

Canadian human rights commission | Commission canadienne des droits de la personne

CANADIAN HUMAN RIGHTS COMMISSION

SUBMISSION TO THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN ADVANCE OF THE COMMITTEE'S DEVELOPMENT OF THE LIST OF ISSUES PRIOR TO REPORTING FOR CANADA'S 7TH PERIODIC REVIEW

JANUARY 2020

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2. THE CANADIAN HUMAN RIGHTS COMMISSION

The Canadian Human Rights Commission (CHRC) is Canada's national human rights institution. It has been accredited "A-status" by the Global Alliance of National Human Rights Institutions, first in 1999 and again in 2006, 2011 and 2016.

The CHRC was established by Parliament through the *Canadian Human Rights Act* (CHRA) in 1977.[1] It has a broad mandate to promote and protect human rights. The Constitution of Canada divides jurisdiction for human rights matters between the federal and provincial or territorial governments. The CHRC has jurisdiction pursuant to the CHRA over federal government departments and agencies, Crown corporations, First Nations governments and federally-regulated private sector organizations. Provincial and territorial governments have their own human rights codes and are responsible for provincially/territorially-regulated sectors.

The CHRC also conducts compliance audits under the *Employment Equity Act* (EEA).[2] The purpose of the EEA is to achieve equality in the workplace so that no person is denied employment opportunities or benefits for reasons unrelated to ability, and to correct the historic employment disadvantages experienced by four designated groups: women, Indigenous peoples, persons with disabilities and members of visible minorities.[3]

Recently, the CHRC has been mandated with several new responsibilities under the *Accessible Canada Act,* the *Pay Equity Act*, and the *National Housing Strategy Act*, which will be discussed in greater detail later in the submission.

The CHRC has taken action to promote and protect the human rights of individuals by investigating complaints, issuing public statements, tabling Special Reports in Parliament, conducting research, developing policy, consulting with stakeholders, and representing the public interest in the mediation and litigation of complaints. It is committed to working with the Government of Canada to ensure continued progress in the protection of human rights, including Canada's implementation of the rights and obligations enshrined in the *Covenant on Economic, Social and Cultural Rights* (CESCR). It is in the spirit of constructive engagement that the CHRC submits this report to the Committee on Economic, Social and Cultural Rights (the Committee) in advance of the Committee's development of the list of issues prior to reporting for Canada's 7th periodic review.

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[1] Available at: laws-lois.justice.gc.ca/PDF/H-6.pdf. Although Canada's human rights laws are not part of the Constitution, they are considered "quasi-constitutional" in nature, meaning that all other laws must be interpreted in a manner consistent with human rights law, unless Parliament expressly says otherwise.
[2] Available at: laws-lois.justice.gc.ca/PDF/E-5.401.pdf.
[3] The CHRC notes that the terms "visible minority" and "Aboriginal" are increasingly outdated, and as such, they are used here only to reflect their official usage in Canadian legislation, and in Statistics Canada survey data. Where other terms (such as Indigenous or racialized) can be used, the CHRC supports this.

3. EQUALITY AND NON-DISCRIMINATION (ARTICLE 2)

Individuals experiencing social and economic disadvantage are amongst the most vulnerable in Canadian society, subject to negative stereotyping, adverse living conditions, and discrimination. Certain marginalized groups and individuals in Canada continue to be disproportionately disadvantaged with respect to economic, social and cultural rights, including: Indigenous peoples; racialized groups; religious minorities; women; 2SLGBTQI[4] individuals; children; and persons with disabilities.

Recognizing economic, social and cultural rights (ESC rights) as a key area of concern, the CHRC brought together subject-matter experts for a "fast talk"[5] on ESC rights in Canada in April 2018. The CHRC heard from experts that there is an ongoing failure in Canada to take ESC rights seriously, to understand these rights as human rights, and to implement them in a meaningful way. The experts also noted that structural and institutional reform is necessary to ensure that systemic ESC rights issues are justiciable and can be effectively claimed, which could include possible legislative amendments to the CHRA.

