Community Housing Canada

Student Report No. 2

LGBTQ2 Vulnerability in the Canadian Housing Sector

Author: Kenna McDowell, University of Alberta **Publication Date:** January 2021

COMMUNITY HOUSING CANADA

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Glossary

Cisgender: When one's gender identity conforms to their gender assigned at birth

Community housing: Long-term rental housing that is provided through not-for-profit organizations that are funded through grants, loans, etc.; a form of social housing

Gender non-conforming: When one's gendered performance does not conform to hegemonic ideals of that gender (i.e., when women are not feminine, when men are not masculine)

Internalized homophobia, transphobia, or biphobia: When a gay, lesbian, bisexual, or transgender person incorporates negative stereotypes or notions about LGBTQ2 people into their own self-conception

Intersex: Intersex people are people whose bodies do not fit neatly into conventional understandings of 'male' and 'female' bodies; they may have features of both 'male' and 'female' genitalia, chromosomal variations, etc.

LGBQ: An acronym referring to cisgender members of the Lesbian, Gay, Bisexual, and Queer community. Although sometimes used in a transphobic sense, it is used in this report when the experiences of cisgender LGBQ people are distinct from the experiences of transgender members of the community (i.e., in experiences of discrimination)

LGBTI: An acronym standing for Lesbian, Gay, Bisexual, Transgender, and Intersex; this is an acronym typically employed in international law and by the Office of the United Nations High Commissioner of Human Rights

LGBTQ: An acronym standing for Lesbian, Gay, Bisexual, Transgender, and Queer; this is an acronym typically employed in immigration law

LGBTQI2S: An acronym standing for Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and Two-Spirit; this is an acronym employed by Égale Canada.

LGBTQ2: Acronym standing for Lesbian, Gay, Bisexual, Transgender, Queer, and Two-Spirit; this is the acronym employed by the Canadian federal government

Misgender: Referring to someone using the incorrect gender or pronoun (i.e., referring to a man using she/her pronouns); this can be either accidental or purposefully malicious

Permanent Supportive Housing (PSH): Low-barrier housing where services (such as rehabilitation services, counselling, HIV/AIDS treatment, etc.) are offered on-site

Transgender:
 i. When one's gender identity does not conform to their gender assigned at birth
 ii. An umbrella term that defines all those who do not identify as cisgender (i.e., transwomen and transmen, non-binary people, agender people, genderfluid people, etc.)

Transitional housing: A form of temporary housing that is designed to help people transition into long-term housing; typically used to help someone transition from homelessness and permanent housing through the provision of supportive services, structure, and supervision

Executive Summary

This research focuses on the experiences of LGBTQ2 people within the Canadian housing sector.

Key Findings

• A substantial portion of homeless adults and youth identify as LGBTQ2.

• LGBTQ2 people experience significant discrimination in the sectors of housing and employment. Many LGBTQ2 people believe they have been evicted or fired due to their gender identity or sexual orientation.

• LGBTQ2 people—and trans people specifically—experience discrimination in accessing emergency shelters and temporary housing.

• It is difficult for LGBTQ2 people with disabilities to find barrier-free housing. LGBTQ2 people with disabilities experience barriers such as homo-, bi-, or transphobia, as well as physical barriers to accessing buildings, such as a lack of ramps or elevators.

• There is a need for LGBTQ2-focused permanent supportive housing, as many LGBTQ2 people have been previously homeless, use drugs, or have mental illnesses or disorders.

• There is a desire among LGBTQ2 seniors for LGBTQ2-focused seniors housing, and there is a dearth of this form of housing across the country.

• HIV/AIDS remains a prominent issue amongst LGBTQ2 people, particularly for unhoused members of the community.

• The gentrification and assimilation of 'gaybourhoods' has made it more difficult for LGBTQ2 people to access services, cultural anchors, and community spaces.

• LGBTQ2 migrants and refugees face substantial barriers to securing adequate housing upon their arrival in Canada.

• Institutionalization and incarceration represent a source of homelessness for LGBTQ2 people.

• Many of the recommendations made by the Office of the United Nations Commissioner of Human Rights with regards to LGBTQ2 equality have yet to be realized in Canada.

• There is a need for more robust tenant's organizing in Canada, as much of the discrimination LGBTQ2 people face in the housing sector takes place in the private rental market.

• LGBTQ2 people who are discriminated against by their roommates (as opposed to their landlords or housing providers) are not protected under provincial human rights law.

• *The National Housing Strategy Act* has established a long-term plan for the realization of housing as a human right in Canada that has yet to be fully implemented.

1. Introduction

In its 2017 report, *the National Housing Strategy* (*NHS*) identified LGBTQ2 people as one of the twelve 'vulnerable groups' that experience barriers to finding and maintaining adequate housing in Canada (Canada 2017). In addition to LGBTQ2 people, the NHS also named survivors of family violence; newcomers to Canada; seniors; people with disabilities; people living with mental health and addiction issues; veterans; Indigenous peoples; young adults; racialized groups; and individuals and families experiencing homelessness as vulnerable groups within the Canadian housing sector (Canada 2017). While the *NHS* identified LGBTQ2 people as a group that experiences housing vulnerability, it did not meaningfully interrogate *why* LGBTQ2 people are vulnerable in the Canadian housing sector, the nature of that vulnerability, or *who* renders LGBTQ2 people a vulnerable group.

As such, this report will explore the nature of LGBTQ2 people's vulnerability in the Canadian housing sector. It will detail how LGBTQ2 youth, migrants, seniors, and LGBTQ2 people with disabilities (including substance use disorders and mental illnesses) all experience vulnerability in housing differently. Additionally, this report will describe the rise and fall of 'gaybourhoods', and the impact this has had on the LGBTQ2 community. It will also interrogate the extent to which international and Canadian human rights law are able to mitigate the vulnerabilities of LGBTQ2 people in housing. It is important to note in discussions of the vulnerability of LGBTQ2 people, however, that they are not inherently vulnerable. Rather, they are made vulnerable through systems of homo-, bi-, and transphobia, as well as the commodification of housing under capitalism. These systems, as well as the impacts they have on the lives of LGBTQ2 people, will also be explored in this report.

2. Sites of Vulnerability for LGBTQ2 People in Housing

In much of the existing literature, vulnerability is discussed as though it is something that is simply 'out there', a phenomenon that LGBTQ2 people will inevitably encounter in their lifetimes, especially if they are homeless or unstably housed. Similarly, LGBTQ2 people are often described as though they are inherently vulnerable—a seemingly impossible problem to solve. In this report, I will explore how LGBTQ2 people's vulnerability in the housing sector is a phenomenon that is manufactured and imposed, as it is the result of policy failure, systemic oppression, and interpersonal violence. These dimensions create sites of vulnerability that include but are not limited to: homelessness and the inability to access temporary shelter; a general distrust of social systems; economic precarity and workplace discrimination; high rates of victimization; health and dis/ability; and finally, old age. In addition to these sites of vulnerability, LGBTQ2 people also face direct discrimination in housing and are sometimes denied access to housing due to their gender and sexual identities. To conclude, I will explore how stable and permanent housing—especially housing located in communities that affirm and celebrate LGBTQ2 identities—can mitigate these vulnerabilities, ultimately demonstrating that a solution to the issue of LGBTQ2 vulnerability in housing is within reach.

It is crucial that we examine the concept of vulnerability, as it is through this lens that Canada's *National Housing Strategy (NHS)* understands LGBTQ2 people's housing experiences and prioritizes actions that increase their access to "housing that meets their needs and is affordable" (Canada 2017, 9). In their 2017 report, *The National Housing Strategy* (correctly) identifies LGBTQ2 people as a vulnerable group that is "marginalised" or "in a disadvantaged position" when it comes to securing safe, stable, and affordable housing (Canada 2017, 9).

LGBTQ2 people are therefore deemed an area of priority for the *NHS,* along with "survivors (especially women and children) fleeing domestic violence; seniors; Indigenous peoples; people with disabilities; those dealing with mental health and addiction issues; veterans…; racialized groups; newcomers (including refugees); individuals and families experiencing homelessness; and young adults" (Canada 2017, 9). However, the nature of LGBTQ2 people's vulnerability—how it is constructed, why it is constructed, and by whom—is never outlined in the *NHS*. Consequently, the nature of LGBTQ2 people's vulnerability will be unpacked below, as a failure to interrogate this vulnerability leaves the forces that have brought it into being comfortably intact.

In discussions of vulnerability, it is important to note that vulnerability is *created* and *imposed* and that it is not intrinsic to LGBTQ2 people's existence. This distinction is vital, as "vulnerability is predominately understood as feminising and subsequently as negative, scary, shameful, and above all something to be avoided and protected against" (Dahl 2016, 41). Understandings of vulnerability as inherent to queerness unfairly marks LGBTQ2 people as weak and born into perpetual failure and hardship. To perceive LGBTQ2 people—as well as the other groups identified as vulnerable by the *NHS*— as *inherently* vulnerable is to ignore the ways in which these groups have been victimized by histories of discrimination, structural inequalities, and failed housing policy.

As mentioned above, the conditions of vulnerability for LGBTQ2 people are manufactured, resulting from an "exposure to contingencies and stress" that exceeds their ability to cope (Chambers 1989, 1). These vulnerabilities include both 'external' stressors, such as the "risks, shocks, and stress to which an individual or household is subject", as well as 'internal' stressors, which include "defencelessness" and an inability to "cope without damaging loss" (Chambers 1989, 1). For example, homelessness is an external stressor faced by many LGBTQ2 people. The resulting internal stressors could include mental health issues or substance abuse. The

exposure of LGBTQ2 people to these contingencies and stressors are the result of a failure to provide them with adequate housing, as being unstably housed creates and exacerbates the vulnerabilities experienced by many LGBTQ2 people. As such, vulnerability should not be understood as "just a trait or an episodic disposition of a discrete body" (Butler 2015, 130) but as an act of wounding. This wounding is "an act that might be quite willfully inflicted on one agent by another or an outcome from carelessness on the part of one agent in their dealings with another" (Philo 2005, 442). These agents may include individual actors (such as a landlord who directly discriminates against LGBTQ2 people) but can also include government agencies who fail to provide adequate housing for LGBTQ2 people. Consequently, the wounding that Philo describes can be perpetrated *directly* on an individual level (between a landlord and a tenant) or *indirectly* on a systemic level (through state negligence).

This is to say that the vulnerability experienced by LGBTQ2 people is created and perpetuated by "interconnected geographies (and histories)" (Philo 2005, 42), a result of the contexts and spaces that LGBTQ2 people are pushed into (or pushed out of). In thinking through the concept of vulnerability, it is vital that we remember that LGBTQ2 people are not simply 'vulnerable' but rather they are 'vulnerable to' myriad conditions that emerge from "their social and economic condition" (Waite 2009, 421); one that is informed by structural homo-, bi-, and transphobia, a fluctuating economy, and systems that provide inadequate support to those in need. In the following discussion of sites of vulnerability in housing, it is important to remember that LGBTQ2 people become vulnerable *to* experiences such as homelessness, substance abuse, and economic precarity (to name a few) due to systemic oppression and inadequate social supports, and that these vulnerabilities can be mitigated when LGBTQ2 people are able to access affordable, safe, and stable housing.

Moreover, in discussing the vulnerabilities LGBTQ2 people face in the housing sector, it is important that we not turn our focus away from vulnerability and discomfort it creates in favour of more positive concepts such as resilience. While "[r]esilience is sometimes necessary" (Diprose 2015, 53), and LGBTQ2 people have been (and remain) resilient in order to overcome adversity and hardship, they should not have to be. A focus on resilience shifts the onus of responsibility away from the structures that manufacture the vulnerability of LGBTQ2 people and onto queer individuals. This is unfortunate, as "[c]onflating self and social transformation risks settling only for the former and falling short of what a society is capable of" (Diprose 2015, 53). As such, this report will not focus on the strength and resilience of LGBTQ2 people (of which they have plenty), but rather on the ways in which this strength is undermined by structural inequalities and systemic oppression. These factors are manifest within the housing system itself (creating direct forms of disadvantage in accessing and maintaining housing), as well as within broader social and economic systems (which indirectly affect housing status).

One significant barrier for obtaining housing for LGBTQ2 people is **discrimination in housing**, as homo- and transphobia directly impact their ability to obtain and retain stable housing. For example, many queer women report more difficulty in finding housing with their female partners than with previous male partners and will often 'closet' themselves in order to avoid this issue (Lyons et al. 2019). Queer women describe passing off their partners as roommates or as family members in order to avoid discrimination or choosing to live alone rather than having their sexual orientations called into question (Lyons et al. 2019, 9). While this strategic closeting made these women successful in obtaining housing, it often came at the expense of their own well-being, as LGBTQ2 people with lower levels of "sexual orientation disclosure" are more likely to experience symptoms of depression and anxiety (Lyons et al. 2019, 10).

Transgender individuals experience alarmingly high levels of discrimination in housing. Overall, 19% of transgender people report being denied housing due to their trans identity, and 11% of transgender people describe being evicted from housing on that basis (Kattari et al. 2016, 429). Racialized trans people are even more likely to report discrimination in the private rental market, involving racial discrimination in addition to transphobic discrimination (Abramovich & Kimura 2019, 7). While transgender people certainly face the highest levels of discrimination in both housing and employment, cisgender LGBQ individuals also face a significant amount of housing discrimination, with 17.7% of gay men reporting experiences of housing discrimination, compared to 16.3% for lesbians, 3.7% for bisexual men, and 6.8% for bisexual women (Kattari et al. 2016, 429). This means that many LGBTQ2 people struggle to access housing in the private rental market and may have to return to the closet in order to do so.

