



OCT 2021

IMPLEMENTING THE RIGHT TO HOUSING IN CANADA:

EXPANDING THE NATIONAL HOUSING STRATEGY

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THE NATIONAL
RIGHT TO HOUSING
NETWORK

Acknowledgements

We firstly acknowledge that the right to housing is centred on, and accountable to, rights-claimants who have borne the brunt of Canada's housing and homelessness crisis. We are deeply grateful to those with lived experience of homelessness and inadequate housing who contributed to the development of this paper. We endeavour in this paper to genuinely confront and reject all manifestations of marginalization and discrimination that lead to housing precarity while demonstrating that the lived experiences of rights-claimants must consistently be foregrounded when implementing the right to housing in Canada.

We also thank all members and partners of the National Right to Housing Network who generously offered their time and feedback during our research and writing process, and who participated in interviews and surveys. This paper would not be possible without you.

We are truly grateful for the support and funding of the Office of the Federal Housing Advocate and appreciate their commitment to realizing the right to housing in Canada.

Finally, a special thank you to Randalin Ellery, Bruce Porter, and Kaitlin Schwan for their invaluable advice, encouragement, and support throughout the development of this paper.

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Executive Summary

After decades of advocacy urging for Canada to implement the right to housing, the House of Commons passed the *National Housing Strategy Act* (NHSA) in June 2019. The legislation embeds Canada's international human rights obligations to implement the right to adequate housing as a fundamental human right as articulated in the *International Covenant on Economic, Social and Cultural Rights*. It also commits to ensuring that Canada's housing policies take into account key principles of a human rights-based approach to housing and will progressively realize the right to housing for all. 22 months before this legislation was passed, a key instrument of Canada's housing policy entitled *Canada's National Housing Strategy: A Place to Call Home* (i.e. the NHS) had been announced in November 2017.

Though housing policy, and certainly research on how to apply a human rights-based approach to housing, has evolved since both the NHS and NHSA were introduced, the NHS has not been revised to be in step with the NHSA since its first iteration in 2017. In 2021, the process of reviewing and developing the next iteration of the NHS began and is anticipated to continue throughout early 2022.

It is anticipated that the Federal Housing Advocate will be called upon to review the NHS and make recommendations to ensure that it adheres to Canada's

commitments under the NHSA, addresses its obligations under the *International Covenant on Economic, Social, and Cultural Rights*, is compatible with the UN's Sustainable Development Goals, and adequately responds to the needs of vulnerable groups. This paper has been commissioned by the Canadian Human Rights Commission to inform the Federal Housing Advocate in their investigation of the systemic drivers of inadequate housing and homelessness that could be addressed through a genuinely rights-based NHS and the required components therein.

The human rights analysis employed throughout this paper relies upon international human rights authorities and applies an analysis of the NHS as it aligns with the ten components of the right to housing as outlined by the former UN Special Rapporteur, Leilani Farha. The paper applies a grey literature review, quantitative survey results on expanding the NHS under the right to housing, and qualitative interview feedback from key civil society stakeholders on areas for expansion of the NHS in accordance with the NHSA.

This paper should be read alongside the accompanying paper by Bruce Porter entitled, *Implementing the right to adequate housing under the National Housing Strategy Act: The international human rights framework* and the accompanying paper by Kaitlin Schwan, Mary-Elizabeth Vaccaro, Luke Reid, and

Nadia Ali entitled, *Advancing the Right to Housing for Women, Girls, and Gender Diverse Peoples in Canada*.

While some elements of this paper address systemic barriers to housing for Indigenous persons, the authors defer to First Nations, Inuit, and Métis colleagues in this area in recognition of these organizations as expressions of Indigenous self-determination, consistent with Canada's obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

A key finding of this research is that the gaps identified by advocates, persons with lived expertise, organizations, and academics regarding the efficacy of the NHS are not simply policy critiques. Many of the concerns voiced by civil society mirror the substantive legal framework of the right to housing under international human rights law, as articulated by UN human rights bodies.

Additionally, present throughout the research was the principle that the NHS is a single instrument that cannot solely capture all the elements of the right to housing. To genuinely meet Canada's commitments under the NHSA, access to justice mechanisms under the Canadian Charter of Rights and Freedoms as well as human rights, income security, planning, and security of tenure mechanisms under provincial and territorial law have critical roles to play in making the right to housing live. Similarly, subnational governments have a critical role to play in implementing

regional right to housing claiming and accountability mechanisms.

Under the four key principles of a human rights approach to the NHS outlined in the NHSA, the authors make the following recommendations for expansion of the strategy:

I. SETTING OUT A LONG-TERM VISION FOR HOUSING IN CANADA THAT RECOGNIZES THE IMPORTANCE OF HOUSING IN ACHIEVING SOCIAL, ECONOMIC, HEALTH, AND ENVIRONMENTAL GOALS

- Investments in the National Housing Strategy must meet the standard of a maximum of available resources, particularly for programs targeted at the goals of reducing core housing need and homelessness.
- Capital and other investments in the NHS should be targeted at the central goals of reducing core housing need and homelessness.
- The next iteration of the NHS must include measures to address financialization and the erosion of naturally existing affordable housing. This includes concrete action to implement financial policies to prevent large corporate investors and financial actors like Real Estate Investment Trusts (REITs) from further exploiting the housing market.
- Beyond traditional cost-sharing arrangements with subnational governments, the next iteration of the NHS must initiate an "all hands-

on deck” approach with all levels of government.

- The priorities of the NHS must be shared and prioritized among other federal government departments that interact with the right to housing.

II. ESTABLISHING HUMAN RIGHTS-BASED TARGETS, TIMELINES, AND INDICATORS

- To meet Canada’s obligations under international human rights obligations and the UN’s Sustainable Development Goals, progress must accelerate to meet immediate obligations including ending homelessness.
- To end homelessness and meet immediate obligations, the next iteration of the NHS must adopt a clear definition of homelessness and what it means to end homelessness.
- The next iteration of the NHS must be re-framed to address inflow and systemic drivers in an approach that emphasizes the prevention of homelessness and inadequate housing, particularly for priority populations, such as youth.
- Canada’s housing policy – including the NHS – must consider the disproportionate impact of the global COVID-19 pandemic, particularly as it drives low-income persons who are disproportionately persons of colour, persons with disabilities, women, and other marginalized persons to be

evicted into homelessness due to arrears.

- NHS progress must be reassessed to capture rights-based indicators to measure the impact of investments for priority populations (and those who need to be added to the NHS) who disproportionately experience homelessness and core housing need.

III. IMPROVING HOUSING OUTCOMES FOR THOSE IN GREATEST NEED

- The legacy of colonialism and systemic housing inequality for Indigenous persons must be recognized along with the right of those individuals to create their own strategies – this includes a National Urban and Rural Indigenous Housing Strategy.
- The next iteration of the NHS must be read alongside Canada’s Poverty Reduction Strategy to capture intersections of poverty, inadequate income support, and inequity of the labour market that exacerbate unaffordability of housing.
- The inadequacy of programs and conditions in the capital programs of the NHS to implement the rights of persons with disabilities must be at the forefront of the next iteration of the strategy.
- Canada’s housing laws, policies, and programs – including the NHS – must be re-framed to address the needs of populations who have otherwise

been excluded from CMHC's priority populations. This includes specific measures to address inadequate housing and homelessness among those who have interacted with the criminal justice system; persons with precarious immigration status; persons with disabilities who require both housing and accompanying support services to live independently in the community; migrant workers; low-income women and lone caregivers; and rural and remote communities.

IV. PROVIDING FOR PARTICIPATORY PROCESSES TO ENSURE ONGOING INCLUSION AND ENGAGEMENT: IMPLEMENTING RIGHTS-BASED MONITORING OF THE NHS AND HOUSING SPENDING

- Rights-holders must be integrated into NHS program design, monitoring, and evaluation.

- Resources must be accessible for rights-claimants to address systemic issues through meaningful engagement and to bring forward systemic claims to the Federal Housing Advocate and the Review Panel. Rights-claimants' access to resources, alongside a firm commitment from the government to implement measures recommended by the Review Panel and Housing Advocate, will bear significant weight on the NHS's capacity to realize the right to housing.

Canada took a bold step forward in 2017 by bringing together what was previously piecemeal housing policies into its first NHS. Now, as we enter 2022 with a newly affirmed commitment to the right to housing and to end homelessness, this is the opportunity to make it clear that Canada is a world leader in the implementation of the right to housing.

1

Introduction: Expanding the National Housing Strategy in Accordance with the National Housing Strategy Act and International Human Rights Legal Authorities

After decades of civil society advocacy and dialogue with international human rights bodies¹, Canada's House of Commons passed the *National Housing Strategy Act* (NHSA) in June 2019. Among commitments to new right to housing monitoring mechanisms, including the Federal Housing Advocate and National Housing Council, the

legislation mandates a “national housing strategy to further the housing policy, taking into account key principles of a human rights-based approach to housing.”² When this legislation was passed, *Canada's National Housing Strategy: A Place to Call Home* (NHS) had

¹ See the accompanying paper by Bruce Porter entitled *Implementing the right to adequate housing under the National Housing Strategy Act: The international human rights framework*.

² Government of Canada. (2019, June 21). *National Housing Strategy Act*. <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>

been announced 22 months earlier in November 2017.

The NHS commits to what was marketed as a \$40-billion investment over a period of 10 years, a number that was increased incrementally and reached over \$70 billion as of the 2021 Budget. The NHS focused on commitments to remove 530,000 families from housing need, reduce chronic homelessness by half by 2030, and invest in housing as well as a new Canada Housing Benefit.³ For many academics, civil society and community organizations who had been consulted in the creation of the NHS, the strategy was viewed as a critical first step to moving Canada further in realizing the human right to housing.⁴ As a research participant noted in an interview for this project, “the NHS recognized that we had a patchwork of housing policies with a chronic lack of funding. When it was released in 2017, the federal government put forward a long-term vision for ten years beyond one government cycle.”⁵

Others voiced serious concern as to the efficacy of the NHS, particularly in relation to the back end loaded investment over ten years, amount of investment supported by the federal government, the impact of housing

programs on priority and needs-based populations, and lack of commitment to a human rights-based approach.

Housing expert David Hulchanski went so far as to state in a Globe and Mail interview, “The housing strategy is a public relations gimmick, assisting fewer low-income people than in the past and it is not actually federal spending of \$40 billion or \$55 billion over 10 years but about \$16 billion.”⁶

In assessing the efficacy of the NHS to address Canada’s housing crisis, an international human rights framework is a powerful tool for understanding the gaps in the NHS. As critics noted, investments in the 2017 NHS were back ended and inadequate to end Canada’s housing crisis, this is, arguably, inconsistent with the principle that a maximum of available resources should be devoted to realizing the right to housing. The critique that the NHS does not adequately measure housing outcomes and gather data for marginalized populations including Indigenous people, women-led households, persons with disabilities, members of racialized groups, immigrants and refugees, members of LGBTQ2S+ communities, and those with low incomes – this is, arguably, a failure of Canada to fulfil obligations to ensure

³ Canada Mortgage and Housing Corporation. (2018, May 2). *National Housing Strategy*. <https://www.cmhc-schl.gc.ca/en/nhs/guidepage-strategy>

⁴ The federal government and many in civil society note the 2017 NHS as Canada’s first housing strategy. Some academics and advocates argue, however, that Canada has had previous housing strategies; for example, in the mid-1980s, a document entitled *A National Direction for Housing Solutions* was released by the federal government. For more, see

<https://behindthenumbers.ca/2017/12/18/national-housing-strategy/>

⁵ Interview participant, 2020.

⁶ Frances Bula. (2019, August 13). *Experts question funding levels, rollout of federal housing announcements*. The Globe and Mail. <https://www.theglobeandmail.com/canada/british-columbia/article-experts-question-rollout-of-federal-housing-funds/>

non-discrimination and equality in relation to the right to housing.

The gaps of the NHS identified by advocates, organizations and academics over the past three years are not simply policy critiques, these concerns mirror the substantive legal framework of the right to housing under international human rights law, as articulated by UN human rights bodies. The power of speaking to failures of housing policy through a right to housing framework shifts the focus of recommendations as “good policy” to requirements for human rights compliance, so as to change the way governments prioritize spending, remedy structural gaps, and transform the housing sector through the National Housing Strategy.

Though housing policy, and certainly the research on the application of a human rights-based approach to housing has evolved since both the NHS and NHSA were introduced, the NHS has not been revised to be in step with the NHSA since its first iteration in 2017. Upon taking office, it is anticipated that the Federal Housing Advocate will be called upon to review and make recommendations to ensure that the NHS adheres to Canada’s commitments under the NHSA, its obligations under the *International Covenant on Economic, Social, and Cultural Rights*, is compatible with the Sustainable Development Goals and adequately responds to the needs of vulnerable groups.

This paper has been commissioned by the Canadian Human Rights Commission to inform the Federal

Housing Advocate in their investigation of the systemic drivers of inadequate housing and homelessness that could be addressed through a genuinely rights-based NHS and the required components therein. It should be read alongside the accompanying paper by Bruce Porter entitled, *Implementing the right to adequate housing under the National Housing Strategy Act: The international human rights framework* and the accompanying paper by Kaitlin Schwan, Mary-Elizabeth Vaccaro, Luke Reid, and Nadia Ali entitled, *Advancing the Right to Housing for Women, Girls, and Gender Diverse Peoples in Canada*.

Elements of this analysis necessarily converge with the rights of Indigenous persons, who are disproportionately affected by Canada’s housing crisis. This paper offers only high-level engagement with the right to housing of Indigenous persons, however, and thus the authors of this paper urge the Canadian Human Rights Commission to commission Indigenous-led organizations to form fulsome analyses of the right to housing for First Nations, Métis, and Inuit persons. This is in recognition of these organizations as expressions of Indigenous self-determination, consistent with Canada’s obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

2

Overview of the National Housing Strategy

Canada's 2017 National Housing Strategy includes many of the housing and homelessness programs in place at the time of this publication in 2021.

Concretely, the NHS references a human rights-based approach to housing through the promotion of accountability as well as participation and inclusion. The NHS was developed after a series of consultations with civil society in 2016 including Expert Roundtables and a National Stakeholder Roundtable. This resulted in a consultation outcomes report entitled *Let's Talk Housing*,⁷ which identified themes of: distinct needs of

low-income and vulnerable Canadians; a strong social housing sector; Indigenous housing, Northern housing, affordability and innovative financing; and sustainable housing and communities.

This consultation process led to Canada's first NHS in 2017 allocating \$40 billion to housing programs, for which funding was further increased in Budget 2019 to \$55 billion and reached over \$70 billion as of the 2021 Budget for Canada's ten-year plan. The programs articulated in the 2017 NHS are divided between the Canada Mortgage and Housing

⁷ The Conference Board of Canada. (2016). *Let's talk housing. What we heard: Shaping Canada's National Housing Strategy*. [https://www.placetocallhome.ca/-](https://www.placetocallhome.ca/-/media/sf/project/placetocallhome/pdfs/nhs-what-we-heard-report-en.pdf)

[/media/sf/project/placetocallhome/pdfs/nhs-what-we-heard-report-en.pdf](https://www.placetocallhome.ca/-/media/sf/project/placetocallhome/pdfs/nhs-what-we-heard-report-en.pdf)

Corporation (CMHC) that administers program expenditures, while Employment and Social Development Canada (ESDC) manages transfers to service providers and communities reducing homelessness.⁸ This funding is allocated through programs including:

THE NATIONAL HOUSING CO-INVESTMENT FUND: This cost sharing program supports the repair and renewal of existing housing (Revitalization), as well as construction of new housing (New Construction) through low-interest loans and contributions. This includes both low-interest repayable loans as well as forgivable loans for both construction loans⁹ and revitalization loans.¹⁰ Every project under this fund must have support from another level of government. To support the creation of low-cost and affordable housing, the guidelines for this fund require that rents for at least 30% of the units must be less than 80% of the Median Market Rent and maintained for a minimum of 20 years.

THE RENTAL CONSTRUCTION FINANCING INITIATIVE (RCIF): This

program is what expert Steve Pomeroy refers to as the “centrepiece” of the NHS and is the largest financing program included in the strategy. The RCIF provides low-interest cost loans for the construction of rental housing. It does not require support from another level of government and has relaxed affordability guidelines in comparison to the National Co-Investment Fund¹¹ To access a loan, one of these requirements must be met and maintained for 10 years (versus 20 years, for the National Housing Co-Investment Fund). The loan program has increased in spending allocations since 2017, and as of January 2021, the cost of the initiative sits at 25.7 billion and is 40% of NHS funding¹²

FEDERAL LAND INITIATIVE: This program replaces the previous Surplus Federal Real Property for the Homeless Initiative (SFRPHI) to provide transfers of surplus federal land and buildings to affordable housing providers at a minimal or no cost.

CANADA COMMUNITY HOUSING INITIATIVE: This cost sharing program matches provincial and territorial contributions to community housing

⁸ Government of Canada. (2020). *About Reaching Home: Canada's Homelessness Strategy*. <https://www.canada.ca/en/employment-social-development/programs/homelessness.html>

⁹ CMHC. (2018). *National Housing Co-Investment Fund: New Construction*. <https://www.cmhc-schl.gc.ca/en/nhs/co-investment-fund---new-construction-stream>

¹⁰ CMHC. (2018). *National Co-Investment Fund – Revitalization*. <https://www.cmhc-schl.gc.ca/en/nhs/co-investment-fund---housing-repair-and-renewal-stream>

¹¹ The RCIF requires that either a) at least 20% of units must have rents below 30% of the median total

income of all families for the area, and the total residential rental income must be at least 10% below its gross achievable residential income, or b) The proposal has been approved under another affordable housing program or initiative from any government level (i.e. capital grants, municipal concessions or expedited planning processing).

¹² For an in-depth analysis of the efficacy of the RCIF to meet the goals of the NHS to remove families from core housing need and reduce homelessness, please see: Steve Pomeroy. (2021). *Toward Evidence Based Policy: Assessing the CMHC Rental Housing Finance Initiative (RCFI)*. <https://carleton.ca/cure/wp-content/uploads/CURE-Brief-12-RCFI-1.pdf>

and is subject to bilateral negotiations with each subnational government. The intention is that the program will allow each province or territory can implement its own program. It supports the expansion of community-based housing, repair and renewal. A significant amount of this funding goes to repair of existing units. The program is allocated \$4.3 billion over the duration of the 2017 NHS.

CANADA HOUSING BENEFIT: This program aims to provide an average of \$2,500 per year to eligible households¹³ in order to address the gap of available income to the 30% of income affordability threshold for housing. The CHB will be cost-matched by provincial and territorial governments. In the 2017 NHS, the federal government committed \$4 billion to the CHB.

NORTHERN HOUSING: In addition to existing funding to federal-provincial/territorial agreements, the 2017 NHS committed an additional \$300 million to housing in Northern Canada.

REACHING HOME: Previously known as the Homelessness Partnering Strategy, this program is administered by Employment and Social Development Canada (ESDC) to address homelessness. Funding for Reaching Home was significantly increased in the NHS, with an average spending of \$224.8 million per year. Key components of the program include an outcomes-based approach; coordinated access system; data collection and case management through the Homeless Individuals and Families Information System (HIFIS); analyses of shelter capacity, use, and nationally coordinated Point-In-Time Counts; and increased funding to Indigenous homelessness; homelessness in the territories, and in rural and remote areas.¹⁴ In 2020, the federal government committed an additional \$157.5 million,¹⁵ then an additional \$300 million in 2020-21,¹⁶ and finally an additional \$567 million as of Budget 2021 for Reaching Home, to help communities provide additional supports during the COVID-19 pandemic.¹⁷ Budget 2021 also introduced a program providing \$45 million over two years for a pilot program aimed at

¹³ Canadian Alliance of Non-Profit Housing Associations. (2019, April). *Canada Housing Benefit – Policy Principles*. https://chra-achru.ca/wp-content/uploads/2019/04/canada_housing_benefit_-_canpha_key_principles_0.pdf

¹⁴ Government of Canada. (2020, December 1). *About Reaching Home: Canada's Homelessness Strategy*. <https://www.canada.ca/en/employment-social-development/programs/homelessness.html>

¹⁵ Government of Canada. (2020). *Reaching Home: Canada's Homelessness Strategy - COVID-19*. <https://www.canada.ca/en/employment-social-development/programs/homelessness/notice-covid-19.html>

¹⁶ Jolson Lim (2020). *Ottawa to spend \$300 million preventing COVID's spread among the homeless*.

iPolitics. <https://ipolitics.ca/2020/12/01/ottawa-to-spend-300-million-preventing-covids-spread-among-the-homeless/>

¹⁷ The Rapid Housing Initiative is a program announced in October 2020 developed in response to COVID-19 to invest \$1 billion to create 3,000 new permanent and affordable housing units. The program included two streams, the Major Cities Stream and the Projects Stream. As of February 2020, this program is considered a centrepiece of the federal government's housing. See: Prime Minister of Canada. (2020, October 27). *New Rapid Housing Initiative to create up to 3,000 new homes for Canadians*. <https://pm.gc.ca/en/news/news-releases/2020/10/27/new-rapid-housing-initiative-create-3000-new-homes-canadians>

reducing veteran's homelessness through rent supplements and wrap-around services.¹⁸

how these programs and their budgetary allocations support the targets of the NHS over a ten-year period:

The following table created by the Parliamentary Budget Officer¹⁹ outlines

TABLE 1: CONTRIBUTIONS TO THE OUTPUT TARGETS OF THE NATIONAL HOUSING STRATEGY BY PROGRAM

NHS TARGET	PROGRAM GROUP AND PROGRAM	PROGRAM TARGET
100,00 new housing units created	Direct support for new construction and renovation group: National Housing Co-Investment Fund	60,000
	Transfers to Provinces and Territories group: Housing Partnership Framework	18,500
	Direct support for new construction and renovation group: Federal Lands Initiative	4,000
	Direct support for new construction and renovation group: Affordable Rental Housing Innovation Fund	4,000
	Direct support for new construction and renovation group: Rental Construction Financing Initiative	14,000
	Transfers to Provinces and Territories group: Northern Housing	1,500
300,000 existing units repaired or renewed	Direct support for new construction and renovation group: National Housing Co-Investment Fund	240,000
	Transfers to Provinces and Territories group: Housing Partnership Framework	60,000
	Support for federal community housing:	55,000

¹⁸ Government of Canada, (2021, April 20). Budget 2021 Housing. Ottawa: Department of Finance. <https://www.canada.ca/en/department-finance/news/2021/04/budget-2021-housing.html>

¹⁹ The Parliamentary Budget Officer (PBO). (2019, June 18). *Federal Program Spending on Housing*

Affordability, p. 31. Ottawa: Office of the Parliamentary Budget Officer. https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2019/Housing_Affordability/Federal%20Spending%20on%20Housing%20Affordability%20EN.pdf

385,000 community units protected	Federal Community Housing Initiative	
	Transfers to Provinces and Territories group: Housing Partnership Framework	330,000
50,000 unit expansion of community housing	Transfers to Provinces and Territories group: Housing Partnership Framework	50,000*
300,000 households provided affordability support	Affordability supports: Canada Housing Benefit	300,000
50% reduction in chronic homelessness	Homelessness programs: Reaching Home	50% reduction in chronic homelessness

Source: PBO, "Federal Program Spending on Housing Affordability," p. 33-34. based on figures provided by CMHC in response to IR0405

Critically for the purposes of this paper, the 2017 NHS included allocations of \$49.2 million to support and integrate a human rights-based approach to housing via the NHSA legislation, Federal Housing Advocate, National Housing Council, Community-Based Tenant Initiative, and related public engagement campaigns.²⁰

A rights-based analysis of the NHS, as mandated by the NHSA, must extend to the whole of the NHS and other housing program spending. The following section of this paper will review the context of the meaningful implementation of the right to housing and the elements therein of a genuinely rights-based national housing strategy.

