



THE NATIONAL  
RIGHT TO HOUSING  
NETWORK

# RESOURCING RIGHTS CLAIMANTS:

## CLOSING THE GAP TO EXERCISING THE NATIONAL HOUSING STRATEGY ACT



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***Disclaimer:*** *The opinions, findings, and conclusions or recommendations expressed in this document are those of the author(s) and do not necessarily reflect the views of the Canadian Human Rights Commission or the Federal Housing Advocate.*

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# EXECUTIVE SUMMARY

## Empowering Rights Holders through the National Housing Strategy Act: A Call for Funding Community Engagement

The National Housing Strategy Act (NHS Act) of 2019 introduced landmark human rights mechanisms aimed at addressing systemic housing issues in Canada. These mechanisms enable rights holders who have borne the brunt of Canada's housing crisis to have their voices heard, claim their rights, and offer solutions to systemic issues affecting their communities.

There is tremendous power in these justice mechanisms of the NHS Act. If well implemented, they can foster equitable, sustainable, and community-driven solutions that transform Canada's housing laws, policies, and programs. This transformation not only addresses the immediate crisis but fosters long-term economic stability, social cohesion, and an enhanced global reputation by demonstrating Canada's commitment to human rights and inclusive policymaking.

**However, the full potential of these mechanisms—including reviews by the Federal Housing Advocate and review panels—risks being unrealized due to a critical gap: the lack of dedicated funding to support the meaningful engagement of civil society and rights holders, especially those from deeply marginalized communities.**

This report, spearheaded by the National Right to Housing Network (NRHN), underscores the urgency of establishing a targeted funding program to address this gap. Such a program will empower individuals and civil society organizations to engage effectively with the NHS Act's mechanisms, elevating the right to housing from rhetoric to a lived reality for all people in Canada.

The effectiveness of the Federal Housing Advocate and review panels hinges on the meaningful participation of those most affected by housing inadequacy and homelessness. Historically, these communities have been sidelined in housing dialogues, leading to policies that inadequately address, or even exacerbate, the deep-rooted inequalities they face. Moreover, the NHS Act, as a pioneering human rights-based housing legislation that draws on the *International Covenant on Economic, Social, and Cultural Rights* for the first time in Canadian law, commits to progressively realizing the right to adequate housing as understood in international law.<sup>1</sup> Meaningful engagement is core to this commitment, necessitating that all government decisions, policies, programs, and laws emerge from dialogue with civil society and those with lived experiences of grappling with housing inadequacy and homelessness.

Despite the pivotal role of civil society in bringing these voices to the table for systemic reviews by the Federal Housing Advocate and review panels, there is a glaring absence of government funding to facilitate community leadership, education, and organizing in this domain. The NRHN has stepped into

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<sup>1</sup> Progressive realization requires that the right to adequate housing be achieved in the shortest possible time, using all appropriate means and the maximum available resources including legislative and taxation measures, with a focus on first addressing the needs of those experiencing the worst violations of their rights.

this void, supporting rights holders in exercising their rights and amplifying their voices.<sup>2</sup> However, the sustainability of these efforts and the realization of impactful change demand a formal, dedicated funding stream.

This report proposes the establishment of a **\$4.5 million funding program with a community-based Selection Committee**. Drawing insights from extensive community engagement sessions, seventeen expert interviews, and best practices observed in analogous programs like the Court Challenges Program of Canada and the Indigenous Justice Strategy Engagement Fund at the Department of Justice, the evidence presented herein unequivocally indicates the need for the Government of Canada to create a funding stream that bolsters community advocates and organizations in developing, organizing, and mobilizing around systemic housing claims.

This funding program is not an option but an obligation for a government committed to upholding human rights and ensuring that every person in Canada has a place to call home, as the federal government has acknowledged in the 2019 National Housing Strategy Act, the 2017 National Housing Strategy, and numerous treaties under international law.

This report highlights the necessity of this funding program not merely to ensure compliance with legal standards and obligations but to nurture trust and participation among communities who have yet to see the promise of improved housing outcomes realized. By investing in this funding program, the federal government is investing in a transformative rights-claiming process. It empowers civil society and grassroots advocates to shape their own futures and contribute to solving one of the greatest challenges facing every community across Canada today: housing and homelessness.

This funding program is about transforming the NHSA from a legislative framework to a tangible force for change, to co-create a housing system with community that ensures dignity, security, and belonging for all. The time to act is now. An investment in this fund is an investment in justice, community empowerment, and the future of the right to housing in Canada.

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<sup>2</sup> In some cases, the Office of Federal Housing Advocate has also been able to support organizations and rights claimants—however this funding is limited and provided on an ad hoc basis. As noted in this paper, infrastructure to support engagement and claims should be sufficiently structured and funded to support various points of engagement and should rely on **community-based decision-making** via an external Selection Committee.

# 1. The National Housing Strategy Act (NHSA) and Access to Justice

*“Achieving access to justice for the right to housing remains a work in progress. **It is built from the ground up.** It begins with individuals, groups and communities recognizing their circumstances as a violation of the right to housing and articulating a human rights claim. Claimants must be supported by their communities, legal advocates, human rights organizations and others to advance the claim. They must be provided a space in which the claim can be heard and adjudicated. And finally, they must be assured of effective remedies, fully implemented.”*

– UN Special Rapporteur on the Right to Adequate Housing. Access to Justice report<sup>3</sup>

## a) History and Context of the NHSA

The story of the *National Housing Strategy Act*’s creation is one we tell not only because the outcome was so important, but because **the process demonstrated the power of rights claimants and advocates coming together to establish what access to justice on the right to housing can look like.**

We pick up the story over ten years ago, in 2010, when Jennifer Tanudjaja and four others challenged the Ontario and Canadian governments for violating their rights to life, security of the person, and equality under the Canadian Charter of Rights and Freedoms (i.e., “the Charter”). They argued that homelessness damages and shortens lives, and that it disproportionately harms certain populations including persons with disabilities and Indigenous persons. As a remedy, they asked for something very common in other jurisdictions and a requirement under international human rights law: a strategy to address homelessness with reasonable goals and timelines. **This case had tremendous traction in bringing civil society together and over 10,000 pages of evidence were filed.** Yet the Attorneys General made a motion to strike the application on the grounds that it had no reasonable prospect of success. The trial judge agreed and in a controversial 2-1 decision, the Ontario Court of Appeal ruled that homelessness is too complex an issue for courts to address. The case was dismissed in 2014.

This issue was picked up again after Justin Trudeau was elected in 2015, when he issued a mandate letter to then Minister Jean-Yves Duclos requiring him to create “a strategy to re-establish the federal government’s role in supporting affordable housing.” What followed in 2016 was the creation of the National Housing Collaborative, and in 2017, the UN Special Rapporteur on the Right to Adequate

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<sup>3</sup> UN Human Rights Council, *Report of the Special Rapporteur on adequate housing* (2019, January 15) A/HRC/40/61, Online at: <<https://undocs.org/A/HRC/40/61>> [UN Special Rapporteur Report on Access to Justice].

Housing, the UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, the UN Special Rapporteur on the Rights of Indigenous Peoples, and the UN Special Rapporteur on Extreme Poverty and Human Rights submitted a formal letter to the Minister outlining concerns with whether the National Housing Strategy would explicitly recognize the right to housing.<sup>4</sup>

**In 2017, the National Housing Strategy was announced with a commitment to “progressively implement the right of every Canadian to access adequate housing.”<sup>5</sup>** Alongside a promise to reduce homelessness by 50% by 2023, the federal government made an unprecedented commitment to housing legislation based on human rights: the *National Housing Strategy Act* (NHSA). In response, a coalition of 1,000+ individuals and advocates led by civil society organizations presented proposed language for this legislation. **When the legislation was introduced in the Budget Implementation Act of 2019 (Bill-97), however, it fell dramatically short.**

As Bruce Porter has written about civil society’s critique of the original Bill-97 language:

“It did not link the roles of the NHSA’s National Housing Council and the Federal Housing Advocate to the commitment to the progressive realization of the right to housing or clarify that reports to the Minister would include findings or recommended measures in reference to that commitment. The Federal Housing Advocate would only report to the Minister annually, not directly on findings and recommended measures in response to submissions on a systemic issue. The legislation as tabled did not provide any clear rights-based architecture for the Federal Housing Advocate’s reviews of systemic issues or engagement with marginalized communities and it did not provide for any hearings at all.”

In a surprising turn of events, the Finance Committee responded to concerns of civil society—as articulated in deputations and other advocacy efforts—by **amending the legislation with four key changes:**

- A clear articulation that housing is a fundamental human right.
- Monitoring of the implementation of the progressive realization of the right to housing.
- Provision for the Federal Housing Advocate to receive submissions on systemic housing issues linked to the progressive realization of the right to housing and to make specific recommendations to the Minister, requiring a response.
- A procedure for the Federal Housing Advocate to refer important systemic issues to public hearings before a panel, ensuring affected groups have a voice and that the panel's findings and remedial recommendations are considered with a timely response by the Minister.<sup>6</sup>

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<sup>4</sup> The UN Special Rapporteur on the Right to Adequate Housing, the UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, the UN Special Rapporteur on the Rights of Indigenous Peoples, and the UN Special Rapporteur on Extreme Poverty and Human Rights, *Internal Communication to Minister Jean-Yves Duclos* (2017, May 16), Online at: <<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23071>>.

<sup>5</sup> Government of Canada, *Canada’s National Housing Strategy* (2017, November 22), Online at: <<https://assets.cmhcschl.gc.ca/sf/project/placetocallhome/pdfs/canada-national-housing-strategy.pdf?rev=7d7a4713-2f37-4cf0-a13e-68d278867630>> [National Housing Strategy].

<sup>6</sup> Standing Committee on Finance, 1<sup>st</sup> Session 42<sup>nd</sup> Parliament, (2019, May 27), *Minutes of Proceedings*, Online at: <<https://www.ourcommons.ca/DocumentViewer/en/42-1/fina/meeting-215/minutes>>.

By the third reading of the Bill, the NHSA was transformed with provisions “relating to submissions, findings and recommendations by the Federal Housing Advocate, the creation of a review panel to hold hearings, and the obligation of the Minister to respond to reports and recommended measures to address specific systemic issues.”<sup>7</sup> In introducing the amendments, the Honorable Minister Monsef stated:

“Today's amendments fulfill one of Canada's key international commitments. We are a signatory to the UN *International Covenant on Economic, Social and Cultural Rights*. As such, we have a responsibility to meet one of the Covenant's core commitments: to progressively realize the right to adequate housing as part of an adequate standard of living for our citizens.”<sup>8</sup>

## b) Access to Justice Considerations in the NHSA

The story of the NHSA is at the core of this report. The NHSA’s new system of rights claimants authoring submissions on systemic issues (s. 13(f)) that civil society fought for—and won—closely mirrors international human rights access to justice mechanisms like Optional Protocol reviews, treaty body reviews, and processes to develop UN Commentary.