3.1. The Addition of a Ground of Discrimination to the CHRA

During its third and most recent Universal Periodic Review, Canada accepted a recommendation made to ensure the justiciability of ESC rights, indicating that avenues of legal recourse for alleged violations of ESC rights are available in Canada, through, for example, discrimination complaints to human rights commissions and tribunals.

In Canada, all provincial and territorial jurisdictions have incorporated a ground of discrimination that relates to economic or social disadvantage (source of income, social condition, etc.)[6], thus providing remedies for discrimination based on such disadvantage. However, no such ground exists in the federal human rights legislation, the CHRA. The Committee has previously recommended to Canada that the ground of "social condition" be added to the list of prohibited grounds in the CHRA.

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[4] The acronym 2SLGBTQI refers to a wide community of individuals who may experience stigma and discrimination based on sexual orientation, gender identity or expression, or sex characteristics. This acronym reflects a development in the CHRC's language to better recognize Indigenous and two-spirit (2S) communities in Canada.

[5] The "fast talk" concept was developed as a means to rapidly access high quality policy-relevant research through engagement with subject-matter experts. It follows a three-stage electronic process: 1) 4 to 6 experts provide short written responses to specific policy questions that have been developed; 2) the responses are circulated among the experts, and a 2-3 hour conference call is held to discuss them; and 3) a report of the discussion is prepared and, along with the initial written responses, becomes a final policy research document.

[6] Three Canadian jurisdictions – Quebec, New Brunswick and the Northwest Territories – have adopted "social condition" as a prohibited ground of discrimination. Eight jurisdictions – Alberta, British Columbia, Manitoba, Nova Scotia, Prince Edward Island, Newfoundland, the Yukon and Nunavut – prohibit discrimination based on "source of income". "Recepit of public assistance" is a prohibited ground of discrimination in Ontario and Saskatchewan. Manitoba also prohibits discrimination based on "social disadvantage", and Newfoundland also prohibits discrimination based on "social origin".

The lack of recognition in the CHRA of a ground of discrimination related to social or economic status may result in systemic discrimination. For example, individuals or groups in vulnerable circumstances may fall through the cracks of human rights protection if their lived experiences – the totality of their characteristics – do not fit within the current enumerated grounds. The addition of an appropriate prohibited ground of discrimination could better reflect and address the realities of discrimination by recognizing the ways economic and social disadvantage can intersect with other grounds of discrimination already recognized in the CHRA. The CHRC, therefore, supports the addition of an appropriate ground.

Recommended Question #1: Given the prevalence of economic and social disadvantage, has Canada given consideration to adding an appropriate ground to the CHRA – such as social condition – to protect individuals from discrimination related to their economic and social status, as recommended by the Committee?

The CHRC also notes that Canada has not yet ratified the Optional Protocol to the CESCR, and is unaware of any plans for Canada to do so.

Recommended Question #2: Does Canada have plans to ratify the Optional Protocol to the CESCR?

4. WOMEN (ARTICLES 2, 3, 6 & 7)

4.1. Pay Equity

While the gender pay gap in Canada has decreased by 21% since 1981, pay inequity between men and women continues to be a persistent problem.[7] Women, on average, earn $0.87 for every dollar earned by men, and the gap is even more pronounced for Indigenous and racialized women in Canada, and for women with disabilities.[8]

In 2018, the Government of Canada introduced the *Pay Equity Act* (PEA), which requires employers to conduct a structured pay equity analysis to ensure equal pay for work of equal value. Although the right to equal compensation for men and women has been protected in law under the CHRA since 1977, the PEA puts in place a proactive

[7] "The Gender Wage Gap and Equal Pay Day, 2018." *Statistics Canada.* Published November 23, 2018. Available at: https://www150.statcan.gc.ca/n1/pub/89-28-0001/2018001/article/00010-eng.htm