²⁰ Canada Mortgage and Housing Corporation. (2018, May 2). *National Housing Strategy*.

<https://www.cmhc-schl.gc.ca/en/nhs/guidepage-strategy>

3

Meaningfully Implementing the Right to Housing in Canada

In this section, an overview of international law requirements and applications is provided, to inform the domestic implementation of the right to housing as articulated in the *NHSA*. The accompanying paper by Bruce Porter entitled “*Implementing the right to adequate housing under the National Housing Strategy Act: The international human rights framework*,” provides detailed authoritative analysis of the implementation of the right to housing in Canada, for example in the consideration of systemic issues under the progressive realization and reasonableness standards.

The creation of a national housing strategy has been a key

recommendation from international human rights authorities since the early 1990s. At its review of Canada by the UN Committee on Economic and Social Rights in 2006, the Committee urged Canada to “implement a national strategy for reduction of homelessness that includes measurable goals and timetables, consultation and collaboration with affected communities, complaints procedures, and transparent accountability mechanisms, in keeping with the

Covenant.”²¹ In 2007, the former UN Special Rapporteur on the Right to Housing, in a visit to Canada expressed concern about widespread homelessness in an affluent country like Canada. He further recommended that Canada implement “a comprehensive and coordinated national housing policy based on indivisibility of human rights and the protection of the most vulnerable.”²²

Just as international human rights authorities have been pushing Canada to implement a national housing strategy, they have similarly provided guidance through normative legal frameworks on the right to housing that dictate an intersectional approach where decision-makers are accountable to those who are directly affected.

All elements of the right to housing cannot be realized, however, through a national housing strategy alone. In fact, mechanisms such as access to justice under the Canadian Charter of Rights and Freedoms and security of tenure mechanisms under provincial or territorial laws have critical roles to play in the tapestry of a fully realized right to housing, as well as the important provisions for access to justice within the NHTS itself.

International treaty body jurisprudence emerging from the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights (OP-ICESCR), as well as general comments and concluding observations from the Committee, provide a concrete outline of the requirements to fulfil the human right to housing. Additional independent United Nations authorities, such as the United Nations Special Rapporteur on the Right to Housing, have further provided an analysis of the requirements of States to uphold the right to housing.

In 2018, then-UN Special Rapporteur, Leilani Farha released her thematic report outlining the ten components of the right to housing as implemented in domestic housing strategies. These Guidelines can be used as a framework to analyze the extent to which Canada’s National Housing Strategy reflects the right to housing – and how the recommendations of civil society actors in the housing sector fit into rights-based amendments to the strategy.²³

Farha’s 10 guidelines can be utilized to analyze the extent to which the NHTS and other housing policies embed the right to housing as follows:

²¹ UN Committee on Economic, Social, and Cultural Rights (CESCR). (2006, May 22). *Concluding observations of the Committee on Economic, Social and Cultural Rights*, E/C.12/CAN/CO/4; E/C.12/CAN/CO/5, p. 9. <https://www.refworld.org/docid/45377fa30.html>

²² UN Human Rights Council. (2009, February 17). *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, Miloon Kothari: addendum: mission to Canada (9 to 22 October 2007). <https://www.refworld.org/docid/49b7af2c2.html>

²³ UN Human Rights Council. (2018, January 15). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, A/HRC/37/53. <http://www.undocs.org/A/HRC/37/53>

TABLE 2: ANALYSIS OF THE NHS ACCORDING TO LEILANI FARHA’S 10 RIGHT TO HOUSING GUIDELINES

RIGHT TO HOUSING GUIDELINE	ELEMENTS OF THE GUIDELINE AND ANALYSIS BASED ON THE NHS AND OTHER HOUSING POLICIES
1. Basing a strategy in law and legal standards	<ul style="list-style-type: none"> • The right to housing is recognized as a right with legal remedies: this criterion will not be satisfied until the courts recognize the right to housing as justiciable. However, considerable progress can be made in this area if rights-claimants are able to access remedies through the parallel processes of the Federal Housing Advocate and National Housing Council. Subnational governments hold additional responsibility to ensure legal remedies are available for violations of the right to housing related to provincial, territorial jurisdiction. While some progress has been made in regions like Toronto to establish subnational claiming mechanisms, the right to housing will only be realized when all levels of government and courts recognize the right to housing as a right with legal remedies. • Strategies must eliminate homelessness: this criterion is not satisfied. The 2017 NHS aims to reduce only chronic homelessness by 50%. The 2020 Speech from the Throne made a further commitment to end chronic homelessness, however people who fall into this category represent approximately less than 20% the total population experiencing homelessness. • Forced evictions must be prevented and halted: Forced evictions, and any measures to address forced evictions that violate international human rights standards, are not addressed in the 2017 NHS. Under international human rights law, a forced eviction is “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of

	<p>the International Covenants on Human Rights.”²⁴ Provinces and territories are the primary actors involved in halting forced evictions, however there are significant overlaps in jurisdiction which present opportunities for all levels of government to address evictions.</p> <ul style="list-style-type: none"> • The right to housing must be used as a transformative vision and call to action. Strategies must be “living documents”: These criteria will depend on the full implementation of the NHTA as it was amended and adopted parliament, to ensure that housing policy will be continually improved in response to with affected communities and implementation of measures required to address systemic issues. The 2017 NHTA will soon undergo amendments, though as indicated throughout this paper, these amendments are not necessarily “transformative”. However, the federal NHTA legislation to realize the right to housing has been used as a model by other subnational governments.²⁵
2. Prioritizing those most in need and ensuring equality	<ul style="list-style-type: none"> • Strategies must assess which populations and communities are most in need: The definition of “most in need” must be understood in the context of intersectionality and those experiencing immediate violations of the right to housing. This criterion is somewhat satisfied as the 2017 NHTA does list priority populations, though as noted throughout this paper, some critical populations are excluded. As noted throughout this paper, experts have additionally noted that NHTA investments, particularly capital investments, are inadequate at reaching those priority populations of the NHTA. • Socioeconomic inequality and exclusion within housing systems must be addressed – for example in the context of financialization of

²⁴ Committee on Economic, Social, and Cultural Rights. (1997). *General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions*. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CESCR/GEC/6430&Lang=en

²⁵ Right to Housing TO. (2020). *Right to housing in Toronto*. https://right2housingto.ca/wp-content/uploads/2019/06/Right_to_Housing_1_TO.pdf

	<p>housing: This criterion is not yet satisfied. With the implementation of the NHSA and the government's new measures for acquisition, there is some progress in this area, however there is little evidence that these measures will meet the needs of marginalized groups that are disproportionately facing socioeconomic disadvantages.</p> <ul style="list-style-type: none"> • In the implementation of housing programs, structural inequalities must be addressed to understand the underlying needs of marginalized groups: This criterion is not yet satisfied. As addressed throughout this paper, the impact of NHS programs, particularly related to capital funding is rarely assessed in relation to structural inequalities. • Strategies must address the distinct housing needs of women and gender diverse persons: This criterion is somewhat satisfied. The 2017 NHS does commit to a goal of 25% of investments to women and girls—a goal reiterated in the 2021 Federal Budget for the Rapid Housing Initiative—but the impact of these investments has not been measured, and there is little evidence that the NHS programs – especially capital programs – are designed to meet the needs of women and gender diverse persons. • The legacy of colonialism and systemic housing inequality for Indigenous persons must be recognized along with the right to develop their own priorities and strategies: Canada's obligations under the UN Declaration on the Rights of Indigenous Peoples must be read alongside other right to housing authorities.²⁶ As noted by Indigenous experts, this criterion is not satisfied, especially in the context of Canada's failure to create an adequately resourced Urban and Rural Indigenous Housing and Homelessness Strategy that is developed and implemented by urban, rural, and Northern Indigenous housing and service
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²⁶ In December 2020, the Government of Canada introduced legislation to implement UNDRIP. See Government of Canada. (2020) *Implementing the United Nations Declaration on the Rights of Indigenous Peoples in Canada*. <https://www.justice.gc.ca/eng/declaration/index.html>

	<p>providers, with recognition of these organizations as expressions of Indigenous self-determination, consistent with Canada's obligations under UNDRIP.</p>
<p>3. Comprehensive and whole-of-government</p>	<ul style="list-style-type: none"> <p>Strategies must address intersecting areas including: “land-grabbing, speculation, privatization, predatory lending, environmental degradation and vulnerability to floods, fires or earthquakes”: These criteria are not satisfied. The NHS does not sufficiently address these areas. Importantly, though investment in community housing options, and in particular social housing is part of the solution to Canada's housing crisis – the private sector, if adequately regulated to abide by human rights obligations can be engaged in solutions.</p> <p>Multiple stakeholders, programs, departments, and spheres of government must be engaged to ensure cooperation: This criterion is somewhat satisfied. Many agencies have been engaged on housing and homelessness, including the Ministry of Veterans' Affairs, Employment and Social Development Canada, and the Canadian Mortgage and Housing Corporation. Some critical actors, including the Ministry of Justice, have been absent from actions to implement the right to housing. Critically, though this paper focuses on the role of the federal government, other levels of government must be engaged and similarly are accountable for international human rights obligations.</p> <p>The needs of Urban, rural, and peri-urban must be addressed in housing strategies: This criterion is not satisfied. Investments in housing have been disproportionately allocated to Ontario, and rural communities have often been excluded from housing policies, as discussed in this paper.</p>
<p>4. Rights-based participation</p>	<ul style="list-style-type: none"> <p>Participatory mechanisms to oversee implementation of housing strategies must be engaged for rights-holders. Technical support and expertise should be made available for participants: This criterion is somewhat satisfied. The consultation process leading to the NHA are</p>

	<p>promising. The National Housing Council has been appointed, though it initially lacked lived experience of homelessness representation. This was partially addressed after public advocacy efforts²⁷ when a member from the National Poverty Reduction Strategy Advisory Council with lived experience of homelessness was appointed to the National Housing Council. It is unclear whether funded support programs through the NHS will implement a clear mandate to support rights-based participation and accountability by affected communities in the monitoring of progressive realization and the NHS.</p> <ul style="list-style-type: none"> Those who are experiencing homelessness must be integrated into specific participatory mechanisms: This criterion is somewhat satisfied. While the membership of the Housing Council includes many extremely qualified experts,²⁸ when first announced, lacked first voice advocate experts on homelessness. However, there is significant representation of other marginalized groups on the National Housing Council, and one person with lived experience of homelessness was later appointed to the council (as explained above). The future fulfillment of this criteria is dependent on the steps of government to deeply integrate persons with lived experience of homelessness. Engagement with Indigenous persons on housing strategies and planning must be consistent with the UN Declaration on the Rights of Indigenous Persons, as well as other human rights obligations: This criterion is not yet satisfied, though it is a complex area of analysis. The Government of Canada has been working with some national Indigenous organizations to develop distinctions-based housing strategies to address the unique needs of First Nations, Inuit, and Métis Nation communities. As discussed above, however, many Indigenous experts and housing and service
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²⁷ National Right to Housing Network. (2020 November 23). *National Housing Council appointments missing lived experience and right to housing expertise*. <http://housingrights.ca/national-housing-council-reaction/>

²⁸ CMHC. (2021) *National Housing Council* <https://www.placetocallhome.ca/national-housing-council>

	<p>providers are calling for a separate and adequately resourced Urban and Rural Indigenous Housing Strategy (which was also a recent commitment in party platforms during the 2021 federal election). Authors of this paper defer to Indigenous experts, with recognition of these organizations as expressions of Indigenous self-determination, consistent with Canada's obligations under UNDRIP.</p> <ul style="list-style-type: none"> • Activities must be undertaken to ensure participation of marginalized groups, including special measures for persons with disabilities: This criterion is not yet satisfied, though some disability rights advocates have been engaged by CMHC and pre-engagements are underway by the Office of the Federal Housing Advocate. • Locally, the participation rights should involve decision making on housing developments or upgrading of informal settlements: This criterion is not yet satisfied but would be a rich area for the federal government to expand upon. Funding and other agreements with municipalities could be used to require a human rights-based approach to issues like local planning and financialization; engaging residents directly affected; and responding to encampments.
5. Accountable budgeting and tax justice	<ul style="list-style-type: none"> • Budgeting should be measured against the standards established by s. 2(1) of the CESC of "maximum of available resources" and "all appropriate means." This is measured against a standard of reasonableness²⁹: These criteria are not satisfied. Critiques of the 2017 NHS by civil society organizations, academics, and other experts have repeatedly argued that investments in tackling the housing crisis are not adequate and are not adequately weighed towards goals of the NHS to end homelessness and reduce core housing need. While investments have evolved significantly since 2017, experts voiced significant critique in early

²⁹ For an in-depth analysis of the standard of reasonableness, see Bruce Porter's accompanying paper entitled *Implementing the right to adequate housing under the National Housing Strategy Act: The international human rights framework*

	<p>versions that investments were backloaded to the later years of the strategy.</p> <ul style="list-style-type: none"> • The impact of budgetary allocations for women and gender-diverse persons should be measured in a manner that promotes women's housing equality: This criterion is not satisfied. While the 2017 NHS commits to 25% of investments in housing equality for women and girls, there are few indicators for the impact of investments on that population. Moreover, this commitment is not clearly expressed in the criteria for programs; for example, the Rapid Housing Initiative (RHI) only awards 10/120 points for projects that will serve Black Canadians, Indigenous Peoples, or women and children.³⁰ It should be noted that Canada's federal budgets do undertake a GBA+ analysis, but without adequate measurements of the impact of investments, this criterion cannot be satisfied. • Taxation provisions and other funds must be provided to subnational governments to implement housing programs adequately: This criterion is somewhat satisfied through the Reaching Home program that has designated 66 communities,³¹ and supplies funding for homelessness services. Other programs such as the Rapid Housing Initiative flows directly to subnational governments, including those at the community level. Municipalities also require more direct power in planning, zoning, regulation, and related fields to implement effective measures as provinces have authority to limit municipalities' planning and zoning activities – for example to implement Inclusionary Zoning for affordable units in new developments. • Tax avoidance and loopholes in the real estate sector must be addressed in strategies. Revenues from closing these loopholes should
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³⁰ CMHC. (2020). *Rapid Housing Initiative: Applicant Guide 2020*. <https://assets.cmhc-schl.gc.ca/sites/cmhc/nhs/rapid-housing-initiative/nhs-rhi-application-guide-en.pdf?rev=4d5526a8-cfc2-47d2-af8c-505a01dbcf59>

³¹ Government of Canada. (2020, December 14). *Designated communities funding stream*. <https://www.canada.ca/en/employment-social-development/services/funding/homeless/homeless-designated-communities.html>

	<p>be allocated to resources to support housing strategies: This criterion is not satisfied.</p> <p>Governments have a critical role to protect human right to housing, including from predatory business practices that violate these rights. A recent paper by ACORN Canada identified the role of Real Estate Investment Trusts (REITs) in the financialization of housing. The report noted that in an analysis that REITs benefit from tax exemptions that saved them over 1.2 billion more in taxes since 2010, had they been treated as a non-REIT corporation.³² British Columbia presents a promising example for how tax regulations can be adopted at a federal level as their speculation and vacancy taxes have been effective strategies.</p>
6. Human rights-based goals and timelines	<ul style="list-style-type: none"> • Goals and timelines must be reasonable and reflect the urgency in addressing human rights violations. They should reflect commitments to the 2030 Sustainable Development Goals (SDGs): This criterion is not satisfied. The 2017 NHS aims to reduce chronic homelessness by 50% in 10 years rather than meeting the standard of the SDGs to “leave no one behind”.³³ The 2020 Speech from the Throne made a further commitment to end chronic homelessness, though this only represents a small portion of the population experiencing homelessness. • It is recommended that goals be developed and measured with respect to all three types of human rights indicators: <ul style="list-style-type: none"> ○ “Process indicators” – this includes the reporting of program deliverables within a time frame: This criterion is somewhat satisfied. Programs and budgets are allocated to address the housing crisis within an articulated timeframe. ○ “Outcome indicators” – this includes qualitative and quantitative data measuring

³² ACORN Canada. (2021). *Rein in the REITs*. <https://acorncanada.org/resource/rein-reits>

³³ United Nations. (n.d.). *Take Action for the Sustainable Development Goals*. <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

	<p>the experiences of rights holders: This criterion is not satisfied. Though some measurements provide us a glance at the success of NHS and other housing programs, we do not have reliable indicators, and significantly more work must be undertaken to measure the impact of programs for priority populations. While some data is collected at a population level, it is not collected in relation to all programs and initiatives funded through the NHS, and thus we are unable to assess the outcomes of these program for priority groups.</p> <ul style="list-style-type: none"> ○ “Structural indicators” – this includes an assessment of the extent to which legal protections and effective remedies are accessible to marginalized groups: This criterion is not satisfied. Rights-holders have been discouraged by the courts from exercising the right to housing to access remedies. The NHS mechanisms ensure access to effective remedies and meaningful accountability for the right to housing meaning systemic issues should be brought to light and effectively addressed through findings and the implementation of recommended measures from the Federal Housing Advocate and the Review Panel. • Data collected must be disaggregated by race, ethnicity, disability, age, gender, and other characteristics: This criterion is somewhat satisfied. Some data, including PIT counts, census data, and by-name lists is disaggregated by some characteristics. Additional concerns may be raised when, for example GBA+ identities are not captured by the member of the household member filling out the census. Advocates have voiced concerns that much more work needs to be done to further disaggregate data, particularly for Black persons and other persons of colour.³⁴
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³⁴ For further recommendations on the use of aggregated demographic data to address systemic discrimination. See: British Columbia’s Office of the Human Rights Commissioner. (2020). *Disaggregated demographic data collection in British Columbia: The grandmother perspective*. https://bchumanrights.ca/wp-content/uploads/BCOHRC_Sept2020_Disaggregated-Data-Report_FINAL.pdf

	<ul style="list-style-type: none"> • Goals and timelines should be established for marginalized groups: This criterion is somewhat satisfied. Some broad goals, or intentions to set goals, have been stated in the NHS for particularly marginalized groups, but tangible goals/timelines remain absent for most of the priority populations listed in the 2017 NHS.
7. Accountability and monitoring	<ul style="list-style-type: none"> • A monitoring body must be established to assess the effectiveness of a strategy, make recommendations, and hold governments accountable: These criteria are likely satisfied. In Farha's report, Canada is cited as the example of a country who has created a monitoring body through the <i>NHSA</i> to accompany the NHS. While these criteria are in place at a federal level, however, housing is inter-jurisdictional and thus accountability and monitoring mechanisms are also required at provincial and municipal levels. • Monitoring bodies must function independently with adequate financial resources: This criterion may be satisfied. This is dependent on the resources provided to civil society to engage in systemic claims and for the Advocate and Council to adequately investigate claims. Given that housing is interjurisdictional, however, provincial and municipal measures are also required. In addition to resources, to satisfy these criterion, human rights monitoring bodies must engage rights-claimants and civil society organizations and engage a credible and transparent appointment process. • Monitoring bodies may be responsible for monitoring the implementation of recommendations or remedial orders: This criterion may be satisfied. This is dependent on the effectiveness of responses by the Minister responsible for housing in addition to the written report to be tabled within 120 days of receiving recommendations. Given that housing is interjurisdictional, however, provincial and municipal measures are also required. • Monitoring bodies should be able to conduct hearings into systemic cases and visit affected

	<p>communities: This criterion may be satisfied. The Review Panel of the National Housing Council will support this function. Given that housing is interjurisdictional, however, provincial, and municipal measures are also required.</p> <ul style="list-style-type: none"> • Progress should be monitored with the use of human rights indicators. Data should be disaggregated when provided to the monitoring body: This criterion is not yet satisfied. Very few indicators are readily available, and there are significant data gaps to measure progress alongside human rights indicators, particularly for marginalized groups. It may be that disaggregated data is available to the National Housing Council.
8. Ensuring access to justice	<ul style="list-style-type: none"> • Claiming mechanisms must have the ability to hold governments and private actors accountable. This can be through courts, ombudsperson offices, commissioners, or other housing advocates: This criterion may be satisfied by the Federal Housing Advocate and National Housing Council if the mechanisms are well-led, well-resourced, and effective. Given that housing is interjurisdictional, however, provincial, and municipal measures are also required. • Ultimate recourse through court systems is important to implement the right to housing: This criterion is not satisfied. While courts have been open to interpretation of the <i>Canadian Charter of Rights and Freedoms</i>, the government of Canada and various provincial governments have repeatedly taken litigation positions that prevent the right to housing from being practiced in the courts. This criterion could be satisfied in the future if the Minister of Justice were to instruct government lawyers to argue for interpretations of the Charter consistent with the NHSA, and if provincial and territorial Attorney Generals align their arguments with their international human rights obligations implement the right to housing.
9. Clarifying the obligations of private	<ul style="list-style-type: none"> • Housing Strategies should meet the standards of the Guiding Principles on Business and Human

<p>actors and regulating financial, housing, and real estate markets</p>	<p>Rights: This criterion is not satisfied. The NHS does not engage with the monitoring of business practices under human rights, and this is particularly concerning given that the federal government has a clear role to protect the human right to housing. It is important to note that though the actions of private actors are addressed in this portion of the analysis, non-profit housing and government housing actors also hold human rights obligations.</p> <ul style="list-style-type: none"> <p>Housing strategies must also require that the actions of private actors and investors fulfill the right to housing. This includes the requirement that investors provide affordable housing or ensure units are allocated for persons with disabilities: This criterion is not satisfied. Capital funding programs in the NHS do not fulfill affordability criteria, and programs require only a small portion of units be allocated for inclusive design (typically this is a threshold of 5% of units, whereas 15-20% of Canadians live with disabilities). There is opportunity for improvement if the government mandates that at least 20% of units, if not all units, be built with universal and inclusive design.</p> <p>Strategies must promote investment in community land trusts, collective ownership, and social housing over private sector investment: This criterion is somewhat satisfied. The NHS does include the National Housing Co-Investment Fund, which funds partnerships between governments, non-profits, private sector, and others³⁵, as well as the Federal Community Housing Initiative, though it is dependent on negotiations with subnational governments. This close collaboration in delivery of programs by different levels of government is a critical area of delivery of the NHS. For example, municipalities are often involved in delivery of NHS programs as funders or as the authority for planning permissions. Civil society actors have identified that there is a lack of focus on community housing</p>
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³⁵ Canada Mortgage and Housing Corporation (CMHC). (2018, May 2). *National Housing Co-Investment Fund: New Construction*. <https://www.cmhc-schl.gc.ca/en/nhs/co-investment-fund---new-construction-stream>

	<p>initiatives and that capital programs disproportionately favour the private sector. It is important to note that while the NHS disproportionately favours the private sector, other experts have noted that there remains a critical role to leverage adequate support programs to access the private market to secure long term affordable housing for those experiencing homelessness.</p> <ul style="list-style-type: none"> • Mechanisms for oversight of public private partnerships should be a feature of strategies. This includes zoning and land use decisions to ensure transparency and accountability: This criterion is not satisfied. There are no accountability mechanisms to allow for transparency in zoning and land use decisions in the NHS. • Strategies should support the informal economy including caregivers, domestic workers and street vendors: This criterion is not satisfied and is not a feature of the NHS. Policy intervention should focus on prioritizing those in the informal economy who are most vulnerable by investing in skill-development and other opportunities for these workers to maintain or improve their living standard.³⁶
10. Implement international cooperation and assistance	<ul style="list-style-type: none"> • Housing strategies must be compliant with the New Urban and 2030 SDG agenda: This criterion is somewhat satisfied. However, the goals of the NHS are inconsistent with the 2030 SDG agenda to leave no one behind and eliminate homelessness. The 2030 Agenda similarly calls on governments to implement a human rights-based approach, which is attempted to some extent, but as this paper examines, significant efforts must be taken in the next iteration of the NHS to be consistent with the NHSA and right to housing. • States should engage in international initiatives to promote investment in activities compliant

³⁶ Thomas F. Alexander. (2019, October 30). *The global informal economy: Large but on the decline*. IMF Blog. <https://blogs.imf.org/2019/10/30/the-global-informal-economy-large-but-on-the-decline/>

	<p>with the right to housing: This criterion is not satisfied.</p> <ul style="list-style-type: none"> • States should ensure that multinational corporations engaged in real estate are registered in their country and compliant with the right to housing: This criterion is not satisfied. • Trade and investment agreements should protect and promote the right to housing: This criterion is not satisfied.
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Though the above table is a useful tool in demonstrating the rights-based gaps of the 2017 NHS, it is important to note that human rights analysis extends beyond the above criteria. In her final report to the United Nations General Assembly, then-UN Special Rapporteur Leilani Farha further evolved the characteristics of a human rights-based approach through the publication of 16 Guidelines for States for the implementation of the right to adequate housing in 2019.³⁷ Additionally, further authorities, such as the UN Special Rapporteur's guidance on the right to housing and encampments, reports on the rights of persons with disabilities, and the rights of Indigenous peoples, are part of a more fulsome analysis of the requirements of the right to housing.