**Like UN processes, those who have made systemic claims to the Advocate (for the purposes of this report, these individuals and groups are called “authors” of submissions) have special standing.** For example, the Advocate must inform the author of any and all submissions if a review will be undertaken, if it has been referred to a review panel, or if no action will be taken (s. 13.1(3)). This is in keeping with the understanding that the Advocate makes decisions under s. 13.1(1) as to whether or not to conduct a review into the systemic issue raised by the submission.

With reference to s. 13(3) in the legislation, it can be assumed when looking to parallel UN processes that those making systemic claims will be informed in advance that a review will take place, which ensures some transparency and accountability to the author(s) of the submission(s) and guarantees that the submitting individual(s) or organization(s) can participate in the review in some manner.

At the conclusion of the process, those parties who have made submissions are placed on equal footing with the Minister of Housing,<sup>9</sup> receiving a copy of the Advocate’s report with her opinion and recommended measures (or the findings of the review panel).

If the issue is referred to a review panel, the relevant submissions might be included in the report submitted to the Council requesting a review panel with engagement of the submission author(s). This request for a review panel explains how the systemic issue was identified, including why it inhibits the full and equal enjoyment of the right to adequate housing in Canada and how it may “intersect with other forms of disadvantage and discrimination, including colonialism, racism, sexism, homophobia and ableism and stigmatization/discrimination based on poverty, homelessness or other social condition”.<sup>10</sup>

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<sup>7</sup> Porter, B., *Implementing the Right to Adequate Housing under the National Housing Strategy Act: The International Human Rights Framework* (2021, October 14), Online at: < <https://housingrights.ca/wp-content/uploads/Porter-NRHN-OFHA-Paper-2021-FINAL.pdf> > at page 31.

<sup>8</sup> *Ibid.*

<sup>9</sup> At the time of publication, this is now the Minister of Housing, Infrastructure, and Communities.

<sup>10</sup> Office of the Federal Housing Advocate, *What constitutes a Systemic Housing Issue as per the NHSA? Discussion document* (unpublished).



It is assumed that if implementation plans are later developed by the Minister in response to findings and recommendations of the Advocate or review panels, the authors who made relevant submissions will play an important role in development and monitoring of those plans, in alignment with best practices under international human rights law.

### c) Access to Justice and the Role of Rights Claimants

This above context of the history of community input in developing the NHSA is critical to understanding the importance of a robust program to resource rights claimants, as well as a system of accountability to ensure a transparent process for the selection of claims to fund. **At their core, the mechanisms of the NHSA operate as an access to justice system, to overcome the practical and procedural barriers rights claimants face after so many decades of being denied access to Canadian courts to address violations of the right to housing.**

As a system, the resourcing, accountability, and transparency structures of the NHSA are a key part of Canada's adherence to international human rights obligations, including the *International Covenant on Economic, Social, and Cultural Rights*. As the UN Special Rapporteur on the Right to Adequate Housing wrote on access to justice:

“Violations of the right to housing may affect both individuals and groups. Entire communities are often affected by development plans or evictions. Access to justice must therefore extend to both individuals and groups. **Support should be available for them to participate in all stages of rights claims and in the implementation of remedies.** Groups with interest and expertise in systemic issues being addressed should be provided with amicus or public interest standing in hearings and be permitted to participate in the implementation of remedies.”<sup>11</sup> (*Emphasis added*)

The following report will outline: concrete measures for transparency and accountability voiced through research and engagement with rights claimants as they begin to engage the new NHSA mechanisms; a case study of the process to develop a major systemic claim; an examination of best practices and examples of resourcing programs for rights claimants; and key learnings to be considered by the Government of Canada and the Office of the Federal Housing Advocate when developing a system that nurtures and cares for rights claimants in implementing this critical access to justice function.

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<sup>11</sup> *Supra*, Note 1 UN Special Rapporteur Report on Access to Justice, at page 5 and 6.

## 2. Data Collection

In this paper, the authors explore key learnings and recommendations in the context of resourcing rights claimants and ensuring access to justice as rights holders exercise their rights under the *National Housing Strategy Act*.

To develop this paper, authors interviewed seventeen experts<sup>12</sup> who have either: made submissions under the NHTA, worked with rights claimants on the ground, or have implemented access to justice funding programs that provide guidance for a new program under the NHTA. Interviewees were selected with the advice of the National Right to Housing Network's (NRHN) Steering Committee of right to housing experts, which includes first voice advocates (i.e., persons with lived experience of homelessness and/or inadequate housing). Discussion spaces were also hosted with the NRHN's First Voice Advocacy Working Group on the contents of this paper.

Recommendations and themes in this report also pull from feedback received through extensive community engagement by the NRHN and the Women's National Housing and Homelessness Network throughout 2022,<sup>13</sup> particularly with respect to what resources and supports rights holders most need to make the NHTA meaningful.

In November 2022, the authors of this paper also worked with staff of the Office of the Federal Housing Advocate to deliver a hybrid (i.e., in-person and online) community engagement session entitled "Claiming the Right to Housing" with over 100 participants. The purpose of this session was to elaborate on the vision and process of claiming the right to housing under the NHTA, as well as understand community needs, concerns, and barriers involved with engaging in these rights-claiming mechanisms. This engagement session included an interactive and online data collection activity using the Mentimeter platform, through which a total of 405 participant responses were collected (see Figure 1). Results were grouped based on themes by the authors and have been triangulated with interview and community engagement data to inform this report.

As a form of peer review, a draft of this paper has been reviewed by the NRHN's First Voice Advocacy Working Group as well as key experts across the NRHN.

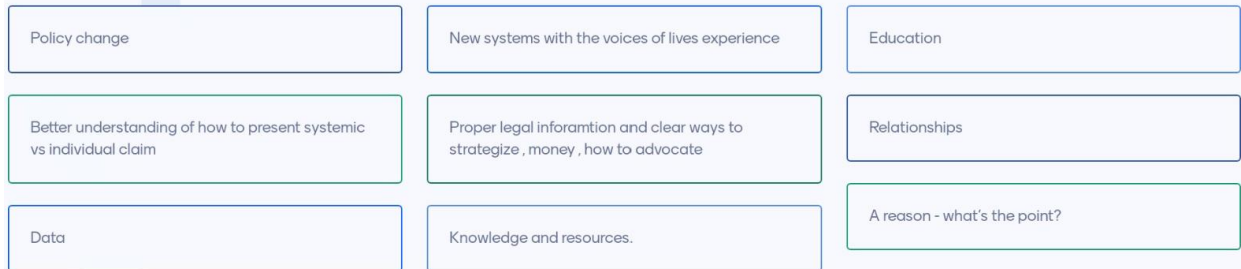
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<sup>12</sup> This includes diverse individual human rights and civil society experts such as Professor Martha Jackman, Bruce Porter, Bonnie Morton, Kaitlin Schwan, Khulud Baig, Victoria Levack, Debbie McGraw, and others who chose to remain anonymous.

<sup>13</sup> Virtual and in-person community engagements include: Raza, S. & Schwan, K. (2022, July 14). "The Right to Housing in Action: Land Back and Horizons for Legal Action." *Homelessness Services Association of British Columbia – Learn + Connect Series*. Vancouver, BC.; Kwar, S. & Raza, S. (2022, May 5). "Claiming the Right to Housing in Canada." *BC Family Support Institute on Housing Options*. New Westminster, BC.; Raza, S. (2022, April 19). "Stop the Loss." *The University of Ottawa's Centre for Research on Education and Community Services and the Alliance to End Homelessness Ottawa*. Ottawa, ON.; Harvey, J., Nelson, A., & Raza, S. (2022, April 5). "Claiming the Right to Housing in Rural, Remote and Northern Communities." *National Alliance to End Rural and Remote Homelessness*.; Nelson, A. & Schwan, K. (2022, April 14). "The Right to Housing for Women and Gender-Diverse Persons in Canada." *Canadian Association of Social Workers*. Ottawa, ON.; Raza, S. & Schwan, K. (2022, February 9). "The Right to Housing in Action." *Canadian Association of Social Workers*. Ottawa, ON.; Schwan, K. (2022, January 27). "Gaps between the National Housing Strategy and the National Housing Strategy Act: Human Rights Implications." *Community Engagement, Leadership, & Development Program, Ryerson University*. Toronto, ON.; Women's National Housing and Homelessness Network, Keepers of the Circle, and National Right to Housing Network. (2022, October 31). "National Symposium on the Right to Housing for Women and Gender-Diverse People." Toronto, ON.; Biss, M. & Raza, S. (2022, November 3). "Claiming the Right to Housing." *Canadian Alliance to End Homelessness Conference*. Toronto, ON.

## What do you need to advance a systemic claim? / De quoi avez-vous besoin pour faire avancer une revendication systémique ?

 Mentimeter



*Figure 1: Sample of the Mentimeter platform and engagement, showing participant answers to the question: "What do you need to advance a systemic claim?"*

# 3. Considerations for Building Community Leadership, Trust, and Buy-In

Human rights belong to rights holders and there is no right to housing without the trust, participation, and buy-in of rights claimants and civil society organizations. **For the *National Housing Strategy Act (NHSA)*, Federal Housing Advocate, and review panels to achieve meaningful and tangible change in Canada’s housing systems, claimant communities must see value in exercising their right to housing and bringing forward systemic claims.**

This sentiment was repeated time and time again in our community engagements and research interviews throughout 2022. When presented with the details, claiming mechanisms, and vision of the NHSA, potential claimants, advocates, lawyers, and civil society organizations alike shared hesitations about engaging with “another bureaucratic consultation process.” With the housing crisis worsening against the backdrop of a society grappling with the social, economic, and psychological impacts of the pandemic, people across the country feel like they are playing a losing game.

Homelessness and inadequate housing are on the rise and advocates are seeing their research, solutions, and calls to justice go unanswered. Costs of living are increasing far quicker than incomes, and for many, stable and adequate housing feels like it is becoming further and further out of reach. And as the government systems meant to listen to, serve, and support people in vulnerable situations continue to crumble, fall short, or evade them, people are losing faith in Canada’s decision makers, governments, and deficient social safety net. As one first voice advocate commented, “we’re just a number to everyone and I would love to find a way to change that.”

In contrast to bureaucratic consultation processes, **a rights-based approach to housing not only relies on, but strengthens, community trust, participation, and buy-in through a transformative rights-claiming process.** Human rights emphasize government accountability to residents and inhabitants—particularly the most marginalized. At the core of a rights-based approach is meaningful engagement and dialogue with rights claimants; all government decisions, policies, programs, and laws are meant to flow from the needs and experiences of people facing housing inadequacy and homelessness.

