 key leaders, organizations, subject matter experts, and people with lived experience of housing precarity and homelessness with a shared mission to fully realize the right to housing, and ultimately eliminate homelessness in Canada. The NRHN has two key goals: 1) holding the Government of Canada accountable to its legal obligations for implementing the right to housing, and 2) building the community-based infrastructure and culture that supports its meaningful implementation, so that people understand their rights and are able to achieve systemic change through the access to justice mechanisms available to them.



# 1. The Right to Housing and Canada's National Housing Strategy Act

## Supported Recommendations from UPR 3:

**142.166** Adopt the National Housing Strategy as soon as possible, taking into account the principles and recommendations included in the most recent 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 (Uruguay);

**142.165** Expedite the adoption of the national strategy to address issues of adequate housing (Republic of Korea); **142.163** Plan to allocate the necessary resources in order to overcome the housing crisis swiftly (Belarus); Source of position: A/HRC/39/11/Add.1 - Para. 13

**142.160** Ensure that adequate measures are put in place to prevent homelessness (South Africa);

Canada also noted the recommendation **142.164** from Portugal to “ensure that the legislation implementing the National Housing Strategy fully recognizes the right to housing and provide for effective remedies for violations of that right.” Canada explained that this legislation had not yet been considered by parliament but, as noted below, this recommendation was implemented through the NHSA.

## Positive Measures of the NHSA

1. The *National Housing Strategy Act*<sup>i</sup> (NHSA) is federal legislation that was adopted in 2019 and implements supported recommendations from Canada's third UPR. The NHSA recognizes the right to housing as “a fundamental human right affirmed in international law.” It states that “housing is essential to the inherent dignity and well-being of the person,” and commits the federal government to “further the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights.”<sup>ii</sup>
2. The NHSA also requires the government to adopt and maintain a rights-based National Housing Strategy to support the progressive realization of the right to housing. The Strategy must include national goals, timelines and desired outcomes; focus on improving housing outcomes for persons in greatest need; and provide for participatory processes to ensure the ongoing inclusion and engagement of civil society, stakeholders, vulnerable groups, and persons with lived experience of housing need, as well as those with lived experience of homelessness. A National Housing Strategy was presented by the government in 2017 (two years prior to the passing of the NHSA), but to date has not been updated to reflect the right to housing as reflected in the ICESCR and required by the NHSA (*see attached Appendix A entitled, Implementing the Right to Housing in Canada: Expanding the National Housing Strategy*).

3. The NHSA also requires the appointment of:
  - A **Federal Housing Advocate** who receives and reviews submissions on systemic issues and submits findings and recommendations to the Minister of Housing;
  - A **National Housing Council** to advise the Minister on changes needed to the National Housing Strategy; and
  - A **Review Panel** of three members, appointed by and from the National Housing Council, to hold participatory hearings into systemic issues referred by the Federal Housing Advocate and submits opinions and recommended measures to the federal government.
4. The NHSA was the result of years of civil society advocacy and urging from UN treaty bodies and successive Special Rapporteurs on the Right to Adequate Housing. It should be noted that the legislation as first introduced by the government of Canada failed to provide for meaningful accountability or hearings into systemic violations of the right to housing, but after interventions from civil society and by the UN Special Rapporteur on the Right to Adequate Housing, amendments were introduced to ensure access to hearings, reviews by the independent Advocate, findings and recommendations requiring a response from government. The innovative mechanisms for access to justice outside of the court system are seen internationally as an important initiative that may be applied in other countries. The mechanisms address systemic issues that are often neglected when courts adjudicate individual claims. However, they rely on adequate support for rights claimants and good faith engagement by governments.
5. A Federal Housing Advocate was, after significant delay, appointed in February of 2022. As of April 2023, the first Review Panel has been referred by the Federal Housing Advocate, with a focus on the issue of the financialization of purpose-built rental housing, and the Federal Housing Advocate has formally launched her first systemic review, which is on the issue of encampments.