Canada has a long a way to go before our National Housing Strategy and housing policies meet the standards set by international human rights law. However, it is important to remember

that the progressive realization of human rights does not happen overnight: it is a process which involves continual improvement. In fact, there are opportunities for the NHS to be revised to make it more human rights-compliant; for instance, the upcoming first review of the NHS, taking place throughout 2021, presents an opportunity for the federal government to consider the criteria and recommendations presented in this paper. Based on this analysis and the recommendations of civil society actors, the below section provides an overview of some of the key steps Canada can take to update the NHS such that it better moves forward in realizing the right to housing.

³⁷ UN Human Rights Council. (2019, December 26). *Guidelines for the implementation of the right to adequate housing. Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, A/HRC/43/43. http://www.unhousingrapp.org/user/pages/04.resources/A_HRC_43_43_E-2.pdf

4

Methodology

a) Grey Literature Review and Qualitative Interviews

As part of the research process for this paper, both a literature review and qualitative interviews were conducted.

The literature review involved a thorough review and analysis of various grey literature texts (i.e. texts published outside of typical commercial or academic publishing environments) including materials and reports from partner organizations, government bodies, international human rights

bodies, news outlets, key stakeholders, and rights-claimants.

Qualitative interviews were conducted among the membership of the National Right to Housing Network (NRHN). The NRHN is a network of over 360 individuals and organizations from across Canada committed to the meaningful implementation of the right to housing. These members include first voice advocates (i.e. experts with lived experience of homelessness) and housing and human rights experts who have participated in UN treaty body reviews and who represent rights-claimants. Interview participants were

selected to represent different geographies and advocacy aims within the housing sector and Network, with an effort to represent marginalized issues and groups including Indigenous Peoples, people of colour, persons with disabilities, women, persons with lived experience of homelessness, housing sector providers, tenant advocates, and Francophone residents of Quebec. 13 interviews were conducted in total, with the same six questions asked to each participant member. These questions were:

1. How familiar are you with the 2017 National Housing Strategy and subsequent housing programs?
2. What, in your view, are the primary systemic drivers of disproportionate risk of homelessness and inadequate housing? How is the NHS doing at addressing these barriers?
3. The NHS aims to reduce chronic homelessness by 50%, now with the Throne Speech, it seems that the federal government will aim to end chronic homelessness. In your opinion, what amendments need to be made to the NHS to move Canada toward these goals?
4. How would you describe the impact of the 2017 NHS so far for marginalized groups such as the priority groups listed in the NHS (seniors, Indigenous persons, youth, persons with disabilities, etc.)?
5. A human rights-based approach requires that the NHS have certain

elements, for example an investment of a maximum of available resources, commitment to human rights-based goals to end homelessness, participatory mechanisms, and rights-based measurement/indicators (particularly for marginalized groups). Which of these elements would you prioritize in rights-based amendments for the next phase of the NHS?

6. What is one thing you hope to see in the next iteration of the NHS and the evolution of Canadian housing policy?

b) Survey to NRHN Membership

In late September 2020, the National Right to Housing Network (NRHN) distributed a voluntary, online survey to its members. The purpose of the survey was to identify key amendments for expansion of the National Housing Strategy (NHS) to effectively end homelessness and stop Canada's housing crisis.

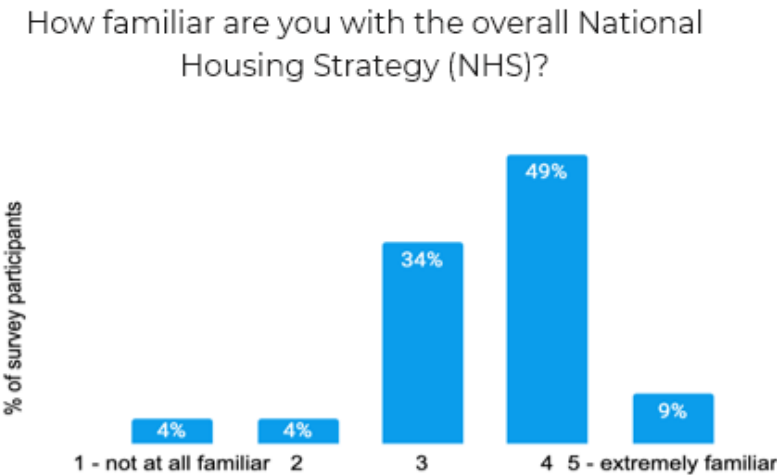
RESULTS

Overall, 46 individuals of approximately 260 NRHN members in September 2020 participated in the survey, with 59% of the participants representing an organization with deep involvement in the housing and homelessness sector. While this lower response rate (18%) doesn't allow for statistically significant results, it nevertheless provides valuable

insights to be considered alongside other methods (e.g. qualitative interviews). Similarly, the survey itself demonstrates the type of questions to be posed when conducting an analysis

of the NHS under the NHSA. In addition, results demonstrate that participants have a strong (self-assessed) familiarity with the NHS (Figure 1).

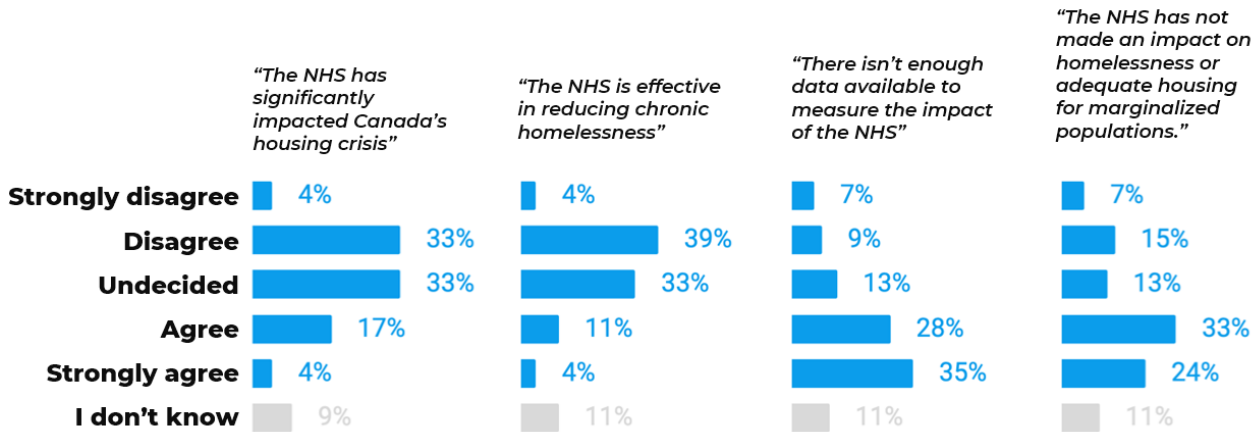
FIGURE 1: FAMILIARITY WITH NHS AMONG SURVEY PARTICIPANTS



Participants were asked to indicate the extent of their agreement with various statements regarding the NHS. Their feedback made it clear that participants are concerned about the lack of data to

measure the impact of the NHS and do not believe that the NHS has had an impact on homelessness or adequate housing for marginalized populations (Figure 2).

FIGURE 2: AGREEMENT WITH STATED IMPACTS OF NHS



Several opportunities to strengthen the NHS and its impact were identified through the literature review and qualitative interviews conducted for this study. These priorities and opportunities identified through the research process were as follows:

- Commit to ending homelessness (“End homelessness”)
- Regulate the financialization of housing and erosion of affordable housing (“Regulate financialization”)
- Invest the maximum available resources to end Canada’s housing crisis in the shortest possible amount of time (“Invest resources”)
- Immediately implement an Urban Indigenous Housing Strategy (“Create Urban Indigenous Housing Strategy”)
- Create participatory mechanisms to oversee implementation of the NHS, including decisions on housing developments (“Oversee implementation”)
- Better measure and improve impact of NHS investments for marginalized populations (“Support marginalized populations”)
- Prevent and halt forced evictions

These opportunities were then used in the survey to NRHN members, to dig deeper into the importance of each. Survey participants were asked to rank the importance of each opportunity on a scale of 1 (of little importance) to 5 (very important). Results were analyzed and summarized as an overall score out of 5 (Figure 3). While all opportunities scored high, a commitment to ending homelessness rose to the top.

FIGURE 3: IMPORTANCE OF DIFFERENT OPPORTUNITIES TO STRENGTHEN NHS



To further validate these findings, participants were also asked to prioritize the same set of opportunities to

strengthen the NHS from 1 (most critical priority) to 7 (least critical). While the top three remained the same (ending

homelessness, invest resources, regulate financialization), the other opportunities shifted. Though this data does not show that one response dramatically outweighs any other, it demonstrates

that members are concerned about a variety of different opportunities to strengthen the NHS, and that we should move forward on multiple fronts to address these.

TABLE 3: PRIORITIZED OPPORTUNITIES TO STRENGTHEN NHS

PRIORITY	OPPORTUNITIES TO STRENGTHEN NHS
Priority #1	Ending homelessness
Priority #2	Invest resources
Priority #3	Regulate financialization
Priority #4	Prevent and halt forced evictions
Priority #5	Marginalized populations
Priority #6	Urban Indigenous Housing Strategy
Priority #7	Oversee implementation

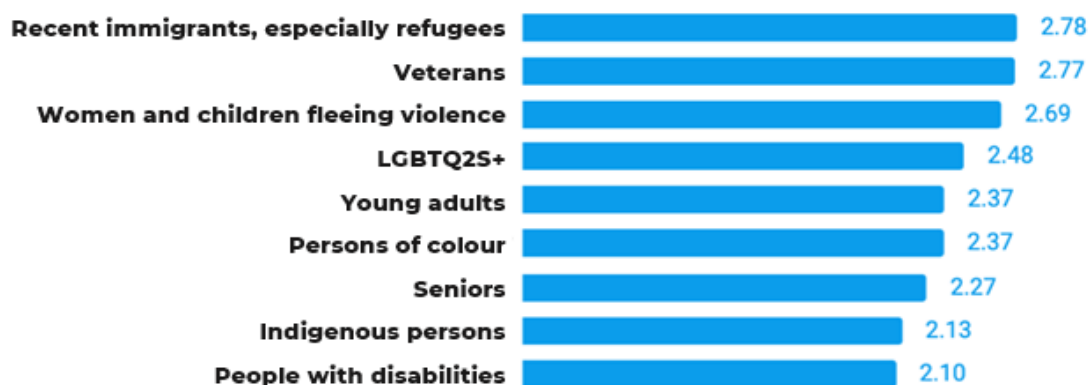
Participants were also asked to reflect on the investments of the NHS and related housing programs on meeting the needs of the marginalized populations, on a scale from 1 to 5. Analysis of

responses demonstrates that, overall, participants' dissatisfaction is evident across different marginalized populations (Figure 4).

FIGURE 4: SATISFACTION WITH NHS INVESTMENTS IN MEETING NEEDS OF MARGINALIZED POPULATIONS

How satisfied are you with the investments the NHS and related housing programs have made in meeting the needs of the following marginalized populations?

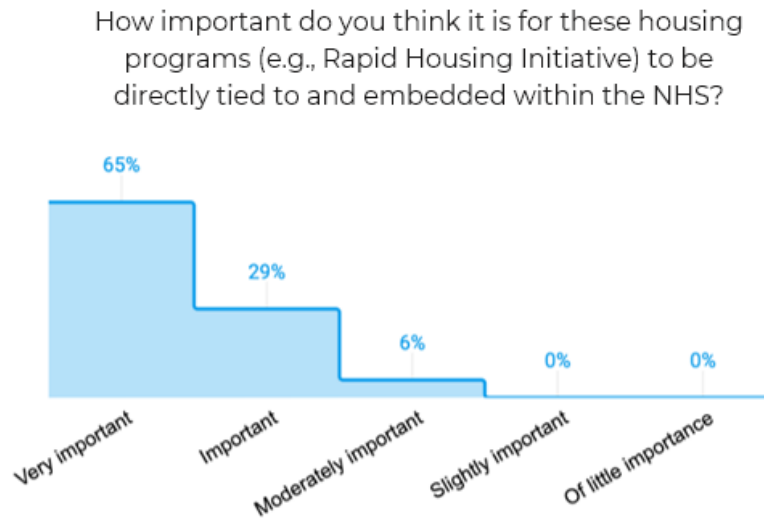
(1 = very dissatisfied, 5 = very satisfied)



Participants also mentioned several other populations that have been left behind by a lack of investment in and focus on the NHS, including people exiting incarceration, individuals with complex and concurrent issues, social assistance recipients, persons on fixed incomes, youth aging out of care, non-senior single persons (especially women and single mothers in poverty), persons with cognitive or intellectual disabilities, large families, rural and remote populations, urban indigenous peoples, and persons facing intersecting and compounding barriers (e.g. persons facing poverty, disability, and systemic discrimination).

During the literature review and qualitative interviews, it became evident that there is a lack of clarity around which housing programs are included in the NHS. Survey participants were asked how important they think it is for housing programs (announced after the NHS was released – e.g. Rapid Housing Initiative) to be directly tied to and embedded within the NHS. An overwhelming majority (94%) reported it is 'very important' or 'important,' and no one suggesting it is 'slightly important' or 'of little importance' (Figure 5).

FIGURE 5: IMPORTANCE OF HOUSING PROGRAMS EMBEDDED IN NHS

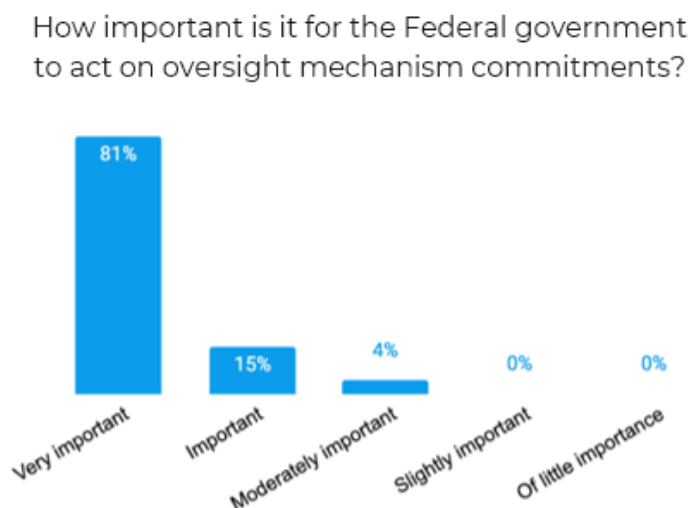


The NHTA was passed in June 2019, which included oversight mechanisms for the NHS like a Federal Housing Advocate and National Housing Council. In November 2020, two months after the distribution of this survey, the membership of the National Housing Council was announced, and the

recruitment process for the Federal Housing Advocate was launched.

Survey participants were asked to rank the importance of the federal government to act on this priority and nearly all (96%) indicating it as 'very important' or 'important' (Figure 6).

FIGURE 6: IMPORTANCE OF IMPLEMENTATION OF OVERSIGHT MECHANISMS



5

Applying the Right to Housing as Affirmed in the NHSA to the NHS

With the passing of the NHSA in 2019, Canada further outlined how it will meaningfully implement the right to housing through the NHS. Of note, the NHSA identifies the following four key principles of a human rights approach in the National Housing Strategy. It must, among other things:

- Set out a long-term vision for housing in Canada that recognizes the importance of housing in achieving social, economic, health and environmental goals;
- Establish national goals relating to housing and homelessness and identify related priorities, initiatives, 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.³⁸

The following section will outline how these human rights requirements can be applied, based on the analyses of civil society organizations, academics, persons with lived experience, and other experts. For each of the four key principles, relevant background information related to the NHS is analyzed in accordance with key findings from the interviews and gray literature review. A human rights analysis is then offered for each key principle by applying international human rights law to the Canadian context.

I. ARTICULATING THE LONG-TERM VISION FOR HOUSING IN CANADA BY RIGHTS HOLDERS THAT RECOGNIZES THE IMPORTANCE OF HOUSING TO ACHIEVE SOCIAL, ECONOMIC, HEALTH, AND ENVIRONMENTAL GOALS

a) NHS Background

In light of the gaps in data to assess the impact of the NHS, the most widely cited resource in assessing the efficacy of the NHS to meet human rights targets is the Parliamentary Budget Officer (PBO)

report released in June 2019. The report found that the NHS “largely maintains current funding levels for current activities and slightly reduces targeted funding for households in core housing need.” The paper concludes that the assumptions made by CMHC on the impacts of the output of the NHS “do not reflect the likely impact of those programs on the prevalence of housing need.”³⁹

In measuring the impact of NHS programs, the 2019 PBO report finds that significant facts limit progress on the goals of the strategy. For example, many of the investments like the Canada Housing Benefit (CHB), National Co-Investment Fund, and Community Housing Initiative rely on investments from other levels of government. As the PBO report notes, “Provinces and territories that already spend more than the federal government on housing could reduce funding for housing programs while still meeting the cost-matching requirements and having all outputs of their programs counted towards the positive impacts of the National Housing Strategy.”⁴⁰

The barriers of cost-sharing are perhaps best demonstrated by the delay of delivery of the CHB due to negotiation of bilateral agreements, despite the

³⁸ Government of Canada. (2019, June 21). *National Housing Strategy Act*. <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>

³⁹ Office of the Parliamentary Budget Officer. (2019, June 18). *Federal program spending on housing affordability*. <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)

⁴⁰ Office of the Parliamentary Budget Officer. (2019, June 18). *Federal program spending on housing affordability*. https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2019/Housing_Affordability/Federal%20Spending%20on%20Housing%20Affordability%20EN.pdf

urgency of such programs to protect individuals from homelessness and inadequate housing for those in core housing need. The CHB was originally planned to be implemented in April 2020, but until October 2020, had not been implemented anywhere except for Ontario.

Additional analysis by the PBO finds that the eligibility and prioritization criteria of construction initiatives such as the National Housing Co-Investment Fund and Rental Construction Financing Initiative do not require units to be targeted to low-income households. Concretely the National Co-Investment Fund (NCIF) only requires builders to offer 30% of their units at 80% of median market rent for twenty years. Projects under the Rental Housing Financing Initiative have an even lower criteria, with only 20% of units priced at 30% of the median total income for all families over ten years. In many jurisdictions, particularly large cities, 30% of median income far exceeds what is affordable for

low-income individuals, particularly for recipients of social assistance, disability benefits, or minimum wage employment. Recent analysis found that in one Toronto NHS funded project, units would be unaffordable to between 75-90% of renter households in Toronto.⁴¹

An additional concern is that by subsidizing private market development, these funding measures and initiatives risk exacerbating the adverse effects of gentrification, displacement, speculation, and other manifestations of the financialization of Canada's housing system. This in turn could worsen the socioeconomic outcomes of more households than the number directly housed through the funded projects, counter to a human rights-based approach to housing.

The following chart from the PBO report analyzes the programmatic efforts of the NHS aligned with the output targets and contribution to the outcome targets under CMHC assumptions.

⁴¹ Custom analysis provided by Jeremy Withers, PhD Candidate, drawing on data from Canada Mortgage and Housing Corporation, Statistics Canada, City of

Toronto, and the Parliamentary Budget Officer. On file with authors

TABLE 4: CONTRIBUTIONS TO THE OUTPUT TARGETS OF THE NATIONAL HOUSING STRATEGY BY PROGRAM

PROGRAM GROUP(S)	OUTPUT TARGET	CONTRIBUTION TO OUTCOME TARGET UNDER CMHC ASSUMPTIONS	FACTORS LIMITING IMPACT ON PREVALENCE OF HOUSING NEED
Rent subsidies \$2 billion in planned spending	300,000 households receive affordability support	300,000 households removed from housing need	<ul style="list-style-type: none"> Few households receiving affordability support will be removed from housing need given the program design.
P-T transfers and federal community housing \$15.9 billion in planned spending	385,00 community housing units protected, and another 50,000 units created through an expansion of community housing	199,300 households removed from housing need	<ul style="list-style-type: none"> Aside from rent subsidies, there is no plan or change that would be expected to reduce core housing need in social housing. The target represents a reduction in community housing. Not all community housing is affordable or allocated to low-income households.
Direct support for construction and renovation \$6.8 billion in planned spending	82,000 housing units created	27,600 households removed from housing need	<ul style="list-style-type: none"> Units with affordability commitments are not necessarily allocated to low-income household, or affordable by CMHC's definition and may have been built anyways.