[8] See, for example: "The Facts about the Gender Wage Gap in Canada." *Canadian Women's Foundation.* Published May, 1 2019. Available at: https://www.canadianwomen.org/the-facts/the-wage-gap/; Sheila Block, Grace-Edward Galabuzi and Ricardo Tranjan. "Canada's Colour Coded Income Inequality." *Canadian Centre for Policy Alternatives.* Published December 9, 2019. Available at: https://www.policyalternatives.ca/publications/reports/canadas-colour-coded-income-inequality; "Canadian Survey on Disability Reports." *Statistics Canada.* Published November 28, 2018. Available at: https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2018002-eng.htm.

system whereby employers become responsible for taking steps to ensure that compensation practices are equal for men and women.

Despite this being a positive development, the PEA only applies to federally-regulated workplaces, which constitute a small percentage of employment in Canada. While some other Canadian jurisdictions have similar legislation in place, there is no consistent approach to this issue across the country.

Recommended Question #3: Please provide details of efforts being undertaken to ensure effective implementation of the PEA. What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to this issue?

4.2. Sexual Harassment

In 2018, the number of complaints accepted by the CHRC citing the ground of "sex" was higher than in any other year in the past decade and represented 18% of all complaints accepted. In addition, 45% of all these complaints alleged harassment.

Gender-based violence, such as sexual assault and harassment, is largely underreported in Canada, and can have serious long-term physical, emotional and economic consequences. For instance, women are more likely than men to have been sexually assaulted or to have experienced unwanted sexual behavior in public, online, or in the workplace.[9] After surveying 1,350 female federal employees in 2017, the Government of Canada found that 30% of respondents said they had experienced sexual harassment and 3% had experienced sexual assault in the workplace.[10] In addition, women with disabilities, Indigenous women, single women, women who are unemployed, women with low-incomes, and younger women, are groups most likely to experience sexual assault and harassment.[11]

In 2018, the Government passed Bill C-65, which introduced amendments to the *Canada Labour Code* to require, among other things, that federally-regulated employers put in place measures to: prevent incidents of harassment and violence from occurring; respond effectively to these incidents when they do occur; and support victims, survivors and employers in the process. While the CHRC welcomes developments such as this, it again notes that this legislation is applicable only to federally-regulated

[9] "Gender-based violence and unwanted sexual behaviour in Canada, 2018: Initial findings from the Survey of Safety in Public and Private Spaces." *Statistics Canada.* Published December 5, 2019. Available at: https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2019001/article/00017-eng.pdf?st=LfqRrKSX.
[10] Amanda Connolly. "Bill C-65: Here's what the anti-harassment bill does and how it will affect you." *Global News.* Published January 29, 2018. Available at: https://globalnews.ca/news/3992737/bill-c-65-what-does-it-do/.
[11] "The Facts About Sexual Assualt and Harassment." *Canadian Women's Foundation.* Available at: https://www.canadianwomen.org/the-facts/sexual-assault-harassment/.

workplaces and, therefore, does not provide a complete solution. Cultural and societal changes are also needed to end sexual assault and harassment in Canada.

Recommended Question #4: Please provide details of efforts being undertaken to increase awareness of sexual harassment in the workplace. What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to this issue?

5. PERSONS WITH DISABILITIES (ARTICLES 2, 6, 7, 12 & 13)

5.1. Human Rights Complaints

In 2018, the number of complaints accepted by the CHRC citing disability were higher than in any other year in the past decade, representing 52% of all complaints accepted. Additionally, over half of all disability complaints accepted by the CHRC related to mental health. This represents 27% of all complaints accepted by the CHRC in 2018. Based on these numbers, it is clear that people living with mental health disabilities face significant barriers in employment and in accessing services.[12]

In jurisdictions across Canada, a significant proportion of disability complaints relate to employment. For instance, in federal jurisdiction, from 2009 to 2016, 84.1% of all complaints filed on the ground of disability related to employment. In most other Canadian jurisdictions, the proportion of disability complaints in the area of employment is more than half, reaching as high as 88.1% of disability-related complaints in Alberta.[13]

5.2. Accessibility

Accessibility remains a pre-eminent concern for persons with disabilities in Canada. The CHRC receives numerous complaints every year from persons with disabilities that deal with accessibility in a variety of facets of everyday life, including in employment and service provision, the built environment, in transportation, with technology, with access to information, during the electoral process, and in other ways.