### **Key Concerns of the NHSA**

6. The Canadian federal government has almost entirely ignored its historic commitment to the right to adequate housing in the *National Housing Strategy Act* (NHSA) and has failed to comply with any of the requirements under the legislation. The federal government continues to promote its 2017 National Housing Strategy without acknowledging that it requires major improvements in order to comply with the 2019 NHSA.
7. Additionally, some effective goals and timelines have been adopted for the reduction and elimination of homelessness. A commitment was made in the 2017 National Housing Strategy to reduce chronic homelessness by 50% by 2028 and this was revised later to a commitment to eliminate chronic homelessness, but with no clear timelines established and no disaggregated goals to address the needs of particular marginalized groups. Homelessness in Canada has increased to crisis proportions, resulting in hundreds of deaths, particularly during Canada's cold winters.<sup>iii</sup>

8. It is generally agreed among all experts and civil society organizations that allocations to housing programs in the most recent federal budget, tabled on March 30, 2023, were inadequate and will mean that homelessness will continue to increase.<sup>iv</sup>
9. Further, the \$70+ billion National Housing Strategy, has, to date, failed to meaningfully address the housing needs of people experiencing homelessness and housing precarity, many of whom belong to historically marginalized groups. In fact, housing adequacy and affordability issues have only worsened in the five years since the Strategy was launched, particularly for Indigenous, racialized, 2SLGBTQAI+, low-income, and new migrant households, people with disabilities, rural and remote communities, and women and gender-diverse people. These groups are most likely to be in core housing need.<sup>v</sup>
10. In 2019 it was estimated that 235,000 people in Canada experience homelessness in any given year, and 25,000 to 35,000 people may be experiencing homelessness on any given night.<sup>vi</sup> Information from cities and municipalities since 2019 indicate that the number of people experiencing homelessness has significantly increased since that time.<sup>vii</sup> This retrogression in housing adequacy and affordability indicates a clear and urgent need for a major rights-based revamp of the National Housing Strategy to conform with the right to housing under the NHSA.
11. The many gaps, issues, and actively harmful effects of the National Housing Strategy have been documented by numerous experts, organizations, and authorities including the National Housing Council<sup>viii</sup>, National Right to Housing Network<sup>ix</sup>, Women's National Housing and Homelessness Network<sup>x</sup>, Front d'action populaire en réaménagement urbain<sup>xi</sup> Canadian Centre for Policy Alternatives,<sup>xii</sup> the Parliamentary Budget Officer (both in 2019<sup>xiii</sup> and 2021<sup>xiv</sup>) and the Auditor General of Canada.<sup>xv</sup> Rather than committing to ending homeless by 2030 in accordance with SDG Target 11.1, Canada has only committed to eliminating "chronic homelessness." Yet an abundance of research demonstrates that the federal government's current housing programs, combined with inadequate provincial and territorial programs, have not come close to even meeting a target of eliminating chronic homelessness. The National Housing Council recently released a research report documenting the ways in which the current National Housing Strategy fails to improve housing conditions for those most in need.<sup>xvi</sup> Yet no changes have been made to align federal housing programs with the NHSA.
12. On November 2022, the Federal Housing Advocate issued a formal call to action to the Minister of Housing for a revised National Housing Strategy to be implemented in light of evidence presented by the Auditor General that the Strategy is far behind on its goals of halving core housing need and eliminating homelessness by 2030, and it is not meeting the needs of Indigenous peoples and disadvantaged groups.<sup>xvii</sup> **The Minister of Housing has not yet issued a response.**
13. Meanwhile, Canada continues to suffer from a significant deficit in public, non-market, and affordable housing as a result of decades of federal divestment. Recent data from the Organisation for Economic Co-operation and Development (OECD)<sup>xviii</sup> shows Canada's social housing stock at 4% in 2020, far below the OECD average (7%) and comparable countries like the



Netherlands (34%) and United Kingdom (17%).