Homelessness is perhaps the most pressing concern when it comes to the issue of LGBTQ2 vulnerability in housing. LGBTQ2 people—and LGBTQ2 youth in particular—are vastly overrepresented in the homeless population, with anywhere between 15-40% of homeless youth identifying as transgender or as non-heterosexual (Frederick 2014, 474). This is because many LGBTQ2 people experience multiple risk factors for homelessness at once, including "family conflict, bullying, mental health problems, drug and alcohol use, and physical and sexual abuse" (Frederick 2014, 475). It is important to note that these risk factors are often a direct result of homo-, bi-, and transphobia. Many LGBTQ2 youth report leaving home under threat of violence from family members. Two youths interviewed in Alex Abramovich's "No Fixed Address: Young, Queer, and Restless" report their fathers making death threats against them following their coming-out, causing them to flee their homes (2014, 387 & 390). While the risk factors described above often lead to homelessness, homelessness itself also creates and exacerbates vulnerabilities in LGBTQ2 youth, in the areas of mental health, suicidal behaviour, substance use, sexual and

physical victimization, sexual risk-taking, as well as in discrimination on the basis of sexuality (Matthews et al. 2018, 234).

LGBTQ2 people are particularly vulnerable to street homelessness because they are largely **unable to access temporary shelters** due to pervasive homo-, bi- and transphobia within the shelter system. This is because LGBTQ people are sometimes singled out for violence within the shelter system. One frontline worker at Turning Point—a shelter in Toronto, Ontario—describes a gay youth being subject to a "'pretty brutal beating'" in their facility due to his sexual orientation (qtd. in Abramovich 2014, 393). Such incidences are sometimes ignored or overlooked by shelter staff "who are too exhausted to intervene" (Abramovich 2014, 393). Moreover, binary and cissexist understandings of gender mean that trans and gender non-conforming people cannot safely or comfortably access shelters, particularly if these shelters are segregated by gender. Dorms in many shelters are divided into men's and women's dormitories or cater exclusively to one gender, with no policies in place to accommodate individuals who do not fit neatly into binary categorizations of male and female (Frederick 2014, 489).

This is particularly problematic for transgender individuals, whose bodies and genders are often seen as incongruent due to transphobic understandings of gender and sex. This issue is perhaps best illustrated by the arrest of a trans woman in post-Katrina New Orleans, who spent four days in jail for taking a shower in a 'women's-only' emergency shelter (Gorman-Murray et al. 2015, 250). Trans individuals are also more likely to experience violence within the shelter system. A participant interviewed in Denomme-Welch et al.'s "Invisible Men: FTM and Homelessness in Toronto" describes avoiding men's shelters altogether because "'there's a chance that [he] might get raped or beat up there if [he] use[s] the washroom'" (2008, 36). Additionally, transgender people often report being misgendered, experiencing differential or discriminatory treatment, as well as fearing for their personal safety while trying to access temporary shelter

(Connery 2014, 68). Due to the criminalization and marginalization of non-normative gender identities and sexualities, LGBTQ2 people often give up on accessing temporary shelter altogether, living and sleeping outdoors instead. Due to the alarmingly high rates of LGBTQ2 homelessness, as well as the inability of many LGBTQ2 people to access temporary shelter, it is imperative that alternatives (such as access to permanent supportive housing) be in place in order to mitigate the enormous amount of suffering experienced by this population.

LGBTQ2 people's distrust of the shelter system can connect with **general distrust of social supports**, manifest in an unwillingness to access resources, policing, or mental health services due to fears of violence and discrimination. This fear is particularly acute for queer youth, as many social services are only available to people over a certain age (typically 16-18 years), with younger LGBTQ2 people often being returned to potentially homo- and transphobic families, group homes, or foster care placements instead (Frederick 2014, 480). In order to avoid this, queer youth will rely on informal, and largely inadequate, networks of support. Moreover, despite experiencing extremely high rates of sexual and physical assault, LGBTQ2 may avoid police services due to pervasive homo- and transphobia within the police force, as well as the fear of being revictimized by police (Guadalupe-Diaz & Jasinski 2016, 4). These fears may be particularly acute for Indigenous LGBTQ2 people, as they are disproportionally targeted by police, as well as overrepresented in Canada's prisons (Office of the Correctional Investigator 2021). It is important to note that these fears are neither irrational nor unwarranted, as LGBTQ2 people often experience discrimination by police officers, and trans women who are survivors of abuse are frequently arrested in instances of intimate partner violence because police wrongfully assume that they are perpetrators of such violence (Guadalupe-Diaz & Jasinski 2016, 14).

Additionally, despite high rates of mental health issues, substance use disorders, and suicidal ideation among LGBTQ2 people, they are less likely to access mental health services than

their heterosexual counterparts due to fears of pathologization and discrimination. LGBTQ2 people can experience the mental health system as "controlling and oppressive" as LGBTQ2 identities are still understood by some as deviant, with the system generating "stigmatizing labels" such as Gender Identity Disorder (Frederick 2014, 490). While it is important that social supports and health systems be reformed to ensure they are welcoming of LGBTQ2 people, such reform is not in itself a substitute for the provision of adequate and stable housing. Additionally, it is vital that this housing is designed in such a way that LGBTQ2 people are able to trust the system and the people working within it, so they will not be deterred from access.

Another significant site of vulnerability for LGBTQ2 people is **economic precarity and workplace discrimination.** The economic precarity of LGBTQ2 youth is related to the high rates of homelessness, as homeless youth are far less likely to have a high school education and previous work experience, making finding a job very difficult (Frederick 2014, 477). Additionally, the conditions of homelessness make securing legal work all the more difficult, as homeless queer youth—and homeless people generally—do not have a home address to put on job applications, may have little or no work-appropriate clothing, as well as no government identification (Karabanow et al. 2010, 54). Homeless youth are also more likely to suffer from inadequate nutrition and sleep, as well as from extreme stress, making maintaining a job quite difficult if they are able to secure one (Frederick 2014, 478). Due to these barriers to finding and maintaining legal work, homeless queer youth often engage in sex work to earn money, resources (such as food or clothing), or shelter. Gay and bisexual men, for example, are significantly more likely to engage in survival sex than their heterosexual counterparts (Walls & Bell 2011, 425).

LGBTQ2 people can also experience unemployment due to homo- and transphobia. While 25.1% of cisgender LGBQ people report workplace discrimination on the basis of their sexual orientations, 50% of transgender people report workplace discrimination on the basis of their

gender identity (Kattari et al. 2016, 437). This discrimination is often compounded by racism, as the unemployment rate of transgender people of colour is four times as high as that of the general population, and twice as high as that of white transgender people (Kattari et al. 2016, 432). Due to pervasive workplace discrimination, LGBTQ2 are often denied employment, or must quit their jobs due to the insufferable conditions of many work environments. These barriers to obtaining and maintaining work can lead to experiences of economic precarity and poverty among LGBTQ2 people, which makes finding a home in the private rental market all the more difficult.

As I have briefly touched on earlier in this report, LGBTQ2 people face **high rates of victimization**, and are more likely to be targeted for physical and sexual assault than their heterosexual counterparts. This is often the case in romantic partnerships, as LGBTQ2 people face alarmingly high rates of intimate partner violence or IPV (Guadalupe-Diaz & Jasinski 2016). Systemic oppression functions as the scaffolding for such violence, wherein "homophobia, heterosexism, and transphobia structurally disadvantage LGBT victims and also foster opportunities for abuse to rely on that power structure" (Guadalupe-Diaz & Jasinski 2016, 2). Systemic oppression structurally disadvantages LGBTQ2 survivors, as pervasive homo- and transphobia within the shelter system and policing limit pathways out of abuse. Additionally, abusers frequently rely on and exploit feelings of internalized homo- and transphobia in their victims in order to keep them in abusive relationships; they use negative stereotypes about LGBTQ2 people in order to convince their victims that they unlovable, and therefore unable to find another romantic partner.

This is why it is of vital importance that LGBTQ2 people are able to access social and affordable housing, because without access to shelters, help from law enforcement, or the resources to secure housing in the private rental market, LGBTQ2 survivors of abuse are often left

with nowhere else to turn. Moreover, a 2019 study conducted by Petering et al. demonstrated that rates of physical assault among LGBTQ2 decreased after they accessed social housing. This is likely because being stably housed reduced their exposure of to perpetrators of violence, and because it enabled them to spend less time on the street in "high-risk neighborhoods" (Petering et al. 2019, 6). While rates of assault decreased, they remained high overall (Petering et al. 2019, 7), speaking to the need for other methods of intervention, in addition stable housing for LGBTQ2 people.

As discussed above, LGBTQ2 people are far more likely experience **mental health-related issues** than their heterosexual peers, including substance use disorders, depression and anxiety, and suicidal ideation. These mental health-related issues can be partially attributed to homophobia and the societal rejection of queer people, factors that have been found to have a "have a significant psychological impact" (Frederick 2014, 475). Moreover, these existing mental health issues are worsened by the conditions of homelessness, with homeless LGBTQ2 people experiencing higher rates of both suicidal ideation and substance use (Matthews et al. 2018, 234). Queer women in particular face a number of mental health-related issues, reporting higher rates of self-harm, suicidal ideation, and suicide attempts than heterosexual women, which may correlate with the high levels of sexual and physical abuse experienced by queer women (Lyons et al. 2019, 2). The mental health issues experienced by LGBTQ2 people should be of particular concern to those working in the housing sector, as homelessness exacerbates mental health issues, while the presence of mental health disorders make exiting homelessness and sustaining housing more difficult (Ecker et al. 2018, 305).

LGBTQ2 people are also more likely to suffer from substance use disorders than their heterosexual counterparts. This is can be partially attributed to the culture of drug and alcohol use in LGBTQ2 communities, and to alcohol and other drugs being used by queer folks in order

"to escape or avoid experiences of sexual minority stress such as family rejection, stigma, and discrimination" (Mericle et al. 2019, 793). A 2018 study of methamphetamine use among men who have sex with men (MSM) found a direct correlation between drug use and unstable housing, positing that "methamphetamine is commonly used in the context of unstable housing as a means of survival or emotional coping" (Li et al. 2018, 183). The stress of being unstably housed can be unbearable, and many LGBTQ2 people turn to alcohol and other drugs in order to cope (Glick et al. 2019, 755) in the absence of trustworthy social services. In examining the ways in which both mental health issues and substance use disorders worsen in the context of unstable housing, it becomes clear that social and affordable housing *must* be accessible to LGBTQ2 people, as a lack of adequate housing inevitably propels this population towards suffering and death.

Another significant health concern for those in the LGBTQ2 community is HIV/AIDS. Queer people generally, and low-income queer people in particular, face significant risk for HIV transmission. This is largely because impoverished LGBTQ2 people are more likely to rely on sex trade work for their survival (Teengs & Travers 2006, 18). Even subgroups within the LGBTQ2 community who are assumed to be of low risk for HIV infection, such as gay and bisexual women, remain vulnerable to HIV infection due to intravenous drug use, sex with men, and pervasive sexual violence (Logie et al. 2012, 1). Sexual risk-taking (i.e., having sex without a condom) has also been identified as a strategy to cope with housing stress, which further opens up LGBTQ2 people to the risk of contracting HIV. That said, LGBTQ2 living with HIV who were stably housed were found to have far better health-related outcomes than their homeless or unstably housed peers, as they were more likely to achieve viral suppression (Glick et al. 2019, 765), were less likely to engage in HIV-related risk taking behaviours, and were more likely to adhere to anti-retroviral therapy (Ecker et al. 2018, 315). This evidence suggests that housing is a vital part of the healing process for LGBTQ2 populations.

The final site of vulnerability for LGBTQ2 people is **old age**, as it is in later life that LGBTQ2 people are more likely to be placed forms of housing with communal living. Many LGBTQ2 seniors express fear over the prospect of entering into a facility where their sexual orientations and gender identities are not readily accepted and describe anxieties about being "unaccepted by other residents" (Sullivan 2013, 235). Many seniors discussed friends who had to return to the closet in majority heterosexual facilities, friends who felt that they needed to hide their "true selves from their neighbors" and isolate themselves from others (Sullivan 2013, 242). Additionally, these LGBTQ2 seniors expressed an unwillingness or inability to closet themselves at this stage of their lives (Sullivan 2013, 242). These sentiments described by LGBTQ2 seniors perhaps points to the need to offer social housing to these seniors as an alternative to potentially homo- or transphobic care facilities, should these seniors have the ability to live independently. Moreover, they may indicate the value of LGBTQ2-specific (or, at the very least, LGBTQ2-affirming) housing.

While feelings of 'home' and 'community' are important for all people regardless of sexual orientation or gender identity, they are especially meaningful for LGBTQ2 people, as they provide a respite from a broader society that is often hostile to queer existence. Queer homes and communities often operate "as a site, source, and process of resilience in heteronormative societies that are routinely discriminatory and potentially violent" (Gorman-Murray et al. 2015, 238). These spaces allow LGBTQ2 people to manage intrusion from the heterosexual and cisgender public, and allow for the collective or individual expression of marginalized sexual and gender identities (Gorman-Murray et al. 2015, 253). LGBTQ2-specific places, therefore, "have emotional and psychological importance as empowering places in a 'straight' world" (Hulko 2018, 108). Moreover, LGBTQ2 youth living in LGBTQ2-specific housing reported feeling more confident in their gender and sexual identities than they did in other forms of housing (Abramovich

& Kimura 2019, 9-10), as well as a higher level of safety in their day-to-day lives (Abramovich & Kimura 2019, 15). These findings point to importance of being housed in a space where LGBTQ2 feel safe and comfortable in expressing their identities, and indicate the need for LGBTQ2 to have control over where they are housed.

Throughout their lifetimes, LGBTQ2 people are faced with myriad vulnerabilities, which include, but are in no way limited to: homelessness; the inability to access temporary shelter; the failure of multiple social systems; economic precarity; workplace discrimination; housing discrimination; high rates of physical and sexual victimization; health issues and dis/ability; and old age. These vulnerabilities are created through structural inequality, interpersonal violence, and policy failure—among which includes the failure to provide adequate housing for LGBTQ2 people. All of the vulnerabilities mentioned above can be mitigated if LGBTQ2 people are able to access housing, particularly housing that affirms their identities. Social and affordable housing allows queer people to lead more fulfilling, comfortable, and secure lives, and should therefore be considered a first step on a long road towards LGBTQ2 equality.