Source: PBO, "Federal Program Spending on Housing Affordability," p. 31. Spending, targets, and contributions from CMHC response to IR0405.

Critically, the PBO report credits the NHS for increasing funding for homelessness to \$225 million per year. The previous

five-year historical average investment was \$139 million per year. This represents a 62% or \$82 million per year increase.⁴²

⁴² Office of the Parliamentary Budget Officer. (2019, June 18). *Federal program spending on housing affordability*. <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)

As noted in later sections, other civil society experts have noted that while this increase is an important step, a substantially larger funding commitment is required for Canada to end homelessness. This may be measured by the reaching of functional zero in communities across the country.⁴³ Experts have also voiced that this can only be achieved by changes to laws, policies, and programs that have driven Canada's homelessness crisis over the past three decades, and interventions including increases to income supports, securing affordable housing stock, housing first programs, and other targeted efforts

In analyzing the spending of the NHS in 2017, the PBO notes that while the spending of the NHS was publicly portrayed as an investment of \$40 billion, in fact it only equates to \$16.1 billion in new spending (including \$14 billion by CMHC and \$2.1 billion by Employment and Social Development Canada).⁴⁴ This \$40 billion allocation was increased to \$72 billion as of the 2020 economic update. As has been critiqued by academics and advocates, much of this funding was allocated to the back end of the duration of the NHS. An additional concern of civil society is that the existing programs of the NHS are

simply not reaching those in core housing need or who are experiencing homelessness. This was a key critique of the analysis of the RCFI program as recently published by Steve Pomeroy.⁴⁵ As noted further in the paper, significantly more data is needed to ascertain which populations are benefiting from NHS programs.

Getting Housing Right: A Progress Report on Federal Housing Investments

A key human rights gap of the NHS is the lack of analysis of the impact of funding to contribute to human rights goals – and remaining progress therein. Instead, much of the NHS focus is on the number of units developed, or families that are housed.

In 2019, the federal government released *Getting Housing Right: A Progress Report on Federal Housing Investments*. The progress report highlights federal investment from November 2015 to June 2019. Similarly, in March 2021, the government of Canada released *Building the Future Together: 2020 National Housing Strategy Progress Report*.⁴⁶

⁴³ Alina Turner, Kyle Pakeman, & Tom Albanese. (2016). *Discerning 'functional zero': Considerations for defining & measuring an end to homelessness in Canada*. Homeless Hub Press. https://homelesshub.ca/sites/default/files/Functional_Zero.pdf

⁴⁴ Office of the Parliamentary Budget Officer. (2019, June 18). *Federal program spending on housing affordability*. <https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2019/>

[Housing_Affordability/Federal%20Spending%20on%20Housing%20Affordability%20EN.pdf](https://carleton.ca/cure/wp-content/uploads/CURE-Brief-12-RCFI-1.pdf)

⁴⁵ Steve Pomeroy. (2021). *Toward Evidence Based Policy: Assessing the CMHC Rental Housing Finance Initiative (RCFI)*. <https://carleton.ca/cure/wp-content/uploads/CURE-Brief-12-RCFI-1.pdf>

⁴⁶ Government of Canada. (2021) *Building the Future Together: 2020 National Housing Strategy Progress Report*. <https://assets.cmhc-schl.gc.ca/sites/place-to->

The 2019 report reviews investments through Budgets 2016 to 2019, with an outline of the impact of funding with 41,800 new units, 229,600 repaired units, 782,000 families or individuals benefiting from a more affordable place to live, and 35,000⁴⁷ individuals in more stable housing (*see chart below*).

units built, or families housed rather than an impact measurement of how funding will contribute to human rights goals and the remaining progress to be made. Moreover, critics have noted that the 782,000 households deemed to have “benefited” from these programs and investments in the 2019 report are

Impact of Funding Invested in Housing Projects (November 1, 2015, to June 30, 2019)



These investments increase with the Building the Future Together report released in March 2021, with funding commitments to build 63,300 units of affordable housing and repairs to 126,000 units of existing community housing. The report also highlights delivery of over 4,700 affordable units through the Rapid Housing Initiative, and monetary investments for rapid construction, and investments in Reaching Home.

While these report are useful to review various housing programs and investments, the focus of the report is on the amount of money spent, number of

mostly households already living in subsidized social housing rather than households moved out of core housing need. Therefore, this number does not necessarily demonstrate progress, but rather the sum of households benefiting from federal investments in this 2015-2019 period.

b) Key Findings

In the context of the first requirement of the *NHSA*, an inter-governmental approach must be taken, particularly in the areas of social, economic, health, and environmental goals. A reoccurring

[call-home/pdfs/nhs-triennial-report-en.pdf?rev=7d01e809-b2e3-4cba-9bb2-f5209b7a6472](https://www.call-home/pdfs/nhs-triennial-report-en.pdf?rev=7d01e809-b2e3-4cba-9bb2-f5209b7a6472)

⁴⁷ Government of Canada. (2020). *Getting housing right: A progress report on federal housing investments*.

<https://eppdscrmssa01.blob.core.windows.net/cmhcp-rodcontainer/sf/project/placetocallhome/pdfs/progress/nhs-ministers-progress-report-en.pdf>

theme in the grey literature review and qualitative interviews, was the lack of participation by the Ministry of Finance in implementation of the right to housing, particularly in setting budget priorities.

While investments over the past five years have significantly increased, it has been continually identified by civil society and academics that federal monies to address Canada's housing crisis are inadequate.

1. Investments in NHS programs must be adequate for the goals of the Strategy and front-loaded to earlier years.

*"The bulk of the NHS total reflects such things as existing loans, new loans, existing planned spending, and provincial-territorial cost matching. Thus, actual money promised is similar to that of prior governments—around \$2.6 billion per year on housing, based on real purchasing power calculations—and, indeed, amounts to a bit less for people who have the greatest housing needs. The Strategy largely maintains current funding levels, slightly decreasing targeted funding for households in clear need."*⁴⁸

– Margot Young, Broadbent Institute

Perhaps the most common critique of Canada's 2017 NHS is that investments are dedicated to the late years of the Strategy.⁴⁹ The concern raised by the PBO, that 92% of funding in the 2017 NHS is allocated to 2020-21 has not been addressed since the release of the strategy.

In addition to the delay in investment through the NHS, many groups critique the adequacy of investments based on the arguments that many of the programs identified in the 2017 NHS are cost-shared with other levels of government. Practically, this means that programs like the Canada Housing Benefit (CHB), have been delayed in implementation in some regions of the country, and funding amounts are drastically over-represented in federal government reporting.

2. The NHS must include measures to address financialization and the erosion of naturally existing affordable housing.

"When investors buy up rental housing, they deepen Canada's housing crisis by taking existing rental housing off the market or by increasing rent making it unaffordable. This leaves lower income Canadians facing eviction, unable to afford rent or

⁴⁸ Broadbent Institute. (2019). *Broadbent Fellow: Margot Young*. https://www.broadbentinstitute.ca/margotyoung/policy_brief_national_housing_strategy

⁴⁹ Margot Young. (2019, September 6). *Policy Brief: National Housing Strategy*. Broadbent Institute. https://www.broadbentinstitute.ca/margotyoung/policy_brief_national_housing_strategy

to live in the communities they choose.”⁵⁰

– Canadian Alliance to End Homelessness

Civil society actors have raised significant concerns that Canada's NHS is inadequate to address the financialization of housing purpose-built rental housing.⁵¹

As noted in a recent paper by Steve Pomeroy analyzing the new Rapid Housing Initiative, the author stated “CMHC aids and abets the process of financialization by offering its insured mortgage products to assist these capital funds and REITs to secure the financing required to facilitate their acquisition programs...This erosion massively negates all efforts of the National Housing Strategy to reduce renter need and homelessness – between 2011-16 for every new affordable unit created 15 existing affordable (under \$750/month) were lost.”⁵²

Canada is not alone in facing the over-financialization of housing, as affordable housing rental stock disappears from the market around the world. In the Canadian context, experts have voiced

recommendations to curb the financialization of housing, including:

- **REFORMING CANADA'S TAXATION SYSTEMS.**⁵³ For example, ACORN Canada argues that Real Estate Investment Trusts (REITs) are creating and fueling Canada's housing crisis not only because the government allows them to raise rents and/or not to fix units, but most importantly, because our federal government does not tax them. ACORN estimates that the government has lost billions of dollars in tax revenue over the past 10 years by giving subsidies and tax exemptions to REITs. They therefore urge the federal government to close this tax loophole and adopt a new regulatory framework that would tie tax rates for REITs to how much affordable housing they are protecting (or destroying).⁵⁴
- **IMPROVING RENT CONTROL REGULATIONS.** A lack of strict rent controls increases the financial insecurity of tenants for whom housing costs increase at a higher pace than their income. In the context of COVID-19, disproportionately high rent

⁵⁰ Canadian Alliance to End Homelessness. (2020). *Recovery for All: Six-point plan to end homelessness in Canada*. <https://www.recoveryforall.ca/6pointplan>

⁵¹ Steve Pomeroy. (2020, July). *Recovery for All: Proposals to strengthen to National Housing Strategy and end homelessness*. Canadian Alliance to End Homelessness. <https://caeh.ca/wp-content/uploads/Recovery-for-All-Report-July-16-2020.pdf>

⁵² Steve Pomeroy. (2020). *The perverse math of homeless investment*. Focus Consulting Inc.

<https://www.focus-consult.com/the-perverse-math-of-homeless-investment/>

⁵³ Canadian Centre for Policy Alternatives. (2020). *New Decade, New Deal. Alternative Federal Budget 2020: Our plan for a just and sustainable economy*. <https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2020/03/AFB%202020.pdf>

⁵⁴ ACORN Canada. (2021, February 3). *Rein in the REITs*. <https://acorncanada.org/resource/rein-reits>

increases also put many tenants at risk of evictions. A large and growing share of landlords are REITs that have no direct contact with tenants; they directly profit from tenant turnover since a lack of rent and vacancy controls allows them to significantly increase rents above the guideline for occupied units. Rent control regulations are therefore important for ensuring fair treatment of all tenants and landlords while curbing the financialization of housing.⁵⁵

- **LEGISLATING GREATER TENANT PROTECTIONS;** and,
- **CREATING CONDITIONS/CRITERIA REGARDING ANTI-DISPLACEMENT WITHIN CMHC LENDING PROGRAMS TO FINANCIAL ACTORS.**⁵⁶

Experts in financialization like Martine August have also pointed to restrictions in Germany where REITs are banned from owning certain multi-family residential homes as another example of how the financialization of housing can be curbed.⁵⁷

3. The NHS should address the intersectionality of Canada's housing crisis by tackling issues

⁵⁵ Ricardo Tranjan, Garima Talwar Kapoor, & Hannah Aldridge. (2020, May 28). *Locked down, not locked out: An eviction prevention plan for Ontario*. Maytree. <https://maytree.com/publications/locked-down-not-locked-out-an-eviction-prevention-plan-for-ontario/>

⁵⁶ Martine August. (2020, February 28). *The financialization of Canadian multi-family rental housing: From trailer to tower*. Journal of Urban Affairs.

such as inadequate social assistance programs

“A critical factor contributing to homelessness is the insufficient stock of existing rental units with rents that align with the capacity to pay – both relative to the shelter allowance within social assistance, or at 30% of minimum wage.”⁵⁸

– Steve Pomeroy

As noted by many advocates and academics, there is a close intersection between the implementation of the right to housing and a lack of adequacy in social assistance programs and minimum wages. This interconnection has been exacerbated under stay home orders during the COVID-19 pandemic, where the federal government implemented the Canada Emergency Relief Benefit (CERB) for individuals who had lost employment due to the pandemic.

Literature points to the grossly disproportionate difference between the CERB and social assistance programs. In the context of housing, as Steve Pomeroy points out in the recent Recovery for All report, there is a significant gap in the portion of income

<http://www.waterlooregion.org/sites/default/files/August2020.pdf>

⁵⁷ Ibid.

⁵⁸ Steve Pomeroy. (2020, July). *Recovery for All: Proposals to strengthen to National Housing Strategy and end homelessness*. Canadian Alliance to End Homelessness. <https://caeh.ca/wp-content/uploads/Recovery-for-All-Report-July-16-2020.pdf>

assistance allocated to housing – and the actual costs of rent. For example, even if tenants attempt to secure housing that is at a rental cost of 80% of median rent, there is an average national gap of \$240 (single person household) and \$272 (lone parent household) from their housing allocation.⁵⁹ Moreover, minimum wages are inadequate compared to rental prices in Canada, making housing largely unaffordable to full-time minimum wage earners (where affordability is defined as spending no more than 30% of one's earnings on housing). As a recent study by the Canadian Centre for Policy Alternatives found, a two-bedroom apartment is only affordable to a full-time minimum wage earner in 3% of Canadian neighbourhoods, while a one-bedroom apartment is affordable in 9% of neighbourhoods.⁶⁰ An hourly wage of \$20.20-22.40/hour is required to afford an average apartment in Canada⁶¹, while minimum wages across Canadian provinces range from \$11.45-15.00/hour.⁶²

Over the last decade, advocates have called for the implementation of a basic income, a raise of social assistance and minimum wage as a critical feature of reviews of Canada by international treaty bodies, including the Committee on Economic, Social, and Cultural Rights. There remains an enormous gap in

many regions – particularly urban centers between minimum wage and average rent. These issues indicate a need for Canada to reduce its overreliance on provincial and territorial cost-sharing, better set national standards for provincial and territorial social assistance programs and minimum wages and enforce these standards through funding requirements.

4. Canada's housing crisis is rapidly falling prey to the financialization of housing. The NHS must take concrete action to implement financial policies to prevent large corporate investors and financial actors like Real Estate Investment Trusts (REITs) from further exploiting the housing market.

In the qualitative interviews, the most widely cited critique of the 2017 NHS in the context of the right to housing was the failure of the strategy to address the financialization of housing. As one participant noted, the NHS is “spineless” on the financialization of housing. Another participant noted that “a main driver of homelessness is the continued move towards the financialization of housing”⁶³, which will only be exacerbated by the pandemic. This

⁵⁹ Canadian Alliance to End Homelessness. (2020, July). *REPORT: Recovery for All plan can end homelessness in Canada by 2030 while saving Canadians \$18 billion*. <https://www.recoveryforall.ca/report>

⁶⁰ David Macdonald. (2019, July 18). *Unaccommodating: Rental housing wage in Canada*. Canadian Centre for Policy Alternatives. <https://www.policyalternatives.ca/unaccommodating>

⁶¹ Ibid.

⁶² Enoch Omololu. (2020, December 28). *Minimum wage in Canada by province*. Savvy New Canadians. <https://www.savvynewcanadians.com/minimum-wage-canada/>

⁶³ Interview participant, 2020.

growing issue is faced in urban neighbourhoods, as well as rural areas. Some participants noted that in order to address financialization, far more investment should be made in non-profit housing, and rather than having a co-investment fund that favours bid developers, a similar system should be accessible to only non-profit housing providers.

Other participants noted that financialization cannot be addressed simply through zoning or tax incentives—rather, there needs to be a shift in taxation policies such that Real Estate Investment Trusts and other financial actors can no longer exploit the housing market.

5. The NHS must go beyond traditional cost-sharing arrangements with subnational governments. We need to see an “all hands-on deck” approach with all levels of government stepping up to address Canada’s housing crisis.

Another common theme among interview participants was a concern of the lack of clarity of the programs funded within the NHS. As one participant expressed, “it’s hard to know where the money is going.”⁶⁴ Another participant asked, “who is responsible and where is the money?”⁶⁵ Many suggested that this is in large part due

to cost-sharing arrangements with provinces and territories, meaning that money is tied up in negotiations and flow to those who need it is drastically delayed, for example in the context of the portable housing benefit. As one participant noted, in the context of the housing benefit there is a “problem of 50/50 cost shares which means the federal government is stuck in negotiations with provinces and territories. The lack of movement from provinces...means the federal government needs to reconsider how they finance.”⁶⁶

Participants expressed appreciation for the jurisdictional divide among levels of government, but emphasized the frustration of those on the ground, and suggested that the federal government rely more on distribution of funds directly to the municipal or community level. As one participant noted, the encouragement of an intergovernmental approach is critical: “I would like to see an all-hands-on-deck approach with recognition across the board that we need all levels of government to ensure an end to homelessness and housing unaffordability. We can’t just see finger pointing among governments... we need all levels of government working on this.”⁶⁷ Additional jurisdictional barriers were noted in interviews, which pointed to the need for conditions to be attached

⁶⁴ Interview participant, 2020.

⁶⁵ Interview participant, 2020.

⁶⁶ Interview participant, 2020.

⁶⁷ Interview participant, 2020.

to transfers to subnational governments, including full rent control.

The jurisdictional barriers that prevent the flow of funding to vulnerable populations was cited in reference to Canada's commitments to a maximum of available resources. As one participant noted, "money is the thing that never flows... commitments to end homelessness are meaningless on their own without a definitive plan."⁶⁸ Participants noted that, in line with the PBO report, if funding is tied up in intergovernmental negotiations, that funding is not effectively going to programs, and thus the government is not meeting its obligations for a maximum of available resources.

In the next iteration of the NHS, one participant recommended widespread systemic change in the way that subnational governments interact the federal government suggesting "a national reckoning at all levels of government and commitment to a human rights approach."⁶⁹

6. There is growing consensus among academic and the non-profit sector that the programs designed to implement the NHS goals are not transparent or effective. Programs are not accessible to the not-for-profit housing sector. This is particularly true for the co-investment fund,

which is not reaching those directly affected by Canada's housing crisis.

A common theme among participants was a critique of the lack of transparency, inaccessibility, and lack of effectiveness of capital funds allocated through the NHS and distributed by CMHC. Many participants expressed confusion around where NHS dollars are going. As one participant noted, except for the initial creation of the NHS, "NHS processes aren't particularly participatory."⁷⁰ Another participant noted that the federal government "do a better job of talking to people and spending money. [We need] more resources being spent and transparency of how that money is rolling, what they are actually spending."⁷¹

The co-investment fund faced much critique by participants who noted that it is inaccessible to builders providing affordable housing, including not-for-profit housing providers and builders more likely to construct affordable housing in rural and remote communities. Participants also noted the recent report released after an order paper request was made by Member of Parliament Jenny Kwan, demonstrating that application processing time for the fund is significantly delayed, with funds disproportionately going to the province of Ontario. Many noted that the administrative process to access the co-

⁶⁸ Interview participant, 2020.

⁶⁹ Interview participant, 2020.

⁷⁰ Interview participant, 2020.

⁷¹ Interview participant, 2020.

investment fund is complex, posing a barrier for housing providers with limited resources. It was noted that for housing providers in the violence against women sector, units must have larger communal spaces with a trauma informed lens, which may require a higher cost to build than otherwise allowed in the fund.

Additional barriers were identified by participants for the co-operative housing and not-for-profit housing sector to access the co-investment fund. It was further identified that there is no strategy to support co-operative housing, where the needs of people are distinct from those using market housing. It was also noted that investment in social housing is central to reducing core housing need; however, the current NHS disproportionately supports market housing.

While participants were generally positive about the Rapid Housing Initiative (RHI), some called for a period of implementation beyond the 6-months noted in the September 2020 announcement. As one participant stated, in ending homelessness and addressing the housing crisis, Canada is “running a marathon, not a sprint. But the government is often funding sprints.”⁷² If communities aren’t confident that they will receive funding for a prolonged period, they are less likely to access funds in the first place.

⁷² Interview participant, 2020.

⁷³ UN Human Rights Office of the High Commissioner. (1976, January 3). *International Covenant on Economic, Social, and Cultural Rights*.

Similar concerns have been raised by Indigenous housing experts who have voiced that it is difficult to compete in capital programs without a specific program targeted at First Nations, Métis, and Inuit peoples.

c) Human Rights Analysis

Article 2 of the *International Covenant on Economic, Social and Cultural Rights* requires that investments to further implement the right to housing must reflect a standard of a maximum of available resources.⁷³ A reasonableness standard is connected to this requirement such that wealthy states like Canada are measured under a relatively high standard to ensure adequate resources are dedicated to measures to progressively realize the right to housing. In the Context of the Optional Protocol of the ICESCR (which Canada has not ratified), the ICESCR outlines the following criteria in assessing whether steps taken by a State are “adequate” or “reasonable” in demonstrating their commitment to a social, cultural and/or economic rights issue (including the right to housing):

1. the extent to which the measures taken were deliberate, concrete and targeted towards the fulfilment of economic, social and cultural rights;

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

2. whether the State party exercised its discretion in a non-discriminatory and non-arbitrary manner;
3. whether the State party's decision (not) to allocate available resources is in accordance with international human rights standards;
4. where several policy options are available, whether the State party adopts the option that least restricts Covenant rights;
5. the time frame in which the steps were taken; and,
6. whether the steps had taken into account the precarious situation of disadvantaged and marginalized individuals or groups and, whether they were non-discriminatory, and whether they prioritized grave situations or situations of risk.⁷⁴

The issue of Canada's spending on economic and social rights such as the right to housing has long been a critique of the CESCR. At the most recent review of Canada by the CESCR in spring 2016, in the context of Canada's stagnating level of social spending as a share of Gross Domestic Product, the Committee issued concluding observations recommending that "the State party

increase national spending to guarantee Covenant rights so as to achieve the progressive realization of economic, social and cultural rights."⁷⁵

Additionally, the absence of mechanisms to address financialization was perhaps the pervasive concern voiced by participants in qualitative interviews. In the context of international human rights law, the issue of financialization is one that engages the tripartite of states responsibilities to respect, protect and fulfil human rights. As the former United Nations Special Rapporteur, Leilani Farha stated in her thematic report on financialization, "[t]he State must regulate, direct and engage with private market and financial actors, not simply to ensure that they do not explicitly violate rights, but also to ensure that the rules under which they operate and their actions are consistent with the realization of the right to adequate housing."⁷⁶

In the current iteration of the National Housing Strategy, civil society organizations have identified significant gaps in the allocation of resources to the issue of Canada's housing crisis as well as taxation and other regulatory

⁷⁴ UN Committee on Economic, Social, and Cultural Rights. (2007, May 10). *An evaluation of the obligation to take steps to the "maximum of available resources" under an optional protocol to the Covenant*, E/C.12/2007/1. <https://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf>

⁷⁵ UN Committee on Economic, Social, and Cultural Rights. (2016, March 23). *Concluding observations on the sixth periodic report of Canada*, E/C.12/CAN/CO/6, para. 10. <https://docstore.ohchr.org/SelfServices/FilesHandler.a>

[shx?enc=4slQ6QSmIBEDzFEovLCuW4yzVsFh%2fjllu%2ft0KVExfQT6EfAENdSjJTaz3raPv3QWT3Y59q3zadXvBYMplNW5%2fsveoBdxLZoVN%2fzz3lc7YEgqRm0Dp0VivqHo2yN5ilam](https://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf?enc=4slQ6QSmIBEDzFEovLCuW4yzVsFh%2fjllu%2ft0KVExfQT6EfAENdSjJTaz3raPv3QWT3Y59q3zadXvBYMplNW5%2fsveoBdxLZoVN%2fzz3lc7YEgqRm0Dp0VivqHo2yN5ilam)

⁷⁶ Leilani Farha. (2017, January 18). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. <http://undocs.org/A/HRC/34/5>

measures to curb the financialization of housing by actors such as REITs.