**Proposed Recommendations for UPR 4:**

- I. States should welcome the adoption of the *National Housing Strategy Act* (NHSA) with provisions for access to justice and effective remedies in line with recommendations from the previous UPR and UN human rights bodies.**
- II. However, States should express grave concern regarding Canada's non-compliance with the NHSA resulting in an unprecedented crisis of homelessness.**
- III. Canada should support and engage more effectively with the access to justice mechanisms in the NHSA and take all necessary measures to comply with the right to adequate housing under the legislation.**
- IV. Ensure that housing programs comply with the NHSA and provide housing that is truly affordable to those in need;**
- V. Provide adequate resources for civil society and Indigenous organizations to bring forward systemic claims and participate in the implementation of the NHSA;**
- VI. Establish clear goals and timelines for the elimination of homelessness by 2030 disaggregated by groups most in need, including Indigenous and racialized groups and ensure effective monitoring and adjustments of programming to meet the targets;**
- VII. Adjust budgetary allocations to housing to comply with the maximum of available resources standard affirmed in the NHSA in accordance with goals and timelines; and**
- VIII. Respond to all findings and recommendations from the Federal Housing Advocate and Review Panels in a manner that is consistent with the requirements of good faith implementation of international human rights obligations.**

## 2. Urban, Rural, and Northern Indigenous Housing

### Supported Recommendations from UPR 3:

**142.159** Continue efforts to holistically address poverty and homelessness, taking into consideration the needs of the most vulnerable communities, in particular indigenous communities (Sri Lanka);

**142.238** Take further steps to promote, protect and fulfil the rights of Indigenous peoples, particularly regarding their economic, social and cultural rights, on an equal basis with non-Indigenous populations (Brazil)

14. Over 85% of Indigenous peoples live in urban centers and are disproportionately affected by inadequate housing and homelessness. According to the 2021 Parliamentary Budget Officer's report,<sup>xi</sup> Indigenous persons comprise 31% of shelter users but only 5% of the total population. Disproportionate homelessness among Indigenous women and girls places their lives at serious risk. The 2019 National Inquiry into Missing and Murdered Indigenous Women and Girls<sup>xii</sup> found that a lack of safe and affordable housing poses a significant barrier to fleeing unsafe situations and increases risks of violence, harm and loss of life for Indigenous women.
15. Budget 2023 made new investment in Urban, Rural, and Northern Indigenous Housing, however its **\$4 billion investment over seven years** is a far cry from the estimated **\$56 billion over 10 years** that Canada's own National Housing Council (established under the *National Housing Strategy Act*) recommended.
16. Moreover, the funding will be delivered by the Canadian Mortgage and Housing Corporation (CMHC) instead of Indigenous organizations—a critical gap in the context of Indigenous rights to self-determination under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which, like the right to housing, has been legislated in Canada under the *UNDRIP Act*.<sup>xxi</sup>
17. First nations housing also continues to be grossly inadequate. The National First Nations Housing and Related Infrastructure Strategy adopted by Chiefs in 2018 provide the framework for First Nations to assume jurisdiction over housing, water, sanitation and related infrastructure. Although implementation of the Strategy has started, it will not be fully operational until First Nations have access necessary funds. The Institute of Fiscal Studies and Democracy estimated that the cost to close the housing gap in First Nations at \$39.4 billion and a further \$21 billion to build homes for 10% of citizens living away to migrate to their home communities. Its recent budget only announced \$8.7 million to consult Indigenous partners on developing a framework to give communities access to more resource dollars from projects built on their territories.
18. This significant underinvestment is a clear violation of Canada's right to housing commitments as well as the rights of Indigenous peoples in both domestic and international law.<sup>xxii</sup>

#### Proposed Recommendations for UPR 4:

**IX. Provide adequate funding and all necessary support and infrastructure for an Indigenous-led Urban, Rural and Northern Housing Strategy based on the recommendations of the National Housing Council; and**

**X. Provide adequate funding required to fulfill the goals of the National First Nations Housing and Related Infrastructure Strategy.**