3. LGBTQ2 Seniors' Housing

3.1 Services and Advocacy for GLBT Elders (SAGE)

Services and Advocacy for GLBT Elders—or SAGE—is an American organization focused on protecting and supporting LGBT elders. SAGE engages in myriad forms of advocacy work: educating policy makers about LGBT aging issues; publishing policy briefs, research papers, and infographics concerning the LGBT elder population; and integrating these elders into broader policy conversations. In addition to this advocacy work, SAGE has also launched the National Resource Centre on LGBT aging. The Centre regularly publishes new information on issues of LGBT inclusion, caregiving, elder abuse and neglect, healthcare and health insurance, financial security and retirement, housing, and HIV/AIDS. Furthermore, SAGE operates various services and centres across New York City, where it is headquartered. A SAGE centre is located in each of the five boroughs, and provides local LGBT services including: free or low-cost meals; organizing social and cultural events; facilitating support groups; organizing home visits for elders with less mobility; and facilitating access to health, financial, and social services. SAGE also operates a 24/7 crisis hotline.

The right to housing is of major concern for SAGE. Their National LGBT Elder Housing Initiative is focused on building LGBT-friendly seniors housing in New York City, and helps other organizations build LGBT-friendly housing across the United States. Additionally, the Initiative advocates against housing discrimination experienced by LGBT elders, and educates elders about their housing rights. Finally, it provides competency training for LGBT care providers, such as skilled nursing facilities, health care organizations, assisted living communities, hospice and palliative care facilities, long-term care communities, and home health providers.

This competency training serves as a way of evaluating the inclusivity of various facilities, and bestowing care providers with "SAGECare credentials" upon completion of training. This

training is focused on defining the basics of LGBT identity; sharing the lived experiences of LGBT elders; providing care workers with skills for working with LGBT elders; and describing best practices across programming, policy, marketing, and staff/board recruitment. Bronze-level SAGECare credentials are offered to facilities wherein 25% of staff attend one hour's worth of competency training, either in-person or digitally. Care providers can receive the Silver-level SAGECare credential for requiring 40% of their staff to participate in a one-hour training workshop, and requiring that 40% of their administrative or executive board participate in one four-hour training session. Gold-level SAGECare credentials are awarded to facilities that require 60% of their staff to take a one-hour workshop. Gold-level facilities must also require that 60% of their administrative or executive board attend a four-hour workshop. Finally, care providers can obtain Platinum-level status by requiring that 80% of their staff attend a one-hour workshop, as well as requiring 80% of their administrative or executive board to attend a four-hour workshop. All training must be completed on an annual basis.

While I contend that the SAGECare credentials are a good *first* step towards creating inclusive and affirming housing for LGBT elders, this program is largely inadequate in ensuring the comfort and safety of this population. Because SAGECare *never* requires that the entirety of a facility's staff participate in a training workshop, it is impossible to ensure that all caregivers will receive the benefits of the competency training. Consequently, up to 75% of a facility's staff (if educated at the Bronze level) may remain uneducated about LGBT issues. Moreover, SAGECare never requires residents to participate in training, although they may also perpetrate homo-, bi-, and transphobia. Furthermore, the training offered through SAGECare is inadequate in itself, as one to four hours hardly represents enough time to thoroughly investigate the diverse hardships and needs of the LGBT seniors' population. Finally, as the current system does not include a follow-up evaluation of the facility after the training has been delivered, it is impossible to ensure

that the recommendations made during the workshops are being implemented. As such, care providers are in no way accountable to SAGE or to the LGBT elders they serve. Ultimately, these SAGECare credentials provide the illusion of a safe and inclusive care facility, while in no way guaranteeing that this is the case.

That said, the idea of evaluating a care provider based on the inclusivity of their facility is certainly a good idea. The SAGECare credentials system (and other systems like it) could be rendered more effective if they included mechanisms of accountability (e.g. follow-up visits by training facilitators). Follow-up visits should also include discussions with LGBT elders to ensure that they feel safe and comfortable, and are satisfied with the training provided. If the care provider were to 'fail' this follow-up evaluation, more training or further action should be required. Moreover, *all* staff and residents should be required to participate in the SAGECare training, as it is *all* members of a given care facility that interact with the LGBT elders living there. Finally, the training for the SAGECare credentials should be thorough (perhaps including multiple one to four-hour sessions) and ongoing, as opposed to attendees being required to remember one training session for the entire year.

3.2 Égale

Similar to SAGE, Égale—a Canadian advocacy organization for LGBTQI2S people— offers competency training for the corporate and public sectors. However, unlike SAGE, Égale also offers training for schools and police forces on LGBTQI2S issues. For the corporate and public sectors, Égale offers one-hour presentations on LGBTQI2S identities and inclusion; two-hour workshops on identity and the benefits of workplace inclusion; and a three-hour Human Resources Professional Association-approved workshop which teaches various structures, skills, and behaviors that can make workplaces safer and more welcoming for LGBTQI2S people. For schools, Égale offers training that provides students and teachers with strategies for creating safer schools by

enabling them to address homophobia, biphobia, and transphobia with confidence. This training is designed to facilitate a more profound understanding of how phobias can compromise a student's safety and success at school. As Égale already offers training to various sectors on LGBTQI2S issues, I believe they could implement an evaluation system similar to SAGECare. That said, if Égale were to carry out an evaluation system, it is crucial that they integrate the recommendations outlined above to ensure that the evaluation of care providers, schools, and workforces be as accurate as possible.

In addition to their various training programs, Égale also operates Friends of Ruby, a drop-in space for LGBTQI2S youth. At Friends of Ruby, youth can receive free one-on-one counselling; aid in accessing housing, employment, and healthcare; as well as free meals. Égale plans to open a transitional housing centre for LGBTQI2S youth in 2020, in order to cater to the specific needs of that population, and ensure that LGBTQ2IS youth are not subject to homo-, bi-, or transphobia within the shelter system.

3.3 Existing LGBT seniors housing

In the United States, LGBT-focused seniors housing has begun to pop up across the country. This comes as a relief to many LGBT elders, as many have experienced homophobic discrimination in predominately heterosexual facilities (Winerip 2014; SAGE). In many long-term care facilities, LGBT seniors feel that they cannot be open and proud about their identities due to persistent discrimination, with only 22% of all LGBT seniors in a recent American survey feeling that "they could be open about their LGBT identities with facility staff" in long-term care facilities (SAGE, 1). Moreover, 89% of elders polled in that survey believed that staff would discriminate against them on the basis of their sexual orientation or gender identity, while 43% reported incidents of mistreatment by staff (SAGE, 1). These statistics suggest that LGBT-focused seniors facilities are desperately needed in order to ensure that our LGBT elders can age in safety and comfort.

The first LGBT-focused seniors housing facility in the United States was Triangle Square Apartments in Los Angeles, CA, which opened in 2007 (SAGE, 17). It is important to note that Triangle Square Apartments and facilities like it are LGBT-*focused*, but not LGBT-*specific,* as "renting or selling to only LGBT people can violate fair housing laws" (SAGE, 5). However, Triangle Square Apartments' 104 units are filled with majority (70-80%) LGBT seniors (SAGE, 17). Triangle Square Apartments was designed to serve the most vulnerable members of the LGBT population, with 35 of its units being reserved for persons living with HIV or AIDS, as well as people who are either homeless or at risk of becoming homeless (SAGE, 17). Furthermore, 20% of the units in Triangle Square Apartments are reserved for individuals at or below 60% of the Area Median Income (SAGE, 17). Triangle Square Apartments provides its residents with services in addition to housing, teaming up with the Los Angeles LGBT Center to provide behavioral health services, legal assistance, and healthcare (SAGE, 18).

The next LGBT-focused seniors housing complex in the United States would not open for another six years, with Spirit on the Lake Apartments in Minneapolis, MN opening in 2013 (SAGE, p.20). The building was founded by Barbara Satin, a transgender activist and Assistance Faith Director for the National LGBTQ Task Force, who believed that there was a vital need for housing focused on the needs of LGBT seniors (SAGE, 19). Much like Triangle Square Apartments, Spirit on the Lake Apartments does not exclusively cater to LGBT elders, with only 65% of its residents identifying as LGBT (SAGE, 19). Nonetheless, it was created with LGBT interests in mind, evidenced by the fact that Quatrefoil—an LGBT library—graces the building's first floor (SAGE, 20). Spirit on the Lake Apartments are also designed with more vulnerable members of the LGBT community in mind, with all of its units being income restricted to those at 50% or below the Area Median Income (SAGE, 19). The facility was originally intended to be a cooperative housing project, but the 2008 financial crash made this an impossibility (SAGE, 20).

The John C. Anderson Apartments opened in Philadelphia, PA in 2014 (SAGE, 28). Much like its predecessors, the John C. Anderson Apartments are income restricted, with all of its units being reserved for those at 60% and below the Area Median Income (SAGE, 28). Similarly, it provides far more than just housing: it includes an onsite community room and library, LGBT-centric programming for residents, and varied social and support groups. The facility is well-loved by its residents, as it allows LGBT elders to form friendships and communities. Resident Denise Samen says she loves the John C. Anderson Apartments because "[y]ou don't have to explain yourself…[y]ou don't worry about anyone putting you down" (cited in Winerip, 2014). Resident Michael Palumbaro echoes Samen's statement, saying that he has made "a nice little group of friends" at John C. Anderson Apartments, and feels grateful that he can discuss his T-cell without having to explain himself (cited in Winerip, 2014). In this sense, the John C. Anderson Apartments represent not only a roof over one's head, but a space where LGBT elders are free to be themselves without judgement or hesitation.

In 2014, the Town Hall Apartments opened in Chicago, IL (SAGE, 14). The Town Hall apartments are similar to other facilities of its kind in that it has units reserved specifically for low-income folks and a majority of residents identify as LGBT (SAGE, 14). It is unique, however, in having included a 'harassment addendum' in its leases. This addendum stipulates that "harassment of any resident is grounds for eviction" (SAGE, 15). While it is worthwhile being skeptical of a policy that may render some residents homeless, it is equally possible that the mere addition of such an addendum on the lease will deter residents from engaging in homo-, bi-, or transphobia against their LGBT neighbours.

Finally, the OpenHouse Community at 55 Laguna in San Francisco, CA opened in 2017 (SAGE, 31). It is the most recent LGBT-focused seniors housing development to open in the United States. Much like the LGBT seniors facilities to open in other American cities, the OpenHouse

Community is largely reserved for low-income people, as residents' income cannot exceed 50% of the Area Median Income (SAGE, 32). Additionally, eight units in the building are reserved for people who are currently or formerly homeless (SAGE, 32). No new LGBT-focused seniors facilities have opened since 2017, despite all of the facilities listed above having wait lists in the hundreds.

Two facilities in New York City—the Crotona Park Seniors Residences in the Bronx, and the Ingersoll Senior Residences in Brooklyn—were slated to open 2019 (SAGE, 22-25), but remain under construction. The reason for their delay in opening is unclear. Additionally, two dozen more LGBT-focused seniors housing facilities have been planned in the last decade, but were never built, due to the "collapse of the real estate market" in 2008 (Winerip, 2014). It is obvious that there is a demand for this kind of housing, not only because of the sheer number of facilities that have been planned, but also because all existing facilities contain both long wait lists and very happy residents. It is imperative that more LGBT-focused seniors housing be built and opened in a timely manner in both Canada and the United States, so that all the LGBT seniors waiting for housing and suffering in homophobic facilities can finally have a safe and affirming place to call home.

4. Universal Design and Accessible Housing for LGBTQ2 People with Disabilities

When discussing the inclusion of LGBTQ2 people in housing, and collective efforts to build housing that affirms LGBTQ2 identities, it is important to acknowledge that no one is ever *just* queer, and that LGBTQ2 people are often marginalized in ways other than their sexual orientation. For example, we must acknowledge that housing will remain inaccessible to many members of the queer community if it is not made accessible to people with disabilities. For housing to be truly accessible to queer Canadians, it must not only be free of homo-, bi-, and transphobia, but free of barriers to access and ableism. Principles of universal design (UD), which are emphasized in the *National Housing Strategy*, should be applied in social and affordable housing to ensure that all LGBTQ2 people—including those with physical disabilities, psychiatric disabilities, intellectual or cognitive disabilities, substance use disorders, HIV/AIDS, and chronic illnesses—can access these facilities and make them their home.

It is impossible to achieve equitable housing for LGBTQ2 people while failing to consider the issue of disability, as "disability is not separate from other forms of oppression; rather it is interlocked with and overlaps them" (Withers 2012, 98). For example, if LGBTQ2-focused housing is built without ramps, wayfinding, or addiction treatment programs, this housing will remain inaccessible to many members of the LGBTQ2 population – including wheelchair users, many seniors, people with limited eyesight or blindness, and those who use drugs. Moreover, LGBTQ2 people with disabilities make up a substantial portion of queer people, in part because "disability [is] the one identity category that all people will embody if they live long enough" (McRuer 2002, 96). A failure to render LGBTQ2 housing accessible to queer people with disabilities ultimately represents a failure to provide adequate housing for queer people.

LGBTQ2 equality cannot come at the expense of disabled LGBTQ2 people, and its realization will not be possible without them.

LGBTQ2 housing ought to counter the disabling effects of ableism. According to the social model of disability, as conceived by the Union for the Physically Impaired, disability "'is something imposed on top of our impairments by the way we are unnecessarily isolated and excluded from full participation in society'" (cited in Withers 2012, 86). In short, disability emerges from the marginalization of people with impairments. Through the application of UD, affordable housing can counter this marginalization by ensuring that all people are able to access housing and the community found within it. Housing that is designed to be accessible to people of all abilities can work to counter "barriers that are 'wholly social in origin'" (Withers 2012, 94); whether those barriers emerge from a lack of physical aids, an absence of support, or from societal homophobia.

