

# **A CRISIS DENIED: HOMELESSNESS AND INADEQUATE HOUSING IN CANADA**

**Submission To:**

**Office of the High Commissioner for Human Rights**

**Submission By:**

**Women's Housing Equality Network (WHEN-Canada) &**

**CERA – Centre for Equality Rights in Accommodation**

**Universal Periodic Review of Canada**

**8 September 2008**



## I. Women's Housing Equality Network and the Centre for Equality Rights in Accommodation

1. The Women's Housing Equality Network (WHEN) is Canada's only national organization focused on women's housing equality issues in Canada. We are a coalition of representatives from each province and territory (See Appendix 1), as well as a collective of marginalized women at the grassroots level who are experiencing disadvantage and homelessness. Since 2003, WHEN has been working to put women's housing, homelessness, and equality issues at the forefront of political, legal, and policy agendas across Canada. Using a human rights framework, we advocate for policies and programs that will improve women's access to housing that is safe, secure, stable, and affordable.

2. The Centre for Equality Rights in Accommodation (CERA) is a non-profit human rights organization based in Toronto, Ontario that promotes human rights in housing and challenges discrimination provincially and nationally. CERA works to remove the barriers that keep disadvantaged individuals and families from accessing and retaining the housing they need. CERA has become a world leader in using both domestic and international human rights law to address issues of homelessness and poverty. We have contributed to UN treaty monitoring review mechanisms since 1993 as well as other international human rights mechanisms and procedures. CERA works collaboratively with non-governmental organizations in Canada and in other countries to promote and enforce economic and social rights.

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## II. Introduction

3. Homelessness and the housing conditions for low income people in Canada have been recognized as a "national crisis" by the mayors of major cities across the country. According to the Canada Mortgage and Housing Corporation, 200,000 Canadians are homeless<sup>1</sup> and 1.7 million households were living in inadequate housing or paying an unreasonable amount for shelter in 2005. This compares to 1.3 million households in 1990. Despite this, the Government of Canada has failed to address this problem through concrete action. Average rents continue to escalate, social assistance rates continue to fall, there continues to be a severe shortage of social housing, and private sector landlords continue to discriminate against the most disadvantaged groups in Canada. These factors coupled with continual cuts to social programs have resulted in a failure of the Canadian government to ensure an adequate standard of living for all citizens.

4. Housing insecurity is most severe for the most vulnerable populations, particularly low income women and their children – Aboriginal women, immigrant women, disabled women,

<sup>1</sup> Homeless counts are notoriously under-representative, particularly of women's homelessness. They tend to rely on "counts" which survey the numbers of people in shelters on a given night. Women will do almost anything to avoid living on the streets or in a shelter, for example, by "couch surfing" or doubling up with friends/family.

single-mothers, older women and teenage girls. While Canada is one of the richest countries in the world, and while the Government has boasted at least 8 consecutive surplus budgets, 36% of Aboriginal women live in poverty, 40% of Aboriginal children live in poverty, 37% of visible minority women live in poverty, 33.6% of visible minority children live in poverty, 26% of women with disabilities live in poverty, and 27.7% of children with disabilities live in poverty. (See Appendix 2: NWG, Fact Sheet, Women, Poverty and Homelessness)

### **III. The Housing Crisis in Canada: A Crisis for Poor Women**

#### **III.i Low income women cannot afford housing in Canada. Income support programs such as social assistance and employment insurance are set at inadequate levels and average rents are very high, forcing women into cycles of poverty and dependence on the state or abusive male partners.**

*In 2003, there were approximately 1.5 million adult women living in poverty. In the same year, the average pre-tax income for women over the age of 16 was just 62% that of men.*

5. In 2003, there were approximately 1.5 million adult women living in poverty. In the same year, the average pre-tax income for women over the age of 16 was just 62% that of men. Not surprisingly then, according to Statistics Canada, women are more likely than their respective male counterparts to experience housing affordability problems<sup>2</sup>, especially unattached women and female lone parents who rent their homes. This is a reflection of continuing income gaps between women and men doing work of equal value, as well as women's traditionally part-time work to allow for child rearing. Indeed, in 2003, 72% of unattached women aged 65 and over (as compared to 58% of the same category of men) who rented were considered to have housing affordability problems. Similarly, among unattached homeowners under age 65, 24% of women, compared with 11% of males, experienced housing affordability problems. 42% of renter families headed by female lone parents had housing affordability problems, as did 38% of unattached female renters under the age of 65. (All Statistics in this paragraph from: Statistics Canada, Women in Canada, 5th Edition, A Gender-Based Statistical Report, (2006).