### 3. Financialization of Housing and Regulation of Private Actors

19. Canada has one of the most financialized housing markets in the world, with an estimated 20-30 percent of Canada’s purpose-built rental housing now owned by institutional investors. All orders of government – federal, provincial/territorial and municipal, have failed to meaningfully regulate private investors, multi-property owners, and large corporate landlords in the housing market to protect the right to housing.
20. Budget 2022 implemented a house flipping tax and two-year foreign investor ban while promising to study “potential changes to the tax treatment of large corporate players that invest in residential real estate.” Given that foreign investors make up only 5% of the housing market and foreign corporate landlords can easily create Canadian subsidiaries to become “domestic,” these measures will not make a significant impact on housing affordability.
21. Real Estate Investment Trusts (REITs)—which make up approximately 20% of the market and are known for displacing and renovating low- and middle-income tenants to significantly increase rents—continue to benefit from tax loopholes in the real estate sector. Pre-pandemic data also tells us that multi-property owners owned 15 to 41% of housing stock<sup>xxiii</sup> in many provinces—a trend that likely escalated during the pandemic thanks to low interest rates and huge equity gains among homeowners. A recent study from the Parliamentary Budget Office noted that Canada would collect \$285.8 million of additional revenues over the 2023 to 2027 years just by removing existing tax exemptions for REITs and subjecting REITs instead to the 38% rate of statutory corporate income tax.<sup>xxiv</sup>
22. **Canada is allowing wealthy investors to benefit from tax exemptions and extract wealth from housing at the continued expense of renters, women-led households, low-income people, racialized people, and other marginalized groups who will likely fall deeper into housing need.**



23. The right to housing under international law as affirmed in the NHTA requires that Canada close tax loopholes and apply “all appropriate means... including legislative measures” to ensure that the rules under which private actors operate and their actions enable the creation and preservation of adequate and affordable housing. **Closing tax loopholes would save money which could then be directed towards “affordable housing, subsidies for low-income households, the creation of land banks and other resources to support housing strategies”** as per international human rights guidelines<sup>xxv</sup>

**Proposed Recommendations for UPR 4:**

**XI. Require registration of all beneficial owners of rental housing;**

**XII. Remove tax incentives for Real Estate Investment Trusts and require that investments are consistent with the progressive realization of the right to housing;**

**XIII. Ensure that Canada Mortgage and Housing Corporation only provides financing for housing developments that provide affordable housing (with a true definition of affordability) and preserve inclusive communities;**

**XIV. Apply rent regulation to all rental units, including newly built or renovated units;**

**XV. Apply human rights legislation and zoning and planning regulations to prevent investors from gentrifying traditional affordable communities and displacing racialized and other tenants;**

**XVI. Require that new housing be affordable to existing tenants in the community; and**

**XVII. Give first of right of refusal to social housing providers for the purchase of any rental properties.**

## 4. Homeless Encampments

24. Because of the federal and provincial governments’ failures to address the homelessness crisis in Canada, people experiencing homelessness are increasingly relying on encampments or informal settlements to provide shelter from the elements and community support. Many municipalities have refused to provide basic services such as clean water and sanitation and food storage and preparation facilities.
25. Moreover, municipalities have violated the right to security of tenure of encampment residents by forcibly evicting residents without meaningful engagement, hearings before independent tribunals or courts or measures to ensure access to alternative land and housing. Where residents have turned to courts to stop these forced evictions, courts have, in some cases, halted

evictions where there is evidence that there are not sufficient spaces in shelters but have not ordered governments to take measures to address the causes of homelessness or to ensure access to adequate, permanent housing.

**Proposed Recommendations for UPR 4:**

**XVIII. Require in law, and take all necessary policy measures to ensure the rights of residents of homeless encampments to water, sanitation, food security, and access to health care;**

**XIX. Ensure that no evictions of encampment residents is permitted unless residents have been meaningfully engaged with in securing adequate housing which they agree meets their needs, and residents have been provided access to a hearing to determine the legality of the eviction and**

**XX. Ensure that in determining the legality of any eviction of encampment residents, courts give due regard to the right to adequate housing under international law and assess measures taken by relevant orders of government to address the underlying causes of homelessness and order that all appropriate means and maximum available resources be applied to address these.**

## 5. Inter-governmental Agreements and Shared Commitments

**Supported Recommendations from UPR 3:**

**142.35** Strengthening national mechanisms for monitoring implementation of the international human rights recommendations received by the State (recommended by Paraguay);

**142.36** Strengthening the coordination on human rights implementation across levels of government in order to ensure better implementation domestically (recommended by Norway); and

**142.37** Establishing a mechanism to follow up and implement human rights at all levels of government (recommended by France).