According to Ron Mace—the founder of the Center for Universal Design—universal design is "'the design of products and environment to be useable by all people, to the greatest extent possible, without the need for adaptation or specialized design'" (cited in Crews & Zavotka 2006, 116). This broad definition enables principles of UD to be applied in all manner of ways, within all different kinds of facilities. While UD usually manifests in the form of physical accommodations, such as adjustable counter heights, automated doors (Maisel & Ranahan 2017), and roll-in or walk-in showers (Crews & Zavotka 2006, 116), this concept can be expanded to include all manner of accommodation. In the application of UD in housing, it is vital to recognize that "[a]ccess doesn't begin at the front door" (Withers 2012. 118), and that geographic location and proximity to services be considered when building accessible housing. The goal of universal design should not be to ensure that every single building can fulfill all the individual needs of every single person, as this is an impossible task, but rather, to ensure that each city's housing

stock is (in aggregate) able to meet the unique needs and desires of its residents, including LGBTQ2 persons of all abilities. The goal of UD should not be standardization, but rather, creative and flexible accommodation. The specific disabilities embodied by LGBTQ2 people, as well as our subsequent housing needs, will be discussed later in this report.

While UD must go beyond physical accommodations and mobility aids to render housing accessible to all members of the LGBTQ2 population, the design of housing is still of vital importance, and should not be neglected as other accommodations are considered. Features such as ramps, elevators, railings, and low countertops and light switches are of vital importance, and ensure that wheelchair users, non-ambulatory people, and people with limited mobility are able to navigate their homes with relative ease. They also ensure that LGBTQ2 seniors will be able to remain in their homes as they age, and will not be forced into care facilities where they may be subject to homo-, bi-, or transphobia. As seniors experience increased impairment, categorized by "decreased mobility, strength, and responsiveness to external and internal stressors", they rely more and more on the physical accommodations that have come to define universal design (Crews & Zavotka 2006, 114).

Although physical accommodations and mobility aids are crucial, and ought to be included in every building, it is equally important for LGBTQ2 housing to be inclusive of and accessible to LGBTQ2 people with psychiatric disabilities and/or substance use disorders. As such, LGBTQ2 housing should not only include accommodations such as ramps and elevators, but also case workers and treatment programs. These accommodations are particularly important, as LGBTQ2 people are more likely to experience psychiatric disability or mental illness (Frederick 2014) and substance use disorders (Mericle et al. 2020) than their heterosexual counterparts. Both market and affordable housing may be inaccessible to LGBTQ2 people with psychiatric disabilities and substance use disorders if these forms of housing cannot provide them with the kinds of supports

they require. As such, permanent supportive housing (PSH) should be considered a viable option for these people, and more units of PSH should be built in order to accommodate LGBTQ2 people.

Many PSH sites offer their tenants "meals, peer support programs, case management, social activities…[and] mental health or health/medical services" (Homeward Trust 2017, 3). These services render housing accessible to LGBTQ2 people who may be unable to manage their mental health without support, or who may benefit from aid in navigating their addictions. Crucially, engagement with these services is voluntary and are not a condition of tenancy, which means that LGBTQ2 people will not be subject to treatment against their will (Homeward Trust 2017, 3). Moreover, PSH ensures that they are more likely to remain housed, as there are mechanisms in place to "ensure housing stability and retention and mitigate risks of eviction" (Homeward Trust 2017, 5).

PSH can also serve as an alternative to incarceration for LGBTQ2 people with psychiatric disabilities or substance use disorders. People with psychiatric disabilities are incarcerated at an alarming rate, with "approximately 283,000 persons with 'serious mental illness' incarcerated in federal and state prisons" in the United States, and an additional 70,000 people being housed in public psychiatric hospitals (Rembis 2014, 139). Furthermore, some of the largest inpatient psychiatric facilities in the United States are prisons (Rembis 2014, 139). Disability activists and abolitionists have fought long and hard for deinstitutionalization, and advocate for the importance of "non-institutional living", arguing that "[d]ependence is not inevitable or inherent in [disabled] populations" (Ben-Moshe 2014, 264). PSH represents a housing option that allows LGBTQ2 people with psychiatric disabilities and substance use disorders to live outside of institutions while still receiving the support they may require, for however long they may require it.

That said, for permanent supportive housing to fill this need, the construction of many more PSH units will be required. When Edmonton's Plan to End Homelessness was launched in 2009, the city made a commitment to build 1,000 new PSH units over the course of five years (Homeward Trust Edmonton 2017). However, as of 2017 (eight years after the Plan was launched), only 200 units had been developed (Homeward Trust Edmonton 2017). This is despite the fact that "[d]emand is very high for permanent supportive housing units", as the Plan estimates that "more than 900 new permanent supportive housing units will be required over the next six years to end homelessness" in Edmonton (Homeward Trust 2017, 4). These numbers do not account for all the people with disabilities who are released from prisons and psychiatric facilities every year; people who will require PSH to support them in this transition. In order for housing to be meaningfully accessible to LGBTQ2 people with psychiatric disabilities and substance use disorders, this housing must first exist. One way to ensure that housing is "useable by all people, to the greatest extent possible" is to advocate for the construction of PSH.

As mentioned earlier in this report, in developing housing for LGBTQ2 people—including those with various levels of ability and impairment —we must ensure that "access doesn't begin at the front door" (Withers 2012, 118). Meaningful accessibility requires considering what programs, supports, and accommodations make housing possible, but also where this housing is located. As argued by disability activist A.j. Withers (2012), if an 'accessible' building is "downtown, but transit is expensive and I don't have money, or if I am a Black man and the streetcar refuses to stop to let me on, or if I am a wheelchair user and the streetcar is not physically accessible to me, that building is not universally accessible" (118). To elaborate on Withers' point, if housing is built for LGBTQ2 people with disabilities, but this housing is not near the LGBTQ2 non-profit where many residents receive counselling, or near one of the safe-injection sites that some depend on every day, or near the hospital where others receive treatment for HIV,

or in a neighborhood where queer people feel safe from violence, then that housing is not accessible. This is why it is vital that LGBTQ2 housing not only provides that aids and supports that people with disabilities require, but that it is near services, transit, and community that queer people need to live fulfilling and satisfying lives.

5. Gentrification in 'Gaybourhoods'

The definitions for 'gaybourhood' (otherwise known as gay ghettos, gay villages, and gay neighbourhoods) are multiple, and often vary depending on who you ask. Sociologists and geographers tend to define gaybourhoods as spaces with "a distinct geographic focal point" that can be easily pointed out by citizens of the city in which it is located, and are typically confined to one or two main streets (Ghaziani 2014, 2). Following this definition, gaybourhoods must also possess a 'unique culture' created by the gay, lesbian, bisexual, and trans people who reside within them, as well as commercial spaces to serve the needs of this population (Ghaziani 2014, 2). These commercial spaces can range from services (such as nonprofits, HIV treatment facilities, and community centres) to gay-owned bars, clubs, and bookstores (Ghaziani 2014, 2). It is important to note that many of the nonprofits and HIV treatment facilities which have come to define gaybourhoods were founded during the HIV/AIDS epidemic of the 1980s. In cities like Toronto, where provincial and federal governments were responsive to the crisis, funding was funnelled into the gay village to create and support services such as the AIDS Committee of Toronto (ACT), Casey House, and 519 Church Street; services that remain in Toronto's gay village to this day (Nash & Gorman-Murray 2015, 92).

Gaybourhoods were sometimes defined as "'cities within cities'" wherein LGBTQ2 people could fulfill "a substantial share of their daily commercial needs" without leaving their neighbourhood (Hess 2019, 232). This definition was primarily employed by scholars in the 1960s and 1970s, before the businesses and services within gaybourhoods were eroded by capitalist expansion, and before LGBTQ2 people could frequent straight-owned business and services without fear of persecution (Hess 2019, 232). It was employed before gaybourhoods had turned into cultural meccas for straight and queer patrons alike, and when their primary purpose was providing security and privacy to their residents who desperately needed a respite from the

broader homophobic society (Hess 2019, 232). The 'cities within cities' definition is now used less frequently due to the assimilation and acceptance of (some) queers into mainstream society.

Although gaybourhoods are rarely defined as sites for political organizing, this is an important and enduring function. As noted by sociologist Amin Ghaziani, gaybourhoods "provide a platform from which gays and lesbians can organize themselves as a voting bloc, if they seek to work within the system, or as a social movements, if they instead wish to rally against it" (2014, 3). For example, the historic election of Harvey Milk—the first openly gay man to be elected to office in the state of California—can be partially attributed to political organizing within the Castro in San Francisco (Doan & Higgins 2011, 8). As such, gaybourhoods should not be defined exclusively as spaces where gay people live, work, and consume goods and services, but also as spaces where gays express their political agency.

Gentrification has played a role in the formation of gaybourhoods and in some cases, in their subsequent dissolution. Gaybourhoods were initially formed in the 1960s following the economic decline of many inner-city neighbourhoods. Due to disinvestment, gay people could afford to buy property in historically working-class neighborhoods, such as the Castro in San Francisco and Lakeview in Chicago (Gilroy 2018, 5). As a result, the original working-class residents of these neighborhoods were "replaced or displaced" by a massive influx of LGBT people (Gilroy 2018, 5). Upon their arrival, gay gentrifiers began to invest their modest capital into their homes and renovate them, ultimately 'revitalizing' neighborhoods that had been previously considered to be undesirable, and forming gaybourhoods in the process (Doan & Higgins 2011, 9).

Today, many gaybourhoods first developed in the 1960s find themselves in a state of 'advanced gentrification' (Gilroy 2018, 6). The refurbished homes and other amenities (i.e., bars, restaurants, bookstores, sex shops, etc.) built during the initial wave of gentrification have

rendered gaybourhoods desirable for straight homeowners (Gilroy 2018, 6). As heterosexual people move into gaybourhoods, gay-owned businesses shutter (Gilroy 2018, 6), and low- and middle-income LGBT people are forced out of the neighbourhoods they once called home (Hess 232). This stage of 'advanced gentrification' is a vicious cycle; as more and more LGBT people are priced out of their homes, more and more gay-owned business close, meaning that "the institutions that rendered [gaybourhoods] meaningfully gay no longer exist" (Gilroy 2018, 6). Moreover, the more 'mixed' gaybourhoods become, the more desirable they are to high-income straight people, meaning that the cost of living in gaybourhoods continues to rise (Hess 2019, 232). In this sense, gay people functioned as 'early' and 'intermediate gentrifiers'; using their labour and limited capital to render once undervalued neighborhoods attractive to the wider heterosexual populous (Gilroy 2018, 6), who then turned gaybourhoods into the homonormative playgrounds they have now become.

That said, it is important to note that this stage of 'advanced gentrification' happened not only for economic reasons, but also for social and political ones. The rapidity of gentrification in gaybourhoods can be partially attributed to the HIV/AIDS epidemic of the 1980s. For example, in New York City, as gay and bisexual men died of AIDS, heterosexual people began to take over their vacant homes, and these previously rent-controlled apartments shifted to market rates (Hess 2019, 232). As these apartments became more expensive to rent, their tenants tended to become higher-income straight people, as opposed to "members of the LGBT community, artists, or immigrants" who had once populated gaybourhoods (Hess 2019, 232). This example illustrates the ways in which gentrification is not only an economic issue, but a political one. It is entirely possible that with stronger political intervention in the AIDS crisis, men whose lives were lost due to AIDS would still be living in the gaybourhoods they helped build, and in the apartments they shared with their lovers and friends.

Gentrification can be traumatic for anyone who experiences it, as "'[d]isplacement from home and neighborhood can be a shattering experience'" (Marcuse cited in Slater 2006, 747). The gentrification of gaybourhoods can be particularly devastating, however, because these spaces emerged out of a need to escape homo- and transphobia, and were developed to serve the interests of the LGBT community. Moreover, the gentrification of gaybourhoods can be particularly ruinous, as it is the most vulnerable members of the LGBT community who are more likely to be displaced. While select gay homeowners benefit from the rise in real estate values in gaybourhoods (Doan & Higgins 2011, 9), low-income LGBT people who rent — and who arguably need the services and community offered by gaybourhoods the most — are the ones who are forced to leave as gaybourhoods gentrify (Doan & Higgins 2011, 9).

Due to the feminization of poverty, lesbians and queer women are more likely to be forced out of gaybourhoods when rents increase (Nash & Gorman-Murray 2015, 95). The centres that served the needs of queer women and lesbians in the community often follow shortly thereafter (Nash & Gorman-Murray 2015, 95). This is especially true for women engaged in street level sex work—both trans and cis—who are forced out of gaybourhoods not only by increases in property value, but by the puritanical sexual politics of the new heterosexual residents (Ross & Sullivan 610). This is also true for single mothers, who are sometimes lesbians and queer women, and who "tend to be on the lower end of the socio-economic scale due to gendered income disparities" (Fynes 2013,14). As more marginalized and precarious queer people are forced out of gaybourhoods over time, these spaces become increasingly hostile to queer people (Toland 2017, 23). As such, gaybourhoods become less hospitable to gay life and culture—particularly the lives of cultures that are less palatable to the straight public—and are instead transformed into "homonormative commercial street[s] for affluent gay people and heterosexual people to visit and enjoy" (Toland 2017, 23).

The ongoing gentrification of gaybourhoods not only displaces gay residents, but neutralizes the possibility for queer organizing. This is demonstrated by the difficulties faced by queer community organizers in Vancouver's Downtown Eastside. As the DTES gentrifies, venues that once hosted queer events begin to close and relocate (Toland 2017, 51). This renders it more difficult for community organizers to host events for the gay community and bring its members together. Moreover, as more and more people are priced out of a gentrifying DTES, queer community members are less able to drive or take transit into the neighborhood to attend events that do manage to find acceptable venues (Toland 2017, 51). This renders the hosting of queer events (i.e., dance parties, speed-dating nights, concerts and shows) financially prohibitive to organize, ultimately rendering the queer community in Vancouver more diffuse and disconnected (Toland 2017, 51). The more difficult it becomes for the gay community to gather and socialize, the more difficult it is for queer people to organize around their collective interests.