The PBO has noted that investments in the NHS are not significant or targeted enough to meet the current goals of the NHS. Civil society partners have similarly commented that barriers to accessing funds allocated in the NHS, for example through the Co-investment Fund, pose serious issues to the effectiveness of the strategy. A disproportionate focus of the private sector over the community housing sector has furthered these inequalities.

Complex cost-sharing arrangements between different levels of government have prevented the flow of funds to necessary housing programs, to the detriment of those that the NHS and NHSA aim to support. Moreover, the federal government has not established requirements or regulations related to housing for other orders of government using its funding authority (i.e., it has not mandated conditions to meet human rights obligations when dispensing funds to other orders of government). The concerns above are relevant to this analysis that resources have been insufficiently allocated to address the disproportionate experience of homelessness and inadequate housing faced by marginalized populations. In fact, governments have consistently spent more on measures for populations that face less disadvantage (e.g. capital

gains exemptions on principal residences) and more on maintaining the systems that are consequences of housing failures (e.g. costs of homelessness, shelters, etc.) than on meaningfully addressing housing disadvantages.

In considering the next phase of the NHS, the government of Canada should consider mechanisms to encourage cooperation among governmental departments and levels of government to address these concerns and bring the NHS in alignment with the NHSA. In Portugal, a multi-pronged action plan to eliminate homelessness by 2030 created an inter-ministerial commission to oversee implementation of their Homelessness Strategy.⁷⁷ Similarly, the NHS must urge the prioritization of addressing Canada's housing crisis not just among ESDC and CMHC, but at the Department of Finance, Department of Justice, and other relevant Ministries. In Germany, the government requires a fulsome analysis of budgetary decisions through the lens of action to implement the Sustainable Development Goals.

Finally, the use of regulatory power must also be considered as part of the “maximum resources available” for realizing the right to housing “...by all appropriate means, including particularly the adoption of legislative measures.” Since the majority of Canada's housing system is within the

⁷⁷ UN Human Rights Council. (2018, January 15). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, A/HRC/37/53.

<http://www.unhousingrapp.org/user/pages/04.resources/Thematic-Report-1-Human-Rights-Based-National-Housing-Strategies.pdf>

private market, regulation of the market through measures such as *vacancy control* and restrictions of

financialization, must be a significant component of the federal government’s efforts to realize the right to housing.

Vacancy Control: When the rent for a rental unit can only be increased by a fixed guideline amount each year, regardless of whether the unit is occupied or vacant. Most jurisdictions in Canada currently allow unlimited rent increases when units are vacated, creating an incentive for landlords to displace sitting tenants.

II. **ESTABLISHING HUMAN RIGHTS-BASED TARGETS, TIMELINES, AND INDICATORS**

In order for the NHS to be consistent with the NHSA and the right to housing, it must reflect targets, timelines, outcomes and indicators that are consistent with human rights.

a) **NHS Background**

Data to Measure Inadequate Housing and Homelessness

Different sources of data are available to measure Canada’s housing crisis, but the reality is that all of the measurements have significant gaps. The following table is not an exhaustive list of current indicators and tools used to measure precarious housing and homelessness in Canada.

TABLE 5: DESCRIPTIONS AND LIMITATIONS OF VARIOUS INDICATORS TO MEASURE CANADA’S HOUSING CRISIS

INDICATOR	SOURCE	DEFINITION	LIMITATIONS
Shelter-Cost-to-Income-Ration	Statistics Canada; CMHC	Refers to the proportion of average total income of household which is spent on shelter costs	<ul style="list-style-type: none"> Excludes private households in band housing Excludes those reporting zero or negative total income Is only available every 5 years via census data; the rest of the time, we can only get population-level statistics by examining the relationships of average/median incomes to average/median

INDICATOR	SOURCE	DEFINITION	LIMITATIONS
			<p>rents, losing the ability to disaggregate data</p> <ul style="list-style-type: none"> CMHC data on average rents only reflects purpose-built rental stock, excluding secondary suites, condominiums in rental tenure, etc.
Core Housing Need Status	CMHC	<p>A household is said to be in core housing need if its housing falls below at least one of the adequacy, affordability or suitability, standards and it would have to spend 30% or more of its total before-tax income to pay the median rent of alternative local housing that is acceptable.</p> <p>A household is not in core housing need if its housing meets all the adequacy, suitability, and affordability standards OR,</p> <p>If its housing does not meet one or more of these standards, but it has sufficient income to obtain alternative local housing that is acceptable (meets all three standards).</p>	<ul style="list-style-type: none"> Income assistance and rent-geared to income (RGI) can distort core need (<i>see Steve Pomeroy</i>)
Deep Core Housing Need	CMHC	Similar to Core Housing Need, but captures those paying	See above.

INDICATOR	SOURCE	DEFINITION	LIMITATIONS
		50% or more of income on shelter costs.	
Vacancy Rates	CMHC	A unit is considered vacant if, at the time of the survey, it is physically unoccupied and available for immediate rental.	<ul style="list-style-type: none"> Only targets privately initiated structures with at least three rental units, which have been on the market for at least three months Excludes secondary rental market (e.g. basement apartments, condos) AirBnB can distort vacancy rates (<i>see Tyler Horton</i>)
Centralized Wait List/ Subsidized Housing Wait List	ONPHA	Wait lists for Rent-Geared-to-Income (RGI) housing. Data tends to focus on average wait times, the number of households on the list and number of households that made it off the list and into RGI housing.	<ul style="list-style-type: none"> Wait lists do not capture every house that would qualify for RGI housing assistance, only those who are aware RGI housing is available, have chosen to apply, and have kept their application up to date. Administrative data for waitlists is collected differently across jurisdictions. Households may be on more than one wait list, causing a duplication of numbers (<i>see ONPHA</i>)
Point-in-Time Count (PiT Counts)	Employment and Social Development Canada	PiT Counts provide a one-day snapshot of homelessness in a community, including people experiencing homelessness in shelters, unsheltered locations, and transitional housing. PiT Counts can be done by any municipality but are required for the 66 designated through	<ul style="list-style-type: none"> May not represent fluctuations and compositional changes in the population seasonally or over time Difficult to identify hidden homelessness Difficult to identify people experiencing homelessness in rural areas Is anonymous, so can include duplicates Some people may avoid being counted (<i>See Guelph &</i>

INDICATOR	SOURCE	DEFINITION	LIMITATIONS
		Reaching Home. PiT data is entered into Homeless Individuals and Families Information Systems (HIFIS), a comprehensive data collection and case management system.	<i>Wellington Task Force for Poverty Elimination</i>
Period Prevalence Count method	ESDC	A period prevalence count looks at homelessness over a prescribed period of time, for example in the context of the number of people using a shelter in a one-year period. This method is used more often in rural communities.	<ul style="list-style-type: none"> This measurement accounts for those transitioning in-and-out of homelessness but does not count those who are unsheltered.⁷⁸
By-Name List	Canadian Alliance to End Homelessness	A By-Name List is a real-time list of all people experiencing homelessness in your community. It includes a robust set of data points that support coordinated access and prioritization at a household level and an understanding of homeless inflow and	<ul style="list-style-type: none"> Outreach is a key access point for this data, though some experts note concerns that data can be dependent on a person requesting to access support services. By-Name lists are increasingly being used by municipalities alongside a range of administrative data, though further efforts are required to ensure local jurisdictions are supported to collect and report on this data.

⁷⁸ Employment and Social Development Canada. (2016, June). *Period Prevalence vs. Point-in-Time*. <https://www.homelessnesslearninghub.ca/sites/default/files/resources/Aaron%20Seagart-HPS-Period%20Prevalence%20vs%20PiT%20Count..pdf>

INDICATOR	SOURCE	DEFINITION	LIMITATIONS
		outflow at a system level. ⁷⁹	<ul style="list-style-type: none"> This means that those experiencing hidden homelessness may not be identified. Women serving organizations, for example, have noted that their clients face barriers in accessing By-Name Lists – experts have noted that this is, in great part, due to the lack of an inclusive definition of homelessness, so local by-name-lists may not be mapped to the way women experience homelessness.

As indicated in the chart above, a key measurement for the efficacy of the National Housing Strategy and homelessness programs should be the data collected by CMHC on core housing need. Households in core housing need include those who pay more than 30% of income on rent and who would be required to pay more than 30% of income to pay the median rent of alternative, acceptable local housing.⁸⁰

It should be noted that much of the data noted throughout this section does not include 2020 and 2021, where, during the COVID-19 pandemic, rates of poverty, housing

need and homelessness are expected to vary significantly.

In 2018, 1.6 million Canadian households lived in core housing need.⁸¹ This is a slight decrease from 2016, when 1.7 million Canadian households live in core housing need.⁸² The 2018 data also indicates that renter households (23%) were over three times more likely to live in core housing need than homeowners (6.5%). Furthermore, unaffordable housing is the cause of core housing need in 74% of cases. Even when affordability is not the issue; however, habitability and suitability are concerns for many households. For example, social housing may be in poor condition, or the

⁷⁹ Built for Zero Canada. *By-Name Lists*. <https://bfzcanada.ca/by-name-lists/>

⁸⁰ Statistics Canada. (2017, November 15). *Core housing need, 2016 Census*. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/chn-biml/index-eng.cfm>

⁸¹ Statistics Canada. (2020, October 2). *One in ten Canadian households living in core housing need in 2018*. <https://www150.statcan.gc.ca/n1/daily-quotidien/201002/dq201002a-eng.htm>

⁸² Canada Mortgage and Housing Corporation (CMHC). (2019, August 14). *Understanding core housing need*. <https://www.cmhc-schl.gc.ca/en/data-and-research/core-housing-need>

units that a household can afford may be too small for their family. A human rights-based approach considers these and other elements (i.e. accessibility, location, cultural adequacy, etc.) to ensure access to adequate housing as articulated by the UN Office of the High Commissioner for Human Rights in Fact Sheet No. 21 on the Human Right to Adequate Housing.⁸³

There are significant gaps with all the measurements for housing need. In the context of core housing need, the most recent data is based on the 2016 census, which was released shortly after the 2017 National Housing Strategy, and the 2018 Canada Housing Survey, which was released in Fall of 2020⁸⁴. In the context of the COVID-19 crisis of 2020, these numbers have likely changed significantly. Additionally, those on social assistance and those who choose to spend more than 30% on housing may distort these findings. It should also be noted that students are considered by the government to be in transition and are not included in the core housing need calculation.

Shelter-cost-to-income ratios based on census data can also be used to

demonstrate the proportion of income spent on housing costs, though this census data does not capture those living on-reserve or those with zero incomes.

Vacancy rates, another potential measure of housing need, are calculated through the Rental Market Survey, and in 2019, the national vacancy rate declined for a third year from 2.4% in 2018 to 2.2% in Canada for all-bedroom types.⁸⁵ As CMHC's Chief Economist, Bob Dugan, notes, "[t]he national vacancy rate for purpose-built rental apartments declined for a third consecutive year in 2019, as strong rental demand continued to outpace growth in supply."⁸⁶ In addition to this data, the survey found that rental demand elevated in Vancouver and Toronto where those vacancy rates remained the lowest in Canada. In 2019, the Montréal Census Metropolitan Area (CMA) vacancy rate reached a 15-year low of 1.5%. This is likely in large part due to an increase in short-term rentals through companies like Airbnb⁸⁷, especially in larger cities.⁸⁸ While other areas of the country remain stable in vacancy rates, particularly in the prairies, the reduction in available rental housing, and in particular,

⁸³ Office of the High Commissioner on Human Rights. (November 2009). *Fact Sheet No. 21, The Human Right to Adequate Housing*. <https://www.refworld.org/docid/479477400.html>

⁸⁴ Jeannine Claveau. (2020, October 2). *The Canadian Housing Survey, 2018: Core housing need of renter households living in social and affordable housing*. Statistics Canada. <https://www150.statcan.gc.ca/n1/pub/75f0002m/75f0002m2020003-eng.htm>

⁸⁵ Canada Mortgage and Housing Corporation (CMHC). *Canada's national vacancy rate declines for third year*. <https://www.cmhc-schl.gc.ca/en/media->

[newsroom/news-releases/2020/canadas-national-vacancy-rate-declines-third-year](https://www150.statcan.gc.ca/n1/pub/75f0002m/75f0002m2020003-eng.htm)

⁸⁶ Ibid.

⁸⁷ Jesse Ferreras. (2019, June 23). *Airbnb could pull up to 1% off rental vacancies in Canada's 3 biggest cities: study*. Global News. <https://globalnews.ca/news/5415348/airbnb-long-term-rentals-canada/>

⁸⁸ In light of the global pandemic, it may be that these vacancy rates have improved as Airbnb owners adjust from short-term to long-term rentals.

affordable rental housing, paints a stark picture of Canada's ability to meet human rights goals through the programs implemented in the National Housing Strategy. The vacancy rate data also has limitations as it does not include secondary suites or condominiums, which are a significant portion of the rental market. These numbers only get captured every 5 years in the census; however real-time, small-area data is required about changes in the stock of these housing units, including data not just on vacancies, but on changes in rents. It is also important to disaggregate the vacancy rate based on rent level, as a disproportionate number of vacancies are in higher rent apartments.

Waitlist data can also assist with understanding the full picture of Canada's housing crisis. This data focuses on average wait times, the number of households on the list, and the number of households that have made it into rent-geared-to-income housing. In 2018, 14.8 million households⁸⁹ were on a waitlist. The challenge with this data is that they do not include everyone who would qualify for rent-geared-to-income who are in core housing need. Additionally, households may be on more than one waitlist, causing a duplication in data. Often people experiencing homelessness are

not on these waitlists. These lists are regulated by provinces and territories, and experts have noted that people experiencing homelessness are often not prioritized.

In identifying some of the gaps in core housing need data as well as the deficiencies of the methodology used to accumulate this data, some academics have recommended the use of income support measures to assess housing need, given that income, poverty, and housing are closely interconnected.⁹⁰ In assessing the use of provincial and territorial social assistance programs, a recent report from Maytree Foundation found that the number of recipients has varied slightly over the past few years, without a significant drop in social assistances cases from 2017 to 2019.⁹¹

Data to Measure Homelessness in Canada

In order to measure the impact and adequacy of the NHS and other housing programs as a component of the right to housing, we must understand how data is collected on inadequate housing and homelessness. In the 2016 State of Homelessness, researchers identified that over 235,000 people in Canada experience homelessness annually, with 3,500 people in the country experiencing

⁸⁹ Statistics Canada January 25). *Waitlist status including length of time, by tenure including social and affordable housing*. <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=4610004201>

⁹⁰ Steve Pomeroy. (2017, June). *Why core housing need is a poor metric to measure outcomes of Canada's national housing strategy*. Caledon Institute

of Social Policy. <https://maytree.com/wp-content/uploads/1114ENG.pdf>

⁹¹ Maytree & Caledon Institute of Social Policy. (2020, May). *Social Assistance Summaries 2019*. https://maytree.com/wp-content/uploads/Social_Assistance_Summaries_All_Canada.pdf

homeless on any given night.⁹² According to Canada's 2018 point-in-time count (PIT count) among 61 communities involved in Reaching Home, 32,005 people were identified as experiencing homelessness on a single day. While it would be valuable to compare the findings of the 2018 PIT to the 2016 PIT, the data is skewed as the 2016 count included only 32 participating communities. The 2018 PIT count provides a small but useful sample of those experiencing visible homelessness. Of the 32,005 individuals identified, 60% experienced chronic homelessness (homeless for 6 months or more), whereas 8% experienced episodic homelessness. It should be noted that the definition of chronic homelessness is now out-of-date, though we have yet to see how the new definition of chronic homelessness will impact the next PIT count. Below is the definition of

homelessness according to Economic and Social Development Canada (ESDC).⁹³

Chronic homelessness is defined as those experiencing homelessness who have "a total of at least 6 months (180 days) of homelessness over the past year" or "recurrent experiences of homelessness over the past 3 years, with a cumulative duration of at least 18 months (546 days)."⁹⁴

ESDC and the Homeless Partnering secretariat have acknowledged some of the gaps in this data, including those living in hidden homelessness, and have modified the number to 27,000 in chronic homelessness. Critics have noted that there still remains gaps in the quality of this data. The PIT represents a static moment and does not, for example, represent those who have not

Homelessness is defined by ESDC as:

"the situation of an individual or family who does not have a permanent address or residence; the living situation of an individual or family who does not have stable, permanent, appropriate housing, or the immediate prospect, means and ability of acquiring it. It is often the result of what are known as systemic or societal barriers, including a lack of affordable and appropriate housing, the individual/household's financial, mental, cognitive, behavioural or physical challenges, and/or racism and discrimination."

⁹² Stephen Gaetz, Erin Dej, Tim Richter, & Melanie Redman. (2016). *The state of homelessness in Canada 2016*. Canadian Observatory on Homelessness Press; Canadian Alliance to End Homelessness. https://homelesshub.ca/sites/default/files/SOHC16_final_20Oct2016.pdf

⁹³ Neil R. Ellis. (2019, May). *Moving towards ending homelessness among veterans. Report of the Standing Committee on Veterans Affairs*. House of

Commons. <https://www.ourcommons.ca/Content/Committee/421/ACVA/Reports/RP10435401/acvarp12/acvarp12-e.pdf>

⁹⁴ Statistics Canada. (2020, December 30). *Canadian Housing Survey (CHS)*. <https://www.statcan.gc.ca/eng/survey/household/5269>

been successful in housing first programs.⁹⁵ Moreover, the concept of chronic homelessness does not capture how women, girls, and gender-diverse people experience homelessness. Likewise, immigrants, refugees, and Indigenous peoples experience homelessness and housing disadvantages that are not adequately captured by these definitions and data collection methods.

Additional limitations of PIT counts are that it: excludes those living in hidden homelessness, is influenced by the weather and time of year, does not reflect individuals turned away from shelters and not living rough, is dependent on the approach of the local community, can include duplicates, can exclude those who want to avoid detection (for example for fear that children will be removed), and is difficult to conduct in rural areas where people do not congregate in shelters or other service areas.

Among those counted in the 2018 PIT count, 62% identified as male, 36% as female, and 2% as gender diverse or provided another response not in the survey. As many advocates have argued, women disproportionately experience hidden homelessness and would not be represented in these numbers. For an in-depth analysis of hidden homelessness and measures to implement the right to housing for

women, girls, and gender diverse persons, please see the accompanying paper by Kaitlin Schwan, Mary-Elizabeth Vaccaro, Luke Reid, Nadia Ali entitled, *Advancing the Right to Housing for Women, Girls, and Gender Diverse Peoples in Canada*.

A much better indicator of homelessness can be sourced through By-Name lists, as long as it is reflective of quality data. A By-Name list (BNL) is a real time list of all people experiencing homelessness in a community. BNL measures inflow and outflow into homelessness based on a set of data points that support coordinated access and prioritization at a household level.⁹⁶ By collecting BNL data, communities have a baseline to measure reductions in homelessness; however, this data is still dependent on a person requesting to access support services. While coordinated access works in communities where homelessness tends to be related to violence, substance use, mental health, and other systemic failures or barriers, it depends on there being enough affordable housing available for people to access in the first place.

Currently, approximately 27 communities in Canada have verified quality BNL data tracking chronic homelessness (not all homelessness), though further infrastructure and training needs to be implemented for all

⁹⁵ Steve Pomeroy. (2020, July). *Recovery for All: Proposals to strengthen to National Housing Strategy and end homelessness*, p. 10. Canadian Alliance to End Homelessness. <https://caeh.ca/wp->

<content/uploads/Recovery-for-All-Report-July-16-2020.pdf>

⁹⁶ Built for Zero Canada. (n.d.). *By-name lists*. <https://bfzcanada.ca/by-name-lists/>

communities to measure homelessness using quality BNL. The count of communities using verified BNL data is steadily increasing. One barrier to consistent and effective use of BNL data is that communities in Canada do not have infrastructure and training on how to effectively use the Homelessness Individuals and Families Information System (HIFIS), a data collection and case management system, that can extract BNL data.

b) Key Findings

Throughout the literature review, qualitative interviews, and survey to NRHN members, a central criticism of the NHS that fits squarely in the analysis of whether the Strategy is consistent with international human rights law is the argument that the NHS fails to set goals consistent with international obligations.

1. The NHS must be re-framed to end homelessness, not merely reduce chronic homelessness by 50%.

“While the causes of homelessness can reflect complex social challenges, a clear

national commitment to end homelessness within a measurable timeframe should be the absolute minimum of our national ambition.”

– Maytree submission to LTH NHS consultation⁹⁷

The 2017 NHS commits to removing 530,000 families in Canada from housing need, modernize 300,000 homes, build 125,000 new homes, and reduce chronic homelessness by half by 2027. There are estimate that annually, 4,000 to 8,000 of those experiencing homelessness experience it chronically,⁹⁸ other experts have noted that this grossly underestimates those experiencing chronic homelessness as it is not based on the Canadian definition.⁹⁹ It is estimated that the number of people experiencing homelessness is closer to at least 33,000 persons who experience chronic homelessness. According to a 2016 report, at least 235,000 people experience homelessness (both episodic and chronic).¹⁰⁰

Those who are chronically homeless form a minimal percentage of those experiencing homelessness, though they are the highest users of public systems. In human rights terms, as will

⁹⁷ Noah Zon & Hadley Nelles. (2016, October). *Foundations for a National Housing Strategy: Submission to the Let's Talk Housing consultation*. Maytree. <https://maytree.com/wp-content/uploads/National-Housing-Strategy-Consultation-Maytree-submission-lowres.pdf>

⁹⁸ Homeless Hub. (2021). *Homelessness 101: How many people are homeless in Canada?* <https://www.homelesshub.ca/about-homelessness/homelessness-101/how-many-people-are-homeless-canada>

⁹⁹ Government of Canada. (2020, November 26). *Reaching Home: Canada's homelessness strategy directives*. <https://www.canada.ca/en/employment-social-development/programs/homelessness/directives.html#h2.2>

¹⁰⁰ Homeless Hub. (2021). *Homelessness 101: How many people are homeless in Canada?* <https://www.homelesshub.ca/about-homelessness/homelessness-101/how-many-people-are-homeless-canada>

be discussed further below, goals must be set in line with international obligations, including a commitment to end homelessness. This commentary is echoed in the submissions of many authors to the NHS consultation process, and in critiques of the NHS.