26. A repeated concern at all of Canada's previous UPR's has been the inadequate inter-governmental mechanisms for the implementation of shared and overlapping obligations to implement international human rights obligations. This has been a particular concern with respect to the right to adequate housing. While the NHSA affirms the federal governments' commitment to its obligations to realize the right to adequate housing under the ICESCR, that obligation can only be fulfilled if provinces and territories, also meet their obligations. Provinces and territories are responsible for administering and contributing to the funding of housing

programs; regulating private actors; protecting human rights in housing and enabling municipalities to meet their obligations.

27. No province or territory has yet adopted legislation to similarly implement the right to housing within their jurisdiction. Provinces and territories have failed to adequately fund social housing programs, to adequately regulate rents, to ensure security of tenure, and to address systemic discrimination in housing markets. Bilateral housing agreements with provinces currently require provinces to adopt three-year plans that support the progressive realization of the right to housing, but there has been no mechanism through which to ensure that plans conform to this requirement.

**Proposed Recommendations for UPR 4:**

- XXI. All provinces and territories should adopt legislation comparable to the National Housing Strategy Act to require that provincial and territorial housing policies and plans comply with the right to adequate housing;**
- XXII. Strengthen bilateral housing agreements with all provinces and territories to ensure that provincial policies and programs ensure the progressive realization of the right to adequate housing;**
- XXIII. Create an inter-governmental body to develop and oversee the implementation of goals and timelines for the elimination of homelessness through a co-ordinated effort of all orders of government, in accordance with the federal government’s commitment to eliminate homelessness and with SDG Target 11.1; and**
- XXIV. Ensure sector-specific implementation of recommendations from international human rights bodies, including the 2022 recommendations from the Committee on the Rights of the Child regarding evictions of children and provision of housing for low-income families with children.**

## 6. Security of Tenure, Jurisdiction Divides in Canada, and the Evictions Crisis

28. Security of tenure is one of the critical elements of the right to adequate housing. It dictates that states should extend legal protections to tenants against forced evictions, harassment, and other threats to their tenancies. Security of tenure protections are integral to the ability to live in one’s home in security peace and dignity, and to enjoyment of other human rights. In Canada, the security of tenure of renters is under threat, **as rights holders experience an eviction crisis**

**resulting from rising rents, and the erosion of affordable and adequate rental housing options and legal protections for security of tenure.**

29. Canada's affordable and adequate rental housing crisis disproportionately impacts renters living on low- to moderate-incomes, and people experiencing housing precarity and homelessness. It impacts people across Canada, living in both urban and rural areas, where renters are struggling to keep up with rising rents and the escalating costs of other necessities like food, transportation, and medicine. This has caused people to have to choose between paying the rent and staying housed and providing for their families' basic needs, and increased instances where people are economically evicted, because they are unable to pay their rent in full. Once renters are evicted, they are at risk of experiencing homelessness due to the lack of affordable rental housing options elsewhere. The rental housing – and evictions – crisis is disproportionately felt by Indigenous people, Black households, racialized communities, young adults, single households, lone-parent households, newcomers, people with disabilities, members of the LGBTQIA2S+ community and people living on fixed incomes, who experience higher rates of eviction and housing precarity.
30. Because the laws and regulations that protect tenants, and the bodies that govern landlord and tenant relationships, are provincially enacted, renters are afforded different levels of protection of security of tenure depending on the province or territory they live in.