The CHRC welcomes the passing of the *Accessible Canada Act* (ACA), which received Royal Assent on June 21, 2019. The CHRC has consistently supported the ACA and its broad, human rights-based approach to accessibility, and welcomes the upcoming appointment of an Accessibility Commissioner, as well as the expanded roles and responsibilities the ACA brings to the CHRC. The CHRC does, however, wish to raise several concerns – many of which have been raised by persons with disabilities and their representative organizations – relating to the successful implementation of the ACA.

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[12] The CHRC highlights a story of an individual with an invisible disability and the challenges of living with a mental health disability such as post-traumatic stress disorder in its 2018 Annual Report, available at: http://chrcreport.ca/assets/pdf/CHRC_AR_2018-ENG.pdf.

[13] Available at: https://www.chrc-ccdp.gc.ca/eng/content/report-roadblocks-career-path-challenges-faced-persons-disabilities-employment. Statistical analysis on various employment-related indicators are from the 2012 Canadian Survey on Disability.

During the legislative process, the CHRC and disability-related organizations recommended strengthening the language of the ACA by proposing amendments to 1) require the government to make regulations under the ACA, and 2) establish initial timelines for both the enactment and the implementation of these regulations. The CHRC notes that despite amendments that were made in response, the ACA only requires at least one regulation related to planning and reporting to be put in place. In addition, no timelines or requirements for regulations related to priority areas are listed. The CHRC remains concerned that without more concrete obligations on government, the laudable goals of the ACA may not be realized.

Recommended Question #5: Please provide details regarding the regulatory process under the ACA, including information about anticipated regulations and timelines for enactment and implementation.

The ACA currently does not clearly apply on First Nations reserves, most of which are governed by the *Indian Act*. While the CHRC welcomes the government's commitment for more robust consultation with First Nations, the Inuit and the Métis Nation, it remains concerned that this lack of clarity combined with the passage of time may lead to a persistent gap in human rights protection for Indigenous peoples.

The CHRC is familiar with the consequences of excluding a group of people from human rights protections. Prior to 2008, section 67 of the CHRA excluded persons from filing complaints of discrimination related to matters falling within the purview of the *Indian Act*, which governs many important aspects of the lives of First Nations people on reserve. Although this exemption from human rights protection was intended as a temporary measure when the CHRA was enacted in 1977, it remained in effect for 30 years, severely affecting access to justice for some First Nations and other people in vulnerable circumstances. It is important to ensure that such a gap does not present itself in respect of accessibility.

The CHRC urges the government to work quickly towards the effective implementation of the ACA in First Nations communities or, alternatively, to introduce distinct First Nations accessibility legislation in a timely manner. This work must include the recognition of Indigenous rights, unique interests and circumstances, and must be consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP). This has the potential to bring about positive change for those living with disabilities in First Nations communities by ensuring that First Nations persons on reserves are not left without the benefits and protections provided by accessibility legislation.

The CHRC also emphasizes the need to ensure adequate resources are provided to First Nations governments to meet both the urgent and the ongoing accessibility-related needs that exist in far too many communities.

Recommended Question #6: Please provide details regarding plans to ensure that accessibility legislation applicable to First Nations communities is enacted and/or implemented. Further, please provide details of steps being taken to ensure that such legislation is consistent with the the UNDRIP.

The CHRC commends the government for taking an inclusive and collaborative approach to the development of the ACA, consistent with the principle of "nothing about us, without us". This approach must continue during implementation of the legislation.