In order to mitigate the devastating effects gentrification is having on gaybourhoods, I recommend that municipal, provincial, and federal governments focus on creating and maintaining affordable housing in gaybourhoods. This will ensure that low-income queer people—people who desperately need the services and social ties located in gaybourhoods—will not be priced out of their homes. Equal measures should be put in place in order to protect the 'anchor institutions' located in gaybourhoods (i.e., bars, bookstore, sex shops, etc.) as well as vital services such as HIV-testing facilities. This is necessary because "the survival of LGBT neighborhoods is contingent upon the continued presence of businesses that cater to the needs of the community" (Doan & Higgins 2011, 15). Gaybourhoods were originally developed so gay people could insulate themselves from societal homophobia, and so they could form relationships, friendships, and community with other gay people. They could continue to serve this purpose if measures were put in place to stall and reverse the negative effects of gentrification in these spaces.

6. Experiences of LGBTQ Refugees and Migrants in the Canadian Housing Sector

Despite the depth of research on the experiences of refugees in the housing sector in Canada (Carter & Osborne 2009; Ferguson & Ferguson 2015; Francis & Hiebert 2014) very little is known about the experiences of LGBTQ refugees in housing. Throughout the literature, the specific needs of LGBTQ refugees—as well as the hardships they suffer and overcome—are largely neglected. Extant research on the housing experiences of LGBTQ people more generally has demonstrated that they are more likely than their heterosexual counterparts to experience homelessness and housing precarity. Therefore, we can assume the same is true for LGBTQ refugees. That said, we should not have to *assume* what kinds of barriers LGBTQ refugees experience in finding and maintaining adequate housing. As such, further research is required to determine exactly what these barriers are, and how researchers and policymakers can begin to address them in order to improve the lives and life chances of LGBTQ refugees.

Most of the research on the experiences of LGBTQ refugees are not focused on their experiences post-settlement, but rather, their experiences in gaining refugee status. In Canada, a great deal of the existing research is devoted to understanding the experiences of LGBTQ refugees with the Immigration and Refugee Board (IRB). The IRB adjudication process is rightfully critiqued by scholars for forcing refugees to 'prove' persecution on the basis of sexual orientation and/or gender identity through the divulsion of trauma (Kahn & Alessi 2018). In order to convince the IRB that their countries of origin are inhospitable, "LGBT refugees and asylum seekers…have reported psychological and physical abuse, blackmail, assault, shunning, corrective rape, forced heterosexual marriage and forced participation in conversion therapy" (Kahn & Alessi 2018, 2).

The adjudication process frequently demands that LGBTQ refugees revisit past experiences of sexual violence, the disclosure of which "sometimes contribute[s] to depression, anxiety, and suicidality" (Kahn & Alessi 2018, 8). By design, the IRB adjudication process requires that LGBTQ refugees recount some of the most painful and terrifying moments of their lives. Following the adjudication, they are often left to deal with the heavy and distressing feelings that characterize the disclosure of trauma with little to no support.

In addition to the divulsion of trauma, the act of 'coming out' to the IRB is often experienced as traumatic in itself. In order to prove that they are being persecuted on the basis of sexual orientation and/or gender identity, LGBTQ refugees must first prove their sexual orientation and/or gender identity to the adjudication board. As such, LGBTQ people are not only required to repeatedly 'come out' to adjudicators, but are encouraged to do so in a way that renders them legible as a LGBTQ person according to Western understandings of queerness (Lee & Brotman 2013, 166). In essence, LGBTQ refugees are often "'compelled to display of perform stereotypical aspects of [their] identity'" in order for their sexual orientation and/or gender identity to be believed by adjudicators (Yoshino cited in Lee & Brotman 2013, 166). This is because IRB adjudicators often do not believe the sexual orientations of gender-conforming refugee claimants (i.e., masculine gay men and feminine lesbians) due to a conflation of gay and trans identity (Lee & Brotman 2011, 249). As such, gay male claimants may feel compelled to conform to stereotypes of gay men as flamboyant, while gay female claimants may conform to stereotypes of lesbians as 'butch' or masculine, in order to achieve status. This process can be both humiliating and degrading, as LGBTQ refugees are forced to repeatedly come out to a group of strangers who subject them to scrutiny and suspicion (Lee & Brotman 2013, 168).

As the adjudication process is extremely strenuous, many LGBTQ refugees experience negative short-term and long-term health outcomes following their meeting with the IRB. Even when refugees were granted refugee status from the Board, many still "experienced a 'crash' in

the immediate aftermath of the claims decision" (Kahn & Alessi 2018, 11). Moreover, many LGBTQ claimants are not awarded refugee status, despite having to go through the traumatic adjudication process. Unsuccessful claimants, having been required to produce concrete evidence of their sexual orientations and/or gender identities, may then be additionally vulnerable in countries that provide little to no protection for LGBTQ people (Kahn & Alessi 2018, 8-9). Little is known about the mental health outcomes of claimants who are not awarded status, but it is easy to imagine the ways in which they are severely negatively impacted by the IRB adjudication process.

Finally, the adjudication process does little to prepare LGBTQ refugees for the pervasive homo- and transphobia they will be subject to upon entering Canada. For example, one interview participant named Rene described his excitement at the prospect of dressing in drag in public now that he lived in Canada (Murray 2014, 28), assuming that this form of gender presentation would be readily accepted here. However, in the span of just a few months, Rene was stopped and aggressively questioned by police multiple times, as law enforcement assumed he was a sex worker (Murray 2014, 28). Rene was outraged to discover he was being "racially and transphobically stereotyped by police" (Murray 2014, 28). Rene's story exemplifies the many ways the adjudication process fails LGBTQ refugees, as adjudication not only traumatizes many of the refugees who must undergo it, but also poorly prepares them from the reality of living in Canada. In short, the existing research on the experiences of LGBTQ refugees in Canada points to the ways in which they are made to suffer in order to enter this country, and are subsequently provided very little support during settlement.

Moreover, oftentimes the criteria through which LGBTQ refugees claim status (i.e., discrimination on the basis of sexual orientation or gender expression) are phenomena that remain common in Canada. That is to say that many LGBTQ refugees are led to believe that Canada is a 'safe haven' for LGBTQ people, only to be subject to the same homo-, bi-, and

transphobic practices here. For example, according to section 8.5.5.1 of the *Chairperson's Guidelines 9: Proceedings Before the IRB Involving Sexual Orientation and Gender Identity and Expression,* a LGBTQ minor can claim refugee status on the basis of "sexual and physical violence; forced medical procedures such as surgery, hormonal therapy, or sexual orientation conversion interventions; or forced confinement", despite the fact that these discriminatory practices continue to occur in Canada. While it is important that LGBTQ minors are able to escape countries where the conditions of existence threaten their lives, it is equally important that they be protected from homo-, bi-, and transphobia (in its myriad manifestations) while living in Canada.

While a great deal of research is focused on the experiences of LGBTQ refugees entering Canada, there is a dearth of information about their experiences during and after settlement, particularly in the housing sector. Research on the experiences of refugees in housing generally points to lower incomes as one of the key barriers in securing adequate housing. The majority of migrants in Canada (63%) report household incomes of less than $30,000, with 15% of migrants reporting an annual income of less than $10,000 (Akter et al. 2013, 24). This is especially true for recent migrants, as 57% of them report annual incomes of less than $10,000 (Akter et al. 2013, 24). This poverty is also racialized, as racialized migrant communities suffer disproportionately in the homelessness and poverty crisis in Canada (Ferguson & Ferguson 2015, 9).

While certain migrants such as Government-assisted refugees (GARs) do receive some public support, such as a monthly allowance for food and shelter, this is typically based on provincial social assistance rates, and still places GARs below the poverty line (Wayland 2007, 18). This support also ceases after one year, or sooner, if the refugee is able to find a job before the year has passed (Wayland 2007, 18). Low incomes and inadequate social assistance—combined with the "losses from rental inventory…at the bottom end of the spectrum" (Francis & Hiebert 2014, 66)—make it very hard for refugees to secure affordable housing. Due to high

rates of employment discrimination (Kattari et al. 2016, 437) and unemployment (Kattari et al. 2016, 432) among LGBTQ people generally, it is easy to imagine that LGBTQ refugees would also experience high rates of poverty, and have difficulty in finding and maintaining affordable housing. However, as the experiences of LGBTQ refugees in housing are largely unexamined, it is impossible to know this for sure.

Due to high rates of poverty among migrant populations, many migrants turn to informal economies in order to supplement their incomes. In fact, only one-third of all migrant households reported being able to "fully cover their household expenses on income earned through formal employment" (Akter et al. 2013, 3). This may be at least partially attributed to the failure of Canadian employers to recognize foreign credentials: "one of the key barriers to employment for recent immigrants" (Tanaescu et al. 2009, 6). Proficiency in the English language was another barrier that migrants faced in securing formal employment. While 71% of migrants with high levels of English language proficiency were employed in the formal economy, only 45% of these migrants were employed full time (Akter et al. 2013, 3). This is compared to a 28% formal employment rate for migrants with 'beginner level' English, of whom just 12% were employed full time (Akter et al. 2013, 3).

Because of these barriers, migrants are forced to participate in informal economies, where they may be subject to "dangerous situations marked by coercion, discrimination, and exploitation from employers who know their employees have few other opportunities" (Akter et al. 2013, 7). In fact, 70% of all workers participating in the informal economy reported poor conditions, characterized by labour law violations, as well as irregular hours and pay (Akter et al. 2013, 3). Participation in informal economies is also associated with negative health-related outcomes, such as increased levels of anxiety and depression (Akter et al. 2013, 7). As LGBTQ people generally experience high rates of employment discrimination and unemployment (as mentioned above), it is likely that many LGBTQ refugees would be forced to participate in informal economies. However,

as no research has been done on this issue in the Canadian context, it is impossible to know if

LGBTQ refugees are forced into informal economies, and to what extent they are exploited

within them.

When migrants are able to enter into the formal economy, they experience extremely

high rates of discrimination. For instance, 56% of all migrants surveyed reported having

experienced discrimination on prohibited grounds (i.e., race, gender, religious affiliation,

disability, etc.) in the workplace (Akter et al. 2013, 22). This discrimination was often

characterized by "aggressive behaviour, physical assault, yelling, threats, or sexual harassment"

(Akter et al. 2013, 3). The aforementioned discrimination could include homo-, bi-, and

transphobia leveled against LGBTQ refugees, but as this was not specified by researchers, it is

impossible to know the rate and kind of discrimination experienced by LGBTQ refugees.

The barriers to employment experienced by refugees, as well as their participation in

informal economies, is particularly troublesome, as "[e]mployment that provides a reasonable and

progressive income is crucial to improving housing trajectories" (Carter & Osborne 2009, 312).

Affordable and adequate housing is a crucial component of the settlement process for refugees,

as it provides them "a basis from which [to] look for jobs, language training, and other services

they need to get established in their new country" (Carter & Osborne 2009, 309). Unfortunately,

the existing research indicates that refugees face substantial difficulty finding adequate housing.

Despite the fact that permanent residents (of which GARs and privately-sponsored refugees are

included) are eligible for social housing in the provinces of Alberta, British Columbia, Ontario, and

Quebec, this resource remains largely inaccessible to them due to prohibitively long wait-times

(Ferguson & Ferguson 2015, 9; Kissoon 2015, 167). Because of the extremely limited supply of

social housing units, refugees are frequently pushed into the private rental market, where they

are met with high rents and low-quality units (Murdie 2008, 3). Additionally, within the private

rental market, landlords often exploit migrant tenants; renting out units in need of major repair,

refusing to resolve issues such a mould, failing to heat units consistently, and refusing to return damage deposits (Vink & Ball 2017, 12-13).

Refugees also experience general discrimination in housing. In a study of the housing experiences of immigrants and refugees living in Vancouver, British Columbia, many participants reported that they were denied housing due to their status, as landlords often assumed that refugees have no jobs, no means of paying rent, or have experienced violence in their home countries (Hiebert et al. 2009, 8-9). Other refugees reported feeling that they were denied housing due to their family size (including the fact that they had children), their old age, their disability, their race, or because of their culture (Vink & Ball 2017, 24). Throughout the research, however, the ways in which LGBTQ refugees may be targeted by homo-, bi-, and transphobic discrimination went unexamined. This is unfortunate, as it is very likely that LGBTQ refugees would experience discrimination in the private rental market, as LGBTQ people generally experience high rates of housing discrimination (Lyons et al. 2019; Kattari et al. 2016).

Due to the many barriers refugees face in finding and securing affordable housing, many live in a state of 'hidden homelessness'. This is to say that, although most refugees report having a roof over their heads, they often experience "[i]nadequate and substandard living conditions" (Hiebert et al. 2009, 10). This hidden homelessness frequently takes the form of living "in crowded conditions with extended family and social networks" (Wayland 2007, 22) in the absence of other secure forms of housing. Oftentimes, refugees and migrants move from one household to the next, 'couch surfing' between the homes of various friends and family as they are unable to afford a permanent residence of their own (Carter & Osborne 2009, 321).

Unfortunately, there is currently no research that describes LGBTQ refugees' experiences of hidden homelessness. As LGBTQ people are often rejected from their families of origin due to their sexual orientation and gender identity, it is possible that they may not have the social networks required to maintain a roof over their heads. Moreover, if LGBTQ refugees are coming

to Canada as GARs, it is possible that they may not know anyone here when they arrive, which would make it difficult for them to 'couch surf' between accommodations. As such, it is possible that LGBTQ2 refugees may experience absolute—as opposed to hidden—homelessness. However, very little research has been conducted on the small minority of refugees who sleep rough or use shelters, so it is impossible to know what the experiences of LGBTQ refugees with homelessness are.