**Proportionality in eviction**

31. Under the ICESCR, eviction may only be carried out if it would be proportionate: if it would serve a legitimate objective, would be rationally connected to the objective, would be necessary to achieve the objective, and would be proportionate to the objective.
32. No Canadian law requires a proportionality consideration in accordance with the ICESCR. However, some provincial legislation requires or allows decision-makers to consider whether eviction would be fair, just, or otherwise reasonable. For example, Ontario law requires that, before ordering eviction, an adjudicator must consider all the circumstances and decide whether it would be unfair to refuse eviction. These provisions are partially, but not fully, consistent with ICESCR requirements.
33. In other provinces and territories, such as British Columbia, adjudicators are legally required to order eviction whenever a tenant has contravened their lease. In direct contravention of Canada's ICESCR obligations, no proportionality consideration is permitted.

**Procedural barriers in eviction proceedings**

34. Under the ICESCR, tenants must also have access to a fair judicial process for disputing evictions. In some provinces and territories, such as Ontario, hearings are usually held before an eviction is

ordered. Tenants have a right to participate in hearings. Legal services for low-income tenants are available through a province-wide community legal clinic system.

35. Ontario's legal process has, in recent years, been criticized for moving to a digital hearing format which is less accessible to many tenants. Further, funding cuts to legal aid have resulted in understaffing which impedes low-income tenants' ability to access justice to protect their tenancies. Ontario's system is thus not fully ICESCR compliant but does provide some opportunity for tenants to dispute evictions.

36. In British Columbia, in contrast, a landlord can give a tenant a notice which automatically results in eviction unless the tenant files a dispute within a short timeframe. These procedural barriers make the complex legal process significantly less accessible for tenants. Further, because of severe cuts to legal aid funding and services, it is more difficult for tenants to access legal supports in British Columbia.

### **Rent Controls**

37. Rent control is a fundamental element of security of tenure. In seven Canadian provinces and territories, once a year, landlords are permitted to raise tenants' rents by any amount. This fundamentally undermines security of tenure, since tenants can be economically evicted with no recourse whatsoever.

38. Five provinces - British Columbia, Manitoba, New Brunswick, Ontario, Prince Edward Island, and Québec – limit the amount by which landlords can increase the rents of sitting tenants. These controls are necessary to protect security of tenure. However, in each province there are various different exceptions, such that throughout Canada, some tenants are not afforded any protection against economic evictions.

### **Summary**

39. No Canadian jurisdiction has met Canada's obligations to respect, protect, or fulfill the security of tenure elements of the right to adequate housing under the ICESCR. Moreover, the partial protections which exist vary widely across Canada.

40. A federal law, the *National Housing Strategy Act*, declares that it is Canada's policy to further the progressive realization of the right to adequate housing as recognized in the ICESCR. However, the enactment of the NHTSA has not led to improvements in security of tenure protections in any Canadian jurisdiction.

41. Article 28 of the ICESCR states that its obligations extend to all parts of federal states without limitations or exceptions, which means the right to housing applies to all the levels of government and that the jurisdictional limitations present in Canada's federal political system

should not form a barrier to its implementation of the right to housing or shield different levels of government from accountability for failing to advance the right to housing. Therefore, federal intervention is needed to overcome jurisdiction divides and ensure that renters across Canada enjoy an equal level of protection of their security of tenure.

**Proposed Recommendations for UPR 4:**

- XXV. Carry out of review of provincial and territorial laws that govern residential tenancies in reference to international law standards on security of tenure and provide recommendations to ensure that eviction is considered as a measure of last resort, that tenants' particular circumstances are required to be considered, that evictions must be proportional, and that the possible impact of the eviction on the tenant is considered before the decision to evict is made;**
- XXVI. Create federal standards or criteria for baseline protections for the security of tenure, which provincial and territorial governments can then aspire to meet in their local legislation. If provincial and territorial governments all have the same minimum standards of protection to aspire to, this can help ensure equal protection for security of tenure across all provinces and territories, and aid in the progressive implementation of the right to housing; and**
- XXVII. Enhance inter-jurisdictional collaboration between all levels of government in the progressive implementation of the right to housing through various policy tools, not limited to legislative reforms.**