Under human rights law, people have the right to shape the policies and programs that affect them. This is what “meaningful engagement” is all about. **And as the first-ever human rights-based housing legislation that refers to the *International Covenant on Economic, Social, and Cultural Rights*, the *National Housing Strategy Act* plays a critical and precedent-setting role in making meaningful engagement a reality.**

Below are critical considerations for building a community-informed and rights-based system for empowering and resourcing people to claim their right to housing through the NHSA.

## Theme 1: Funding for Organizing and Trust-Building

*“Trust-building is never compensated and thought about, but that’s what takes up significant time when working with grassroots communities and Indigenous peoples. The first part of the job is making sure people even think this is valuable [work] to be invested in. And with Indigenous communities, this is more complex because it’s not just about access to human rights through federal instruments, but also their distrust with these federal instruments.”*

– Interview Participant, 2023

Funding for writing and organizing claims was a cross-cutting suggestion in every community engagement and interview. Many advocates emphasized the critical role that marginalized peoples and community-based organizations play in bringing rights claimants together to make sure that they feel valued and seen in the face of a system that fails to do so. They voiced that this invisibilized and highly gendered emotional and trust-building labour—which government and adjacent bodies are not adequately engaging in—should be supported both financially and otherwise by the Government of Canada.

This need for funding was particularly apparent in an interview with organizers from the Women’s National Housing and Homelessness Network (WNHHN) and National Indigenous Housing Network (NIHN—formerly called the National Indigenous Feminist Housing Working Group), who produced sister claims on the disproportionately gendered causes and impacts of inadequate housing and homelessness for women, gender-diverse folks, and Indigenous peoples.<sup>14</sup>

With no funds available to produce their human rights claims and little funding available across the sector for advocacy, both claims occupied approximately 30-50% of the organizers’ time for six months (to organize, administrate, and write the claims). This meant no funding for their salaries or for compensating community members, rights claimants, or partners to attend meetings or events; no funding for the legal research into the human rights norms at issue in their claim; no funding for translation or outreach in Quebec; and no funding for accessibility tools to increase participation among people who face additional barriers due to disability, language, geography, and more.

Moreover, when the claims were launched in Ottawa, there were no funds to support their communications efforts or to enable co-authors, partners, or rights claimants to attend the launch. “It required us to rely on the good graces of our partners, including Indigenous partners, to pay their own ways. **If our relationships weren’t strong, this could have significantly damaged them, or damaged our reputation.**”

Organizers on both teams emphasized that pre-established relationships of trust—and pre-established belief in the value of the process—were critical to their success in bringing together strong community-based claims which won the buy-in of advocates, organizations, and rights claimants. As such, they felt that **community organizations were critical players in driving forward the NHSA and should be funded to play this connective role.** Other community members, advocates, and interviewees also voiced the

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<sup>14</sup> These claims led to the Federal Housing Advocate’s request for a human rights review panel in May 2023, specifically focused on the Government of Canada’s failure to prevent and end homelessness for women and gender-diverse people. This review panel is anticipated to begin in early 2024.

importance of prioritizing and funding community-building around the right to housing, so that a human rights infrastructure and understanding is built within community and among potential rights claimants.

## Theme 2: Practical Supports for Organizing Claims

Advocates and organizations described many other resources, staff, and supports they need to bring forward strong community- and human rights-based systemic claims to the Federal Housing Advocate and review panels. Such supports include:

- **Human rights and legal expertise.** Many participants, including the WNHHN and NIHN, expressed that it was very valuable to have partners who could offer legal analysis, education, resources, and supports, including knowledge, standards, and norms from international human rights law.
- **Writing and research support,** or “thought-to-paper work,” as one advocate put it. Advocates particularly named a need for support from Indigenous writers and scholar, to speak to the ways in which systemic issues and colonial harm intersect and uniquely impacts Indigenous peoples, using an Indigenous and anti-colonial lens.
- **Administrative support** for time-consuming activities like coordinating and scheduling meetings, following up with partners, and organizing shared documents.
- **Community outreach support** to connect with and collect perspectives from partners, advocates, and lived experts through various platforms. The WNHHN and NIHN noted that in constructing their claims, this was a hugely time-consuming piece requiring significant effort and organization. They felt that it was critical to offer multiple avenues for participation (e.g., meetings, internal surveys, phone calls, shared documents, etc.) to ensure inclusion of diverse and often marginalized voices.
- **Communications support,** to plan, launch, and promote the claim, get media uptake, and mobilize communities around it.
- **Funding for a claim launch and/or other in-person meetings** to bring partners and rights claimants together around the shared issue and claim. This includes travel and food costs, as well as costs associated with booking meeting spaces and/or rooms for press events. This funding for in-person collaboration is particularly important when working with rural and remote communities, Indigenous communities, or national partners who are dispersed across the country.
- **Trauma-informed support for rights claimants,** which could take the form of a social worker or peer support worker with lived experience. As one first voice advocate noted, “people are more comfortable talking with people who have lived experience. You have a better way of relating to someone if you know their pain.”
- **Training** on the right to housing and the *National Housing Strategy Act* (NHSA). As some interview participants noted, this should include: what the NHSA legislation says and means, what the horizon for action is, how people have used processes like this before, and why they think it is effective. Definitions and explanations of key human rights principles and terms

central to the legislation and right to housing in international law will also be important to enable rights-based analysis within claims.

- **A plain language guide** on what kind of submissions will move forward was named as important—including a guide on which issues and submissions do and do not fall under the jurisdiction of the Advocate. As one first voice advocate noted, this is so that “we don’t waste time sending submissions only to get a response that says that the OFHA doesn’t deal with that.”
- **Tools and resources for convening rights-based collaborative spaces.** These tools would address what organizers and participants need to consider when convening a productive and respectful space through which a systemic claim will be produced.
- **Accessibility and translation supports,** to reduce barriers due to disability, preferred language, geography, and more. One first voice advocate noted that, “[we] should have [the option to make submissions] as an audio file as well. Everything [should be] in a number of different formats.”
- **Funding to offer honoraria and compensation** to key partners, rights claimants, and contributors to a claim. This is an important part of bringing people to the table and building trust, particularly under a human rights paradigm.

For individual claims made through the online submission tool on the Advocate’s website or to review panels, the following suggestions were voiced by research participants to better support rights claimants in engaging:

- **Live web- or phone-based assistance** available for people as navigation support as they work through the online tool. While the Office of the Federal Housing Advocate already offers technical phone-based assistance, it would be valuable to also offer trauma-informed, strategic, and human rights-based support for people making submissions to either review panels or the Federal Housing Advocate.
- **A submission template** with suggestions, tips, examples, and contacts who could support building out certain areas of a claim.
- **Legal knowledge resources,** to help claimants ground their submissions in human rights law and principles.
- **Publicly available and thematically sorted submissions on a website,** to enable claimants to build on other work and/or connect and organize with others who are already doing work in their area of concern.
- **Translation resources,** to enable Indigenous peoples, immigrants, and refugees to engage with this rights-based system and process in their language of choice.

### Theme 3: Immediate Action and Short-Term Supports

Additionally, in terms of the Government of Canada’s engagement with affected communities, Indigenous peoples and allies expressed a particular need **to create an Indigenous Engagement Protocol**

**which not only centres trust, transparency, and self-determination in the NHTA claiming and funding processes, but also offers immediate outcomes** that practically demonstrate the federal government's commitment to addressing urgent colonial harms. This could look like funding for day-to-day needs (i.e., food, housing, health, and education costs) or other supports like tenancy protections.

A similar process of **offering short-term support to enable long-term engagement** was suggested for other deeply marginalized communities living in homelessness and inadequate housing (e.g., racialized people, people with disabilities, refugees, newcomers and immigrants, women, gender-diverse people, etc.). This would bring people to the table, build buy-in, and address the ways in which governments and adjacent bodies continue to fall short in practically upholding these claimant communities' basic human rights and access to justice.

A dominant concern from these communities was that rights-claiming spaces may substitute talk for action or focus on describing experiences rather than securing rights. Speaking about the barriers to participation for newcomers and low-income racialized people, one advocate asked,

What are you offering low-income people? What tangible things? You already know what they need. Clean and adequate housing... Would you live in social housing? Probably not. And even social housing is near-impossible to access. So instead of asking people about their lived experience, just give them access to adequate housing. **It's like the government is not listening—we ask for housing and they give us a space to talk about housing.** As racialized people, as newcomers, there are consistent feelings of precarity and scarcity which lead to mental and physical health issues, crime, and more. It becomes a never-ending cycle of intergenerational poverty.

Under international procedures through which the right to housing is claimed, such as the Optional Protocol to the ICESCR, interim measures may be required “to avoid possible irreparable damage to the victim or victims of the alleged violations.” It is important that human rights-based processes recognize the dignity and rights of claimants throughout the rights-claiming process, and not only at the end of it. Short-term protection of rights and measures to address the immediate needs of rights holders while systemic issues are being considered may be critical to ensuring that processes under the NHTA properly recognize and respect the rights of participants.

While the Office of the Federal Housing Advocate and the review panels may lack the ability to offer short-term housing or income supports necessary to address the immediate needs of rights claimants, responses to systemic submissions could, like international human rights processes, include formal requests to relevant governments or private actors to provide interim assistance or to hold off on measures such as evictions that may violate rights, while the issue is reviewed by the Federal Housing Advocate or a review panel. **This would also require that relevant parties within the Government of Canada approach such requests in good faith, recognizing that addressing these immediate concerns is an integral part of realizing the right to adequate housing.**

Government responses could at a minimum identify sources of immediate assistance through which claimants could have their immediate needs met. **This would differentiate the NHTA process from the many other government-driven consultations and engagements that rarely consider the immediate needs of those they rely on to convey their lived experience.**



# 4. Best Practices, Lessons Learned, and Proposed Access to Justice Systems

As the infrastructure of the NHSA is developed, a key pillar of success will be the accompanying funding program to support rights holders in advancing claims. **Simply put, in the absence of a funding program there is little to no capacity for individuals, non-governmental organizations, or Indigenous organizations to advance systemic claims and exercise their rights under the NHSA. This requires an urgent remedy to ensure that the access to justice mechanism instituted can function as intended.**

International human rights law in fact recognizes that funding of civil society to engage in rights claiming is a key component of exercising those human rights. This is articulated by the UN Special Rapporteur on the Right to Adequate Housing in their *Guidelines for Implementing the Right to Housing*:

**Individuals and organizations representing them should have access to legal aid or other necessary assistance to enable them to participate in legal processes.** Institutions, equality promotion bodies and civil society organizations should have legal standing to pursue claims to the right to housing on behalf of individuals and groups. **Remedies should address both individual and systemic violations of the right to housing.**<sup>15</sup>

The UN Special Rapporteur on the Right to Adequate Housing elaborates on this central need to engage with civil society in their report on rights-based national housing strategies: “It is particularly important that claiming mechanisms be able hear systemic claims and hold all relevant actors accountable. They should be given broad jurisdiction to **hear from civil society, engage multiple levels of government and to hold private actors accountable.**”<sup>16</sup>

Other United Nations authorities have similarly articulated this core principle of civil society engagement in the context of access to justice and rights claiming. For example, the United Nations Guidance Note on Protection and Promotion of Civic Space states that, much like the NHSA:

**Civil society was at the core of the development of the Sustainable Development Goals and should be at the centre of implementation, follow-up and review processes.** In particular, Goal 16 seeks to promote peaceful and inclusive societies by, inter alia, developing effective, accountable and transparent institutions at all levels; ensuring responsive, inclusive,

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<sup>15</sup> UN Human Rights Council, Report of the Special Rapporteur on adequate housing (2019, December 26) A/HRC/43/43, Online at: <<https://undocs.org/A/HRC/43/43>> [UN Special Rapporteur Report on Guidelines to Implement the Right to Housing].