2. Rights-based Indicators to measure the impact of investments must be implemented, particularly for priority populations who disproportionately experience homelessness and core housing need. This includes meaningful participation by priority populations who are directly affected.

“We further recommend that the Committee ask Canada how it is implementing and monitoring its obligation to progressively realize the right to adequate housing, with priority to those most in need, and with attention to the needs of equity-seeking and vulnerable groups, through the programs of the National Housing Strategy and other housing and homelessness policies”¹⁰¹

¹⁰¹ National Right to Housing Network. (2020). *Submission to the UN Committee on Economic, Social, and Cultural Rights on the Right to Adequate Housing (Articles 2 and 11 of the ICESCR) for the 66th Pre-Sessional Working Group (09 March 2020 – 13 March 2020)*. <http://housingrights.ca/wp-content/uploads/FINAL-R2H-Network-CESCR-Submission.pdf>

¹⁰² The Parliamentary Budget Officer (PBO). (2019, June 18). *Federal Program Spending on Housing*

– National Right to Housing Network, 2020 CESCR List of Issues submission

As noted previously, the 2017 NHS made a commitment that at least 25% of investments to projects would benefit women and girls. However, there is little data available to measure whether this goal is being met. Additionally, the data available, including the 2019 PBO report¹⁰², notes that there is little evidence that the NHS will meet its targets, particularly for marginalized groups. Critique from experts like Steve Pomeroy has further illustrated concerns that NHS programs like the RCFI, are accruing benefit to the middle class and not those most in need.¹⁰³ One critical opportunity for improvement is to address the lack of data, and particularly disaggregated data, concerning the impact of programs like the National Co-Investment Fund.

Additional critique has been voiced in the media that funding for federal housing grant programs has disproportionately been allocated to Ontario, leaving out other provinces in territories. Recent data on the National Housing Co-Investment fund revealed that, from 2018 to January 2020, only 23 projects out of 432 submissions had been finalized, with over half of agreements in Ontario. As Jill Atkey, CEO

Affordability, p. 31. Office of the Parliamentary Budget Officer. https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2019/Housing_Affordability/Federal%20Spending%20on%20Housing%20Affordability%20EN.pdf

¹⁰³ Steve Pomeroy. (2021). *Toward Evidence Based Policy: Assessing the CMHC Rental Housing Finance Initiative (RCFI)*. <https://carleton.ca/cure/wp-content/uploads/CURE-Brief-12-RCFI-1.pdf>

of BC Non-Profit Housing Association recently noted in an article “Ottawa’s strategy has so far failed to launch in B.C.”¹⁰⁴

3. The NHS must be re-framed to address inflow and systemic drivers in an approach that emphasizes the prevention of homelessness and inadequate housing, particularly for priority populations, such as youth.

One interview participant noted that the NHS has not fundamentally embraced the right to housing in the context of approach. For example, the 2017 NHS states that “housing rights are human rights”¹⁰⁵, which, it was noted, carries a much lower burden for the government than a commitment to the meaningful implementation of the right to housing in Canada, as conveyed in the NHA. Each chapter should have the right to housing integrated, including through human rights-based goals, targets, indicators, and spending. To truly embrace the right to housing, this commitment must be demonstrated across government departments – including in budgeting decisions.

Many participants noted the disproportionate focus of the NHS and federal housing policy on the middle class versus persons with low incomes. The NHS has not been accompanied by

a NIBYISM campaign or government promotion of the right to housing. Many cited the prioritization of the first-time home buyers benefit as evidence of this imbalance. As one participant noted, a proper GBA+ analysis of this program would likely demonstrate that this program is not addressing core housing need or homelessness – which should be the highest priorities of the NHS.

Other participants noted the lack of focus on prevention in the 2017 NHS in the context of homelessness and inadequate housing. It was noted that to end homelessness for youth in particular, we need a strategy that addresses systemic drivers including family breakdown, child protection, and juvenile justice.

Participants noted that the current approach of the NHS focuses disproportionately on providing services to those already experiencing homelessness, rather than prevention. This need to focus on prevention was further reiterated in the context of those experiencing homelessness in rural and remote communities. It was recommended that, to embrace the right to housing, governments must consider the drivers of inadequate housing and homelessness and re-think those systems.

¹⁰⁴ Jill Atkey & Thom Armstrong. (2019, July 19). *Jill Atkey and Thom Armstrong: Time for Ottawa to help solve B.C.’s housing crisis*. The Province. [https://theprovince.com/opinion/op-ed/jill-atkey-and-](https://theprovince.com/opinion/op-ed/jill-atkey-and-thom-armstrong-time-for-ottawa-to-help-solve-b-c-s-housing-crisis)

[thom-armstrong-time-for-ottawa-to-help-solve-b-c-s-housing-crisis](https://theprovince.com/opinion/op-ed/jill-atkey-and-thom-armstrong-time-for-ottawa-to-help-solve-b-c-s-housing-crisis)

¹⁰⁵ Canada Mortgage and Housing Corporation (CMHC). (2018). *National Housing Strategy*. <https://www.cmhc-schl.gc.ca/en/nhs>

4. NHS goals must be focused on realizing the right to housing in alignment with international human rights obligations.

Prevalent in many interviews was the comment that the goals of the NHS are focused on increasing the supply of housing rather than addressing international human rights obligations. Impact reporting has concentrated on the number of units built rather than the percentage of core housing need met, particularly for priority populations.

Similarly, interview participants voiced concern that NHS goals are not ambitious enough to fulfill immediate obligations. For example, the 2017 NHS commits to a 50% reduction in chronic homelessness, and now, following the 2020 Throne Speech, an end to chronic homelessness. While some interview participants recognized the commitment to chronic homelessness as a step toward the progressive realization of the right to housing, others voiced concerns that by focusing on chronic homelessness, Canada will exclude those whose experience of homelessness tends to fall outside of this definition, including LGBTQ2S+

populations, immigrants, refugees, Indigenous peoples, and women.

There was significant agreement among participants that, to be aligned with the right to housing goals, the NHS need to be far more ambitious and mirror international obligations.

5. Canada needs to adopt a clear definition of what it means to end homelessness.

Participants further identified that, in order for the government of Canada to end homelessness, it must adopt a clear definition of homelessness and what it means to reach an end to homelessness. A measure that can be officially implemented is *Functional Zero*.¹⁰⁶ It was further noted that the government of Canada has an overreliance on PIT counts, which have many limitations. It was recommended that the federal government support communities in having real time specific data with byname lists.

Functional Zero: A community has ended chronic homelessness when the number of people experiencing chronic homelessness is zero, or *functional zero*, which is either 3 or 0.1% of the total number of individuals reported in the most recent point-in-time count, whichever is greater.

¹⁰⁶ Alina Turner, Kyle Pakeman, & Tom Albanese. (2016). *Discerning 'functional zero': Considerations for defining & measuring an end to homelessness in Canada*. Homeless Hub Press.

https://homelesshub.ca/sites/default/files/Functional_Zero.pdf

c) Human Rights Analysis

Human Rights Benchmarks and Timelines

Simply stated, to be consistent with international human rights legal authorities and the Sustainable Development Goals, Canada must set itself the goal of ending homelessness. In its current form, the NHS commits to a 50% reduction of chronic homelessness, and with the 2020 Throne Speech, this goal will likely be elevated to the elimination of chronic homelessness by 2030. While these increased efforts are reflective of progressive realization to the right to housing, without an overall goal to end homelessness, the NHS cannot be consistent with United Nations authorities.

It should be noted that while an overall goal of the NHS must be the elimination of homelessness by 2030, there is room for progressive realization efforts to be marked in sub-goals. Recognition for success in meeting sub-goals as based on human rights indicators, for example an end to chronic homelessness as a commitment in the 2020 Speech from the Throne, can be met to address governmental aims.

Without a commitment to the elimination of homelessness by 2030, programs to address economic and social rights violation risk being deprioritized in favour of other political goals. Similarly, when goals are not set in the context of human rights, efforts may

exclude particularly marginalized groups. For example, women are often not captured by Canada's definition of homelessness as their experience is often hidden. By setting Canada's overall goal in the context of chronic homelessness absent of other overarching goals for marginalized groups, the NHS can fail to meet those who disproportionately bear the brunt of the homelessness crisis.

Additional NHS targets include the removal of 530,000 households from core housing need, along with increasing the supply of housing and households that will receive the Canada Housing Benefit. In qualitative interviews, one participant noted that by setting goals in units to be built, the government is not framing goals in the context of human rights alongside the progress that must be made to reach those goals. Similarly, participants noted that without more structural change to address the drivers of core housing need, others may slip into core housing need just as others are housed. Consistently throughout interviews, it was noted that the targets of the NHS, and expenditures flowing from these targets, are inconsistent with a maximum of available resources.

In the context of a human rights-based approach, the next iteration of the NHS should implement additional goals to address the structural causes of inadequate housing and homelessness. This includes targets relating to security of tenure, safety, housing conditions, and other dimensions of adequacy – as well

as targets for prevention efforts and hidden homelessness measures, particularly in the context of the disproportionate experience of homelessness and inadequate housing for marginalized groups. In an international context, Canada can look to Finland, which in the most recent iteration of its housing strategy includes a focus on these structural causes of homelessness. This new version of Finland's housing strategy builds on success from its first iteration, where homelessness was reduced by 28% between 2008 – 2015, Finland being the only country in Europe to reduce homelessness in that period.¹⁰⁷

Rights-Based Indicators

United Nations authorities have provided significant guidance on how States can implement indicators to measure economic, cultural, and social rights. The Office of the High Commission on Human Rights has proposed three forms of rights-based indicators: “process indicators” which include the efforts by States to meet obligations within a particular time frame, “outcome indicators” which measure the experiences of rights holders through quantitative and

qualitative data, and “structural indicators” which assesses the legal protections and access to remedies to rights-bearers.¹⁰⁸

In the context of process indicators, the NHS does provide an outline for housing programs over the period of 2017-2027. Much of the measurement publicly available falls into the category of process indicators. For example, on the CMHC website, the key facts outlined in the context of the *Progress on the National Housing Strategy* section highlight the most recent investments in Budget 2019. This information is followed by reporting of the number of units repaired or constructed, alongside progress on bilateral agreements and Provincial/Territorial as well as Northern investments thus far.

Additional efforts are made in NHS reporting to note “outcomes indicators” for the experiences of rights-holders through qualitative and quantitative data. The 2019 NHS progress report, for example, includes narratives from people in Canada who have benefited from programs.¹⁰⁹ Additional quantitative indicators are provided through CMHC and ESDC through data collected on Core Housing Need, Vacancy rates, PIT counts, shelter-cost-

¹⁰⁷ UN Human Rights Council. (2018, January 15). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, A/HRC/37/53. <http://www.unhousingrapp.org/user/pages/04.resources/Thematic-Report-1-Human-Rights-Based-National-Housing-Strategies.pdf>

¹⁰⁸ UN Human Rights Office of the High Commissioner. (2011). *Manual on human rights*

monitoring. Chapter 20: Monitoring economic, social and cultural rights. <https://www.ohchr.org/Documents/Publications/Chapter20-48pp.pdf>

¹⁰⁹ Government of Canada. (2019). *Getting housing right: A progress report on federal housing investments.* <https://eppdscrmssa01.blob.core.windows.net/cmhcp-rodcontainer/sf/project/placetocallhome/pdfs/progress/nhs-ministers-progress-report-en.pdf>

to-income-ratios, Centralized Wait Lists, and By-Name Lists. As noted in the data section above, there are significant gaps in these measurements, though through multiple indicators and the investment in quality data, Canada can more accurately track progress on progressive realization.

To meet the human rights standard of outcomes indicators, particularly in the context of data collection and disaggregation, Canada can look to authorities such as the guidance note on a Human Rights-Based Approach to Data to inform its approach, developed particularly in the context of states measurement of progress to meet the SDGs.¹¹⁰

significant progress in this regard before these criteria are fulfilled.

The measurement of “structural indicators” goes together with the collection of qualitative data. Structural indicators to assess legal protection and access to remedies is an area where Canada has been significantly delayed, as a country that has historically valued the exercise of civil and political rights to the detriment of economic, social, and cultural rights. In 2010, the Centre for Equality Rights in Accommodation along with four individual applicants filed an application in the Ontario Superior Court arguing that the governments of Canada and Ontario had failed to create strategies and respond to

Other human rights authorities use the **OPERA framework** as an indicator of whether governments have met their human rights obligations. This includes an analysis of four dimensions: Outcomes, Policy Efforts, Resources, and Assessment.

The principles developed in this guidance note for a human rights-based approach to data include participation; data disaggregation; self-identification; transparency; privacy; and accountability. The document outlines how data can be used to hold human rights duty bearers to account – and the need for transparency and disaggregation. Based on feedback from qualitative interviews, the survey, and grey literature review, the current version of the NHS must make

UN authorities urging the governments to address homelessness in the *Tanudjaja v. Attorney General* case. The Attorneys General filed a motion to strike the application, which was granted, then further upheld by the Ontario Court of Appeal. This action to strike the consideration of the right to housing under ss. 7 and 15 of the *Canadian Charter of Rights and Freedoms* means that the issue of the right to housing has yet to be fully exercised in Canadian courts. In later years, justices of the

¹¹⁰ UN Human Rights Office of the High Commissioner. (2018). *A human rights-based approach to data*.

<https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>

Supreme Court of Canada have commented that the door is still open to the exercise of issue of economic and social rights under the *Charter*, but the actions by the Attorneys General to bar the issue from even being tried in the Ontario Superior Court demonstrates a lack of access to the courts for rights bearers.¹¹¹

Access to justice is a central component of implementing and measuring the realization of the right to housing. While the claiming mechanisms established through the *NHSA*—the Federal Housing Advocate, National Housing Council, and Review Panel—offer an alternative means to exercise economic and social rights furthering obligations to progressive realization, to genuinely fulfill obligations, rights-bearers must be able to access other legal mechanisms including the courts.

Canada can look to many other countries, particularly Commonwealth and European nations, for examples of how to successfully and constitutionally protect economic, cultural, and social rights while allowing rights-claimants to exercise these rights in the courts. Complaints mechanisms have also been established through Commissions (such as the South Africa Human Rights Commission) or Ombudsperson offices (such as the local committee established in Seoul where rights-holders can take complaints).

¹¹¹ Social Rights in Canada: A Community-University Research Alliance Project (CURA). (n.d.). *Charter Challenge to Homelessness and Violations of the Right to Adequate Housing in Canada: SRAC and*

Canada's new Federal Housing Advocate, National Housing Council, and Review Panel—if effective, well-led, and well-resource—will serve as a model for other countries in this regard. Critically, among other elements, in order for these mechanisms to be effective, rights-claimants need funding support to build systemic cases, public education work must inform rights-claimants on how to use *NHSA* mechanisms, and mechanisms like Review Panels must be accessible to claimants. For further analysis in this area, see Bruce Porter's accompanying paper entitled *Implementing the right to adequate housing under the National Housing Strategy Act: The international human rights framework*.

III. IMPROVING HOUSING OUTCOMES FOR THOSE IN GREATEST NEED

a) NHS Background

The Current Housing Status of Priority Populations

Under a human rights-based approach, outcomes for housing adequacy (i.e. affordability, habitability, accessibility, location, cultural adequacy, security of tenure, and availability of services, materials, facilities, and infrastructure), and reductions in homelessness must include an intersectional analysis of those who disproportionately face

CERA intervene in Tanudjaja, CERA et al. v Canada and Ontario. <http://socialrightscura.ca/eng/legal-strategies-charter-challenge-homlessness.html>

barriers to adequate housing. The 2017 NHS identifies that its housing programs are intended to support the housing needs of priority populations who have difficulty securing and affording housing that suits their needs in Canada's housing system, which is dominated by the private market. The populations identified in the NHS include women and children fleeing family violence, seniors, Indigenous peoples, people with disabilities, those dealing with mental health and addiction issues, veterans, and young adults.

Since 2017, this list of priority populations has been further developed. CMHC now, in the web-version of the NHS only, identified the following groups as those in greatest housing need in the context of the NHS:

- Women and children fleeing domestic violence
- Seniors
- Young adults
- Indigenous peoples
- People with disabilities
- People dealing with mental health and addictions issues
- Veterans
- LGBTQ2+
- Racialized groups
- Recent immigrants, especially refugees

- People experiencing homelessness¹¹²

As noted later in this paper, there are significant populations absent from this list including migrants, persons who have been in contact with the justice system, women who have faced other forms of violence, lone-women, and lone-women led households caring for children or other dependents.

Canada's international human rights obligations in instruments such as the Convention on the Elimination of Discrimination Against Women (CEDAW), Convention on the Elimination of Racial Discrimination (CERD), Convention on the Rights of Persons with Disabilities (CRPD), and United Nations Declaration on the Rights of Indigenous Persons require that governments commit to non-discrimination and equality in the implementation of the progressive realization of the right to housing. Practically, this requirement means that housing and homelessness targets, timelines, indicators, and outcomes must prioritize marginalized groups.

Data to assess the effectiveness of programs for priority populations is limited. Critics have noted that information collected through HIFIS, Point-In-Time Counts, Shelter use date, Shelter capacity data, social housing wait lists, CMHC data, and Statistics Canada data must be further disaggregated to better track the

¹¹² Canada Mortgage and Housing Corporation (CMHC). (2018, July 23). *National Housing Strategy: Priority areas for action*. [https://www.cmhc-](https://www.cmhc-schl.gc.ca/en/nhs/guidepage-strategy/priority-areas-for-action)

[schl.gc.ca/en/nhs/guidepage-strategy/priority-areas-for-action](https://www.cmhc-schl.gc.ca/en/nhs/guidepage-strategy/priority-areas-for-action)

systemic barriers to housing faced by particularly marginalized groups. The data that is available, however, demonstrates the disproportionate experience of housing need and homelessness for marginalized populations.

The following table outlines those populations named by CMHC in the context of the NHS, it does not include groups like migrant workers, persons with precarious immigration status, persons who have interacted with the justice system, or women who are not fleeing domestic violence who are not named.

TABLE 6: HOMELESSNESS AND HOUSING NEED OF MARGINALIZED POPULATIONS

MARGINALIZED GROUP	BACKGROUND ON HOUSING NEED
Women and children fleeing domestic violence	<p>Domestic violence shelters are so overwhelmed that on any given day, almost 1,000 women and their children are turned away from emergency shelters.¹¹³ Statistics Canada 2019 data suggests that few women transition from shelters in safe, affordable, and adequate housing. 1 in 5 women return to live with their abuser.¹¹⁴</p> <p>Further, this category does not capture cis- and trans-women experiencing other forms of violence and homelessness. It also excludes lone women, women-led households, low-income women, and women facing other disadvantages based on race, disability, Indigenous identity, or other forms of marginalization. There are also fewer women-specific emergency shelter beds in Canada's shelter system, with 30% dedicated to men and only 13% dedicated to women, resulting in a lack of access for women.¹¹⁵ These intersectional</p>

¹¹³ Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, T. (2020). *The State of Women's Housing Need & Homelessness in Canada: A Literature Review*. Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Toronto, ON: Canadian Observatory on Homelessness Press.
[http://womenshomelessness.ca/wp-](http://womenshomelessness.ca/wp-content/uploads/State-of-Womens-Homelessness-Literature-Review.pdf)

[content/uploads/State-of-Womens-Homelessness-Literature-Review.pdf](http://womenshomelessness.ca/wp-content/uploads/State-of-Womens-Homelessness-Literature-Review.pdf)

¹¹⁴ Ibid.

¹¹⁵ Women's National Housing & Homelessness Network. (n.d.). *Women & Girls' Homelessness in*

	issues which lead to homelessness mean that there is a much larger number of women requiring housing and shelter support. ¹¹⁶
Seniors	14% of Senior-led households experienced incidences of core housing need in 2016 ¹¹⁷ in comparison to 13.7% in 2011. ¹¹⁸
Young adults	In the 2018 Point-In-Time (PIT) count it was estimated that 50% of currently homelessness individuals had their first experience of homelessness before they were 25 years old. ¹¹⁹ It is estimated that 20% of the homeless population in Canada is comprised of youth between the ages of 13-25. These youth often do not have a stable or consistent source of income, and lower average incomes than other Canadians. They are also impacted by discrimination and intersectional barriers that impede their access to adequate housing; for example, Indigenous youth are overrepresented (31% of youth homelessness), as well as members of racialized communities (28%) and youth who identify as LGBTQ2S+ (25-40%). ¹²⁰ There are typically more male than female unhoused youth (with 63% of youth in shelters being male vs. 37% female), though this may be due to the fact that young women are especially at risk of crime and violence (including sexual assault) while

Canada. <http://womenshomelessness.ca/women-girls-homelessness-in-canada/>

¹¹⁶ For an in-depth analysis on the right to housing for women, girls, and gender diverse persons please see the accompanying paper by Kaitlin Schwan, Mary-Elizabeth Vaccaro, Luke Reid, Nadia Ali entitled, *Advancing the Right to Housing for Women, Girls, and Gender Diverse Peoples in Canada*.