## 7. Justiciability of Economic and Social Rights

**Supported Recommendations from UPR 3:**

- 142.149** Ensure the justiciability of economic, social and cultural (esc) rights (South Africa)
- 42. Access to justice for esc rights in Canada relies on the interpretation and application of domestic law, particularly the Canadian Charter of Rights and Freedoms (Canadian Charter) in a way that is consistent with international human rights law instruments that are ratified by Canada. This interpretative obligation of courts has been affirmed by the Supreme Court of Canada.
- 43. Concerns have been expressed by a number of UN human rights bodies that the federal government has urged domestic courts to deny effective remedies for the rights to life, security



of the person, or equality under the *Canadian Charter* where these rights are interdependent with rights under the ICESCR such as the right to housing or the right to health care. Canada has argued that rights under the ICESCR are non-justiciable and that courts should not adjudicate claims involving violations of the right to housing or health care – even when such violations result in loss of life.<sup>xxvi</sup> In a recent case, the Government of Canada’s mischaracterization of a claim that the right to life may require access to health care as “as a claim for a purely socio-economic right which is outside the guarantees of the Canadian Charter” was found by the court to be unfair and prejudicial.<sup>xxvii</sup>

#### **Proposed Recommendations for UPR 4:**

**XXVIII. Change government litigation strategies to ensure access to justice for violations of the right to life, security and equality experienced by those who are experiencing homelessness or living in precarious housing; and**

**XXIX. Instruct government lawyers to cease from arguing that the right to adequate housing is non-justiciable or that courts in Canada should not require governments to ensure access to housing in order to comply with the rights to life or equality.**

---

<sup>i</sup> National Housing Strategy Act S.C. 2019, c. 29, s. 313, Assented to 2019-06-21.

<sup>ii</sup> *Ibid.*

<sup>iii</sup> CBC News (10 March 2022). *Winter taking heavy toll on people who are homeless, from amputations to freezing to death*. Online: <<https://www.cbc.ca/news/canada/toronto/toronto-homeless-winter-1.6379714>>.

<sup>iv</sup> National Right to Housing Network (3 April 2023). *Budget 2023: A Profound Miss for the Right to Housing*. Online: <<https://housingrights.ca/budget-2023/>>.

<sup>v</sup> Canada Mortgage and Housing Corporation (N.D.). *Core housing need data — by the numbers*. Online: <<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#:~:text=Women,households%20in%20the%20same%20situation>>.

<sup>vi</sup> Employment and Social Development Canada (2019). *Everyone Counts 2018: Highlights: Preliminary Results from the Second Nationally Coordinated Point-in-Time Count of Homelessness in Canadian Communities*. Online: <<https://www.homelesshub.ca/resource/everyone-counts-2018-highlights-preliminary-results-second-nationally-coordinated-point>>.

<sup>vii</sup> My Muskoka Now (27 March 2023). *Committee declares homelessness emergency in Muskoka*. Online: <<https://www.mymuskokanow.com/124113/news/committee-declares-homelessness-emergency-in-muskoka/>>

<sup>viii</sup> National Housing Council (N.D.). *Shaping the future of housing in Canada through inclusion and participation*. Online: <<https://nhc-cn1.ca/>>.

<sup>ix</sup> National Right to Housing Network (2021). *The Right to Housing in Action*. Online: <<https://housingrights.ca/the-right-to-housing-in-action/>>.