6. Housing affordability is particularly problematic for women in receipt of social assistance. The reduction in social assistance rates across the country coupled with an inadequate supply of affordable housing stock, and increasing rents in the private market, has meant that available housing is unaffordable for most low-income women. While the mere struggle of accessing accommodation within the allotted monies continues to be a challenge, the intense discrimination women in receipt of social assistance face by private landlords makes independently locating accommodation virtually impossible and forces women to remain at the mercy of long wait lists by housing assistance agencies. In 2005 women in receipt of social assistance, in cities across the country, were barely able to make ends meet. The following chart illustrates the problem.

<sup>2</sup> Statistics Canada and Canada Mortgage and Housing Corporation consider an affordability problem to potentially arise if more than 30% of household income is spent on rent or mortgage payments

**Table 1: 2005 Welfare Incomes and Average Rents: National Snapshot**

CITY	Monthly Welfare Income Single Mother + 1 child	Average Monthly Rent 2 Bedroom Apt.	Remaining income after rent (to cover other costs such as food, transportation, school fees, incidentals, etc.)	Percentage of Income on Rent
Toronto, Ontario	1,204	1,052	164	87%
Halifax, Nova Scotia	1,076	762	314	71%
Edmonton, Alberta	1,027	732	295	71%
Vancouver, BC	1,162	1,004	158	86%

Information for this chart was retrieved from National Council of Welfare, Welfare Incomes 2005 (October 2006) and Canada Mortgage and Housing Corporation, Press Releases December 2005, National Rental Vacancy Stabilizes at 2.7%.

*Women are more likely than men to meet income qualifications for assisted housing and therefore are more adversely affected by cuts to assisted housing.*

**III.ii Women do not have access to subsidized housing. Within the private market, they are discriminated against.**

7. The most direct role of the federal government with respect to housing and homelessness has traditionally been through the provision of assisted rental housing. Since the majority of low-income women are tenants, access to affordable rental housing is central to addressing women's homelessness. In 1993 the federal government announced a freeze on federal funding contributions to social housing, and the cancellation of funding for any new social housing (with a few limited exceptions). Women are more likely than men to meet income qualifications for assisted housing and therefore are more adversely affected by cuts to assisted housing. The federal government has downloaded responsibility for social housing programs to the provinces/territories without ensuring that women receive the equal benefit

of federal spending in this area by ensuring accurate monitoring of the use of these funds. (CERA, Women and Housing in Canada: Barriers to Equality, 2003).

8. In 2007 there was a surge in spending as the government was forced to allocate \$1.4 billion on partnerships with the provinces and territories for housing, monies owed from previous budgets. By 2008, investment had dropped dramatically to pre 2006 levels, equal in severity to the cuts of the mid 1990s. According to the Organization for Economic Co-operation and Development, Canada was ranked second among 18 developed countries in terms of public housing investment in 1980. By 2003, we were ranked seventh, below: Ireland, Sweden, New Zealand, Denmark, France and the United Kingdom (which that year invested more than 2.5 times as much as Canada). (Wellesley Institute, UPR Submission, 2008).

*As a result, per capita federal housing spending is at its lowest level in two decades as is federal housing investment as a percentage of the GDP.*

9. Because the supply of subsidized housing is not increasing in relation to need, waiting lists for this type of housing in Canada's largest cities now exceed 5 years. In some cities, such as Toronto, the waiting list can be as long as 10 years. This precludes both young people and newcomers to the country from ever accessing subsidized housing. Without subsidized housing, women increasingly rely on the private rental market to meet their housing needs. Within the private market, women commonly confront discrimination: landlords who do not want to rent to them because they are single-parents, because they are Aboriginal and/or non-white, because they have children or large/extended families, because they are in receipt of social assistance, or because they are newcomers.