<sup>16</sup> UN Human Rights Council, Report of the Special Rapporteur on adequate housing (2018, January 15) A/HRC/37/53, Online at <<https://undocs.org/A/HRC/37/53>> [UN Special Rapporteur Report on the Right to Housing and on Human Rights Based Housing Strategies].

participatory and representative decision-making; and ensuring public access to information and protecting fundamental freedoms. Goal 16 is also an enabler of all other SDGs.<sup>17</sup>

As government contemplates the funding model to resource rights claimants, a number of government models serve as best practice examples, including: the Court Challenges Program of Canada, the Community Housing Transformation Centre's Community-Based Tenant Initiative Fund, the Indigenous Engagement Fund at the Department of Justice, Legal Aid Ontario's Test Case funding program, and the legal clinic funding system to engage in strategic litigation. Information on each of these programs was gathered through interviews with staff and advocates who are implementing or deeply engaging with the programs.

## Example 1: The Court Challenges Program of Canada

A key example of a resourcing program for rights claimants is the Court Challenges Program of Canada (CCP). For many decades the CCP was at the center of capacity-building for economic and social rights advocates in Canada, as the program historically funded the legal work of many critical test case Charter challenges to the federal government related to equality rights. While the program ran from 1978 to 2006, funded cases focused on issues like amending employment insurance benefits that discriminate against parents of children with disabilities; ameliorating systemic discrimination against African Canadians in the justice system; and challenging sex discrimination in the *Indian Act's* entitlements.<sup>18</sup>

Interestingly, the CCP was applauded by the UN Committee on Economic, Social, and Cultural Rights in its Concluding Observations from its review of Canada in 1993: "the Committee received information on the Court Challenges Programme which has, in the past, enabled disadvantaged groups or individuals to take important test cases before the courts. Recognizing the importance of effective legal remedies against violations of social, economic and cultural rights, and of remedying the conditions of social and economic disadvantage of the most vulnerable groups and individuals, **the Committee highly commends the State party for having developed such a programme.**"<sup>19</sup> Interestingly, in 1993, 1998, and 2006, the CESCR went further to recommend that claims at the provincial and territorial level be similarly funded.<sup>20</sup>

In its initial design in 1978, the CCP was founded to provide funds for minority language cases. In 1985, this was expanded to equality rights cases.<sup>21</sup> The design of the CCP was at the heart of its value for rights claimants, and as ESC rights advocate Bonnie Morton described, "the court challenges program has

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<sup>17</sup> United Nations, Guidance Note on the Protection and Promotion of Civic Space (2020 September), Online at: <[https://www.ohchr.org/sites/default/files/Documents/Issues/CivicSpace/UN\\_Guidance\\_Note.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/CivicSpace/UN_Guidance_Note.pdf)>, at page 4.

<sup>18</sup> Council of Canadians with Disabilities, (2008, June 19). *Groups Call for Complete Restoration of Court Challenges Program*, Online at: <<http://www.ccdonline.ca/en/humanrights/litigation/court-challenges-program>>.

<sup>19</sup> UN Committee on Economic, Social, and Cultural Rights, (1993 June 3), *Concluding observations of the Committee on Economic, Social and Cultural Rights: Canada. E/C.12/1993/5*, Online at: <[https://www.socialrightsonario.ca/wp-content/uploads/2010/08/ICESCR\\_Second-Report-CO1.pdf](https://www.socialrightsonario.ca/wp-content/uploads/2010/08/ICESCR_Second-Report-CO1.pdf)>.

<sup>20</sup> It is assumed that this will be a critique of the mechanisms set up alongside the NHTA, given that the legislation speaks to systemic issues that are federal in nature.

<sup>21</sup> Brodsky, G. *The Subversion of Human Rights by Governments in Canada*, Online at: <[https://povertyandhumanrights.org/wp-content/uploads/2011/05/Young-lores\\_Brodsky-ch18.pdf](https://povertyandhumanrights.org/wp-content/uploads/2011/05/Young-lores_Brodsky-ch18.pdf)>.

always ensured that the groups who are affected by poverty, including aboriginal peoples, women, people with disabilities, and racialized communities, are included in litigation and outreach strategies.”<sup>22</sup>

According to expert interviews, recipients of the CCP fund would receive some financial support and would contribute significant in-kind hours. Staff at the CCP would engage with potential applicants and support recipients with rigorous invoicing and reporting of progress on cases every six months. The program relied on a membership who would then elect a Board of Directors alongside an Advisory Committee of experts in Equality Rights and a second Advisory Committee of experts on Language Rights (see Figure 2). Advisory Committee members had a term of 3 years.

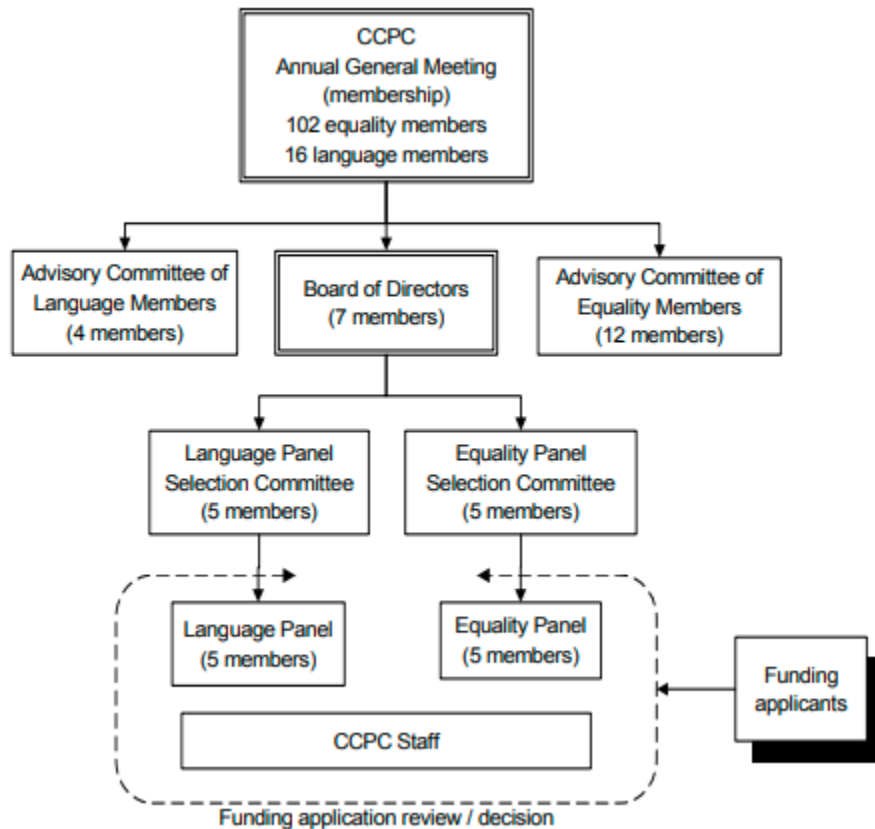


Figure 2: Key components of the CCP delivery structure, as per Canadian Heritage (2003).<sup>23</sup>

The CCP was first cancelled in 1992 and then again in 2006, to the deep concern of social rights advocates who argued that without the CCP, “there is virtually no access to the use of constitutional equality rights for anyone but the very well-off.”<sup>24</sup>

<sup>22</sup> Porter, B. (2016, May 19), *Open Parliament: Justice Committee on May 19<sup>th</sup>, 2016 : Evidence of meeting #20 for Justice and Human Rights in the 42nd Parliament, 1st Session*, Online at: <<https://openparliament.ca/committees/justice/42-1/20/bruce-porter-1/>>.

<sup>23</sup> Canadian Heritage, (2003, February 26). *Summative Evaluation of the Court Challenges Program: Final Report*, Online at: <<https://publications.gc.ca/collections/Collection/CH44-89-2003E.pdf>>.

<sup>24</sup> *Ibid.*

In 2017, the Government of Canada reinstated the CCP, with a commitment to modernization. This announcement to restore the program was met with praise from many civil society organizations working with rights claimants.<sup>25</sup> The CCP is now housed at the University of Ottawa (who implement and manage the program) with a goal to “provide financial support to Canadians to bring before the courts test cases of national significance that aim to clarify and assert certain constitutional and quasi-constitutional official language rights and human rights.”<sup>26</sup> The administrative unit is housed in the Official Languages and Bilingualism Institute (OLBI) of the Faculty of Arts.

In its current form, two expert panels appointed by the Minister of Heritage (one for official language rights and one for human rights) evaluate funding proposals and determine merit independently of the Minister of Canadian Heritage and the University of Ottawa. In turn, the CCP staff support the administration of the program by receiving applications, analyzing them for eligibility, and presenting recommendations.<sup>27</sup>

The amounts allocated for test case litigation include \$20,000 to develop test cases, \$200,000 for trial, \$10,000 for motions for leave to appeal, \$50,000 for appeals, \$10,000 for requests for leave to intervene, and \$35,000 for interventions.<sup>28</sup> An additional \$5,000 is available in each category for accessibility funding to cover such costs as Interpretation or translation; alternate media; travel costs for an attendant; and childcare costs.<sup>29</sup> The annual budget of the CCP is \$5 million (divided between the official language and equality/human rights cases).<sup>30</sup>

According to expert interviewees, the CCP—particularly before 2006—was able to leverage significant and transformative litigation with relatively low amounts of funding. The Program rigorously explored whether other sources of funding might be available, relied extensively on pro bono support from lawyers and ensured that the program supported communities and not just lawyers.

The CCP—which has been closely tied to implementation of the *International Covenant on Economic, Social, and Cultural Rights*—is perhaps the most relevant federal access to justice program and model to inform a similar program for supporting rights claimants in make claims to the Federal Housing Advocate under the NHSA.

