

## Just Healthy Housing: The Mutual Dependence of Health, Housing and Legal Rights

### *A Position Statement of the Canadian Network for the Health and Housing of People Experiencing Homelessness (CNH3)*

	<b>Position:</b>	<b>Importance</b>
1.	<i>Canada's international human rights obligations are crucial to ensure human dignity for all and CNH3 supports the respect, protection and fulfillment of the health and housing rights of people experiencing homelessness.</i>	Canada, its provinces and municipalities have long had international legal obligations to ensure the rights to housing and health for all peoples residing within its borders, and have made binding commitments to numerous international human rights treaties including the <i>International Covenant on Economic, Social and Cultural Rights</i> , the <i>International Covenant on Civil and Political Rights</i> , the <i>Convention on the Rights of the Child</i> , the <i>Convention on the Elimination of All Forms of Discrimination Against Women</i> , the <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> , the <i>Convention on the Rights of Persons with Disabilities</i> , the <i>Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment</i> and the <i>Convention Relating to the Status of Refugees</i> <sup>1,2</sup> .
2.	<i>CNH3 is proud to work in a country where equality for all is guaranteed as part of the legal infrastructure of the healthcare system.</i>	Through the principles of universality and accessibility of the <i>Canada Health Act</i> <sup>3</sup> , the equality provisions of Section 15(1) of the <i>Charter of Rights and Freedoms</i> <sup>4</sup> and provincial and territorial human rights codes, governments have committed to ensuring equality and non-discrimination in health care, including for those experiencing homelessness.
3.	<i>CNH3 notes that the self-determination of First Nations, Inuit, and Metis Peoples, including in health and housing governance, is critical to meeting</i>	Canada has distinct commitments to the rights to health and housing for First Nations, Inuit, and Metis Peoples living in Canada <sup>5,6</sup> . In addition to the <i>International Covenant on Economic, Social and Cultural Rights</i> , as a party to numerous numbered and other Treaties, Comprehensive Land Claims and Self-Government Agreements with

<sup>1</sup> Hohmann, J. (2014). *The Right to Housing: Law, Concepts Possibilities*. Portland, OR: Hart Publishing.

<sup>2</sup> Hunt, P. (2016). Interpreting the International Right to Health in a Human Rights-Based Approach to Health. *Health and Human Rights Journal*, 18(2): 109-130.

<sup>3</sup> R.S.C., 1985, c. C-6

<sup>4</sup> Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11

<sup>5</sup> Boyer, Y. (2004). The International Right to Health for Indigenous Peoples in Canada; Discussion Paper Series in Aboriginal Health: Legal Issues (Number 3). National Aboriginal Health Organization. 41 pp.; MacIntosh, C. (2013) The role of law in ameliorating global inequalities in Indigenous Peoples' health. *The Journal of Law, Medicine and Ethics*, 41(1): 74-88.

<sup>6</sup> Walker, R. (2008). Aboriginal self-determination and social housing in urban Canada: A story of convergence and divergence. *Urban Studies*, 45(1): 185-205.

	<i>normative obligations and providing equitable health outcomes.</i>	First Nations, under Section 35 of the Constitution recognizing the inherent rights of Aboriginal Peoples <sup>7</sup> . Canada has also fully endorsed the <i>United Nations Declaration on the Rights of Indigenous Peoples</i> .
4.	<i>As a collaborative multisectoral network, CNH3 is particularly concerned to ensure that the mutual dependence of the right to adequate housing and the right to the highest attainable standard of physical and mental health are acknowledged and operationalized in Canada.</i>	Having endorsed the <i>Vienna Declaration and Program of Action</i> , Canada recognizes that ‘all human rights are universal, indivisible and interdependent and interrelated’ <sup>8</sup> .
5.	<i>CNH3 is committed to promoting the health-informed prevention, management and resolution of homelessness as foundational priorities of any National Housing Strategy in Canada.</i>	As individuals and organizations caring for people experiencing homelessness, CNH3 is deeply familiar with the ways in which a good home is essential to a life of health and dignity <sup>9</sup> . People experiencing homelessness have an average age of death that is less than 50 years. This is a decrease of more than 25 years of life when compared to people who are securely housed <sup>10</sup> . Additionally, those whose lives are cut so short by homelessness are fraught with morbidity rates that are dramatically higher than people living in secure settled housing, resulting from traumatic and accidental injuries <sup>11</sup> , infectious diseases, chronic metabolic and cardiovascular diseases, mental illness and addictions <sup>12</sup> . Such dire health inequalities are experienced by homeless children and adolescents <sup>13</sup> and grow ever more disparate

<sup>7</sup> S.35, Part 2 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982*, c 11

<sup>8</sup> UN General Assembly, *Vienna Declaration and Programme of Action*, 12 July 1993, A/CONF.157/23, available at: <http://www.refworld.org/docid/3ae6b39ec.html>

<sup>9</sup> Thomson, H., Thomas, S., Sellstrom, E. and M. Petticrew. (2013) Housing improvements for health and associated socio-economic outcomes. *Cochrane Database and Systematic Reviews*, 28(2): CD008657. doi: 10.1002/14651858.CD008657.pub2

<sup>10</sup> Hwang S., Wilkins, R., Tjepkema, M., O’Campo, P. And J. Dunn (2009). Mortality among residents of shelters, rooming houses, and hotels in Canada: 11 year follow-up study. *British Medical Journal*, 339(7729): 1068-1070.