Low incomes

Participation in informal economies

Homo-, bi-, and transphobia

Failure to recognize foreign credentials

Experiences of LGBTQ refugees in Canada

Absolute homelessness

Employment and housing discrimination

Hidden homelessness

Language barriers

Racism
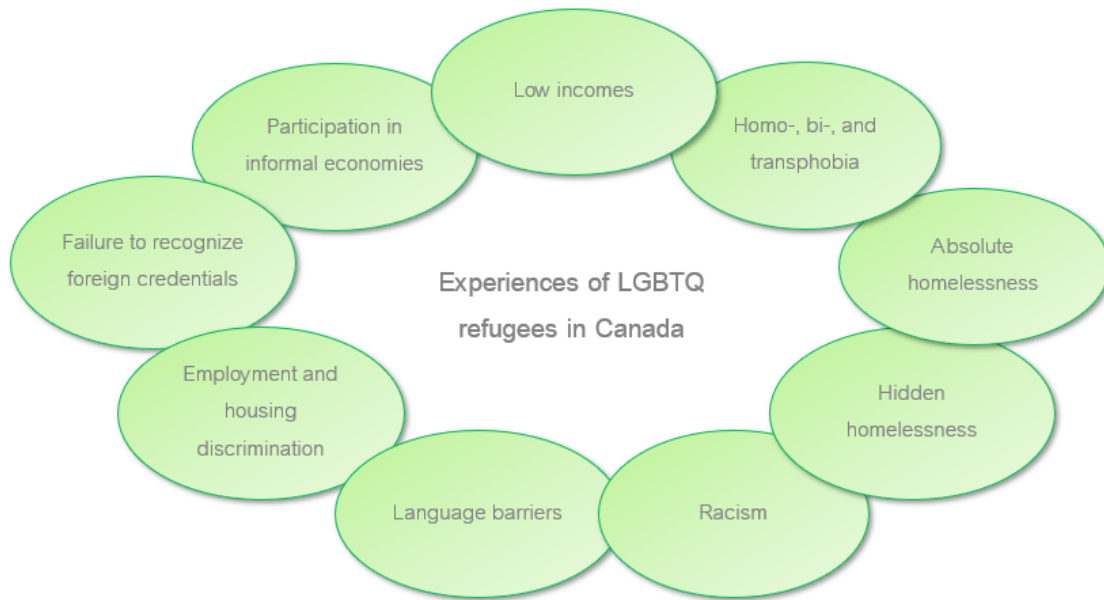
Figure 1: Factors affecting the housing experiences of LGBTQ refugees in Canada

Refugees and migrants coming to Canada experience multiple and compounding barriers to finding and maintaining adequate housing; including employment and housing discrimination; low incomes, and hidden homelessness. As indicated in Figure 1, LGBTQ refugees undoubtedly experience an array of barriers, including homo-, bi-, and transphobia within the housing sector, and within Canadian society more broadly. However, due to a dearth of research regarding the experiences of LGBTQ refugees in Canada's housing sector, it is difficult to know exactly how the

barriers above affect their ability to find and maintain adequate housing, as well as make Canada their home.

As demonstrated throughout this report, there has been virtually no research conducted on LGBTQ refugees' experiences in the housing sector. This is particularly disappointing given the fact that many articles relied on data pulled from the Canadian census (which has been collecting data on LGBTQ households since 2006), or used surveys as a method to obtain data (which could have easily included a question about the participant's sexual orientation and/or gender identity). This gap in knowledge is unacceptable, as failure to research the needs of LGBTQ refugees results in a subsequent inability to address them. When vectors of identity such as sexual orientation and gender identity are excluded from refugee and resettlement research, it is LGBTQ refugees who bear the brunt of this negligence. As such, further research needs to be conducted to determine what the unique needs of LGBTQ refugees are.

This research should investigate how negative experiences with the IRB may affect LGBTQ refugees' willingness to trust the Canadian government, access services and non-profits, and participate in the LGBTQ community. It should also investigate how LGBTQ refugees experience the barriers discussed above (i.e., employment and housing discrimination, participation in informal economies, etc.) differently than their heterosexual counterparts. It is equally important that it consider the unique forms of discrimination LGBTQ refugees experience in attempting to secure adequate housing. Furthermore, future research should attempt to determine the extent to which LGBTQ refugees are able to rely on social networks for housing when they come to Canada; as noted above, they may have less access to social networks than heterosexual refugees. It should also attempt to determine what percentage of refugees who sleep rough or access shelters are LGBTQ. Finally, future research should investigate the experiences of LGBTQ refugees in social housing (assuming they are able to access it). Despite Canada's global reputation as a 'safe haven' for LGBTQ people, LGBTQ refugees have been continually failed by

Canadian researchers, politicians, and policymakers; further research into the experiences of

LGBTQ refugees can begin to rectify this fact.

7. Economic, Social and Cultural Rights

While much of the Canadian human rights legislation (with the exception of the *National Housing Strategy Act 2019*) focuses on prohibiting discrimination against marginalized people in housing, the international right to housing—which constitutes an economic, social and cultural right—is focused on ensuring all people have access to adequate and affordable housing. In order to compare the international right to housing with the Canadian human rights framework, this section will briefly summarize the seven components that make up the right to housing on the international level, and identify the freedoms and entitlements inherent to the right to housing. Next, it will unpack how the right to housing is intertwined with other ESC rights. Finally, it will examine the impetus placed on the realization of the right to housing, through both immediate and progressive actions, as well as the ways in which this realization may be stymied.

In 1994, the UN Committee on Economic, Social and Cultural Rights ("ESC Committee") laid out seven essential components that make up the right to housing. In order for the right to housing to be meaningfully realized, the ESC Committee stated that individuals must be afforded housing with security of tenure (meaning that they could not be evicted without grounds); with adequate services and materials (such as heating, potable water, and lighting); that is affordable, and therefore does not compromise other basic needs; that is habitable, and does not threaten the safety of its occupants; that is accessible for individuals with disability or illness; that is located close to one's job, school, etc.; and finally, that is culturally adequate (Collins & Stout 2020, 5). In other words, the ESC Committee established that "'the right to housing, should not be interpreted in a narrower restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head…Rather is should be seen as the right to live somewhere in security, peace, and dignity'" (General Comment No. 4 qtd. in Committee on Economic, Social, and Cultural Rights 1991, 11).

The international right to housing is made up of freedoms and entitlements. For the right to be realized, individuals must be free from the threat of "forced evictions"; the "destruction of one's home"; "forced interference with one's home, privacy and family"; and finally, the freedom to "choose one's residence" and to move freely (Office of the High Commissioner of Human Rights 2009, 3). In addition to these freedoms, individuals are entitled to "[h]ousing, land and property restitution"; access to adequate housing that is free of discrimination; and, "[p]articipation in housing-related decision-making at the national and community levels" (Office of the High Commissioner of Human Rights 2009, 3). It is in the sixth component of the right to housing—the right to freedom from discrimination—where the international human rights framework most clearly intersects with the Canadian human rights framework. Taken together, these international and domestic rights should provide strong protections for LGBTQ2 people, and help ensure equal access to housing regardless of sexual orientation.

The ESC Committee also recognized that the right to housing does not exist in a silo, but is fundamentally interconnected with other rights. For example, adequate housing is central to the realization of the right to vote and the right to work Office of the High Commissioner of Human Rights 2009, 9). It is also indirectly related to rights to health and to privacy (Office of the High Commissioner of Human Rights 2009, 9). Moreover, the right to housing is situated within a broader right to an adequate standard of living. As laid out by the ESC Committee, the realization of the right to housing must co-exist with the realization of the rights to food, adequate medical care and other social services, as well as "security in the event of unemployment, sickness, disability, widowhood, old age, and other lack of livelihood in circumstances beyond [one's] control" (Stadler 2019, 65).

Different kinds of ESC rights are implemented differently; rights that do not require significant resources are subject to immediate implementation, while rights that require resources and planning are subject to progressive realization. For example, as the prohibition of

discrimination on the grounds of sexual orientation requires no resources to implement, State Parties are compelled to act on this aspect of the right to housing immediately (Office of the High Commissioner of Human Rights 2008, 15). However, as many other aspects the right to housing require significant resources and planning, its implementation follows a different trajectory: that of progressive implementation. State Parties are required to "mak[ing] constant efforts to improve the enjoyment of economic, social and cultural rights" (Office of the High Commissioner of Human Rights 2008, 16). This means that State Parties must be always taking tangible and targeted steps to realize the right to housing, including and especially "the adoption of legislative measures" (Office of the High Commissioner of Human Rights 2008, 16).

It is important to note that the right to housing, as interpreted by the ESC Committee, does not require States to "build housing for the entire population", nor does it enable inadequately housed people to demand housing from the government (2009, 6). Rather, "the right to adequate housing covers measures that are needed to prevent homelessness, prohibit forced evictions, address discrimination…[and] ensure security of tenure for all" (Office of the High Commissioner of Human Rights 2009, 6). From this perspective, the role of the state in respecting, protecting and fulfilling the right to housing requires regulating the market, and intervening to correct market failures (e.g., in providing affordable housing). These measures are still of vital importance, particularly to LGBTQ2 people, who are more likely to be homeless than their heterosexual counterparts (Frederick 2014), are sometimes evicted due to their sexual orientation and/or gender identity (Kattari et al. 2016), and face persistent discrimination in housing (Lyons et al. 2019; Abramovich & Kimura 2019).

However, the transformative potential of the right to housing is limited by the fact that the ESC Committee does not oblige State Parties to build more housing in order to realize the right to housing. While the expansion of the housing stock may not always be required in order to realize the right to housing, no direct duty to build social and affordable housing is imposed on State

Parties, even where the existing stock of these housing types is inadequate to meet needs. In Edmonton, Alberta, Canada, for example, there is a need for significantly more permanent supportive housing -- approximately 800 units as of 2017 (Homeward Trust 2017). Although Canada and by extension provincial and municipal governments are indirectly required to address such shortfalls (i.e. in order to fulfil components of the right to housing, such as affordability and accessibility for individuals with disability or illness), they are not mandated to immediately address them through direct involvement in the construction and operation of new units. Consequently, there is little to ensure that the Edmontonians in need of PSH are adequately housed, especially in the short term. By failing to oblige State Parties to do build more housing where necessary, the ESC Committee ultimately fails to imagine a world where non-market housing can be significantly expanded to ensure true housing for all, let alone one where housing is de-commodified altogether. Rather, its goal —in essence— is to ensure that housing is made affordable and secure for as many people as possible. While this is surely laudable, the right to housing as conceived by the ESC Committee falls short of interrogating why and how people become homeless or are left inadequately housed, and the role capitalism plays in these outcomes.

Taken together, Canadian domestic policy and the international right to housing have the power to significantly alter the state of housing and homelessness in Canada and beyond. Despite their limitations, these policies provide recourse for activists and policymakers to demand thar the quality and nature of housing be improved. However, since the UN Committee on Economic, Social, and Cultural Rights clarified and interpreted the international right to housing in 1994, we have yet to see the elimination of homelessness or the provision of adequate housing to all peoples. Ongoing work to address this situation is especially significant for members of the LGBTQ2 community and their allies, as LGBTQ2 people remain extremely vulnerable in the housing sector, experiencing high rates of homelessness, housing discrimination, and eviction due to

their sexual orientations and gender identities. The right to housing cannot be realized until LGBTQ2 equality is achieved, nor will LGBTQ2 liberation be actualized until all people are adequately housed.

8. Canadian Law and Housing as a Human Right

This report examines the Canadian legal context and the ways in which it may facilitate or impede the realization of housing as a human right. To begin, I summarize the human rights legislation for Alberta, British Columbia, Ontario and Quebec; examining the protections they offer to marginalized persons, particularly in the areas of housing and employment. Next, I examine the *Canadian Charter of Rights and Freedoms s 7, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11 ("the Charter")*, focusing on Sections 7 and 15. Finally, I describe the *National Housing Strategy Act's S.C. 2019, c. 29, s. 313 ("the NHS Act")* commitments to ending homelessness and realizing housing as a human right. While this report demonstrates the strength of the Canadian human rights law, it also questions the efficacy of this law, and the extent to which its goals have been accomplished.

At the provincial level, human rights provisions (variously acts, codes and charters) establish rules around the provision of rental housing with respect to discrimination against actual or potential tenants. Under the *Alberta Human Rights Act, RSA 2000, c A25.5¸* any manner of discrimination is explicitly prohibited, as the *Act* is predicated on the principle that all human being are fundamentally equal, "without regard to race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation" (s2). These protections against discrimination extend to the housing sector, as Section 4 of the *Act* prohibits the denial of any person or class of persons access to goods, services, accommodation, or facilities that are typically open to the public, especially if this person or class of persons falls under the protected grounds outlined above (s4). Protections against discrimination are further reified by Section 5, which states that "[n]o person shall (a) deny to any person or class of persons the right to occupy as a tenant any commercial unit of self-contained dwelling unit that is advertised or otherwise in any

way represented as being available for occupancy by a tenant" (s5(1))). Further, Section 5 explicitly states that it is unlawful to discriminate against any person with respect to tenancy who falls under the protected grounds outlined in the Preamble of the *Act* (s5(1))). The *Alberta Human Rights Act* also prohibits discrimination in employment, as Section 7 states that "[n]o employer shall (a) refuse to employ or refuse to continue to employ any person, or (b) discriminate against any person with regard to employment or any term or condition of employment, because of race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or any other person" (s5(1))). These prohibitions against discrimination in housing and employment should—at least in theory—ensure that no marginalized person is denied a job or a roof over their head simply because of who they are. However, the success that the *Act* has had in eradicating discrimination has yet to be seen.