### **III.iii Homeless women and girls experience violence**

10. Homeless women in Canada are 10 times more likely to die than women in the general population (NWG, Fact Sheet, See: Appendix 2). A recent study released by Street Health in Toronto (2007) found that being homeless puts women at extreme risk of violence. 1 in 5 homeless women interviewed in that study reported having been sexually assaulted while on the streets or homeless. According to a one-day survey snapshot, taken on April 14, 2004, of the 6,109 women and children residing in shelters across Canada, about 5,000 had escaped an abusive situation representing about three-quarters of all women residing in shelters (Statistics Canada, 2004). Sexual abuse is a major cause and consequence of homelessness among young women. Many young women around the age of 12 years leave home to escape a sexually abusive male within the household, and find themselves at the mercy of a discriminatory and abusive child welfare system or foster home, or an aggressive older male boyfriend. Young girls commonly become homeless as a result of male violence and therefore co-ed foster care placements and group homes with male staff offer no safety or solution. In these circumstances, girls are led back to life on the streets where they turn from being homeless girls to homeless women. (Justice for Girls, Bricks and Mortar)

11. A 2001 survey of 523 homeless youth aged 12 to 19 found that 87% of the homeless

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girls had been physically or sexually abused. While sexual and physical abuse remains the largest threat to women and girls on the street, disease, depression, self harm, and malnutrition all contribute to the barriers these individuals face on the road to being housed. (Justice for Girls, Bricks and Mortar)

12. Young girls are often told by social service authorities to “go home,” and are often not given support unless they can prove crisis or their parents’ consent to not inviting them back into the household. The failure of governments to support these girls puts them at real risk. Girls over the age of 16 are given no support by social services (despite recommendations made by the United Nations Convention on the Rights of the Child to provide assistance until the age of 18) and are forced to rely on the adult income assistance system. Within the adult income assistance program, young girls are given exceptionally low assistance, face administrative loopholes and only a small percentage of those in need are actually serviced. Recent social cutbacks have made attaining social assistance even more difficult. In March of 1998, for example, there were 1273 female youth under 19 on adult income assistance in British Columbia; in March of 2005 there were only 159. (Justice for Girls, Bricks and Mortar)

### **III.iv Women are forced to stay in abusive relationships because they have few housing options and may lose their children to state child welfare authorities.**

13. Women across Canada report that the two biggest systemic barriers to women and children escaping violence are inadequate income assistance and lack of affordable housing (Mosher, et. al, Walking on Egg Shells). The lack of housing options and affordable safe spaces forces many women to remain in abusive relationships and can eventually lead to the apprehension of children by the State.

14. In some places across the country women attempting to leave abusive situations are either not given priority status for subsidized or government assisted housing or priority status is difficult to attain due to bureaucratic requirements that are impossible to meet. In some jurisdictions the solution now being employed is to remove the women or girl from the abusive situation – which destabilizes her housing situation – rather than removing and adequately punishing the abuser. With few housing options, women are given little choice but to return to abusive households, couch surf with family and friends, or take a chance at the streets all while running the risk of apprehension of their children by child protection agencies. Once a woman loses her children to the authorities it is very difficult for her to retrieve them. Her welfare entitlement is reduced as she no longer has a dependant, which makes accessing adequate accommodation (a requirement in order to get her children back) virtually unobtainable.

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#### **IV. The Right to Adequate Housing: Canadian Law, Concluding Observations of the UN Treaty Monitoring Bodies and the Government of Canada**

*There is no evidence of any commitment on the part of the federal government or provincial governments in Canada to give domestic content or effect to the right to adequate housing. There is no explicit recognition of the right to adequate housing anywhere in Canadian law and the consistent policy direction in recent years in Canada has been toward unprecedented withdrawal of commitments to any of the most critical components of a strategy to ensure access to adequate housing and meaningful security of tenure.*

Bruce Porter, "The Right to Adequate Housing in Canada" in Scott Leckie (ed) National Perspectives on Housing Rights, (New York: Kluwer/Nijhoff, 2003) 107-140 at 107.