In this regard, the CHRC wishes to highlight concerns that have been expressed by disability communities over the lack of consistent, ongoing and appropriate funding to facilitate the participation of persons with disabilities and their representative organizations in consultations and other activities. The successful implementation of the ACA will be dependent on this fundamental principle of inclusion, as those who are affected and whose rights are implicated need to be a critical part of the creation, delivery, and assessment of the legislation and its regulations.

Recommended Question #7: Please provide details of the steps being taken to ensure that persons with disabilities and their representative organizations are able to fully engage in the process of implementation of the ACA, including resources that will be made available for this purpose.

5.3. Employment

In Canada, persons with disabilities continue to face barriers and stigma when looking for work, when seeking workplace inclusion and accommodation, and when trying to advance in their careers.

A recent report released by the CHRC in collaboration with Canadian Association of Statutory Human Rights Agencies (CASHRA)[14], *Roadblocks on the career path: Challenges faced by persons with disabilities in employment*[15], identified the following:

- at the national level, the employment rates of both women (45%) and men (49.8%) with disabilities are substantially lower compared to those of women (70.1%) and men (77.1%) without disabilities;
- more than 30% of persons with disabilities report that their disability makes it difficult for them to change jobs or advance in their careers;

[14] CASHRA was established in 1972 as an umbrella organization for the federal, provincial and territorial human rights commissions. Its purpose is to establish an effective communications link between statutory agencies working in the field of combatting discrimination. Its current membership includes the CHRC as well as the human rights commissions of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Ontario, Prince Edward Island, Québec, Saskatchewan, and the Yukon.

[15] Available at: https://www.chrc-ccdp.gc.ca/eng/content/report-roadblocks-career-path-challenges-faced-persons-disabilities-employment. Statistical analysis on various employment-related indicators are from the 2012 Canadian Survey on Disability.

- approximately 30% of persons with disabilities report having asked for a workplace accommodation that was not made available; and
- more than 40% of persons with disabilities report feeling that their employer considers them disadvantaged because of their disability.

To better understand and create a more complete picture of the employment-related experiences of persons with disabilities, the CHRC also consulted with human rights commissions across Canada and various organizations and experts that represent persons with disabilities. The barriers to employment highlighted through these consultations included the following:

- lack of physical workplace accommodation;
- failure to facilitate a return to work process;
- failure to approve a medical absence; and
- inadequate accommodation measures to address medical limitations proposed and/or implemented by an employer.

Recommended Question #8: Please provide details of efforts to address barriers to employment for persons with disabilities. What steps are being taken to foster inclusion and address workplace cultures that create barriers to employment for persons with disabilities? What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to this issue?

5.4. Education

Persons with disabilities continue to face systemic social and institutional barriers while trying to access education. These barriers have a negative impact on the educational attainment, training, employment, career path and overall well-being of persons with disabilities in Canada. These issues are the reality for Indigenous and non-Indigenous students with disabilities alike – whether they are living in remote areas of Canada, on First Nation reserves, in cities and urban centres across the country, or in the North.

A report released by the CHRC in collaboration with CASHRA, *Left Out: Challenges faced by persons with disabilities in Canada's schools*[16], identified the following barriers that persons with disabilities face in education:

- more than 25% of adults with disabilities reported being bullied at school due to their disability;
- approximately 10% of adults with disabilities reported stopping their education altogether, long before they had the chance to obtain their desired educational level, because of their disability;
- more than 40% of adults with disabilities reported that their disability had an influence on their choice of career;

[16] Available at: https://www.chrc-ccdp.gc.ca/eng/content/left-out-challenges-faced-persons-disabilities-canadas-schools. Statistical analysis on various educational-related indicators are from the 2012 Canadian Survey on Disability.

- approximately 10% of adults with disabilities reported having to leave their home community to attend school because appropriate services were not available; and
- approximately 15% of adults with disabilities reported having additional expenses for school because of their disability.