The *Human Rights Act [SBC 1984] Chapter 22* in British Columbia offers similar protections to the *Alberta Human Rights Act,* as it also prohibits the denial of services, accommodation, or tenancy on the basis of "race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, or age" (s2(1)). That said, British Columbia differs from Alberta in the sense that it allows 'discrimination' in housing in select instances. For example, the prohibition against discrimination in housing outlined in Section 5.1 of the *Act* does not apply "as it relates to physical or mental disability, if (i) the space is a rental unit in a residential premises, (ii) the rental unit and the residential premises of which the rental unit forms part, (A) are designed to accommodate persons with disabilities, and (B) conform to the prescribed standards, and (iii) the rental unit is offered for rent exclusively to a person with a disability or to 2 or more persons, at least one of whom has a physical or mental disability". In this case, discrimination against able-bodied people is allowed in a residential rental unit that is intended exclusively for people with disabilities. British Columbia's *Human Rights Act* also differs

from the *Alberta Human Rights Act* in that it prohibits discrimination in employment against persons that have been convicted of a criminal offence that is unrelated to that employment under Section 8 of the *Act*. This is a valuable addition, as it is very possible that persons against whom discrimination is prohibited under the protected grounds may also have a criminal record.

While Ontario's *Human Rights Code, RSO 1990, c H-19* offers similar protections as the *Acts* in Alberta and British Columbia—prohibiting discrimination on the basis of "race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance" (Preamble)—it differs in its reference to the *United Nations Declaration of Human Rights,* linking the struggle for human rights in Ontario with global fights for dignity and equality (Preamble). Ontario's *Human Rights Code* is also unique in that it explicitly recognizes harassment as a component of discrimination. Section 7.1 of the *Code* states that "[e]very person who occupies accommodation has a right to freedom of harassment because of sex, sexual orientation, gender identity or gender expression by the landlord or agent of the landlord or by an occupant of the same building". The *Code* goes on to prohibit harassment in the workplace as well, with Section 7.2 stating that all persons ought to be free from harassment from their employer or from another employee. These prohibitions against harassment capture and protect against the nuance and subtlety of discrimination, and offer a more fully-realized vision of what the advancement of human rights could look like across Canada.

Québec's *Charter of Human Rights and Freedoms, CQLR c C-12 ("the Québec Charter")* differs quite significantly from the legislation in Alberta, British Columbia, and Ontario. *The Québec Charter* offers the same protections as Alberta and British Columbia's *Acts* and Ontario's *Code,* but also includes prohibitions against discrimination on the basis of political convictions, language, and social condition under Section 10, extending human rights protections to even more aspects of personal and social identity. *The Québec Charter* is also singular in that it discusses

human rights not in terms of personal liberty, but in terms of collective welfare; emphasizing the obligation the state has to its citizens, and the responsibility we have to one another. It clearly states that "[t]he rights and freedoms of the human person are inseparable from the rights and freedoms of others and from the common well-being" (Preamble), reminding us that human liberation is a collective project. Moreover, The *Québec Charter* lends itself well to the realization of housing as a human right, as Chapter 1 argues that "[e]very human being whose life is in peril has a right to assistance" (s2). Due to the danger that comes from sleeping rough and living in shelters or other precarious forms of housing, this section of *The Québec Charter* could be interpreted as calling for the unconditional provision of adequate housing. Section 45 bolsters this assertion, as it states that "[e]very person in need has a right, for himself and his family, to measures of financial assistance and to the social measures provided for by law, susceptible of ensuring such person an acceptable standard of living" (s45). This commitment to aiding each person and ensuring a certain standard of living could also be leveraged by scholars, policymakers, and activists in such a way to argue for universal access to adequate housing.

In addition to the human rights protections offered by each province, the federal *Charter* also protects its marginalized citizens—at least in theory—from discrimination in housing and employment sectors in the public sphere. While the various human rights codes and acts at the provincial level protect against discrimination in both the private and public sectors, the *Charter* regulates only the actions of public agencies and the government (Hutchinson & Petter 1988, 282). Section 15 of the *Charter* is well-known for its discrimination prohibitions, stating that "[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability". While Section 15 does not explicitly offer protections to LGBTQ2 persons, the 1995 Supreme Court of Canada's decision in *Egan v. Canada* determined that sexual orientation is a prohibited ground

for discrimination. While Section 15 has been critical to the advancement of equality and dignity of all persons, the less cited Section 7 of the *Charter* also contributes to the realization of human rights in Canada, particularly the right to housing. Section 7 states that "[e]veryone has the right to life, liberty, and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice". As a lack of adequate housing represents a deprivation of these rights, Section 7 can be taken in conjunction with Section 15 to argue for housing as a human right.

Whereas the above documents outline the human rights that safeguard against discrimination in housing, the 2019 *National Housing Strategy Act* outlines Canada's commitment to the realization of housing as a human right. The *NHS Act* recognizes that "housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities as well as a strong national economy in which the people of Canada can prosper and thrive"—making a strong case for the importance of adequate housing for all Canadians (Preamble). The *NHS Act* also outlines Canada's commitment to the realization of housing as a human right, stating that the Government of Canada will establish a long-term plan for housing that "recognizes the importance of housing in achieving social, economic, health and environmental goals"; centers the needs of those in greatest housing need first; and sets "national goals relating to housing and homelessness and identity related priorities, initiatives, timelines and desired outcomes"—all while consulting with people with lived experiences of housing need and homelessness (s5(2)(a-d)). This commitment to the advancement of housing as a human right is admirable, and it is imperative that the goals outlined in the *NHS Act* be realized, lest the wellbeing and dignity of Canadians in housing need continue to be neglected.

A close examination of provincial human rights legislation, *The Charter* and the *NHS Act* reveal the high legal standard for how all Canadians ought to be treated. However, legislation remains functionally useless unless it is meaningfully enforced. Despite the fact that there are

multiple pieces of legislation on both the provincial and federal levels that prohibit discrimination and argue for the equality and dignity of all Canadians, marginalized people continue to experience discrimination in housing and employment, and are continually forced to sleep rough, use shelters, or live in inadequate or dangerous housing situations in the absence of better options. The question at the centre of conversations about human rights (including conversations about housing as a human right) should not be: *how can we reform and reword existing law to better serve the citizenry?* but rather, *how can existing law be implemented in such a way to ensure that human rights exist not only on paper, but in practice?*

9. International Human Rights Law and Housing as a Human Right

The Office of the United Nations' High Commissioner of Human Rights (OHCHR) has formally recognized the rights of LGBTI people, and has encouraged State Parties to ensure LGBTI people experience freedom from violence, torture, discrimination, and persecution. While the OHCHR seldom addresses LGBTI people's right to housing explicitly, many of the rights to which LGBTI people are entitled according to the UN (such as the right to non-discrimination, for example) help LGBTI people secure and maintain adequate housing. However, in its discussion of human rights for LGBTI people, the OHCHR does not consider *why* rights violations happen, or how harm done to LGBTI people can be meaningfully rectified. Instead, the OHCHR recommends a focus on identifying and penalizing individual perpetrators, but does not interrogate broader systems of homo-, bi-, and transphobia. While the OHCHR's vision of human rights for all LGBTI people everywhere is certainly a step in the right direction, ultimately it fails to imagine a world that is radically different from the one in which we now live; one where all people—including LGBTI people—are free from violence, including the violence that takes place within prisons and jails and at the hands of law enforcement.

In its report *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law*, the OHCHR emphasizes that existing human rights ought to be extended to LGBTI people; arguing that they "are just as entitled to protection, respect and fulfilment of their human rights as everyone else, including protection from discrimination, violence and torture" (United Nations 2019, vii). In light of this, the OHCHR makes five primary recommendations to ensure the protection of LGBTI people globally. Firstly, the OHCHR recommends that all State Parties **"[p]rotect LGBTI people from violence"** (United

Nations 2019, 7); meaning that states ought to prohibit hate crimes and incitements to violence based on one's sexual orientation, gender identity, or sex. Should such a violent crime take place, the OHCHR recommends that perpetrators be prosecuted, and that the victims be "provided with redress" (United Nations 2019, 7). It is important to note here that, according to the OHCHR, the protection of LGBTI people includes recognizing sexual orientation and/or gender identity as a "valid basis for an asylum claim" (United Nations 2019, 7).

Next, the OHCHR recommends that all State Parties work to **"[p]revent the torture and ill treatment of LGBTI persons"** (United Nations 2019, 7). Torture and ill treatment ought to be interpreted in a broad sense, and include "degrading physical examinations, so-called 'conversion' therapy, forced or coerced sterilization of transgender persons, and medically unnecessary procedures performed on intersex adults and children without their consent" (United Nations 2019, 7). This prohibition on the torture of LGBTI persons is bolstered by Article 5 of the *Universal Declaration of Human Rights*, which states that "'[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'" (qtd. in United Nations 2019, 26). In order to ensure that the torture and ill treatment of LGBTI persons does not transpire, the Commissioner suggests providing appropriate training to healthcare providers and law enforcement officers (United Nations 2019, 7). However, should these rights be violated, the OHCHR again recommends the prosecution of individual perpetrators by State Parties (United Nations 2019, 7). Here, the OHCHR fails to interrogate the ways in which institutions, and in particular medicine and policing, may be inherently harmful and traumatizing for LGBTI persons in ways that diversity and inclusion training will fail to rectify.

Thirdly, the OHCHR suggests that State Parties **"[r]epeal laws that criminalize LGBTI persons"** (United Nations 2019, 7). This includes laws that criminalize consensual relationships between LGBTI adults; the free expression of one's gender identity; and laws that are used to "harass, arbitrarily detain, prosecute and discriminate against persons on the basis of their actual

or perceived gender identity or expression or sexual orientation" (United Nations 2019, 7). It also means ensuring that LGBTI persons are not arrested or incarcerated due to their sexual orientation, gender identity, or gender expression (United Nations 2019, 7).

The OHCHR recommends not only that laws that criminalize LGBTI people be repealed, but also that new legislation and policies are introduced to **"[p]rohibit and address discrimination on the basis of sexual orientation, gender identity and sex characteristics"** (United Nations 2019, 7). This means ensuring that LGBTI people's relationships are legally recognized and that 'same-sex' couples have a legal right to parent their children (United Nations 2019, 7). Additionally, it means ensuring that transgender people are able to legally change their gender markers on documents "without abusive requirements", such as forced surgery (United Nations 2019, 7). Similarly, it also requires that all medical classifications that pathologize LGBTI people be reformed (United Nations 2019, 7), and that intersex adults and children are able to uphold their autonomy and refuse unnecessary and harmful medical procedures (United Nations 2019, 36). Per this recommendation, State Parties ought to ensure that LGBTI people do not experience discrimination when accessing basic services such as housing, health care, education and employment (United Nations 2019, 7). This recommendation also suggests that State Parties attempt to prevent discrimination through training and education, and by including LGBTI people in the construction of policy and legislation that impacts their lives (United Nations 2019, 7).

Finally, the OHCHR recommends that State Parties **"[s]afeguard freedom of expression, peaceful assembly and association for LGBTI people"** (United Nations 2019, 7). This means protecting 'human rights defenders' and LGBTI people who speak freely and openly about their gender identity, sexual orientation, and gender expression from violence and discrimination (United Nations 2019, 7). Again, the OHCHR recommends the prosecution of individuals who violate an LGBTI person's freedom of expression or assembly (United Nations 2019, 7).

In addition to these five primary recommendations issued by the OHCHR, the United Nations obliges state parties to refrain from "interference in the enjoyment of rights" by LGBTI people; ensuring that agents of the State, private corporations, and individuals do not violate the rights of LGBTI people as described above (United Nations 2019, 9). Additionally, states are required to "proactively tackle barriers to the enjoyment of human rights" for LGBTI people (United Nations 2019, 9). This means ensuring that steps are taken to prevent prejudice against LGBTI people through training and education, as well as collecting and publishing data on rates of violence against LGBTI people (United Nations 2019, 9).

While the OHCHR's recommendations outlined above are certainly beneficial to LGBTI people in myriad ways, the United Nations' focus on persecution and punishment—both against perpetrators of homo-, bi-, and transphobic discrimination, and against LGBTI people themselves through their continued support of prisons and jails—remains troublesome. As mentioned earlier in the report, the OHCHR recommends the persecution and possible incarceration of individual perpetrators who violate the human rights of LGBTI people. This carceral response is problematic for two primary reasons: first, prosecuting individual perpetrators *individualizes* the problems of homo-, bi-, and transphobia while failing to address or dismantle the systems that cause it; and, second, such a response does nothing to *prevent violence from happening*. Removing a violent offender from the streets and placing him instead in a jail or prison—spaces where he will undoubtedly encounter more LGBTI people—does not address *why* violence happens, nor does it entertain how we may prevent it. Rather, the incarceration of perpetrators simply renders other incarcerated people the targets of homo-, bi-, and transphobic violence. By shifting focus from carceral responses to preventative measures, the OHCHR may be able to implore State Parties to stop violence against LGBTI people before it happens, instead of displacing the violence from the public sphere and into carceral spaces.

Moreover, in their discussion of human rights for LGBTI people, the OHCHR failed to address the ways in which the human rights of LGBTI people are violated in prisons and jails every day, as well as the ways in which incarceration represents an inherent violation of human rights. For example, the OHCHR has obliged State Parties to "ensure that the death penalty is not imposed as a sanction for same-sex relations" (United Nations 2019, 46). While it is undoubtedly important to ensure that LGBTI people are not put to death for the mere fact of their sexual orientation and/or gender identity, the UN has failed to interrogate the ways in which capital punishment is inherently torturous, inhumane, and cruel (to borrow the language of the *Universal Declaration of Human Rights*) regardless of the reason for its application. Similarly, the OHCHR has prohibited the placement of LGBTI people in solitary confinement as a protective measure (United Nations 2019, 27), but does not oppose the placement of LGBTI people (or anyone, for that matter) in solitary confinement generally. Again, the ways in which solitary confinement may be considered inherently torturous is overlooked entirely. Additionally, the OHCHR has failed to interrogate the ways in which removing a person from their community and placing them in an institution for months to years at a time—whether that person is LGBTI or cisgender and heterosexual—constitutes a form of cruelty and torture, and therefore a violation of one's human rights. In order for the lives of LGBTI people to truly free from violence and torture, the criminal legal system must be abolished.