*Nowhere in Canada's domestic law is there any explicit recognition of the right to adequate housing, either as an enforceable right or a policy commitment of government.*

15. When Canada ratified the ICESCR in 1976 and undertook to ensure that domestic law and policy conformed with the Covenant's guarantee of the right to adequate housing, homelessness was virtually unheard of in Canada. In the intervening years of strong economic growth and a general level of well-being that placed Canada atop the UNDP Human Development Index, violations of the right to adequate housing have reached unprecedented proportions.

16. Nowhere in Canada's domestic law is there any explicit recognition of the right to adequate housing, either as an enforceable right or a policy commitment of government. It is not in the Constitution Act, 1982, including the Canadian Charter of Rights and Freedoms, and it is not in provincial or federal human rights legislation, in national, provincial or territorial housing legislation or in federal-provincial agreements. Moreover, rights recognized in international human rights treaties ratified by Canada are not directly enforceable by domestic courts without incorporation into Canadian law by parliament or provincial legislatures. Which, of course, has not occurred. Claimants of the right to adequate housing in Canada are thus precluded from directly invoking article 11 of the ICESCR as a self-standing justiciable right in Canada. (Bruce Porter, Right to Adequate Housing in Canada).

17. A consistent recommendation of the CESCR in its most recent reviews of Canada has been that human rights legislation in other Canadian jurisdictions be amended to include social and economic rights. (See: CESCR, Concluding Observations, 1993, at para. 25, CESCR, Concluding Observations, 1998, para. 51.) This recommendation has been endorsed by the Canadian Human Rights Commission and by the majority of human rights groups across Canada.

18. Without legislative recognition of the right to adequate housing domestically, advocates have made extensive use of the treaty monitoring process to create a solid jurisprudence on violations of the right to adequate housing in Canada. The concluding observations of the CESCR, the Committee on the Elimination of Discrimination Against Women (CEDAW), and the U.N. Human Rights Committee on income and housing issues now pervade almost all domestic litigation on housing issues as well as advocacy and mobilizing strategies in the political domain.

Few advocates or politicians are unfamiliar with the recent findings of treaty monitoring bodies with respect to homelessness and poverty in Canada.

19. The treaty monitoring bodies' reviews of Canada in the last decade have shown a new appreciation that affluent countries can indeed be held accountable for violations of the right to adequate housing. For example, the CESCR has established in its reviews of Canada that the question of whether adequate resources have been allocated and whether deliberately retrogressive measures have been implemented without justification can and must be the subject of rigorous review and adjudication under both international and domestic law.

20. What follows are pertinent excerpts from some of the treaty monitoring body reviews over the last decade<sup>3</sup>:

### **Committee on Economic, Social and Cultural Rights 1998**

- In 1998 the CESCR found that in virtually every respect, governments in Canada had taken unprecedented, and arguably deliberate, retrogressive measures undermining the right to adequate housing. It was "gravely concerned that such a wealthy country as Canada has allowed the problem of homelessness and inadequate housing to grow to such proportions that the mayors of Canada's 10 largest cities have now declared homelessness a national disaster."

### **Human Rights Committee 1999**

- In 1999 the HRC identified the failure to address the growing problem of homelessness in Canada as a potential violation of the right to life under article 6 of the ICCPR:

*The Committee is concerned that homelessness has led to serious health problems and even to death. The Committee recommends that the State party take positive measures required by article 6 to address this serious problem. (par.20).*

### **Committee on Economic, Social and Cultural Rights 2006**

- The Committee was concerned that in most Provinces and Territories social assistance benefits are lower than a decade ago, and they do not provide adequate income to meet basic needs for food, clothing and shelter. (Par. 21) They also expressed concern that shelter allowances and social assistance rates continue to fall far below average rental costs. (Par. 28)
- In 2006, the CESCR expressed concern that homelessness continues to be a significant problem across Canada (Par. 28), that waiting lists for subsidized housing are very long (Par. 28), and that evictions are occurring across the country for minimal arrears. (Par. 29)
- The Committee noted with concern that women are prevented from leaving abusive relationships due to the lack of affordable housing and inadequate assistance. (Par. 26).