### Key Learnings

- 1) One key learning at the core of this example is that **activities to claim rights must be adequately funded and include additional support to bring rights claimants to the table. Rights cannot exist without remedies, and to access remedies and make systemic human rights submissions,**

<sup>25</sup> Pastora Sala, J. and Levesque, A, (2016, April 19). *A Modernised Court Challenges Program of Canada: A perspective from the Council of Canadians with Disabilities*, Online at: <<http://www.ccdonline.ca/en/humanrights/promoting/A-Modernized-CCD-19April2016>>.

<sup>26</sup> Court Challenges Program, (2018). *Who We Are*, Online at: <<https://pcjccp.ca/who-we-are/>>.

<sup>27</sup> Court Challenges Program, (2021, December 8), *Terms of Reference for Funding Decisions of the Human Rights Expert Panel*, Online: <<https://pcjccp.ca/wp-content/uploads/2022/03/Terms-of-Reference-HRDP-December-2021.pdf>>.

<sup>28</sup> *Ibid.*

<sup>29</sup> Court Challenges Program, (2023, January 1), *Funding Guidelines Human Rights*, Online: <<https://pcj-ccp.ca/wp-content/uploads/2023/01/Funding-Guidelines-HRDP-current-as-of-1-January-2023.pdf>>.

<sup>30</sup> Government of Canada, (2017, February 8), *Backgrounder – Court Challenges Program*, Online: <<https://web.archive.org/web/20170613010512/http://www.canada.pch.gc.ca/eng/1485534256002>>.

**rights claimants must have access to adequate resources to engage.** The history of the CCP has demonstrated that without a program to support rights claimants, only those with extensive financial resources are able to exercise rights. In the context of economic and social rights, and particularly for marginalized communities experiencing homelessness or inadequate housing, it is critical that justice be made accessible to all.

It is important to note, however, that economic and social rights experts have voiced critique of the newly “modernized” CCP that is vital context in the access to justice model for the NHSA. During the interviews for this paper, experts voiced concerns about the appointments to expert panels for the CCP being conducted by the Minister of Heritage rather than being community-driven, which has resulted in tensions and lack of trust concerning the human rights expertise of members.

Similarly, experts identified that a significant portion of funds go to just a handful of lawyers. Under the previous program, accountability to rights-claiming communities and engagement with civil society organizations was seen as a critical component of strategic litigation. The new program tends to be more driven by private lawyers because it provides significantly higher amounts of funding for lawyers without attention to the need for community support and engagement in test case litigation.

Interview participants identified that the pre-2006 iteration of the CCP went to significant lengths to ensure civil society engagement, such as convening a national conference to consider how to address the scarcity of Charter claims being advanced by people living in poverty, leading to the creation of the Charter Committee on Poverty Issues. There were opportunities for civil society to “piggyback” on national gatherings (for example Annual General Meetings of the CCP where travel would be funded for human rights experts across the sector) to facilitate important collaboration and movement-building for the equality and human rights sectors. This model is critical in understanding the necessary evolution of the NHSA and its mechanisms for claiming the right to housing.

- 1) A second key learning is that to adequately represent the voices of civil society, **independent experts outside of government (and appointed through a community-driven process) must be able to make the decisions around which cases are funded.** This could be labeled as a third-party model, as long as the third party is genuinely selected through a community-engaged and community-driven process. Government funding programs are often proposal-based and selected by government staff teams, but the example of the CCP demonstrates a model that encourages buy-in from rights holders, consistent with the NHSA. **Central to this model is the need for spaces to be created for civil society collaboration, coordination, and decision-making** (with respect to expert appointments).

As learned from the pre-2006 iteration of the CCP, this community-oriented process can be achieved even if program criteria are developed by government actors, so long as the role of selecting claims to fund is independent. Too much decision-making power afforded to a government-adjacent entity—particularly when it comes to the selection of claims to fund—could result in real or perceived conflict of interest that hinders the efficacy of a resourcing program for the NHSA. **A panel of experts to select cases must be appointed through a community-driven and democratic process, otherwise the mechanism serves to lose the trust of rights claimants.**

- 2) A final learning from the CCP is that **appointed experts must have expertise not only in human rights but also in broader advocacy efforts and strategies, so that applications can be assessed**

**in the context of strategic goals for enhancing rights across the movement.** Expert interviewees noted that the pre-2006 CCP was seen to have played a critical role in ensuring that short-term strategies that lawyers might think are more winnable in court would not be funded if they would thwart the longer-term development of inclusive and substantive protections of human rights under the Charter.

## Example 2: The Community Housing Transformation Centre

A second example worth considering is the Community-Based Tenant Initiative Fund at the Community Housing Transformation Centre (CHTC). The CHTC is an independent agency incorporated as a non-profit organization, with a mandate to work with housing organizations across the country to drive transformation, sustainability, and growth in community housing. A key function of this is through funding organizational capacity where gaps and needs exist.<sup>31</sup> Funding for the CHTC is supported solely by the Canadian Mortgage and Housing Corporation (CMHC) and is tied to the rights-based outcomes of the National Housing Strategy.

In some cases, the now discontinued Community-Based Tenant Initiative Fund (CBTIF), housed at the CHTC, has been used to support local and national right to housing advocacy work to further the *National Housing Strategy Act*. In its original conception, the CBTIF program was packaged as a program to implement the progressive realization of the human right to adequate housing alongside the National Housing Council, Federal Housing Advocate, and a public education campaign on stigma and the benefits of inclusive housing.<sup>32</sup>

The reason the CHTC model is critical in the context of resourcing rights claimants is that it is a recent example of a federal third-party model in the housing sector, operating independently of—but funded by—government to support the capacity of organizations across the country to engage in systemic solutions to Canada’s housing crisis. According to the CMHC’s 2021 Annual Report, from the 21-month period of April 2019 to December 2021, 226 applications were awarded to organizations (including the CBTIF) through the CHTC, with \$24 million overall to the organization.<sup>33</sup>

The CBTIF program specifically received \$10 million to be spent over four years, with about \$3 million spent per year. The CBTIF funding program ended on March 31, 2023, with all projects to be completed by December 31, 2023. At the time of this publication (January 2024), no replacement program has been announced by the federal government to address this gap in community-based funding for right to housing advocacy.

### Key Learnings

- 1) Staff at the CBTIF noted that **considerable outreach to prospective grant recipients on the value of the program was critical to ensure subscription—especially with a new funding**

<sup>31</sup> Community Housing Transformation Centre, *About*, Online at: <<https://centre.support/about/>>.

<sup>32</sup> Supra note 4, *National Housing Strategy*, page 8.

<sup>33</sup> Canadian Mortgage and Housing Corporation, (2021), *Building Housing Solutions Together: 2021 Annual Report*, online at: <<https://assets.cmhc-schl.gc.ca/sites/cmhc/about-cmhc/corporate-reporting/annual-report/2021/cmhc-annual-report-2021-en.pdf?rev=03e65fe9-3ac7-41f3-b81e-59e831d40b82>>.

**program.** This was particularly important to reach recipients in northern Canada and rural or remote areas of the country.

- 2) Like the CCP, a key method to ensure community buy-in is through a process whereby **independent experts outside government who are reflective of community are reviewing and making decisions about which projects to fund.**

CHTC was given general guidelines by CMHC, whereas the organization, governed by a board of directors, had flexibility to develop their own criteria for funding based on those guidelines. Staff of the CHTC are not government employees, though funding for Centre comes from CMHC.

Under the former CBTIF program (now defunded), the process was such that projects were assigned to program managers, and those under \$50,000 were reviewed and evaluated internally. Projects over \$50,000 went through a longer process with one external reviewer from community for projects between \$50,000 to \$100,000, and two external reviewers for projects between \$100,000 to \$150,000. External reviewers provided feedback, which “was very valuable,”<sup>34</sup> but program administrators noted that because they were volunteers, people were not always available. This external review process was critical so that selections were sector-led and if there were red flags in a proposal, those issues were identified by community, who CHTC needed buy-in from to make the program successful. Proposals were then sent to an allocation committee and then CMHC for validation if over \$50,000.

- 3) It should be noted in the context of this report that advocates in the right to housing community have voiced concerns that the CHTC focus on housing providers rather than rights claimants is a missed opportunity to genuinely drive forward the goals of the NHSA. These concerns are particularly relevant now that the CBTIF has ended, with no replacement program announced. **There is therefore a need for a separate or revamped funding mechanism to specifically focus on supporting rights claimants and civil society actors to advance the right to housing, rather than focusing on housing providers.**

### Example 3: Indigenous Justice Strategy Engagement Fund at the Department of Justice

A third funding model to consider is the federal Indigenous Justice Strategy Engagement Fund. Budget 2021 provided \$11 million over three years to the Indigenous Justice Strategy Engagement Fund at the Department of Justice to support Indigenous-led community engagement to address systemic discrimination and the overrepresentation of Indigenous peoples in the justice system.<sup>35</sup> What is genuinely unique about the program is that instead of a typical contribution agreement between government and grantees with strict project deliverables, the grants (not contribution agreements in this context) give Indigenous communities freedom to explore the implementation of a workplan very broadly. The broader vision of the program is to inform an Indigenous Justice Strategy led by First Nations, Inuit, and Métis people to pursue this the way they want to do it.

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<sup>34</sup> Interview respondent, 2022.

<sup>35</sup> Government of Canada, (2022, January 15), *Indigenous Justice Strategy Engagement Fund*, Online at: <[https://www.justice.gc.ca/eng/fund-fina/f\\_17.html](https://www.justice.gc.ca/eng/fund-fina/f_17.html)>.

In this program, applications were selected by government employees including Indigenous staff at the Reconciliation Secretariat. The money had to be distributed within four months, and 83 applications were submitted with 38 selected to disburse the \$11 million over 3 years.

During an interview with staff at the Indigenous Justice Strategy Engagement Fund, it was noted that Employment and Social Development Canada (ESDC) has another interesting model to examine, where relationships are developed with key Indigenous organizations that are funded on a regular basis to provide regular or ad hoc legal advice or analysis. Essentially, ESDC can tap into an already funded network for the advice and input they need.

### **Key Learnings**

The shift of the Indigenous Justice Strategy Engagement Fund model to provide freedom to Indigenous recipients to determine the parameters and deliverables through a grant process (rather than the typical contribution agreement) may be an important learning for a resourcing program to accompany the NHTS.

For the program to effectively support the activities of rights holders to make submissions and participate in the rights-claiming process, **it may be that activities beyond disbursements and legal fees should be supported as best identified by applicants. This could include policy capacity funding, legal research, knowledge transfer opportunities, and movement building activities.** This is particularly true for Indigenous rights holders to ensure claims are developed through an Indigenous-led process, which may include activities to develop submissions and are not initially contemplated by the funder. Likewise, this may apply to other racialized, newcomer, or minority group.