The CHRC also consulted with provincial and territorial human rights commissions across Canada and with external stakeholders who work with persons with disabilities to better understand some of the barriers that persons with disabilities are facing in education. Some of the barriers that were identified include:

- inadequate and insufficient accommodation arrangements in schools across Canada, which results in students being unable to attend the classes of their choice, write exams under necessary conditions, receive necessary transportation services, and bring service animals into classrooms and lecture halls;
- increased class sizes and decreased funding for specialized supports for students with disabilities, including a decrease in the number of educational assistants in classrooms; and
- closure of specialized education centres for persons with disabilities, such as education in Sign language for students.

Recommended Question #9: Please provide details of efforts to address barriers to education for persons with disabilities. What steps are being taken to foster inclusive and accessible learning environments and to prevent and combat bullying? What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to this issue?

6. HOUSING (ARTICLE 11)

People across Canada continue to experience unacceptable levels of homelessness and poverty. For instance, 1.7 million households in Canada are in core housing need[17] and 25,000 people in Canada are chronically homeless.[18] Those in vulnerable circumstances and who face discrimination on the basis of multiple and intersecting identities are often even more profoundly impacted. For example, 2SLGBTQI youth with disabilities and women fleeing violence are often overrepresented in homeless populations.

[17] According to the Canada Mortgage and Housing Corporation, a household is in core housing need if its housing is below one or more of the adequacy (housing does not require any major repairs, according to residents), suitability (housing has enough bedrooms for the size and makeup of resident households, according to National Occupancy Standard requirements) and affordability (housing costs less than 30% of before-tax household income) standards, and it would have to spend 30% or more of its before-tax household income to access local housing that meets all three standards.
[18] See: https://www.placetocallhome.ca/pdfs/Canada-National-Housing-Strategy.pdf.

The CHRC is encouraged by the passage of federal housing and anti-poverty legislation, and the earlier release of National Housing and Poverty Reduction Strategies, which demonstrate a commitment to recognizing and addressing the social and economic disadvantage that certain groups continue to experience. The CHRC welcomes, in particular, the anticipated appointment of a Federal Housing Advocate, who will be mandated to examine and report on systemic housing issues.

The CHRC notes that the federal housing legislation limits the powers of the Advocate – including the power to initiate reviews of systemic housing issues by review panels – to matters within federal jurisdiction. However, given that responsibilities and funding for housing matters are shared with provincial/territorial and municipal governments, the CHRC is concerned that this will limit the ability of the Advocate to effectively fulfill its mandate.

Recommended Question #10: Please provide details of efforts being undertaken to ensure that the Federal Housing Advocate, once appointed, is provided with the necessary tools and resources to broadly fulfill its mandate, particularly on issues that have shared jurisdictional responsibilities.

The CHRC also wishes to bring to the Committee's attention that, despite the recognition of the right to housing in the CESCR, the notion of a human rights-based approach to housing has not been a predominant theme in the development and implementation of Canada's housing laws, policies and programs.

Recommended Question #11: Please provide details of efforts being undertaken to ensure that Canada's housing laws, policies and programs incorporate a rights-based approach to housing.

The problems of poverty and inadequate housing are interrelated, interdependent and often indivisible, which is why it is imperative that these new initiatives work together. The CHRC is concerned that a lack of coordination reduces the likelihood of success of each separate initiative, and may hinder overall progress towards substantive equality. Meaningful progress also demands broader coordination within and beyond the federal government, with provinces and territories, Indigenous governments, municipalities, private and community organizations and civil society. Thus, while federal housing and anti-poverty legislation are encouraging, in order for solutions to be effective in addressing inequality, they must be planned, resourced and coordinated across issues and equality initiatives, and across different sectors of society.

Recommended Question #12: Please provide details of efforts being undertaken to ensure coordination between housing and poverty legislation and strategies, and between the various jurisdictions in Canada in relation to this issue.