The recommendations made by the OHCHR with regards to the realization of human rights for LGBTI people is certainly a step in the right direction. In many ways, the recommendations discussed in this report will help LGBTI people realize other human rights, such as the right to housing. The right to non-discrimination for LGBTI people, for example, will undoubtedly aid in securing adequate housing and preventing unlawful evictions. Additionally, LGBTI people's right to freedom from violence—which establishes sexual orientation and/or gender identity as a valid basis for an asylum claim—will help LGBTI people flee violent countries and access services and

housing in safe(r) ones. That said, these recommendations are far from perfect. Due to the OHCHR's failure to condemn the prison industrial complex, LGBTI people will continue to be incarcerated—albeit not for the sexual orientations and/or gender identities—and therefore made homeless through these processes. In future sessions, it is prudent that the OHCHR discuss the ways in which carceral systems continue to harm LGBTI people, as well as the ways in which they prevent the right to housing from being fully realized.

10. Case Law Concerning Discrimination Against LGBTQ2 People in Housing

These cases were selected from the *WestlawNext Canada* database in order to give a brief overview of the kinds of discrimination LGBTQ2 people face in the Canadian housing market. All of these cases represent a sexual orientation discrimination complaint that was leveled by an LGBTQ2 person against their landlord or housing provider. These cases also demonstrate the strengths and shortcomings of human rights legislation. In *Dawson v. Boundary Management, Ouellet v. Bower and others* and *Robertson v. Goertzen,* the human rights legislation in The Complainants' respective provinces and territories gave them recourse to seek restitution for the harms they endured. However, in *Hyman v. Gordon*, human rights legislation failed to provide the complainant with recourse. These cases highlight both the value and limitations of human rights legislation for LGBTQ2 people in Canada.

1. ***Dawson v. Boundary Management* (2019)**

In this British Columbia Human Rights Tribunal Case, a trans woman named Angela Dawson alleged that Boundary Management Inc. ("Boundary") violated her human rights under section 10 of British Columbia's *Human Rights Code* ("Code") by failing to respond to her complaints of homo- and transphobic discrimination leveled against her by other tenants of the building and by evicting her. Ms. Dawson described repeated instances of discrimination wherein other tenants used homo- and transphobic slurs against her. Despite Ms. Dawson saying that she complained of this behaviour multiple times to a Boundary employee, Boundary failed to document these complaints or respond appropriately, telling Ms. Dawson simply to call 911.

Boundary claims that Ms. Dawson was not evicted due to her complaints, but rather, because many other tenants had complained about Ms. Dawson's behaviour; alleging that they feared for their personal safety due to Ms. Dawson's threats, noise, and other disturbances. During her tenancy at Boundary, Ms. Dawson received three written warnings about her behaviour in January, April, and May of 2016. In this case, Boundary failed to address the receipt of Ms. Dawson's complaints or how Boundary employees responded to them. Rather, Boundary provided the Tribunal with statements made by other tenants detailing Ms. Dawson's inappropriate behaviour, as well as statements from other LGBTQ2 people describing positive experiences as tenants with Boundary. As pointed out by the Tribunal, however, Boundary's positive work "does not relieve it of its obligations of an application of this kind or, for that matter, under the *Code*".

As Ms. Dawson was a member of a vulnerable group—trans people who are hard to house—and because she had received no remedy for the homo- and transphobic discrimination she allegedly experienced at Boundary, including compensation for injury to her dignity, feelings, of self-respect (as outlined in *Code,* s.37), Boundary's application to dismiss Ms. Dawson's complaint was denied.

2. *Ouellet v. Bower and others* (2017)

In another British Columbia Human Rights Tribunal case, Stephanie Ouellet—a trans woman who received income assistance—alleged that Steven Albert Bower, Al Law, and Marleen Milberry discriminated against her during her tenancy and the termination thereof due to her sex, gender identity and source of income, in violation with section 8 of British Columbia's *Human Rights Code* ("*Code*"). Mr. Bower was the owner of the building in which Ms. Ouellet was a tenant, and Mr. Law and Ms. Milberry were employees of Mr. Bower's who worked in the building. Ms.

Ouellet describes being repeatedly discriminated against by the Respondents; saying that on multiple occasions Mr. Law and Ms. Milberry misgendered her, made derogatory comments about her gender and receipt of income assistance, and threatened to kill her. When Ms. Ouellet complained of this behaviour to Mr. Bower, he advised that she ignore the comments and failed to intervene further.

On May 8, 2016, Mr. Bower served Ms. Ouellet with a one-month notice to vacate her tenancy at his building. Mr. Bower claimed that Ms. Ouellet was evicted due to a government order from the Surrey Fire Department. This order stated that two people must be evicted from Mr. Bower's building as it was over its occupancy limit. Mr. Bower said Ms. Ouellet was chosen for eviction because she had refused to allow him to test the fire alarm in her rental unit. On June 10, 2016, an RTB dispute resolution hearing determined that Ms. Ouellet would vacate the building on June 30, 2016. Despite agreeing to leave the building, Ms. Ouellet felt her case remained unresolved after the resolution as it failed to determine if Ms. Ouellet was selected for eviction due to her status as a trans woman and a recipient of income assistance.

The Respondents failed to provide the Tribunal with any information regarding the actions that were taken to investigate Ms. Ouellet's complaints of discrimination. Instead, they relied exclusively on the resolution of the RTB where Ms. Ouellet agreed to leave the building. In light of this, the Respondent's application to dismiss Ms. Ouellet's complaint was denied.

3. *Hyman v. Gordon* (2012)

In this British Columbia Human Rights Tribunal case, Randolph-Dalton Hyman alleges that Gaynel Michael Gordon discriminated against him in employment and tenancy on the basis of his sexual orientation and sex, in violation of sections 10 and 13 of British Columbia's *Human Rights Code* ("Code"). According to Mr. Hyman, Ms. Gordon entered into a verbal agreement with him

on March 12, 2011 that would allow him to stay on her premises in exchange for business services. Ms. Gordon agrees that she let Mr. Hyman stay in on her premises, although she failed to clarify if this was in a basement rental suite or in her own home. Ms. Gordon states that Mr. Hyman's occupation of her residence did not constitute a tenancy because they shared the kitchen area. This differentiation is significant in the eventual ruling in this case.

Mr. Hyman alleged that on March 30, 2011, Ms. Gordon disclosed her 'feelings' for him. After Mr. Hyman voiced not sharing these feelings, Ms. Gordon questioned him about his sexual orientation, which he protested. Then, on April 8, 2011, Ms. Gordon allegedly talked about raping him with a friend, and asked Mr. Hyman to adopt a child with her the following day. On April 16, 2011, while on their way to Jamaica for Ms. Gordon's business, Mr. Hyman says he disclosed his sexual orientation to Ms. Gordon, but was nonetheless introduced as her 'future husband' upon their arrival in Jamaica. Finally, on April 21, 2011, Ms. Gordon fired him and ordered him out of her home while they were still in Jamaica. Upon Mr. Hyman's return to Vancouver on April 23, 2011, he was forcibly removed from Ms. Gordon's home. Ms. Gordon denies all these allegations.

Despite the severity of the allegations against Ms. Gordon, it was found that s. 10 of the *Code* did not apply in this case, as it was determined that the arrangements between the parties was more akin to a roommate relationship than that between a landlord and tenant. According to the *Code,* a "person looking for a roommate to share their own space can restrict the rental to people based on any ground if they will be sharing a bathroom or kitchen" (*Code* s.10). This means that even though Ms. Gordon allegedly discriminated against Mr. Hyman on the basis of sexual orientation, and despite the fact that Mr. Hyman was left without housing because of this discrimination, Mr. Hyman had no rights and no recourse under s.10 of the *Code*. As such, the application to dismiss Mr. Hyman's complaint against Ms. Gordon was granted, meaning the case could not move on to a higher court.

4. *Robertson v. Goertzen* (2010)

In this case before the Northwest Territories Human Rights Adjudication Panel, Scott Robertson and Richard Anthony alleged that William Goertzen discriminated against them by denying them tenancy due to their sexual orientation. This allegation was corroborated by Mr. Anthony's sister Angela, who was a tenant of Mr. Goertzen at the time of the events. The allegations were not disputed by Mr. Goertzen, who admitted that he had denied tenancy to Mr. Robertson and Mr. Anthony because they were in a romantic relationship. Mr. Goertzen states that because he denied the pair tenancy due to his religious beliefs, his actions were reasonably justified.

The details of the complaint made against Mr. Goertzen by Mr. Robertson and Mr. Anthony are as follows. On May 7, 2009, Mr. Goertzen entered into a written residential tenancy agreement ("lease") with Mr. Robertson and Mr. Anthony to rent the main level of his house ("rental premises"). Per this agreement, the Complainants gave Mr. Goertzen a cheque for $1125 for two weeks rent and June 13, 2009, was set for Mr. Robertson and Mr. Anthony's move-in date. On May 20, 2009, Mr. Goertzen learned through a conversation with Amanda that the couple were in a 'same-sex partnership'. Fearing how this would affect his relationship with 'his Lord', Mr. Goertzen told Amanda he would rip up the lease.

Upon hearing of Mr. Goertzen's plan to violate the lease, Mr. Robertson accosted Mr. Goertzen on the street outside of the rental premises and informed Mr. Goertzen of his legal obligation to himself and Mr. Anthony. Mr. Goertzen refused to provide Mr. Robertson with a copy of the lease, stating he had already ripped it up. Finally, Mr. Goertzen told Mr. Robertson that he would not renew Amanda's lease—which expired in two months—if the couple pursued their legal rights. Mr. Anthony and Mr. Robertson claim that the discrimination they faced put

strain on their relationship with one another, and their relationship with Amanda. On July 20, 2009, Mr. Anthony and Mr. Robertson were successful in their application for breach of tenancy agreement before the Northwest Territories Residential Tenancies Officer and obtained compensation from Mr. Goertzen for the difference in rent between the rental premises and the subsequent premises they rented. They also had their deposit of $1125 returned.

In this case, Mr. Goertzen argued that his discrimination was justified because he would have suffered 'undue hardship' if he rented the rental premises to the couple, in the form of "punishment administered by God while he is alive and when he dies". However, as Mr. Goertzen made no effort to accommodate the needs of Mr. Robertson and Mr. Anthony in this case, it was found that he had faced no 'undue hardship'. This is because 'undue hardship' is not defined as suffering or the potential to suffer, but rather, as the burden of accommodation being too great. Moreover, according to section 1 of the *Canadian Charter of Rights and Freedom*, all freedoms—including the freedom of conscience and religion—are subject to reasonable limits: "the right to freedom of religion is not unlimited". It was also found that, in the absence of evidence of God's word imploring Mr. Goertzen not to rent to the Complainants, Mr. Goertzen was not absolved of his legal obligation to treat others with respect and dignity. In light of these facts, it was ruled that Mr. Goertzen did not face undue hardship due to his failure to accommodate the needs of his tenants, and that his freedom of religion was not a defence for discriminating against the complainants.

In this case, it was found that Mr. Goertzen's actions were discriminatory according to the Northwest Territories *Human Rights Act,* and that his actions were not reasonably justified. As such, Mr. Goertzen was ordered to pay each Complainant $5,000 for injury to dignity, feelings, and self-respect in addition to the previous settlement made before the Northwest Territories Residential Tenancies Officer. Ultimately, the above cases illustrate the kinds of discrimination LGBTQ2 people continue to face in housing, as well as the unwillingness of some housing

providers and landlords to document or take seriously these forms of discrimination. In *Dawson v. Boundary Management* and *Ouellet v. Bower and others*, for example, both Ms. Dawson and Ms. Ouellet's complainants were granted as their housing providers were unable to refute claims of discrimination. This inability was due to the failure of the housing providers to even *document* Ms. Dawson and Ms. Ouellet's complaints, let alone follow-up on them or take action. In *Robertson v. Goertzen,* Mr. Goertzen openly shared his homophobic and discriminatory views towards the LGBTQ2 community, and argued his discrimination was reasonably justified in court. These three cases—where the Complainants were successful in their making their claims before respective human rights tribunals—demonstrate the continued existence of homo- and transphobia, but also the vital importance of human rights legislation. However, *Hyman v. Gordon* proves that human rights legislation is by no means a silver bullet, and that legal exemptions and distinctions can fail LGBTQ2 people. Despite the seriousness of Mr. Hyman's claims, he was ultimately left with no compensation, no restitution, and no justice because his status was determined to be that of a 'roommate' as opposed to a 'tenant'. In order for human rights legislation to protect LGBTQ2 people and their right to housing meaningfully, its purview must be greater; safeguarding all LGBTQ2 people, no matter what form their housing may take.

11. Conclusion and Recommendations

As demonstrated in this report, LGBTQ2 Canadians are made vulnerable in the housing sector through myriad factors: discrimination, a dearth of accessible housing, a lack of services and support, and inadequate laws and legislation. However, it is important to remember that the vulnerability of LGBTQ2 people in the housing sector is not inevitable, and it can be effectively mitigated. In light of this, we have made six recommendations to improve LGBTQ2 people's experiences in the housing sector in Canada.

Recommendations:

1. Build and retrofit all housing using the principles of universal design to ensure that LGBTQ2 people with disabilities are able to access it.

2. Construct LGBTQ2-focused permanent supportive housing, as many LGBTQ2 people have been previously homeless, use drugs, or have mental illnesses or disorders.

3. Construct LGBTQ2-focused seniors housing across Canada.

4. Support tenant's unions and their work. Academic work on housing ought not exist separately from housing-related activism and organizing.

5. Extend provincial human rights codes to include LGBTQ2 people who are discriminated against in roommate relationships.

6. Fully implement the recommendations made by the Office of the United Nations' High Commissioner of Human Rights with regards to LGBTQ2 equality, the right to housing as outlined by the United Nations, and the tenets of *The National Housing Strategy Act*. While these policies alone will not in themselves solve the housing crisis, nor eliminate discrimination against LGBTQ2 people, they are important steps to achieving these goals.

7. Provide more federal support to LGBTQ2 refugees and migrants in the form of translators, service people who are able to communicate with them in their first languages, as well as more support workers to connect them with stable housing and employment.

12. Reference Lists

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