## **Example 4: Legal Aid Ontario Test Case Funding**

On the provincial/territorial level, legal aid models exist to support low-income individuals in exercising their access to justice. In the Ontario context, the Legal Aid system is primarily aimed at providing legal aid certificates (funding) to private bar lawyers, and similarly supports the function of community legal clinics. A perhaps under-explored feature of Legal Aid Ontario is the test case fund, which has in fact supported many important cases.

For example, in 2016, Legal Aid Ontario's test case fund supported funding limits for home care from OHIP, an appeal to consider Aboriginal heritage at sentencing, and a challenge to the constitutionality of street checking and carding.<sup>36</sup> As Legal Aid Ontario (LAO) reports, many of the cases supported through this fund have resulted in major systemic changes to Canadian law. Cases are considered on criteria that they must: "Provide access to justice in LAO's core areas of service: criminal law, family law, mental health law, clinic law; Further an issue beyond the interests of the individual client; Address a serious

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<sup>36</sup> Legal Aid Ontario, *The Deal with Test Cases*, Online at: <<https://www.legalaid.on.ca/2019/10/09/infographic-the-deal-with-test-cases/>>.



issue that fundamentally impacts LAO clients and would be unlikely to come before the courts.”<sup>37</sup> Fundamentally, proposals are reviewed based on impact for low-income Ontarians.

Like the previous Court Challenges Program, the LAO test case funding program managed to leverage significant outcomes with minimal funding by relying on organizations with other sources of funding, such as legal clinics, working collaboratively with lawyers who were contributing time either pro bono or at significantly reduced fees. The expert panel rigorously reviewed budget submissions and frequently awarded less than was requested.

Importantly, the Legal Aid Ontario test case funding program went through significant changes in 2019, including a reduction of annual budget from \$800,000 per year to \$400,000 per year. The fund takes on between 5 to 20 cases per year.

The program focuses primarily on lawyers and requires legal counsel to fill out applications. Legal fees, expert disbursements, and non-expert disbursements are covered by the fund. The program takes on 15 to 20 cases per year, funding legal work including expert evidence at an hourly rate. It was noted in an interview with program coordinators that expert evidence can become quite costly, with fees up to \$250 per hour for someone with a PhD.

In this process, applications open monthly, and in the pre-2019 iteration, an external test case committee (another example of a third-party model), would meet to discuss whether they would deny, seek additional information, or grant proposals. When the committee was external, participants were paid an honorarium. More recently, with funding cuts, LAO moved to a staff selection committee model.

The drastic cuts combined with the loss of an expert panel that included experts in strategic litigation and international human rights has had a very significant negative impact on strategic litigation in Ontario. In earlier years, this fund provided funding for critical interventions by low-income people in provincial cases at the Supreme Court of Canada, such as in the cases of *Gosselin* and *Chaoulli*, and supported some critical litigation victories such as the cases of *Canada Without Poverty v. Canada* and the petition to the UN Human Rights Committee in *Toussaint v. Canada*.

### **Key Learnings**

The LAO program relies on lawyers and experts in the community who don't have sufficient funds available to pursue cases that will have an important systemic impact. Programs that support legal work in Canada are not robust, but even with a comparatively small budget the LAO test case fund has led to some of the most important legal challenges in the country, moving forward human rights and equality for low-income Ontarians in major systemic ways. It should be noted that often LAO test case funding does not cover the whole of the work required to pursue legal challenges, and often lawyers and experts end up contributing significant pro bono or in-kind hours.

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<sup>37</sup> Legal Aid Ontario, *Test Case Funding: Application for Test Case Funding*, Online at: <<https://www.legalaid.on.ca/wp-content/uploads/Application-for-test-case-funding-1.pdf>>.

## Example 5: Quebec Model for Community-Based Action

Another key model for financial support is the Quebec model. In the early 2000s, the Quebec government formalized its relationship with civil society organizations through a distinctive funding structure that recognized the uniquely important role that community-based organizations play in ensuring participation to resolve social issues.

The government policy, *L'action communautaire : une contribution essentielle à l'exercice de la citoyenneté et au développement social du Québec*,<sup>38</sup> outlines the distinctive features of the Quebec funding model for civil society organizations, and in particular, grassroots groups. It highlights the government's commitment to the "important social and economic contribution of the thousands of community organizations rooted in its territory, and the commitment and contribution of their many paid and volunteer workers to the well-being of the community. [Our government] is also committed to doing everything possible to preserve and value the dynamism of this environment."<sup>39</sup>

This policy was developed after an in-depth evaluation of examples of funding relationships in Europe and across North America. For example, they looked at German examples of groups that are funded and frequently consulted by government; the imbalance of power in the United States of America based on certain civil society groups being better funded than others; and the United Kingdom, where funding is often contingent on civil society getting on board with government aims. Authors of the Quebec policy similarly outline that with the Government of Canada, funding was found to often be non-recurring and tied to already established objectives of governments—often in areas where government employees are already pursuing the same work.

The policy in Quebec was written as the Quebec government's response to a perceived void across the examples that were studied and serves as a program to specifically provide funds to community-based organizations, recognizing that they are best placed to evaluate the needs of their own communities.

One unique feature of the Quebec model is that grassroots organizations are eligible for funding that is not project-based. This reflects a desire of the Quebec government to ensure a healthy and independent civil society that is independent of government influence.

To be considered an eligible community action group and receive funding from the province, applicants must fulfill four criteria:

- 1) Have non-profit status;
- 2) Have community roots;
- 3) Be associative and democratic; and,
- 4) Be free to determine its own mission and practices.

Additionally, to qualify as an autonomous community-action group that is eligible for funding, a group must: have been created through the initiative of community members; follow their own mission with a goal of community transformation; reflect an aim with a large-scale systemic impact; and be led by an

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<sup>38</sup> Government of Québec, Ministère de l'Emploi et de la Solidarité sociale, (2001 September), *L'action Communautaire : une contribution essentielle à l'exercice de la citoyenneté et au développement social du Québec*, Online at: <[https://www.mtess.gouv.qc.ca/telecharger.asp?fichier=/publications/pdf/SACA\\_politique.pdf](https://www.mtess.gouv.qc.ca/telecharger.asp?fichier=/publications/pdf/SACA_politique.pdf)>.

<sup>39</sup> *Ibid*, at page 9. Translated from French.

administrative council that is independent of government influence.<sup>40</sup>

### **Key Learnings**

The province of Quebec has a long history of providing financial resources to grassroots civil society organizations to meet community needs, with discretion for those groups to allocate funds to highest needs that they have identified. This is particularly important to acknowledge as some of those same Quebec community organizations are anticipated to be engaging with the NHSA mechanisms. The independence and community autonomy of the Quebec model are hugely relevant to the development of a program to accompany the NHSA.

## **Example 6: Legal Clinic Model for Advancing Claims with Systemic Impact**

Across provincial and territorial jurisdictions, legal aid clinic models exist to support rights claimants. This exists for individual cases (for example with the Human Rights Legal Support Centre model in Ontario) as well as public interest litigation with a systemic impact. For example, the Public Interest Law Centre (PILC) in Manitoba exists independent of Legal Aid Manitoba, and is funded by Manitoba Law Foundation, Pro Bono Public Interest Law Project, and other sources.<sup>41</sup>

In this model, PILC takes on both individual and group clients, supporting public interest litigation including cases on equal access to supports for persons with disabilities on reserve, challenging affordability of Manitoba Hydro rates, and recognizing same-sex and gender-diverse families in the school system.<sup>42</sup>

In the province of British Columbia, much of the funding for legal work is sourced through the British Columbia Law Foundation, which is primary funded by the interest that accumulates on lawyers' trust accounts. Two years ago, the government of BC invested in transforming the legal clinic system. However, a significant amount of funds for systemic cases in the province relies on in-kind support from pro bono private practice lawyers and law firms.

### **Key Learnings**

It is assumed that the program to accompany the NHSA should complement the long-standing work of clinics across the country who are deeply embedded in communities, with established community trust and a deep understanding of community needs. Legal clinics may be in a strong position to act as convenors to develop systemic submissions or coordinate engagements with review panels.

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<sup>40</sup> Réseau Québécois de L'Action Communautaire Autonome, *l'action communautaire autonome*, Online : <<https://rq-aca.org/aca/>>.

<sup>41</sup> Legal Aid Manitoba, (2023), *Public Interest Law Centre (PILC)*. Online: <<https://www.legalaid.mb.ca/pilc/public-interest-law-centre/>>.

<sup>42</sup> Legal Aid Manitoba, (2023), *Public Interest Law Centre (PILC) Current Cases*. Online: <<https://www.legalaid.mb.ca/pilc/cases/current-cases/>>.

# 5. Case Study: Costing out Submissions to the Federal Housing Advocate

National right to housing organizations and networks are often asked about what scope and level of detail is required to make a submission to the Federal Housing Advocate. The typical answer provided to partner organizations and rights claimants is that this is dependent on the needs of applicants. In some cases, a submission may be as simple as a one-page letter or filling out the Federal Housing Advocate’s online form for less than an hour, whereas in other cases, rights holders may develop comprehensive claims reflecting the diverse experiences of first voice advocates across the country.

This latter, very comprehensive, approach mirrors the style of submissions used to engage with human rights treaty bodies at the United Nations and was taken by the National Indigenous Housing Network (NIHN—formerly the National Indigenous Feminist Housing Working Group) and the Women’s National Housing and Homelessness Network (WNHHN) to produce their sister claims to the Federal Housing Advocate in 2022. Both their respective claims, *Homeless on Homelands: Upholding Housing as a Human Right for Indigenous Women, Girls, Two-Spirit, and Gender-diverse People* (by the NIHN) and *The Crisis Ends with Us: Request for a Review into the Systemic Denial of the Equal Right to Housing of Women and Gender-Diverse People in Canada* (by the WNHHN) relied upon extensive pro bono hours from staff, rights claimants, experts, and others involved in drafting the submissions.

The following breakdown represents what it would have cost to adequately conduct this process of creating these claims, if all participants and staff were adequately compensated and supported. The sample budget provided below focuses on the process of assembling a claim to the Federal Housing Advocate, to demonstrate the known costs of engaging with this aspect of the NHSA—but critically, a **funding mechanism must also support the engagement of rights holders in other aspects of the Act, including review panels.**

## Stage 1: Initial Assembly of Advocates and Rights Holders (Period of Learning)

- **WNHHN Claim:** Assembled a 25–30-person task force of partners who wanted to test the NHSA and discuss ways to claim housing justice. That group met every two to three weeks over Zoom, which included expert presentations on what the NHSA is and what can be achieved with it. Many strategies for advocacy were explored in these meetings, with eventual trust and interest established in pursuing a submission to the Federal Housing Advocate under the NHSA. This was only possible because of pre-established relationships of trust built over many years by the conveners.