¹¹⁷ Statistics Canada. (2011). *Population in core housing need, by economic family structure and sex*. <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=3910004801>

¹¹⁸ Statistics Canada. (2016). *Population in core housing need, by economic family structure and sex*. <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=3910004801>

¹¹⁹ Government of Canada. (2020, August 31). *Everyone Counts 2018: Highlights - Report*. <https://www.canada.ca/en/employment-social-development/programs/homelessness/reports/highlights-2018-point-in-time-count.html#3>

¹²⁰ A Way Home. (2019). *Youth homelessness in Canada*. <https://awayhome.ca/youth-homelessness/>

	experiencing homelessness, leading them to find alternatives—even if those alternatives pose other significant risks. ¹²¹
Indigenous peoples	<p>According to the 2018 PIT count, 30% of respondents identified as Indigenous, as compared to 5% of the population in Canada who identified as Indigenous in the 2016 census.¹²² First Nations, Inuit, and Métis peoples are significantly and disproportionately affected by inadequate housing as well.</p> <p>Inuit and First Nations on-reserve households fare the worst compared to other households in Canada across all housing adequacy standards. Over 25% of on-reserve First Nations people are living in crowded conditions, which is 7 times the proportion of non-Indigenous people nationally. Nearly 5,500 homes on Manitoba First Nations either require major renovations or need to be replaced. More than 10,000 on-reserve homes in Canada are without indoor plumbing, and 25% of reserves in Canada have substandard water or sewage systems.¹²³ In fact, 58 long-term drinking water advisories are in effect in 39 First Nations communities across Canada. On-reserve First Nations also face poverty, lack of employment, uninhabitable homes, and high exposure to diseases and viruses like COVID-19 due to overcrowding in homes.¹²⁴</p>

¹²¹ Homeless Hub. (n.d.). *Youth*. <https://www.homelesshub.ca/about-homelessness/population-specific/youth>

¹²² Government of Canada. (2020, August 31). *Everyone Counts 2018: Highlights - Report*. <https://www.canada.ca/en/employment-social-development/programs/homelessness/reports/highlights-2018-point-in-time-count.html#3>

¹²³ Idil Mussa. (2019, October 18). *Indigenous communities face 'abhorrent' housing conditions, UN report finds*. CBC. <https://www.cbc.ca/news/canada/ottawa/indigenous-communities-struggle-to-find-adequate-housing-in-canada-and-abroad-1.5326161>

¹²⁴ Rebecca Dyok. (2021, February 16). *On-reserve housing conditions challenge First Nations' fight against COVID-19*. The Star. <https://www.thestar.com/news/canada/2021/02/16/on-reserve-housing-conditions-challenge-first-nations-fight-against-covid-19.html>

People with disabilities	<p>For persons with disabilities, the likelihood of being in core housing need is at least 16% higher than persons without disabilities; as of 2012, 15.3% of persons with disabilities were living in core housing need compared to 9.2% of persons without disabilities.¹²⁵ Women with disabilities have a higher likelihood of living in core housing need at 16.9% as compared to men with disabilities represented at 13.2% in core housing need.¹²⁶</p> <p>Moreover, it is estimated that people with disabilities or living with diagnosed mental health conditions make up 45% of Canada's homeless population. Over 30% of adults with disabilities live in rental housing, and almost 45% of these renters live on low incomes compared to 25% of renters without disabilities. The rate of poverty among working-age adults with disabilities is also twice as high (20%) as for Canadians without disabilities (10%). Moreover, disability support programs fail to meet the cost of housing in all provinces and territories.¹²⁷</p>
People dealing with mental health and addictions issues	<p>Persons dealing with mental health and addictions disproportionately experience homelessness and do so for longer periods of time. Up to 75% of women and 30-35% of the overall homeless population experiences mental illness. Data further suggests that 20-25% of people</p>

¹²⁵ CMHC. (2018, August 23). *Persons with disabilities: 15% live in core housing need*. <https://www.cmhc-schl.gc.ca/en/housing-observer-online/2018-housing-observer/persons-with-disabilities-15-percent-live-core-housing-need>

¹²⁶ Canada Mortgage and Housing Corporation (CMHC). (2018, May). *Housing conditions of persons with disabilities*. <https://assets.cmhc-schl.gc.ca/sf/project/cmhc/pubsandreports/research-insights/research-insight-housing-conditions-persons-disabilities-69354-en.pdf?rev=f51bd6dd-f1ef-4cfb-9dbf-9a1d1010ef60>

¹²⁷ Alzheimer Society of Canada, Arch Disability Law Centre, Canadian Association for Community Living, Canadian Mental Health Association (Toronto Branch), Council of Canadians with Disabilities, IRIS, People First of Canada, Social Rights Advocacy Centre, & Wellesley Institute. (2017, May 15). *Meeting Canada's Obligations to Affordable Housing and Supports for People with Disabilities to Live Independently in the Community*. <https://www.ohchr.org/Documents/Issues/Housing/Disabilities/CivilSociety/Canada-ARCHDisabilityLawCenter.pdf>

	experiencing homelessness have both mental health and addictions issues. ¹²⁸
Veterans	In 2014, of the 700,000 veterans in Canada, approximately 2,250 used a homeless shelter in the year. According to data in the Homeless Individuals and Families Information System (HIFIS), in 2014 2.7% of registered shelter users were veterans. ¹²⁹
LGBTQ2S+	LGBTQ2S+ individuals face distinctive barriers to housing. In Canada's youth homelessness population, between 25% and 40% of homeless youth identify as LGBTQ2S+ as compared to the 10% of the population in Canada who identify as LGBTQ2S+. Unique barriers exist for trans youth accessing the shelter system, with 1 in 3 transgender individuals rejected from shelters for their gender identities and gender expression. ¹³⁰
Racialized groups	Data on race and housing precarity or homelessness is limited as much of the Canadian government's data is not disaggregated. However, there is some disaggregated data available in the Canadian Housing Survey. Much of this data is not disaggregated within the category of "racialized" to account for persons who are black, Indigenous, or otherwise identify. The CHS found, in 2018, that racial minorities were twice as likely to be housing disadvantaged than others. ¹³¹ Moreover, it is estimated that 28.2% of people experiencing youth homelessness are part

¹²⁸ Homeless Hub. (2019). *About homelessness: Mental health*. <https://www.homelesshub.ca/about-homelessness/topics/mental-health>

¹²⁹ Neil R. Ellis. (2019, May). *Moving towards ending homelessness among veterans. Report of the Standing Committee on Veterans Affairs*. House of Commons. <https://www.ourcommons.ca/Content/Committee/421/ACVA/Reports/RP10435401/acvarp12/acvarp12-e.pdf>

¹³⁰ Homeless Hub. (n.d.). *Youth*. <https://www.homelesshub.ca/about-homelessness/population-specific/youth>

¹³¹ Statistics Canada. (2020, December 30). *Canadian Housing Survey (CHS)*. <https://www.statcan.gc.ca/eng/survey/household/5269>

	of racialized communities whereas only 19.1% of the average Canadian population is part of a racialized community. ¹³²
Recent immigrants, especially refugees	Recent immigrants face enormous challenges to secure adequate housing. According to the 2016 census, refugee households experience four times the incidence of core housing need as compared to non-immigrant households. ¹³³

The table above focuses only on the priority populations named by CMHC in the context of the NHS, though as noted throughout this paper, it does not include marginalized populations including persons who have interacted with the criminal justice system; persons with precarious immigration status; migrant workers; low-income women and lone caregivers; and rural and remote communities. The global pandemic has brought to the forefront the housing disadvantage faced by specific populations in Canada. This is clearly demonstrated by the horrifying rate of morbidity and mortality for seniors and persons with disabilities living in long-term care; outbreaks among migrant workers living in substandard congregate settings; the higher rates of transmissions of the virus in low-income households with predominantly Black and racialized populations; and people discharged from provincial detention

with inadequate release planning, who often end up in encampments.

Review of Primary Data on NHS Programs

Ultimately, the lack of longitudinal data collected in Canada on homelessness and inadequate housing, as well as the fact that only three dimensions of adequacy are examined for core housing need, presents significant challenges to measuring the adequacy of programs in the National Housing Strategy and accompanying housing policy to meet human rights requirements.

The gap in data is particularly concerning in measuring the impact of housing policy for marginalized populations including Indigenous people, women-led households, persons with disabilities, members of racialized groups, immigrants and refugees,

¹³² Kaitlin Schwan. (2016, November 16). *Too little, too late: Reimagining our response to youth homelessness in Canada*. Homeless Hub. <https://homelesshub.ca/blog/too-little-too-late-reimagining-our-response-youth-homelessness-canada>

¹³³ Canada Mortgage and Housing Corporation (CMHC). (2019, April 26). *Recent refugee housing conditions in Canada (2016 census data)*. <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/socio-economic-analysis-recent-refugee-housing-conditions-canada>

members of LGBTQ2S+ communities, and those with low incomes. For example, the NHS commits to allocating at least 25% of project investments to the unique needs of women and girls.¹³⁴ However, little data exists to measure the impact of these programs on women and girls.

While data is available at a population level, NHS programs do not incorporate monitoring strategies using disaggregated data to measure program outcomes and impacts for priority populations. These programs only measure the number of housing units created but are not specifically and clearly designed to meet the larger targets of the NHS as a whole. The issue with relying on population level data is that this data may be impacted by programs and changes outside of the NHS programs, and therefore the efficacy of the NHS programs themselves cannot be verified.

b) Key Findings

1. Canada does not have an Urban, Rural and Northern Indigenous Housing Strategy.

“Though elected officials have indicated that the government will address gaps in current

policies with respect to urban, rural, and northern Indigenous housing, there is a risk that this commitment will fall short of a robust strategy capable of providing Indigenous housing and service providers with a mechanism for meaningful, ongoing engagement.”¹³⁵

– Statement on National Urban Indigenous Housing Strategy by Sylvia Maracle, Ontario Federation of Indigenous Friendship Centres; Justin Marchand, Ontario Aboriginal Housing Services; Margaret Pfoh, Aboriginal Housing Management Association; Marc Maracle, Gignul Housing Ottawa; Tanya Sirois, Regroupement des centres d’amitié autochtones du Québec; Damon Johnston, Aboriginal Council of Winnipeg; Leilani Farha, UN Special Rapporteur on the right to adequate housing

Canada’s 2017 NHS committed to Distinctions-Based First Nations, Métis, and Inuit Housing Strategies, developed in partnership with national Indigenous organizations. In June 2018, the Canadian Housing Renewal Association (CHRA) Indigenous Housing Caucus released a paper calling on the federal government to acknowledge and fund a

¹³⁴ National Housing Strategy (NHS). (2017). *Canada’s National Housing Strategy*, p. 24-26. <https://www.placetocalhome.ca/-/media/sf/project/placetocalhome/pdfs/canada-national-housing-strategy.pdf>

¹³⁵ Sylvia Maracle, Justin Marchand, Margaret Pfoh, Marc Maracle, Tanya Sirois, Marcel Lawson Swain,

Patrick Stewart, Pamela Glode Desrochers, Damon Johnston, & Leilani Farha. (2019, December 11). *Statement on National Urban Indigenous Housing Strategy*. <https://www.ontarioaboriginalhousing.ca/wp-content/uploads/2019/12/Statement-on-National-Urban-Indigenous-Housing-Strategy-11-12-19.pdf>

strategy for Indigenous households in urban, rural, and northern areas.¹³⁶

In December 2019, Urban Indigenous organizations came together to raise concerns that these efforts would not include the 79.7% of Indigenous persons not living on reserve.¹³⁷ The groups issued a 100-day challenge for the federal government to create new legislation mirroring the rights and accountability framework of the NHA, along with other asks including the right to adequately resource a National Urban and Rural Indigenous Housing Strategy. In 2020, the CHRA Indigenous Caucus released a further report with a survey of the state of urban, rural, and northern Indigenous housing, with recommendations to involve Indigenous housing providers in a partnership that supports reconciliation.¹³⁸ This has been followed by a study of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities on urban, rural, and northern Indigenous housing.¹³⁹

This critique is balanced against the context of consultation with national

Indigenous organizations such as the Assembly of First Nations, Inuit Tapiriit Kanatami, and Métis National Council who have been involved with the creation of other distinctions-based strategies—some of those living off reserve would thus be captured by the existing strategies.

The authors note that the recommendation to create an Urban and Rural Indigenous Housing Strategy is complex, and defer to First Nations, Inuit, and Métis experts in this area in recognition of these Indigenous organizations as expressions of Indigenous self-determination, consistent with Canada's obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

As one interview participant noted, “first, housing should be prioritized for various Indigenous nations; their need is beyond anything you deal with in settler populations.”¹⁴⁰ This immediacy of addressing the housing crisis for Indigenous persons was noted by participants to only be exacerbated by the history of colonization and what

¹³⁶ Indigenous Housing Caucus Working Group, Canadian Housing and Renewal Association. (2018, May). *A for Indigenous by Indigenous National Housing Strategy*. https://chra-achru.ca/wp-content/uploads/2015/09/2018-06-05_for-indigenous-by-indigenous-national-housing-strategy.pdf

¹³⁷ Sylvia Maracle, Justin Marchand, Margaret Pfoh, Marc Maracle, Tanya Sirois, Marcel Lawson Swain, Patrick Stewart, Pamela Glode Desrochers, Damon Johnston, & Leilani Farha. (2019, December 11). *Statement on National Urban Indigenous Housing Strategy*. <https://www.ontarioaboriginalhousing.ca/wp-content/uploads/2019/12/Statement-on-National-Urban-Indigenous-Housing-Strategy-11-12-19.pdf>

¹³⁸ Daniel J. Brant & Catherine Irwin-Gibson. (2019, April). *Urban, rural, & northern Indigenous housing: The next step*. Canadian Housing and Renewal Association. https://chra-achru.ca/wp-content/uploads/2019/09/20190802-urn_indigenous_housing_final_report.aug26.2019.pdf

¹³⁹ House of Commons (2021) *Urban, rural, and northern Indigenous housing*. <https://www.ourcommons.ca/Committees/en/HUMA/StudyActivity?studyActivityId=10983040>

¹⁴⁰ Interview participant, 2020.

Canada has done to systemically violate the rights of Indigenous persons through the 60s scoop and continuing approach of child welfare apprehensions.

Participants noted an additional recommendation that Canada make significant investments in housing for Indigenous persons to reduce core housing need. This includes the building of 73,000 units over a period of ten years, where funds are front-loaded – as well as a concentration on northern housing, and increased funding for wrap around services for Indigenous persons. Housing for Indigenous persons must also be culturally appropriate.

2. The Government of Canada's housing policy must address the intersections of poverty, inadequate income support, and inequity of the labour market that exacerbate unaffordability of housing, particularly for marginalized groups. The NHS reflect Canada's poverty strategy and programs should be crafted to reinforce the goals of each strategy.

Many participants noted that the next iteration of the NHS must reflect an understanding of the intersectionality of poverty, inadequate income support, and the inequity of the labour market. Canada's housing policy, broadly, must incorporate the intersections of poverty,

inadequate income supports, and inequity of the labour market. This requires that the NHS goes hand-in-hand with the poverty strategy. To truly take a preventative approach to homelessness and inadequate housing, the NHS must address the inadequacy of social assistance programs. As one participant said, "one reason there is homelessness and core housing need is that people's income isn't enough to give the opportunity to pay rent."¹⁴¹ Participants noted that the COVID-19 pandemic has further highlighted the interconnection of inadequacy of incomes with the housing affordability crisis, and that the next iteration of the NHS must take this intersectionality into account.

While most income support programs are primarily the responsibility of subnational governments such as provinces and territories, experts have noted that the federal government could develop human rights conditions for adequate rates and accessibility to social assistance through the Canada Social Transfer.

In particular, many participants discussed the ways in which racialized peoples are most impacted by both poverty and precarious housing. As one participant noted, "people of colour, people with precarious immigration status, immigrants, they're all over all over-represented in core housing need. My take is that this has a lot to do with issues of poverty." This participant went

¹⁴¹ Interview participant, 2020.

on to rates have gone up for communities of colour. If we link housing to poverty, can only assume crisis has increased for communities of colour.”¹⁴² Another participant noted that racialized peoples are also especially affected by precarious housing, “research on rate of evictions in Toronto shows how rates are higher in black neighbourhoods. The National Housing Strategy can’t rectify, but it’s important as the federal governments engage with other levels of government.”¹⁴³

The COVID-19 global pandemic has demonstrated the life and death consequences of Canada’s housing crisis and how gaps in housing and income support systems disproportionately affect low-income persons of colour, women, persons with disabilities and other marginalized groups. Experts have noted in grey literature and in interviews that under a human rights-based approach, efforts to build Canada’s recovery should contemplate those groups who may face eviction due to arrears driven by these gaps in income and housing support—including a Residential Tenant Support Benefit.¹⁴⁴

3. The NHS must address the inadequacy of programs and conditions in the capital programs

¹⁴² Interview participant, 2020.

¹⁴³ Interview participant, 2020.

¹⁴⁴ Centre for Equality Rights in Accommodation & the National Right to Housing Network. (2021, February 18). *Addressing the Evictions and Arrears Crisis: Proposal for a Federal Government Residential Tenant Support Benefit*. <https://static1.squarespace.com/static/5e3aed3ea511ae>

of the NHS to implement the right to housing for persons with disabilities.

It was noted through qualitative interviews that persons with disabilities are consistently left behind. One participant noted that in British Columbia, only 5% of units are targeted for accessibility, when 15-20% of Canadians live with disabilities.

When considered alongside aging populations that develop disabilities, there are simply not enough accessible units to meet the needs of the population. This participant noted that persons with intersectional marginalized identities like women with disabilities, disabled women (and their children) fleeing violence, or young persons with disabilities are “never part of the plans.”¹⁴⁵ For example, young persons with disabilities often end up in long-term care homes with no choice of where or how to live, leading to social isolation and a plethora of other issues. To address this, it was recommended that “all [units] should be built with universal design. There should be accessible units for different needs. The government should be mandating that.”¹⁴⁶

In addition to the ICESCR, international treaties like the International Convention

[64f3150214/t/602ef583b5ce4e1d85ec0a23/1613690538665/NHSA+Submission+-+Addressing+the++Arrears+and+Evictions+Crisis+-+CERA-NRHN-Feb.18.2021.pdf](https://www.nhs.uk/publications/64f3150214/t/602ef583b5ce4e1d85ec0a23/1613690538665/NHSA+Submission+-+Addressing+the++Arrears+and+Evictions+Crisis+-+CERA-NRHN-Feb.18.2021.pdf).

¹⁴⁵ Interview participant, 2020.

¹⁴⁶ Interview participant, 2020.

on the Rights of Persons with Disabilities (ICRPD) articulate the obligations of Canada with respect to disability and the right to housing. For example, Article 19 of the ICRPD notes the equal rights of all persons with disabilities to live independently and to inclusion in the community.¹⁴⁷

Many participants also stated the important intersection between mental health and housing precarity that needs to be addressed. As one participant noted, “Missing from list [of priority groups] is mental health. It’s not captured by a disability lens but leads to marginalization in terms of housing.”¹⁴⁸ Another participant explained that when housed people are at risk of becoming homelessness, “the main driver is [a lack of] health funding for people with mental health issues... So much lack of support for people who need support to stay in housing.”¹⁴⁹ One participant also drew attention to the ways in which mental health issues are particularly impacting Indigenous peoples’ access to housing during the pandemic: “the pandemic has brought housing issues and a mental health crisis, particularly for [those with] intergenerational trauma from residential schools.” These intersecting traumas pose unique issues for urban, rural, and northern Indigenous peoples experiencing homeless, as “[some] Indigenous peoples don’t want

to be housed in dormitory style housing because it mimics the experience of residential schools.”¹⁵⁰

4. Canada’s housing laws, policies, and programs—including the NHS—must be re-framed to address the needs of populations who have otherwise been excluded from CMHC’s priority populations. This includes specific measures to address inadequate housing and homelessness among those who have interacted with the criminal justice system; persons with precarious immigration status; persons with disabilities who require both housing and accompanying support services to live independently in the community; migrant workers; low-income women and lone caregivers; and rural and remote communities.

“Without us, you won’t end homelessness in Canada.”¹⁵¹

Interview participants, even those most familiar with the NHS, expressed confusion on how the NHS had impacted marginalized groups. As one participant noted, the NHS offers a “one size fits all colonial approach to answering a complex and nuanced problem...it fashions a prescriptive way of

¹⁴⁷ Committee on the Rights of Persons with Disabilities, *Convention on the Rights of Persons with Disabilities*, <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#19>

¹⁴⁸ Interview participant, 2020.

¹⁴⁹ Interview participant, 2020.

¹⁵⁰ Interview participant, 2020.

¹⁵¹ Interview participant, 2020.

answering the problem and does not take into account the right to housing.”¹⁵²

In a review of both the grey literature and in discussions, there is a common sentiment that outcomes, targets, and measurement are generally not disaggregated, and as a result few targeted measures to address homelessness or inadequate homelessness are in place. Though, as a few participants noted, Ontario’s Violence Against Women portable housing benefit as well as the Canada Housing benefit for women fleeing violence, do seem to have a positive impact. Many participants noted that civil society needs access to how specific NHS programs are targeting priority populations and data on how each population is being addressed using an equity lens. As one participant noted the “NHS needs to better communicate outputs and what’s happening to various sectors”¹⁵³. Another participant noted that “measurement is super important because having indicators is the only way to know if you’re having progress.”¹⁵⁴ Another participant summarized that “everyone should have a home, but we need a targeted approach for [certain] groups to reach that goal... I would like to see very specific targets that they mention for priority groups. We need to see specifically, for each population,

what exactly they are doing. They need to break it down.”¹⁵⁵

It was noted that the National Housing Council may assist in the analysis of data based on outcomes and programs for priority populations, for example, in the context of the poverty council, members have access to data that is otherwise unavailable.

In addition to disaggregating data, and creating targets/outcomes for priority populations, it was noted that communities must be enabled with data infrastructure to further measure the disproportionate experience of homelessness among priority populations. The information gathered through additional data infrastructure could help advise systemic action at a local level.

Participants also spoke to specific priority populations that have been excluded from the 2017 NHS.

Persons with precarious immigration status were widely cited as a population that remains absent from the NHS, though they are often the most marginalized, without access to social security benefits, and left to the support of the charitable sector. Similarly, though racialized persons have been noted as a distinctive category of a priority population in the NHS by CMHC, the original draft of the 2017 NHS does not identify persons of colour as a distinctive

¹⁵² Interview participant, 2020.

¹⁵³ Interview participant, 2020.

¹⁵⁴ Interview participant, 2020.

¹⁵⁵ Interview participant, 2020.

population where programs must be targeted.

Participants noted that **women (both cis and trans)** are included in the strategy in the context of domestic violence. This raises a major gap given that low-income women and lone caregivers disproportionately experience hidden homelessness.

Persons who have interacted with the criminal justice system are not specifically named in the NHS. Disproportionately, this includes Indigenous, Black, low-income, persons with mental health issues and other intersectional representations. This raises a major gap, particularly for persons released from incarceration into homelessness.

Other participants noted that **rural and remote communities** do not have equal access to National Housing Strategy programs, both in the context of CMHC funds for capital programs and through Reaching Home. It was noted that there is no population cap on communities that can apply for rural and remote funding under Reaching Home, and as such there is less space in the program for rural communities. Additionally, unit caps on CMHC capital funding mean that smaller units, which are favoured in rural and remote communities, are ineligible for funding. Many interviewees noted the operational barriers to apply for funding under programs in the NHS

and complexity of application processes but highlighted this as a particular barrier to access for rural and remote communities.

c) Human Rights Analysis

Canada's housing system is disproportionately dominated by the private market. Only 4% of Canada's housing stock is social housing¹⁵⁶—a very small percentage when compared to the United Kingdom or countries in the European Union.¹⁵⁷ The disadvantage faced by priority populations is systemically produced by an over-reliance on the private market.

The private market relies on market logics like competition and scarcity that are inherently inequitable and structurally exclude populations who face structural disadvantage on the basis of race, gender, disability, Indigeneity, or other grounds. This content is critical to framing the NHS, without a significant shift to community-based housing alternatives, the government is perpetuating a severely imbalanced and inequitable housing system. Achieving true housing justice requires a transformation of housing systems to embrace non-private market housing such that housing is accessible to all, not only those with income and wealth to compete in the private market.

