



# **The failure to prevent and eliminate homelessness amongst women and gender-diverse people**

Request by the Federal Housing Advocate to the National Housing Council to establish a review panel to hold a hearing to review a systemic housing issue in the jurisdiction of Parliament

Submitted by the Federal Housing Advocate

April 2023

The Federal Housing Advocate (“the Advocate”) is pleased to request that the National Housing Council (“the Council”) establish a review panel to hold a hearing into the issue of the failure to prevent and eliminate homelessness amongst women and gender-diverse people, particularly Indigenous women, Two Spirit and gender-diverse people.

The failure to prevent and end homelessness for women and gender-diverse people is one of the most urgent and egregious systemic issues depriving women and gender-diverse people of their right to housing. Indigenous homelessness is also a profound violation of Indigenous rights.

This review panel request is made pursuant to section 13.1(2) of the *National Housing Strategy Act* 13.1 (2) (“the NHSA”), which states: “The Federal Housing Advocate may request that the National Housing Council establish a review panel to hold a hearing to review any systemic housing issue within the jurisdiction of Parliament that is raised in a submission received under paragraph 13(f)”.

The Federal Housing Advocate received submissions from the National Indigenous Housing Network (NIHN) and the Women’s National Housing and Homelessness Network (WNHHN) (“the submissions”) on June 14, 2022. The submissions are attached as Annex C and D.

The submissions raise many important and interconnected issues. Recognizing that section 13.1(2) permits the Advocate to identify which issues raised in a submission will be the subject of a request for a review panel hearing, the Advocate has decided to request a hearing specifically on the issue of the failure to prevent and eliminate homelessness amongst women and gender-diverse people, and particularly Indigenous women, Two Spirit and gender-diverse people.

Related to that issue, the Advocate requests that the Review Panel consider the following matters, raised in the submission:

- a. The experiences and perspectives of rights holders with regards to the causes and impacts of the failure to prevent and eliminate homelessness amongst women and gender-diverse people, their understanding of the content of the human right to adequate housing and other human rights in relation to this issue, and the solutions they wish to see governments and other actors implement- particularly rights holders who are
  - i. Indigenous women, Two Spirit, and gender-diverse people,
  - ii. Women and gender-diverse people who are members of disadvantaged groups, such as people with disabilities, Black and racialized people, recent immigrants and refugees, lone parent families, low-income tenants, survivors of violence, seniors, young people, members of 2SLGBTQI+ communities, people in conflict with the law, and veterans; and
  - iii. Women and gender-diverse people with lived and living experience of inadequate housing and homelessness;
- b. The factors that contribute to and exacerbate the failure to prevent and end homelessness among women and gender-diverse people, and in particular

Indigenous women, Two Spirit and gender-diverse people, such as the following factors raised in the submissions:

- i. Lack of action on the Calls to Justice of the Inquiry into Missing and Murdered Indigenous Women and Girls, and on the Calls to Action of the Truth and Reconciliation Commission;
  - ii. Failure to provide safe, adequate, and culturally-appropriate housing, on Indigenous women's own terms;
  - iii. Failure to recognize and uphold secure Indigenous land tenure;
  - iv. The failure of definitions of "homelessness" and "chronic homelessness" used in government policy to reflect Indigenous ways of understanding and experiencing homelessness, and the distinct causes, conditions, or experiences of homelessness amongst women, girls, women-led families, and gender-diverse persons;
  - v. The delay in establishing a dedicated program for Urban, Rural and Northern Indigenous housing in the National Housing Strategy (NHS), and the failure to adequately fund it;
  - vi. The failure to implement and monitor the gender-equity targets of the NHS, and the insufficiency of these targets to remedy the the scale and depth of housing need experienced by women, women-led households, and gender-diverse persons in Canada;
  - vii. The failure of the NHS and other federal housing policies to embed an intersectional GBA+ approach, resulting in systemic invisibilization and exclusion and the failure to meet the needs of women and gender-diverse people, and in particular those who are Indigenous, Black, racialized, disabled, 2SLGBTQIA+ persons, newcomers, and/or multiply-marginalized;
  - viii. The lack of targets and timelines in the NHS for the elimination of homelessness amongst children, who are disproportionately in lone mother-led families;
  - ix. The inequitable and systemic underfunding of emergency shelters and transition houses for women and gender-diverse persons experiencing homelessness and those fleeing violence;
  - x. The failure to adequately address the ways in which public systems and programs cause or contribute to homelessness amongst women and gender-diverse people, including particularly: income security programs; health, mental health and addictions systems; child welfare; immigration; and criminal justice.
  - xi. Any other factors the Review Panel may identify.
- c. The factors that contribute to and exacerbate the disproportionate failure to prevent and eliminate homelessness amongst:
- i. Indigenous women, Two Spirit and gender-diverse people
  - ii. Women and gender-diverse people who are members of disadvantaged groups.