7. INDIGENOUS PEOPLES (ARTICLES 2, 10, 11 & 12)

The CHRC views the situation of Indigenous peoples[19] in Canada as one of the most pressing human rights issues facing the country today. Indigenous peoples in Canada continue to experience high levels of socio-economic disadvantage and systemic discrimination in many facets of their daily life, including in education, employment, and access to basic needs such as safe and clean water, healthcare, food security and housing. Indigenous women in Canada also bear a disproportionate burden of violence, and are murdered or go missing at a disproportionately high rate. The root causes of this discrimination and violence are varied, complex, and intersectional.

7.1. Equitable and Adequate Services on Reserve

Across the country, many First Nation communities continue to live without equitable and adequate housing, safe drinking water or access to quality education, child welfare, and other social services. First Nations often cite lack of funding as the main reason for inadequate programs and services on reserves, including special education services, disability-related services, and social and health supports.

The CHRC has received a number of complaints filed by or on behalf of Indigenous persons, relating to the availability of and funding for a broad range of public services delivered on reserve. For example, complaints have been filed regarding the adequacy of federal funding and supports for child and family services, special education, health, assisted living, and home and community care services. The CHRC has also received complaints brought by First Nations persons against First Nations governments, relating to the allocation and/or renovation of accessible housing on reserve.

The CHRC recognizes that Bill C-92, *An Act respecting First Nations, Inuit and Metis children, youth and families*, provides an opportunity to make improvements to the child welfare system. Many features of this legislation are encouraging, including its emphasis on substantive equality, preventive care and the need for continuity of culture and language. However, the CHRC also shares the concerns of stakeholders that this legislation does not adequately address the need for reliable funding, which is critical for implementation. The Canadian Human Rights Tribunal, as well as other respected bodies such as the Truth and Reconciliation Commission of Canada and the United Nations Committee on the Rights of the Child, have all stressed the need for Canada to provide adequate resources in this area.

According to the *Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*[20], the crisis of child welfare, the chronic underfunding of

[19] The term “Indigenous” or “Indigenous peoples” is used throughout this submission to refer to First Nations, Inuit and Métis peoples in Canada, also commonly referred to as Aboriginal peoples. In specific areas of this submission, the terms Aboriginal or First Nations may be used for greater specificity, for example where this is the official terminology used in a referenced law, or where a law or program is applicable only to this sub-category of the Indigneous population.
[20] Available at: https://www.mmiwg-ffada.ca/final-report/.

essential services, and the many health disparities facing Indigenous communities can all be attributed to the legacy of colonialism and the intergenerational effects of trauma and genocide.

For instance, according to the report, researchers found that, compared with those who did not attend residential school, residential school survivors are more likely to suffer various physical and mental health problems, are more likely to report higher levels of psychological distress and poorer self-rated health, and are more likely to be diagnosed with various chronic health conditions. Although access to culturally appropriate and relevant services was identified as one of the most important factors in healing for residential school survivors, the report found that 1) there are not enough culturally relevant treatment and healing centres for Indigenous people across Canada, and 2) stable, sufficient and reliable funding is a barrier for the ones that do exist.

The report also found that Canada has failed to ensure that Indigenous women, girls, and 2SLGBTQQIA[21] people have access to services and resources that are equitable to those received by non-Indigenous people. It stated that the "[c]urrent health and wellness services are grossly lacking and often inappropriate and inaccessible, which contributes directly to the decreased safety and security of, and the violence experienced by Indigenous women, girls, and 2SLGBTQQIA people."[22]

<u>Recommended Question #13</u>: Please provide details of the steps being taken to ensure that services in First Nations communities are equitable, adequate and appropriate. What steps are being taken by Canada to implement the recommendations made by the National Inquiry into Missing and Murdered Indigenous Women and Girls, including in relation to the provision of services?

[21] This refers to people who are Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex and asexual. This is used throughout the National Inquiry both to include non-binary people and people with diverse sexualities, and as an explicit reminder that gender-diverse people's needs must equally be taken into account.
[22] *supra* note 20, at p. 498.