- 
- <sup>x</sup> Women's National Housing and Homelessness Network (2022). *Human Rights Claims*. Online: <<https://womenshomelessness.ca/humanrightsclaims/>>.
- <sup>xi</sup> Front d'action populaire en réaménagement urbain (April 2022). Nouvelle brochure sur l'évolution des interventions fédérales en logement. Online: <<https://www.frapru.qc.ca/brochure-interventions-federales/>>
- <sup>xii</sup> Canadian Centre for Policy Alternatives (22 September 2022). *Alternative Federal Budget 2023*. Online: <<https://policyalternatives.ca/publications/reports/alternative-federal-budget-2023>>.
- <sup>xiii</sup> Office of the Parliamentary Budget Officer. (18 June 2019). *Federal Program Spending on Housing Affordability*. Online: <[https://www.pbo-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)>.
- <sup>xiv</sup> Office of the Parliamentary Budget Officer. (10 August 2021). *Federal Program Spending on Housing Affordability in 2021*. Online: <<https://distribution-a617274656661637473.pbo-dpb.ca/c14c97d8ca19d3036782918415de2bd3c976a66ed53e0030daf83b206c8d36e1>>.
- <sup>xv</sup> Auditor General of Canada (2022). *Reports 5 to 8 of the Auditor General of Canada to the Parliament of Canada*. Online: <[https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_202211\\_05\\_e\\_44151.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_202211_05_e_44151.html)>.
- <sup>xvi</sup> National Housing Council (2022). *Analysis of Affordable Housing Supply Created by Unilateral National Housing Strategy Programs: A Research Report*. Online: <<https://cms.nhc-cn1.ca/media/PDFs/analysis-affordable-housing-supply-created-unilateral-nhs-programs-en.pdf>>.
- <sup>xvii</sup> Federal Housing Advocate (22 November 2022). *Canada needs a National Right to Housing Strategy*. Online: <<https://www.housingchrc.ca/en/canada-needs-a-national-right-to-housing-strategy>>.
- <sup>xviii</sup> OECD. (N.D.). *Public policies towards affordable housing*. Online: <<https://www.oecd.org/housing/data/affordable-housing-database/housing-policies.htm>>.
- <sup>xix</sup> Office of the Parliamentary Budget Officer (11 February 2021). *Urban, Rural, and Northern Indigenous Housing*. Online: <<https://www.pbo-dpb.ca/en/publications/RP-2021-039-C--urban-rural-northern-indigenous-housing--logement-autochtones-vivant-en-milieu-urbain-rural-nordique>>.
- <sup>xx</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls (June 2019). *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. Online: <<https://www.mmiwg-ffada.ca/final-report/>>.
- <sup>xxi</sup> Government of Canada (N.D.). *The Declaration Explained*. Online: <[https://justice.gc.ca/eng/declaration/pdf/UNDA\\_EngagementKit\\_QA\\_Declaration\\_EN.pdf](https://justice.gc.ca/eng/declaration/pdf/UNDA_EngagementKit_QA_Declaration_EN.pdf)>.
- <sup>xxii</sup> United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*. Online: <[https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP_E_web.pdf)>.
- <sup>xxiii</sup> Statistics Canada (12 April 2022). *Canadian Housing Statistics Program, 2019 and 2020*. Online: <[https://www150.statcan.gc.ca/n1/daily-quotidien/220412/dq220412a-eng.htm#:~:text=Individual%20multiple%2Dproperty,Scotia\)%20of%20owners](https://www150.statcan.gc.ca/n1/daily-quotidien/220412/dq220412a-eng.htm#:~:text=Individual%20multiple%2Dproperty,Scotia)%20of%20owners)>.
- <sup>xxiv</sup> Office of the Parliamentary Budget Officer (3 April 2023). *Cost of removing the tax exemptions for Real Estate Trusts*. Online: <<https://www.pbo-dpb.ca/en/publications/RP-2324-001-M--cost-removing-tax-exemptions-real-estate-investment-trusts--estimation-couts-elimination-exemptions-fiscales-accordees-fiducies-placement-immobilier>>.
- <sup>xxv</sup> Human Rights Council (15 January 2018). *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*. Online: <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/007/65/PDF/G1800765.pdf?OpenElement>>.
- <sup>xxvi</sup> *Tanudjaja v. Canada* (Attorney General), 2014 ONCA 852. Online: <<https://canlii.ca/t/gffz5>>.
- <sup>xxvii</sup> *Toussaint v. Canada* (Attorney General) 2022 ONSC 4747. Online: <<https://www.canlii.org/en/on/onsc/doc/2022/2022onsc4747/2022onsc4747.html>>.