¹⁵⁶ Marc Lee. (2018, May 28). *From housing market to human right: A view from Metro Vancouver*. Canadian Centre for Policy Alternatives, BC Office. <https://www.policyalternatives.ca/sites/default/files/up>

loads/publications/BC%20Office/2018/05/ccpa-bc_housing-human-right_may2018.pdf

¹⁵⁷ *ibid.*

The NHS requires that housing outcomes be focused on those with greatest need, and as noted above, the CMHC has provided additional context for the priority populations who face disproportionate impacts of violations of the right to housing. It is important to remember that identity is intersectional, and often those facing chronic homelessness identify as members of priority populations.

Progressive realization of the right to housing requires that governments move beyond a framework of what are labelled “negative” rights to ensure that programs, laws, and policies – including budgetary decisions – are consistent with “positive rights” efforts to move forward realization of the human right to housing. This is particularly important in ensuring the NHS is consistent with commitments to the International Covenant on the Elimination of Discrimination Against Women, International Covenant on the Elimination of Racial Discrimination, International Convention on the Rights of Persons with Disabilities, International Covenant on the Rights of the Child, and Universal Declaration on the Rights of the Child, all of which include a commitment to the right to housing.

In the grey literature review, survey, and qualitative interviews, it was made clear that some populations have been left out of the NHS in a manner inconsistent with human rights. Critically, persons without citizenship or resident status remain excluded from the NHS and housing efforts. Persons with precarious

immigration status are among the most marginalized in Canada, without support from social security or other programs, it is often up to front-line organizations to provide shelter or other support.

Additionally, it is important to note that in the original drafting of the NHS, persons of colour were excluded, and it was only after advocacy efforts that they were added as priority populations by CMHC.

In order to adequately measure outcomes for marginalized groups, quality data that is disaggregated must be available, but as noted previously data collected on housing and homelessness is not comprehensive. Canada does not even have a definition, let alone an inclusive definition, of homelessness – or what it will mean to reach functional zero.

Few targets are available in the NHS or subsequent programs that are specifically designed to meet the needs of priority populations. As noted previously, the 2017 NHS commits to at least 25% of investments as targeted at the needs of women and girls, but there is little information on how outcomes are measured. While some investments are noted in the NHS to address Northern housing, there remains an enormous gap in programs for First Nations, Métis, and Inuit persons. Without an Urban, rural and Northern Indigenous Housing strategy Canada’s housing efforts will fail to fulfil its human rights obligations.

IV. PROVIDING FOR PARTICIPATORY PROCESSES TO ENSURE ONGOING INCLUSION AND ENGAGEMENT: IMPLEMENTING RIGHTS-BASED MONITORING OF THE NHS AND HOUSING SPENDING

a) NHS Background

The 2017 NHS provides an allocation of \$49.2 million to support integrate a human rights-based approach to housing via the NHA legislation, Federal Housing Advocate, National Housing Council, Community-Based Tenant Initiative, and related public engagement campaigns.¹⁵⁸ These critical elements are presented as the primary driver of the right to housing, though as noted throughout this paper, the right to housing must drive all areas of the NHS including funding.

A key characteristic of a human rights-based approach is the ability for rights to be claimed and enforced.¹⁵⁹ In the Canadian context, the *National Housing Strategy Act* establishes the mechanisms of the Federal Housing Advocate and National Housing Council. If implemented such that the Advocate and Review Panel investigatory and hearing procedures are accessible to rights-bearers, this will greatly

contribute to Canada's fulfillment if its international human rights obligations

In the context of the NHS, the Community-Based Tenant Initiative grant stream of the Community Housing Transformation Centre is a key feature of the deliver of participatory mechanisms. This program has the potential to support rights-claiming at a local level, including awareness of the right to housing, identification of systemic barriers, and the formulation of remedies. Through research, there is common consensus that funds allocated for the Community-Based Tenant Initiative are a positive development, as we've learned from the Quebec example that tenant education and increased capacity can have an important impact on the realization of the right to housing.

b) Key Findings

"Canadian policy processes—and even international human rights settings—all too often invite service and advocacy organizations to stand in for direct participation by people with lived experience. ... rights-based participation and accountability entails the re-orientation of these processes and settings to engage rights holders directly."

¹⁵⁸ Canada Mortgage and Housing Corporation (CMHC). (2018, May 2). *National Housing Strategy: What is the strategy?* <https://www.cmhc-schl.gc.ca/en/nhs/guidepage-strategy>

¹⁵⁹ Bruce Porter. (2014). *Designing and implementing rights-based strategies to address homelessness and*

poverty in Ontario: Abridged version 2014. Social Rights Advocacy Centre; Institute of Population Health, University of Ottawa. <http://socialrightscura.ca/documents/publications/Abridged-Designing%20Rights-Based-sept%202020.pdf>

– Emily Paradis¹⁶⁰

While the government of Canada has committed to some of the core principles of the right to housing through the NHSA, there remains of gap in the value offered to rights-based participation. While the mechanisms promoted by the NHS, for example the National Housing Council, Housing Advocate, and Community-Based Tenant Initiative program, are presented as the primary vehicles for rights-based participation. These mechanisms have not yet been tested and it is too soon to judge if they will be effective or not. Their efficacy will become clear in the coming months.

A primary area of concern voiced by the Canadian Lived Experience Leadership Network (CLELN) and National Right to Housing Network, is the lack of representation of lived experts of homelessness. As stated by Debbie McGraw, Co-chair of CLELN, “[a]s it stands, this Council will rely heavily on service providers to speak for those experiencing homelessness instead of working with people directly affected. This role is more important than ever as people across the country face evictions, homelessness and job loss in the wake of COVID-19.”¹⁶¹

¹⁶⁰ Emily Paradis. (2018, June 1). *If you built it, they will claim: Rights-based participation and accountability in Canada's National Housing Strategy*. <https://maytree.com/wp-content/uploads/Paradis-submission-Rights-based-participation-and-accountability-1-June-2018.pdf>

¹⁶¹ Debbie McGraw. (2020, November 23). *National Housing Council appointments missing lived experience and right to housing expertise*. National

Lived experience experts have outlined seven key principles that moving forward must be at the centre of the implementation of all aspects of engagement in the NHS. These former Lived Experience Advisory Council articulates these principles as follows:

1. Bring the perspective of our lived experience to the forefront.
2. Include people with lived experience at all levels of the organization.
3. Value our time and provide appropriate supports.
4. Challenge stigma, confront oppression, and promote dignity.
5. Recognize our expertise and engage us in decision-making.
6. Work together towards our equitable representation.
7. Build authentic relationships between people with and without lived experience.¹⁶²

1. Rights-holders must be integrated in NHS program design, monitoring, and evaluation.

Experts noted through interviews that those directly affected by NHS program funding decisions must be more deeply

Right to Housing Network. <http://housingrights.ca/national-housing-council-reaction/>

¹⁶² Lived Experience Advisory Council. (2016). *Nothing about us without us: Seven principles for leadership and inclusion of people with lived experience of homelessness*. Toronto: The Homeless Hub Press. <https://www.homelesshub.ca/sites/default/files/LEAC-7principles-final.pdf>

engaged in decision-making processes. This requires transparency of outcomes, and integration of rights-holders directly in decision making. This participation can also be translated to incorporate local communities to have more involvement in determining priorities and monitoring local outcomes.

A common theme in participant interviews was the intersection of the NHS with access to justice, and the ability for rights-bearers to identify systemic issues related to the right to housing. The composition and function of the National Housing Council and Review Panel will bear a significant weight to ensuring that the NHS is compliant with the right to housing. As one participant noted, it “seems that the tendency [of the NHS] is to end with accountability instead of start with it.”¹⁶³

Another participant commented on the indivisibility of rights and noted in relation to the accountability mechanisms of the National Housing Council and Housing Advocate, “these tables need to reflect not just diverse identities, but experiences in terms of understanding intersections of issues. An expert on right to housing without someone who can provide equal expertise on health or the labour market further siloes out the approach... They can’t think of the right to health as separate.”¹⁶⁴

The process of interventions of the Council and Advocate – and capacity to hear from those directly affected by violations of the right to housing – in the construction of the next iteration of the NHS is critical for it to be compliant with human rights.

c) Human Rights Analysis

A key characteristic of a human rights-based approach is the ability for rights to be claimed and enforced.¹⁶⁵ In the Canadian context, the *National Housing Strategy Act* establishes the mechanisms of the Federal Housing Advocate and National Housing Council. If implemented such that the Advocate and Review Panel investigatory and hearing procedures are accessible to rights-bearers, this will greatly contribute to Canada’s fulfillment if its international human rights obligations. For further analysis of systemic claims and enforcement of the right to housing through these mechanisms, please see the accompanying paper by Bruce Porter entitled “*Implementing the right to adequate housing under the National Housing Strategy Act: The international human rights framework.*”

However, the duty to provide for participatory processes cannot only be captured by the new mechanisms in development. As indicated in qualitative

¹⁶³ Interview participant, 2020.

¹⁶⁴ Interview participant, 2020.

¹⁶⁵ Bruce Porter. (2014). *Designing and implementing rights-based strategies to address homelessness and poverty in Ontario: Abridged version 2014*. Social

Rights Advocacy Centre; Institute of Population Health, University of Ottawa.
<http://socialrightscura.ca/documents/publications/Abridged-Designing%20Rights-Based-sept%202020.pdf>

interviews, the processes of engagement thus far for the NHS have been relegated to its initial inception through the Let's Talk Housing process. Since that time, there has been little engagement with the public, or those directly affected.

Access to the federal government is limited to few with resources, and support for grassroots and community-led initiatives to support rights-claimants is critical for success of participatory processes. This requires commitments from subnational governments to the right to housing, which in practice could processes for rights-claimants to be involved in decision making on zoning and other land use issues.

International human rights authorities provide extensive materials on participatory engagement. For example,

in Thailand, a financial and technical support program allows communities to develop city-wide plans and manage all aspects of upgrading projects.¹⁶⁶ In Angola, civil society is encouraged to participate in resident area development organizations, which engage with local governments.¹⁶⁷ In South Africa, the Constitutional court developed a concept of meaningful engagement, where parties make decisions together. In qualitative interviews, the grey literature review, and survey it was heard loudly that people in civil society do not feel represented in the NHS since its inception. The next iteration of the NHS is an opportunity to create additional mechanisms for participatory mechanisms such that those who bear the brunt of the right to housing have input into the ongoing implementation of the strategy at every level.

¹⁶⁶ Nausica Castanas, Ploy Kasama Yamtree, Batan Yoswadee Sonthichai, & Quentin Batréau. (2016, December). *Leave no one behind: Community-driven urban development in Thailand*. International Institute for Environment and Development.

http://www.achr.net/upload/downloads/file_12012017132717.pdf

¹⁶⁷ UN-HABITAT. (n.d.). *Luanda Urban Poverty Programme (LUPP)*. <http://mirror.unhabitat.org/content.asp?cid=10266&catid=34&typeid=73&SubMenuID=>

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Conclusion: A vision for the next iteration of the NHS

In 2021, the CMHC will begin the process of developing the next iteration of the National Housing Strategy. Along with the National Housing Council, the Federal Housing Advocate will have a critical role in forming recommendations and advice to CMHC as to how the next version of the NHS can genuinely implement the right to housing as per the government's commitment in the NHSA.

The new NHS is an opportunity to go beyond incremental housing programs, and instead implement a vision that ends homelessness and Canada's housing crisis. The NHSA requires both a

paradigm shift for Canada's housing policy, and further provides a substantive framework for the NHS to guide Canada's policy and programmatic efforts to progressively realize the right to housing.

Importantly, the NHS is a single instrument that cannot solely capture all of the elements of the right to housing – to genuinely meet Canada's commitments under the NHSA, access to justice mechanisms under the Canadian Charter of Rights and Freedoms as well as security of tenure mechanisms under provincial and territorial law have critical roles to play in

making the right to housing live. Similarly, subnational governments have an important role to play in implementing regional right to housing claiming mechanisms.¹⁶⁸

As demonstrated throughout this paper, many of the calls to action offered by housing and homelessness civil society experts to improve the effectiveness of the NHS, reduce core housing need, and end homelessness—particularly for those most in need—correspond directly with Canada’s obligations under the NHSA and the right to housing.

In summary, the following recommendations should be considered for the next iteration of the NHS. These recommendations are in alignment with the four key principles outlined in the NHSA and address Canada’s international human rights obligations.

This list is non-exhaustive and should be considered alongside Table 2 (in Section 4 of this paper), which offers an analysis of the NHS according to the 10 Right to Housing Guidelines of the UN Special Rapporteur. These recommendations for the NHS should be further read alongside the accompanying paper by Bruce Porter entitled, *Implementing the right to adequate housing under the National Housing Strategy Act: The international human rights framework* and the accompanying paper by Kaitlin Schwan,

Mary-Elizabeth Vaccaro, Luke Reid, and Nadia Ali entitled, *Advancing the Right to Housing for Women, Girls, and Gender Diverse Peoples in Canada*.

I. SETTING OUT A LONG-TERM VISION FOR HOUSING IN CANADA THAT RECOGNIZES THE IMPORTANCE OF HOUSING IN ACHIEVING SOCIAL, ECONOMIC, HEALTH, AND ENVIRONMENTAL GOALS

Investments in the National Housing Strategy must meet the standard of a maximum of available resources, particularly for programs targeted at the goals of reducing core housing need and ending homelessness. This is measured under a standard of reasonableness. As outlined above, experts have voiced significant concerns that due to barriers in cost-sharing agreements between levels of government and an over-reliance on capital programs with affordability criteria that do not impact those most in need, the 2017 NHS fails to meet this standard under international human rights law.

Investments in the NHS—particularly capital investments—should be targeted at the central goals of reduction of core housing need and ending homelessness. In the current iteration of the NHS, too much focus is

¹⁶⁸ In the city of Toronto, the HousingTO 2020-2030 Action Plan is based in human rights and establishes a Housing Commissioner following the precedent of the NHSA. See: The City of Toronto. (n.d.). *HousingTO 2020-2030 Action Plan*.

<https://www.toronto.ca/community-people/community-partners/affordable-housing-partners/housingto-2020-2030-action-plan/>

placed on investments that impact high-income or middle-class persons at the expense of those most in need. Experts have noted significant concern that capital programs like the Co-Investment Fund and the Rental Construction Financing Initiative, where most NHS funds land, are not transparent or effective. Often these capital programs are not easily accessible to the not-for-profit sector.

The next iteration of the NHS must include measures to address financialization and the erosion of naturally existing affordable housing. This includes concrete action to implement financial policies to prevent large corporate investors and financial actors like Real Estate Investment Trusts (REITs) from further exploiting the housing market.

Affordable rental housing stock is rapidly disappearing as capital funds, REITs, and other financial actors take existing rental stock off the market or increase rent to make it unaffordable. United Nations authorities have explicitly instructed states that adherence to the right to housing requires efforts to curb financialization. In examining actions of other countries, these efforts could include reforming Canada's taxation system, improving rent control regulations, legislating greater tenant protections, and creating anti-displacement criteria in CMHC's lending programs. Additionally, acquisitions outside of the market should be supported alongside these efforts. This includes increased investment in

community housing options like non-profit, co-operative, and social housing.

Beyond traditional cost-sharing arrangements with subnational governments, the next iteration of the NHS must initiate an “all hands-on deck” approach with all levels of government.

Collaboration between all levels of government is necessary to end homelessness and address Canada's housing crisis. Inter-jurisdictional meetings like the inter-ministerial meeting on human rights provide a unique opportunity for governments to collaborate – for example through a right to housing working group. It is deeply concerning that programs like the Canada Housing Benefit have not been implemented in some regions due to delays in negotiation between levels of government.

The priorities of the NHS must be shared and prioritized among other federal government departments that interact with the right to housing.

Efforts to end homelessness and Canada's housing crisis must be shared and prioritized with the Departments of Justice, Heritage, Finance, and others.

II. ESTABLISHING HUMAN RIGHTS-BASED TARGETS, TIMELINES, AND INDICATORS

To meet Canada's obligations under international human rights law and the Sustainable Development Goals, progress must accelerate to meet immediate obligations including ending homelessness. Efforts to end

chronic homelessness rather than reduce it by 50% represent progress, but in focusing on chronic homelessness, the government of Canada risks prioritizing only those experiencing visible homelessness. With adequate investment and prioritization, Canada could be significantly more ambitious to meet the Sustainable Development Goals threshold and leave no one behind by ending homelessness by 2030.

To end homelessness, the next iteration of the NHS must adopt a clear definition of homelessness and what it means to end homelessness.

Significant work needs to be undertaken to improve Canada's measurement systems, and serious concerns have been raised about exclusion of populations from Point-In-Time Counts. Functional Zero is one of the measurements that can be utilized in these efforts. This should be applied alongside qualitative data gathering efforts through access to justice mechanisms.

The next iteration of the NHS must be re-framed to address inflow and systemic drivers in an approach that emphasizes the prevention of homelessness and inadequate housing, particularly for priority populations, such as youth.

In addition to service-based responses, significant efforts must be engaged to prevent

homelessness and address the systemic drivers of homelessness including gaps in child protection, juvenile justice, family breakdown, inadequate income supports, and other systems gaps.

Canada's housing policy—including the NHS—must consider the disproportionate impact of the global COVID-19 pandemic, particularly as it drives low-income marginalized individuals and families to be evicted into homelessness due to arrears.

A concrete proposal to address this mounting human rights crisis is the Residential Tenant Support Benefit proposal developed as a submission under the National Housing Strategy Act.¹⁶⁹

NHS progress must be reassessed to capture rights-based indicators to measure the impact of investments for priority populations (and those who need to be added to the NHS) who disproportionately experience homelessness and core housing need.

This includes meaningful participation by priority populations who are directly affected in monitoring processes, outcomes, and structural indicators. Transparency and accountability for measurement of progress is a key factor of a rights-based NHS – for example, it is unclear which programs and methods by which 25% of NHS investments are targeted at the needs of women, girls

¹⁶⁹ Centre for Equality Rights in Accommodation & the National Right to Housing Network (2021, February 18). *Addressing the Evictions and Arrears Crisis: Proposal for a Federal Government Residential Tenant Support Benefit*. <https://static1.squarespace.com/static/5e3aed3ea511ae>

[64f3150214/t/602ef583b5ce4e1d85ec0a23/1613690538665/NHSA+Submission+-+Addressing+the++Arrears+and+Evictions+Crisis+-+CERA-NRHN-Feb.18.2021.pdf](https://static1.squarespace.com/static/5e3aed3ea511ae/64f3150214/t/602ef583b5ce4e1d85ec0a23/1613690538665/NHSA+Submission+-+Addressing+the++Arrears+and+Evictions+Crisis+-+CERA-NRHN-Feb.18.2021.pdf)

and gender diverse persons. Structural indicators include access to justice mechanisms, closely tied to the collection of qualitative data.

III. IMPROVING HOUSING OUTCOMES FOR THOSE IN GREATEST NEED

The legacy of colonialism and systemic housing inequality for Indigenous persons must be recognized along with the right of those individuals to create their own strategies – this includes a National Urban and Rural Indigenous Housing Strategy. As noted throughout this paper, this is a critical element of moving forward the right to housing in accordance with the NHA, but the authors of this paper defer to First Nations, Inuit, and Métis colleagues in this area of work, in recognition of these organizations as expressions of Indigenous self-determination, consistent with Canada's obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

The next iteration of the NHS must be read alongside Canada's Poverty Reduction Strategy. The framing of the NHS must understand the intersections of poverty, inadequate income support, and inequity of the labour market that exacerbate unaffordability of housing, particularly for marginalized groups. This will become increasingly important as tenants face arrears and eviction into homelessness due to loss of employment resulting from the

pandemic. The NHS must reflect Canada's poverty strategy, and programs should be crafted to reinforce the goals of each strategy.

The inadequacy of programs and conditions in the capital programs of the NHS to implement the rights of persons with disabilities must be at the forefront of the next iteration of the strategy. Current allocations for accessible units within NHS programs fall well below meeting the needs of the 15-20% of people in Canada who live with disabilities. Persons with disabilities are also disproportionately represented among those in poverty in the country, and the low percentage of units allocated for accessibility in capital programs funded by the NHS contributes to this systemic driver of inadequate housing.

Canada's housing laws, policies, and programs – including the NHS – must be re-framed to address the needs of populations who have otherwise been excluded from CMHC's priority populations. This includes specific measures to address inadequate housing and homelessness among those who have interacted with the criminal justice system; persons with precarious immigration status; persons with disabilities who require both housing and accompanying support services to live independently in the community; migrant workers; low-income women and lone caregivers; and rural and remote communities.

IV. PROVIDING FOR PARTICIPATORY PROCESSES TO ENSURE ONGOING INCLUSION AND ENGAGEMENT: IMPLEMENTING RIGHTS-BASED MONITORING OF THE NHS AND HOUSING SPENDING

Rights-holders must be integrated in NHS program design, monitoring, and evaluation.

Those affected by NHS program funding decisions must be deeply engaged in decision-making processes. Building on international human rights authorities, engagement of persons with lived experience of homelessness and inadequate housing should follow the Lived Experience Advisory Council's principles for engagement. Ensuring that resources

are accessible for rights-claimants to bring forward systemic claims to the Federal Housing Advocate and Review Panel, and that the government is committed to implementing the Review Panel and Housing Advocate's recommendations, will significantly improve the NHS's capacity to genuinely realize the right to housing.

Canada took a bold step forward in 2017 by bringing together what was previously piecemeal housing policies into its first NHS. Now, as we enter 2021 with a newly affirmed commitment to housing and homelessness, this is the opportunity to make it clear that Canada is a world leader in the implementation of the right to housing.

ANNEX 1:

Qualitative Interview Participants 2020

Avvy Go, Colour of Poverty – Colour of Change.

Interview conducted September 29, 2020.

Courtney Lockhart, Co-operative Housing Federation of Canada.

Interview conducted October 1, 2020.

Garima Talwar Kapoor and Hannah Aldridge, Maytree Foundation.

Interview conducted September 24, 2020.

Geordie Dent, Federation of Metro Tenants' Associations.

Interview conducted September 29, 2020.

Jewelless Smith, Council of Canadians with Disabilities.

Interview conducted October 30, 2020.

Judy Duncan, ACORN Canada.

Interview conducted September 29, 2020.

Julieta Perucca, The Shift.

Interview conducted October 2, 2020.

Krys Maki, Women's Shelters Canada.

Interview conducted October 2, 2020.

Melanie Redman, A Way Home: Working Together to End Youth Homelessness/Making the Shift Youth Homelessness Social Innovation Lab.

Interview conducted September 30, 2020.

Randalin Ellery, Canadian Alliance to End Homelessness.

Interview conducted September 29, 2020.

Steve Sutherland, Canada Housing Renewal Association Indigenous Caucus.

Interview conducted October 1, 2020.

Terrilee Kelford and Shane Pelletier, National Alliance to End Rural and Remote Homelessness.

Interview conducted September 24, 2020.

Youssef Benzouine and Véronique Laflamme, Front d'action populaire en réaménagement urbain.

Interview conducted September 24, 2020.

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NATIONAL RIGHT TO HOUSING NETWORK

OCT 2021