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<sup>3</sup> For more on Canada's compliance with UN treaties see: British Columbia UPR Coalition, Neglect and Disregard.

- The Committee noted that low-income families, single-mother-led families and Aboriginal and African-Canadian families, are over-represented in families whose children are relinquished to foster care. The Committee expressed particular concern that women are forced to relinquish their children into foster care because of inadequate housing. (Par. 24)

21. The Government of Canada has failed to acknowledge that the issues raised by the treaty monitoring bodies are of serious concern and must be addressed immediately. The Government of Canada has failed to implement any of the recommendations proposed by the treaty monitoring bodies and, in some instances, has taken retrogressive measures. For example, in December 2006, after much uncertainty and only in the face of mounting pressure, the current government extended the National Homelessness Initiative (NHI) (now the Homelessness Partnering Strategy (HPS) for two years with an expenditure of \$270 million. The HPS, though itself an inadequate program in relation to the national need, is the only national housing program in Canada. However, the government had made it clear that this program among others will not survive beyond March 2008. The Government indicated that the HPS, as well as the "Residential Rehabilitation Program" (a federal housing repair scheme), and the federal affordable housing funding would expire at the end of the fiscal year 2008. The government has shown no interest in replacing these programs nor has it shown any inclination to adopt a comprehensive housing strategy. On the contrary, the government has indicated publically that it intends to retreat from providing any leadership (funding or other) in areas that constitutionally fall within provincial jurisdiction, such as housing.<sup>4</sup>

Without a National Housing Strategy reflective of the needs of women and teenage girls, and without Federal government leadership, there is no coherent policy of national standards to ensure that the right to adequate housing is enjoyed by all and particularly by Canada's most marginalized groups: low-income women who are disproportionately disadvantaged with respect to access to adequate and affordable housing.

## V. Recommendations

- **The Government of Canada must play a central leadership role to address the housing and homelessness crisis in Canada. It cannot exempt itself from meeting its international human rights obligations in this regard on the basis of a lack of constitutional jurisdiction.**
- **Right to adequate housing needs to be explicitly recognized in Canadian law and the mandate of human rights commissions must be extended to include the right to adequate housing.**

<sup>4</sup> For more information on Government of Canada's expenditures on housing recently, See: UPR Submission by the Wellesley Institute, point 11.

*The Committee expressed particular concern that women are forced to relinquish their children into foster care because of inadequate housing.*

● **The Government of Canada must implement the recommendations of all UN Treaty Monitoring bodies, and in particular the following recommendations from the 2006 CESCR Review of Canada:**

- Federal, provincial and territorial governments address homelessness and inadequate housing as a national emergency by:
  - reinstating or increasing, where necessary, social housing programmes for those in need,
  - improving and properly enforcing anti-discrimination legislation in the field of housing,
  - increasing shelter allowances and social assistance rates to realistic levels, and by providing adequate support services for persons with disabilities. (Par. 62)
- Implement a national strategy for the reduction of homelessness that includes: measurable goals and timetables, consultation and collaboration with affected communities, complaints procedures, and transparent accountability mechanisms, in keeping with Covenant standards. (Par. 62)
- Establish social assistance at levels which ensure the realization of an adequate standard of living for all. (Par. 53)
- Federal, provincial and territorial governments undertake all necessary measures including through financial support, where necessary, to avoid the relinquishment of children by state authorities. (Par. 56)
- Give special attention to the difficulties faced by homeless girls who are more vulnerable to health risks and social and economic deprivation, and take all necessary measures to provide them with adequate housing and social and health services. (Par. 57).

*Establish social assistance at levels which ensure the realization of an adequate standard of living for all.*

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*Give special attention to the difficulties faced by homeless girls who are more vulnerable to health risks and social and economic deprivation.*

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**IF NOT NOW, THEN WHEN?**



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