- **NIHN Claim:** Convenors built capacity for grassroots activists to take on their own human rights-based advocacy (including the claim). Concretely, a working group met every few weeks to build the claim, at the same pace as the WNHHN claim. A key reference point for this working group was the Missing and Murdered Indigenous Women and Girls Inquiry and its corresponding Calls to Justice. Members were deeply involved in drafting and reviewing the claim collaboratively. Like the WNHHN claim, this was only possible because of pre-established relationships of trust built over many years by the convenors.

## Stage 2: Building Trust and Gathering Evidence on Systemic Violations of the Right to Housing

- Explored multiple avenues for participants to put forward experiences of homelessness and commentary on systemic violations of the right to housing. Methods used included: surveys, shared Google docs, emails, voice memos, individual meetings, phone calls, and collaborative writing. This resource-intensive process was used to connect with individual members and understand their thoughts and feelings to ensure that their sentiments were reflected accurately in the document.
- Convened in-depth discussions about ensuring a safe, supportive, and productive process for building the claims and considering what people in different situations (i.e., people not currently at the table) would need to be part of this process. This resulted in identifying the need for a social worker available for peer support, as well as the need for other types of accessibility supports.
- Engaged in ongoing trust-building activities and conversations, particularly with members of Indigenous, lived experience, and housing insecure communities for whom belief and trust in government instruments is evaporating.

## Stage 3: Collaboratively Writing the Two Systemic Claims

- Engaged in a deeply collaborative, extensive, and iterative writing process where partners and rights holders edited, drafted, and provided feedback.
- Designed and formatted both systemic claims to be submitted under the NHSA alongside key stakeholders, sector partners, and participating rights claimants.

## Stage 4: Public Launch

- Planned and executed a public launch of the two claims under the NHSA, which involved a press conference, meetings with key decision makers, a social media campaign, and other knowledge mobilization activities.

The following budget has been assembled to represent the costs of one submission to the Federal Housing Advocate, based on the experiences of both the Women’s National Housing and Homelessness Network and National Indigenous Housing Network in producing their respective claims.

*\*Note: In 2022, initial work on the claims was done virtually, with an in-person launch. As advocates more freely meet in person, costs would be expected to increase to support in-person gatherings.*

EXPENSE TYPE	FURTHER DETAILS	AMOUNT	TOTAL
Honoraria for rights claimants in advisory role (x8 members)	This is assumed as a monthly stipend for rights claimants for meeting time and review of materials. It is recommended that in engaging rights claimants, project managers develop terms of reference to govern the relationship.	Assumed at \$60 per hour for 5 hours per month for 4 months	\$9,600
Honoraria for rights claimants who are deeply integrated in the work (x5 members) – this should include Indigenous rights claimants	This is assumed as a monthly stipend for rights claimants for meeting time and review of materials. It is recommended that in engaging rights claimants, project managers develop terms of reference to govern the relationship.	Assumed at \$50 per hour for 15 hours per month for 4 months	\$15,000
Project Manager	N/A	0.75 FTE at \$100,000 per year, prorated for 6 months <ul style="list-style-type: none"> <li>Role includes community outreach efforts with rights claimants and partner organizations</li> </ul>	\$37,500
Research Assistant	N/A	0.4 FTE at \$70,000, prorated for 4 months	\$9,333

<b>Communications Advisor</b>	N/A	0.5 FTE at \$70,000, prorated for 3 months	\$8,750
<b>Travel and accommodations for public launch – including relevant staff and partners and/or rights claimants</b>	N/A	<ul style="list-style-type: none"> <li>• Travel for 10 people = \$8,000</li> <li>• Accommodations for 10 people = \$8,000</li> <li>• Per diem for food for 10 people = \$100 per day for 2 days = \$2,000</li> </ul>	\$18,000
<b>Graphic designer for final submissions</b>	N/A		\$2,000
<b>Translation of final submissions into French and plain language</b>	N/A	<ul style="list-style-type: none"> <li>• \$0.30/word for French translation of 10,000 words = \$3,000</li> <li>• Approx. \$2,000 for plain language editing, for accessibility</li> </ul>	\$5,000
<b>Accessibility accommodations - ASL and other accessibility for in-person and Zoom</b>	<ul style="list-style-type: none"> <li>• Childcare</li> <li>• ASL, LSQ, and captioning for 2 events</li> <li>• French interpretation for 2 meetings</li> <li>• Accessibility supports (i.e. support workers to accompany rights claimants with disabilities)</li> </ul>	<p>Accessibility costs per 1.5 hour meeting/event:</p> <ul style="list-style-type: none"> <li>• \$600-800 for 2 ASL/English sign language interpreter</li> <li>• \$600-800 for 2 LSQ/French sign language interpreter</li> <li>• \$750-1000 for 2 French-English interpreters</li> </ul>	\$6,500

		Childcare and other accessibility supports at up to \$1,500	
<b>Indigenous Knowledge holder</b>	4 hours a week for 6 months – 120 hours	\$100 per hour	\$12,000
<b>Experts on international human rights law to advise submission</b>	4 hours a week for 6 months – 120 hours	\$100 per hour	\$12,000
<b>Honoraria for guest speakers to advise rights claimants</b>	To offer legal and organizing expertise, training on the NHSA and right to housing, international human rights expertise, or more.	\$250 per speaker for 4 speakers	\$1,000
<b>Partner organization honoraria</b>	To facilitate collaboration rather than duplication of work across the sector.	\$1,000 per partner for 3 key partners	\$3,000
<b>Peer and trauma support for rights claimants</b>	N/A	\$100 per hour	\$4,000
<b>SUBTOTAL</b>			<b>\$143,683</b>
<b>Admin Fee</b>	<ul style="list-style-type: none"> <li>• HR support</li> <li>• Zoom and other technology or virtual tools</li> <li>• Office supplies</li> </ul>	15% of subtotal	\$21,552
<b>TOTAL</b>	<b>\$165,235</b>		



## 6. Recommendations for Developing a Program to Support Rights Holders

The evidence is clear that the Government of Canada will need to create a funding stream to support community advocates and organizations in developing, organizing, and mobilizing around systemic claims to the Federal Housing Advocate and review panels. Interestingly, the case studies of the WNHHN claim and NIHN claim, which would have cost \$165,235 each, are similar in cost and scope to the top end of grants with the Community-Based Tenant Initiative (discussed in section 3(b)), which focused on building the community-based infrastructure within tenant movements.

Throughout the process of developing this paper, multiple funding models were discussed with experts. Based on these discussions, **a consistent recommendation was that a model be delivered using a third-party model, where funded claims are selected by independent experts outside of government (and elected through a community-driven process—not appointed by the Minister of Housing). This independence from government influence is perhaps the most important aspect of a funding program to support the NHSA.**

Some gatekeeping will be required in a new program, and this should necessarily come from a community of rights holders rather than by government. Program criteria may be developed with the Minister of Housing to ensure funding decisions are consistent with the NHSA.

### a) Costing out a Program: Tiers of Work (Reflecting the Court Challenges Program of Canada)

#### 1. *Developing a Submission to the Federal Housing Advocate – Up to \$150,000 per Applicant*

Authors of this paper propose that program criteria could outline a maximum funding amount of \$150,000 per submission to the Federal Housing Advocate, with approximately 6 to 12 human rights claims funded per year.<sup>43</sup> It should not be assumed, however, that every successful applicant will receive the maximum amount of funding. As outlined in Section 5 (above), a submission of this cost would involve extensive community engagement, legal analysis, and research. Some submissions, for example submissions from individual rights-holders, may take much fewer resources.

Additionally, as with programs like Legal Aid Ontario's test case funding program, organizational applicants would be expected to complement this funding with other sources. A wide range of

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<sup>43</sup> Assuming 4 grantees are awarded \$150,000 and 8 are awarded an average of \$50,000, the total cost would be \$1 million.

applications should be considered, with some only requiring a small amount of funding, particularly when civil society organizations have other sources of funding to offer in-kind, and where legal assistance can be secured at least in part, based on pro bono or reduced fees.

Recognizing that the National Housing Council, review panels, and Federal Housing Advocate are in their formative years, authors are forecasting up to 4 reviews a year in the near future between the reviews led by the Council and Advocate, with an expectation of greater activity and more reviews in future years (up to a maximum of 8 reviews per year, as the mechanisms mature).

## ***2. Engaging in Review Panels (i.e., Making Written and Oral Submissions) – up to \$75,000 per Applicant***

Like the Court Challenges Program of Canada, it is recommended that a separate category of funding be available for rights holders to engage in both written and oral submissions to review panels.<sup>44</sup> In some cases, key rights holders may have capacity to collect new research or hold collaborative spaces to ensure civil society actors coordinate their engagement with the review panel. Future review panels may also involve in-person engagement and testimony, thus increasing costs of engagement. In those cases, the labour may be reflective of costs up to \$75,000,<sup>45</sup> whereas the drafting of short submissions may cost \$5,000. It's assumed that approximately 40 of these submissions to review panels would be funded in a fiscal year.<sup>46</sup>

For context, during the 2023 review panel on the financialization of purpose-built rental housing, 194 written submissions were received. The submission on gendered evictions and financialization produced by the Women's National Housing and Homelessness Network and NRHN cost \$19,901. This covered labour to conduct and synthesize research, incorporate legal and human rights analysis, and compensate partners and lived experience advocates for their expertise, alongside an administrative fee.

## ***3. Engaging in Advocate-Led Reviews – up to \$15,000 per Engagement Session***

During the first Advocate-led review of encampments in 2023, authors learned that there is a deep need to also facilitate engagement in these Advocate-led reviews. Civil society organizations hold many of the existing partnerships, community relationships, and trust needed to make these reviews participatory and meaningful.

For this pocket of funding, it is assumed that lead organizations will receive funding of approximately \$10-15,000 to coordinate each engagement sessions with rights holders and other organizations, and it is assumed that approximately 20 organizations may receive funding to lead engagement sessions per

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<sup>44</sup> Authors engaged extensively in community organizing to enable engagement in the review panel on the financialization of purpose-built rental housing in 2023, and feedback from participants continually reflected the gap in capacity to engage in the human rights process due to lack of funding. In fact, in testimony by DisAbleD Women's Network Canada in the review panel on October 24, 2023, this funding gap was noted directly to the panel as a barrier to participation.

<sup>45</sup> The WNHHN and NIHN 2-day, in-person symposium on gendered homelessness cost approximately \$75,000 in 2022, with some participants receiving travel subsidies from other sources.