<sup>11</sup> Topolovec-Vranic, J., Ennis, N., Colantonio, A., Cusimano, M., Hwang, S., Kontos, P., Ouchterlony, D. and V. Stergiopoulos (2012). Traumatic brain injury among people who are homeless: a systematic review. *BMC Public Health*, 12: 1059-1067.

<sup>12</sup> Fazel, S., Geddes, J. and M. Kushel (2014). The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations. *The Lancet*, 384: 1529-1540; Aldridge, R., Story, A., Hwang, S., Nordentoft, M., Luchenski, S., Hartwell, G., Tweed, E., Lewer, D., Katikireddi, S., and A. Hayward (2018). Morbidity and mortality in homeless individuals, prisoners, sex workers, and individuals with substance use disorders in high-income countries: a systematic review and meta-analysis. *The Lancet*, 391: 241-250.

<sup>13</sup> Kulik, D., S., Crowe, C., and E Ford-Jones. Homeless youth’s overwhelming health burden: A review of the literature. *Pediatrics and Child Health*, 16(6): 43-47.



		<p>for those who live beyond 50<sup>14</sup>. Not even in dying are individuals experiencing homelessness spared such inequalities, experiencing significant barriers in their access to, and the quality of, advanced directives and palliative care<sup>15</sup>. While homelessness profoundly shapes health and health care, we are also intimately familiar with how health reciprocally affects people’s ability to obtain and maintain adequate housing by impinging on financial security, emotional well-being, cognition and functional abilities<sup>16</sup>.</p> <p>In order to ensure that all people have the ability to live a life of dignity, national housing strategies require homeless prevention and management programs – emergency shelters, harm reduction and abstinence focused, as well as transitional housing with appropriate health services and social supports. This includes permanent health enriched supportive housing and homelessness prevention initiatives – as well as a diversity of housing governance frameworks, supply and pricing strategies with a fundamental commitment to affordable housing and rent-geared to income approaches.</p>
<p><b>Rights-Based Approaches to Housing and Health Policy Deliver Effective and Just Outcomes</b></p>		
<p>6.</p>	<p><i>CNH3 supports a rights-based approach to Canada’s National Housing Strategy as being required by its international legal obligations with respect to</i></p>	<p>The <i>International Covenant on Economic Social and Cultural Rights</i> requires that states achieve the rights contained therein by ‘all appropriate means, including particularly the adoption of legislative measures.’<sup>17</sup> The most basic requirement of rights-based approaches to housing and health are their protection as legal rights<sup>18,19</sup>. For such</p>

<sup>14</sup> Brown, R., Hemati, K., Riley, E., Lee, C., Ponath, C., Tieu, L., Guzman, D. and M. Kushel (2016). Geriatric conditions in a population-based sample of older homeless adults. *The Gerontologist*, 57(4): 757-766.

<sup>15</sup> Huynh, L., Henry, B. and N. Dosani (2015). Minding the gap: access to palliative care and the homeless. *BMC Palliative Care*, 14: 62-65; Sumalinog, R., Harrington, K., Dosani, N., and S. Hwang (2017). Advance care planning, palliative care, and end-of-life care interventions for homeless people: A systematic review. *Palliative Medicine*, 31(2), 109-119.

<sup>16</sup> C. James Frankish, Stephen W. Hwang, and Darryl Quantz (2009). The Relationship Between Homelessness and Health: An Overview of Research in Canada. In: Hulchanski, J. David; Campsie, Philippa; Chau, Shirley; Hwang, Stephen; Paradis, Emily (eds.) *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book), Chapter 2.1. Toronto: Cities Centre, University of Toronto; Burra, T., Stergiopoulos, V. and S. Rourke (2009). A systematic review of cognitive deficits in homeless adults: implications for service delivery. *Canadian Journal of Psychiatry*, 54(2):122-132.

<sup>17</sup> Art. 2(1), UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

<sup>18</sup> Kenna, P. (2010). Can housing rights be applied to modern housing systems. *International Journal of Law and the Built Environment*, 2(2): 103-117.