The Advocate recognizes that the federal government, and many provincial, territorial, and municipal governments have made stated commitments to reconciliation, to gender and racial

equity, to eliminate chronic homelessness, to reduce poverty, and to ensure full inclusion of people with disabilities and other disadvantaged groups, and have launched action plans and strategies to achieve those objectives. Despite recommendations, commitments, strategies, and action plans, homelessness among women and gender-diverse people, and particularly those who are Indigenous, continues to worsen.

The intention of this request is not to duplicate previous inquiries that have resulted in past recommendations. In view of that challenge, the Advocate recommends that, in considering the above factors, the focus of the hearing be directed to examining the gaps and failures in effectiveness, implementation, coordination, and accountability for existing federal recommendations, commitments, action plans, and strategies such as: the MMIWG Action Plan; the Truth and Reconciliation Commission Calls to Action; the National Housing Strategy; the Final report of the Advisory Committee on Homelessness; the Poverty Reduction Strategy; the Strategy to Prevent and Address Gender-Based Violence; the 2SLGBTQI+ Action Plan; the Disability Inclusion Action Plan; the Anti-Racism Strategy; and any other plans and strategies the Review Panel may identify.

The Advocate further requests that the review panel prepare a report that sets out:

- a. The review panel's opinions on the factors that contribute to and exacerbate the failure to prevent and eliminate homelessness amongst women and gender-diverse people, in particular
  - i. Indigenous women, Two Spirit and gender-diverse people
  - ii. Women and gender-diverse people who are members of disadvantaged groups - such as people with disabilities, Black and racialized people, recent immigrants and refugees, lone parent families, low-income tenants, survivors of violence, seniors, young people, members of 2SLGBTQI+ communities, people in conflict with the law, and veterans;
- b. The review panel's opinions on the obligations of progressive realization imposed upon the Government of Canada under the NHA with regards to the prevention and elimination of homelessness amongst women and gender-diverse people, including:
  - i. taking concrete and deliberate measures;
  - ii. using all appropriate means, including laws, regulations, and policies;
  - iii. using the maximum of available resources;
  - iv. prioritizing those in greatest need;
  - v. ensuring non-discrimination; and
  - vi. ensuring non-retrogression.
- c. The review panel's opinions on the obligations imposed upon the Government of Canada under UNDRIP with regards to the prevention and elimination of homelessness amongst Indigenous women, Two Spirit and gender-diverse people.
- d. The review panel's recommendations to the Minister of Housing and Diversity and Inclusion to take measures within the jurisdiction of Parliament - including

legislative and regulatory measures, policies, and programs, including but not limited to programs of the National Housing Strategy – in order to

- i. Address the factors that contribute to and exacerbate the failure to prevent and eliminate homelessness amongst women and gender-diverse people, particularly Indigenous women and gender-diverse people,
- ii. Improve effectiveness of and coordination among existing action plans and strategies in order to prevent and eliminate homelessness amongst women and gender-diverse people,
- iii. Ensure accountability for and implementation of those plans and commitments,
- iv. Take effective measures to prevent and eliminate homelessness, and to advance the progressive realization of the right to adequate housing, for women and gender-diverse people, in accordance with the requirements of the NHSA and consistent with UNDRIPA, and
- v. Encourage provincial, territorial, and municipal governments and Indigenous governing entities as well as other actors to take measures to achieve these ends.

## Why the Advocate is requesting a review panel on this issue

The issue of the failure to prevent and eliminate homelessness amongst women and gender-diverse people, particularly Indigenous women, gender-diverse, and Two Spirit people, is within the jurisdiction of Parliament.

It is very clearly a systemic housing issue which inhibits the full and equal enjoyment of the right to adequate housing in Canada affecting Indigenous Peoples, disadvantaged groups, and people experiencing inadequate housing or homelessness.

The submissions document the results of extensive meaningful engagement with women and gender-diverse people with lived experiences of homelessness, in addition to pan-Canadian community-based research and consultation with human rights experts and Indigenous lived experts and knowledge carriers. The systemic issue raised in these submissions has been identified by numerous human rights bodies, and has also been amply documented through research, lived expert testimony, commissions of inquiry, concluding observations and jurisprudence of international human rights bodies, and other authoritative sources. The submissions document the differential, disproportionate, and severe human rights impacts and harms of homelessness for women and gender-diverse people, particularly Indigenous women, girls, Two Spirit, and gender-diverse people.