<sup>46</sup> Assumed that with an average cost of \$40,000 across 40 grantees, this would cost \$1.6 million total. More submissions at lower costs could also be funded, given the high interest during the first review panel in 2023, which saw 194 submissions.

fiscal year (assuming approximately 2 reviews per year). It is recommended that a total of **\$250,000** be allocated to support this engagement in Advocate-led reviews per fiscal year.<sup>47</sup>

For context, \$15,000 was the cost incurred by the NRHN (and supplemented by other funding sources) to host a national, virtual engagement session during the Advocate’s 2023 review. This cost included some honoraria to first voice advocates and participants, French-English interpretation, and logistical, communications, and outreach efforts.<sup>48</sup>

#### **4. Additional Accessibility Costs – Up to \$10,000 per Applicant**

Like the Court Challenges Program, it is recommended that this funding program ensure that applicants and grantees can access additional accessibility supports, especially when conducting consultation sessions with rights holders (or engaging in such sessions). This may include American Sign Language interpretation, English-French Language interpretation, translation into other preferred languages, funding for childcare, funding for support persons for persons with disabilities, peer or trauma support for first voice advocates, or other costs. It is assumed that any engagement with first voice advocates will also require that those individuals are compensated. Overall, it is recommended that an accessibility budget of **\$200,000** be allocated for approximately 20 applicants.

#### **5. Annual General Meeting**

One of the key reasons the Court Challenges Program was so successful was that it provided an opportunity for civil society to convene before, during, and after the official **Annual General Meeting** of members. This was particularly important for organizations and rights claimants who were unable to fund travel costs for meeting in-person in other ways, as the CPP offered financial supports to enable this in-person meeting. It is recommended that **\$300,000** be allocated to support civil society and rights-claimant engagement in a similar annual convening within this funding program (which includes travel subsidies for participants).

#### **6. Other Forms of Engagement**

As the NHTSA mechanisms are implemented, it is assumed that beyond an annual convening, other new forms of engagement will arise—for example, in-person engagement with National Housing Council or review panel members, or opportunities to support the implementation of recommendations that flow from the NHTSA mechanisms. Funds should thus be available for groups who need support to access or make submissions to these new and additional engagement opportunities that extend beyond direct submissions to, and engagement with, the Federal Housing Advocate and review panels hearings.

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<sup>47</sup> Assumed that with an average cost of \$12,500 across 20 grantees, this would cost \$250,000 total.

<sup>48</sup> It is assumed that in-person engagements will incur higher costs, as evident from the Women’s National Housing and Homelessness Network’s 2-day National Symposium on gendered homelessness in November 2022. Despite organizing this Symposium around an existing conference for which many participants already benefited from subsidized travel, this in-person event cost approximately \$75,000. It is thus estimated that similar 1-day and in-person events will cost upwards of \$37,500, though they may be supplemented by funding from other sources.

For context, a key element of a rights-based approach is ensuring that rights holders and civil society are meaningfully engaged in the development and implementation of solutions to systemic issues, and this will require ongoing infrastructure and funding. This funding would also benefit relevant government departments looking to engage communities in policy solutions and implementation strategies, as they would have access to advice and input from already-funded civil society partners with deep community connections and expertise in meaningful engagement (as seen with similar models at Employment and Social Development Canada and the Indigenous Justice Strategy Engagement Fund).<sup>49</sup>

It is recommended that flexibility be a core feature of this funding program, to ensure that these new forms of engagement are meaningfully supported. Authors have budgeted an additional 10% of the total engagement funding cost (or **\$335,000**) for such new forms of engagement (inclusive of travel for participants).

### 7. Administration costs

In the proposed budget, authors have allocated a cost of 20% of program costs for the administration of the program. The primary cost of this supports staff efforts in assisting applicants to navigate the application process, organize the Annual General Meeting, outreach efforts to encourage applicants, and administer the program. This budget similarly contemplates compensation to Selection Committee members, following the Court Challenges Program model.

In summary, additional administrative costs include:

- **20% of the total program cost, or \$757,000**, for administrative costs
- **\$100,000** to compensate Selection Committee members (\$20,000 per year for 5 members)

### 8. Overall Costs

The program would cost approximately **\$4.5 million per year overall**, with the following sub-costs:

EXPENSE TYPE	COST
Support for Developing Systemic Submissions (6 – 12 per year)	\$1,000,000
Support for Civil Society Engagement in Review Panels (30 submission per year)	\$1,600,000
Support for Engagement in Advocate-Led Reviews (12 per year)	\$250,000
Additional Accessibility Costs	\$200,000
Annual Convening of Key Actors & Rights-Claimants	\$300,000
Support for Supplementary Forms of Engagement	\$335,000
Compensation of Selection Committee Members (5)	\$100,000
<b>SUBTOTAL</b>	<b>\$3,785,000</b>
20% Administrative Cost (for Staffing, Outreach, etc.)	\$757,000
<b>TOTAL</b>	<b>\$4,542,000</b>

<sup>49</sup> See Example 3 in Section 4: Best Practices, Lessons Learned, and Proposed Access to Justice Systems.

## **b) Recommendations for Selection Criteria**

It is recommended that in the selection criteria, applicant organizations are encouraged to partner with diverse and underrepresented rights holder communities, with additional points for regional-level partnerships. However, community-based organizations engaging in systemic claims with a national scope should be prioritized over highly localized claims, given the federal scope of the NHTA legislation.

It is anticipated that the Selection Committee will need to examine whether a proposed claim will really advance the right to housing as well as emerging dimensions of international human rights law. In this context, it will be important for the third-party funder hosting the program to provide guidance and support by helping applicants to develop proposals that meet those criteria. The administrators of the funding program may also connect applicants with relevant sources of expertise, including legal and human rights expertise, Indigenous expertise, or lived experience expertise.

Rigorous reporting requirements combined with constructive support should be central components of the funding program to ensure that systemic claims are being developed in a manner that aligns with the broad purposes of the NHTA and the strategic implementation of the right to housing.

Based on the best practices from other funding programs, it is encouraged that jurisdictional criteria be flexible to reflect the complex nature of housing policy in Canada. Similarly, in looking to the Indigenous Justice Strategy Engagement Fund, it is encouraged that rights holders (especially Indigenous rights holders) have freedom to conduct engagement with rights claimants as they see fit.

## **c) Recommendations for Institutional Hosting**

In developing this paper, some experts suggested that the most natural host for a funding or resourcing program is the Community Housing Transformation Centre (CHTC). The CHTC already works with many tenant organizations (through the now defunded Community-Based Tenant Initiative, which served a different purpose than what is outlined in this paper). With funding through the Canadian Mortgage and Housing Corporation and existing infrastructure to act as a third party to fund tenant movements and other civil society actors, there is a strong argument for this proposed funding program to be housed at the CHTC.

However, other experts expressed concerns that the board of the CHTC is mostly comprised of housing providers who do not hold expertise in international law or the human right to housing. It is recommended that if a program were hosted at the CHTC, the board include two additional seats for right to housing experts with demonstrated expertise. Similarly, a separate subcommittee of experts should be elected by members, including those with human rights expertise and lived experience of homelessness. That subcommittee would make funding decisions distinctive from existing CHTC programmatic mechanisms.

## **d) Recommendations to Support the Immediate Needs of Rights Holders as a Long-term Program is Developed**

Alongside this important work to develop a long-term funding program is an urgent community need to financially support rights holders to engage in the ongoing review by the Federal Housing Advocate on encampments and the upcoming review panel on the failure to prevent and end homelessness among women and gender-diverse people. Particularly in the context of the 2023 oral and written review panels on the financialization of purpose-built rental housing, authors of this paper heard repeatedly that a lack of financial support to engage with these mechanisms is an enormous barrier to participation and could seriously hinder the efficacy of those processes.

The development of an immediate funding program has the potential to build trust with rights holders—particularly Indigenous peoples and those with lived experience of homelessness—and demonstrate that the federal government take seriously its 2019 commitments to progressively realize the right to housing in Canada and end the housing crisis.

# CONCLUSION

## Cementing the Promise of the National Housing Strategy Act

The journey toward realizing the full promise of the National Housing Strategy Act (NHTA) and the inherent right to housing in Canada is at a decisive juncture. The vision of a nation where every individual has access to adequate housing—a cornerstone for dignity, security, and belonging—is within reach. Yet, this vision hinges not merely on legislative frameworks or policy pronouncements but on the realization of justice for those with lived experience of Canada’s housing and homeless crisis. It depends on their ability to claim their rights, which is only possible through trust in the process and access to the necessary supports to hold governments accountable.

The NRHN’s call for a **\$4.5 million funding program** is not just a request for resources; it is an urgent call to breathe life into the commitments of the NHTA and empower rights claimants, enable access to justice, and facilitate collaborative solutions to one of Canada’s most pressing challenges—housing and homelessness. This funding program stands as a testament to the government’s commitment, as echoed in the recommendations from Canada’s 2023 Universal Periodic Review,<sup>50</sup> to eradicate housing insecurity for all, especially among the Indigenous communities and marginalized groups and that have been overlooked for far too long.

Implementing this funding program is about more than fulfilling a legal obligation or adhering to international recommendations. It is about nurturing trust and participation among communities who have been promised much but see little to no improvements in their housing outcomes. It is about transforming the NHTA from a piece of legislation to a living, breathing mechanism that offers real hope and tangible solutions. It’s about ensuring that every person in Canada not only understands their right to housing but also has the means and the confidence to claim it.

In a world rife with challenges, a nation that thrives is one that stands firm in its commitment to human rights, invests in justice, and empowers its communities. As we stand on the precipice of change, the time to act is now. The establishment of this funding program is not just an investment in the NHTA; it is an investment in the future of Canada—a future where housing and homelessness are not just issues to be managed, but challenges to be solved, together. **Let’s not just envision a future where every person in Canada has a home; let’s make it a reality.**

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<sup>50</sup> Numerous relevant recommendations were made to Canada by other United Nations member states in its 2023 Universal Periodic Review, including: 6.170 Step up efforts to ensure the right to adequate housing and achieve clear goals for eliminating all forms of homelessness in accordance with the National Housing Strategy Act (Greece); 6.171 Implement fully the National Housing Strategy Act to eradicate housing insecurity faced by minority groups, particularly indigenous women, LGBTQIA+ persons and children (Brazil); 6.172 Strengthen the National Housing Strategy including by providing adequate allocation to housing programmes to effectively address the housing needs of people experiencing homelessness and housing precarity (Malaysia); 6.173 Strengthen measures to reduce homelessness, in particular among children, who are vulnerable to housing insecurity, in alignment with the National Housing Strategy Act (Republic of Korea); 6.174 Implement fully commitments under the National Housing Strategy Act and ensure that those most in need, particularly vulnerable groups and Indigenous Peoples, have adequate and affordable housing (Austria).



THE NATIONAL  
**RIGHT TO HOUSING**  
NETWORK