Homelessness is a *prima facie* violation of the right to housing, and Indigenous homelessness is a violation of Indigenous rights under UNDRIP.

The harms and human rights impacts of homelessness for women and gender diverse people include loss of life; dramatically reduced life expectancy; heightened exposure to sexual and physical violence; apprehension of children; devastating impacts on physical and mental health, including complex post-traumatic stress; discrimination, stigma, social exclusion, and dehumanization contrary to fundamental human dignity; interference with privacy, autonomy, and security of the person; and violations of Indigenous peoples' right to self-determination.

# **Annex A: The failure to prevent and eliminate homelessness amongst women and gender-diverse people as a systemic housing issue within the jurisdiction of Parliament**

The failure to prevent and eliminate homelessness amongst women and gender-diverse people is a systemic housing issue because:

- It is an issue that inhibits the full and equal enjoyment of the right to adequate housing in Canada.
- It is connected to factors in the housing system and other public systems.
- It is the result of actions and inactions related to legislation, policies, programs, regulations, decision-making processes, spending priorities, administration/operations, practices and/or attitudes.
- As directed by the NHSA, the Advocate has prioritized this issue because it affects Indigenous people, disadvantaged groups and people experiencing inadequate housing or homelessness.
- The failure to prevent and eliminate homelessness amongst women and gender-diverse people intersects with other forms of disadvantage and discrimination, including disadvantage and discrimination rooted in colonialism, racism, sexism, homophobia and ableism.
- This issue has a discriminatory effect because of its disproportionate adverse impact on Indigenous people, disadvantaged groups, and people experiencing inadequate housing and homelessness.

While all systemic housing issues are inherently multi-jurisdictional, important dimensions of the failure to prevent and eliminate homelessness amongst women and gender-diverse people are within the jurisdiction of Parliament. These include the responsibilities of Parliament with regard to:

- Canada's international human rights obligations;
- Indigenous rights;
- Implementation of the National Housing Strategy in compliance with the NHSA;
- Accountability for implementation of federal recommendations, action plans, and strategies such as those listed above;
- Policies and programs of federal departments including Canada Mortgage and Housing Corporation (CMHC), Infrastructure Canada, Women and Gender Equality Canada, Indigenous Services Canada, and Employment and Social Development Canada, which are implicated in the issue.

## **Annex B : Considerations for the review panel**

The lead submitters NIHN and WNHHN have requested that the Advocate communicate the following for consideration by National Housing Council and the Review Panel:

### **Considerations for the National Housing Council in appointing the Review Panel:**

NHSA 16.2(2) requires the National Housing Council to consider the importance of representation of members of vulnerable groups, persons with lived experience of homelessness, and persons with expertise on human rights, when appointing a review panel. Considerations specific to this review panel include:

- representation of Indigenous Peoples from diverse contexts, including elders and Two-Spirit people;
- representation of women and gender-diverse people with lived experience of homelessness;
- representation of members with expertise in Indigenous rights as well as human rights;

### **Principles and options for consideration by the Review Panel in designing the hearing process:**

- Engage the lead submitters in the design of the process.
- Ensure that the Review Panel is an Indigenous-led process.
- Consider the distinctive rights of Indigenous Peoples to self-determination; free, prior, and informed consent concerning all matters that affect them; and participation in the adjudication of their rights, as affirmed in the United Nations Declaration of the Rights of Indigenous People (UNDRIP).
- The right to housing for Indigenous women, girls, Two Spirit, and gender-diverse people requires a transformative approach to housing as a human right, as articulated by their own ways of knowing, doing, and being, and as an exercise of self-determination. In its hearings into this systemic issue, the review panel has a unique opportunity to advance self-determination as a starting point for the realization of the right to housing for Indigenous women, girls, Two Spirit, and gender-diverse people.
- Apply the human rights-based approach affirmed in the NHSA, which must be grounded in an understanding of the lived experiences and human rights expertise of communities affected. Take into account the importance of hearing from women and gender-diverse people with lived experience about their understanding of the content of the right to adequate housing and the solutions they wish to see governments and other actors take with respect to this systemic issue.

## **Annex C : Submission from National Indigenous Housing Network (formerly National Indigenous Feminist Housing Working Group)**

<https://womenshomelessness.ca/wp-content/uploads/Indigenous-Housing-Claim-June-15-2022.pdf>

## **Annex D : Submission from Women’s National Housing and Homelessness Network**

<https://womenshomelessness.ca/wp-content/uploads/WNHHN-Claim-15-June-2022.pdf>