<sup>19</sup> Yamin, E. (2008). Will we take suffering seriously: reflections on what applying a human rights framework to health means and why we should care. *Health and Human Rights Journal*, 10(1): 45-63; Hunt, P. (2016).

	<i>housing and consistent with evidence-based policy.</i>	rights to be meaningful, effective, and accountably governed, they need to be publicly justiciable <sup>20,21</sup> . There is considerable international experience demonstrating the effectiveness and fairness of rights-based approaches to housing and health that provides a rich comparative evidence-base for policy making <sup>22,23</sup> .
7.	<i>CNH3 advocates that legislative and policy standards for Canada's housing and health sectors be guided by its international legal obligations and the considerable Canadian expertise in these areas.</i>	Economic, Social and Cultural Rights such as the right to housing and health have been well developed over the last 30 years ensuring their concrete shape, meaningfulness and enforceability. International legal instruments have provided authoritative interpretations, including minimum core obligations, with respect to both housing and health rights <sup>24,25</sup> . Furthermore, internationally endorsed principles and guidelines have detailed the processes required for their legal implementation, assessment of violations and the approach to remedies for established violations <sup>26,27</sup> . Importantly, the World

Interpreting the International Right to Health in a Human Rights-Based Approach to Health. *Health and Human Rights Journal*, 18(2): 109-130.

<sup>20</sup> Kenna, P. (2010). Can housing rights be applied to modern housing systems. *International Journal of Law and the Built Environment*, 2(2): 103-117; Hohmann, J. (2014). *The Right to Housing: Law, Concepts Possibilities*. Portland, OR: Hart Publishing.

<sup>21</sup> Flood, C. and A., Gross (2014). Litigating the right to health: What can we learn from a comparative law and health care systems approach? *Health and Human Rights Journal*, 16(2):62-72; Forman, L., Beiersmann, C., Brolan, C., Hammonds, R., and G. Ooms. (2016). What do core obligations under the right to health bring to universal health coverage? *Health and Human Rights Journal*, 18(2): 23-34.

<sup>22</sup> Loison-Leruste, M. and D. Quilgars (2009). Increasing access to housing: Implementing the right to housing in England and France. *European Journal of Homelessness*, 3: 75-100; Tars, E. and C. Egleson (2009). Great Scot! The Scottish Plan to End Homelessness and Lessons for the Housing Rights Movement in the United States. *Georgetown Journal of Poverty Law and Policy*, 16(1): 187-215; Fitzpatrick, S. and N. Pleace (2012). The statutory homelessness system in England: A fair and effective rights-based model? *Housing Studies*, 27(2): 232-251; Watts, B. (2013). Rights, needs, and stigma: A comparison of homelessness policy in Scotland and Ireland. *European Journal of Homelessness*, 7(1): 41-68.

<sup>23</sup> Yamin, A. (2011). Power, suffering and the courts: Reflections on promoting health rights through judicialization. in Yamin, A. and S. Gloppen, (eds.): *Litigating health rights. Can courts bring more justice to health?* (pp 333-372). Cambridge, Mass.: Harvard Univ. Press ; Yamin, A. (2014). Promoting health equity: What role for the courts? *Health and Human Rights Journal*, 16(2): 1-9; Flood, C. and A., Gross (2014). Litigating the right to health: What can we learn from a comparative law and health care systems approach? *Health and Human Rights Journal*, 16(2):62-72.

<sup>24</sup> Hohmann, J. (2014). *The Right to Housing: Law, Concepts Possibilities*. Portland, OR: Hart Publishing; see Farha, L. (2018) Human Rights Based National Housing Strategies, A/HRC/37/53.

<sup>25</sup> Forman, L., Caraoshi, L., Chapman, A., and E. Lamprea (2016). Conceptualising minimum core obligations under the right to health: How should we define and implement the 'morality of the depths'? *The International Journal of Human Rights*, 20(4): 531-548.; Forman, L., Beiersmann, C., Brolan, C., Hammonds, R., and G. Ooms. (2016). What do core obligations under the right to health bring to universal health coverage? *Health and Human Rights Journal*, 18(2): .23-34.

<sup>26</sup> U.N. Doc E/CN.4/1987/17, Annex. The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1987). *Human Rights Quarterly*, 9: 122-135.



		<p>Health Organization has noted the necessity of ‘addressing the underlying social and economic determinants of health through policies and programs that enhance health equity and integrate pro-poor, gender-responsive, and human rights-based approaches’<sup>28</sup>. In addition, the UN General Assembly reaffirmed in detail the right to health while identifying its fundamental connection to ensuring Universal Health Coverage<sup>29</sup>. Similarly, access to safe, affordable and adequate housing for all has been made an explicit target of the UN Sustainable Development Goals as part of its focus on inclusive, safe, resilient and sustainable cities<sup>30</sup>.</p>
<p>8.</p>	<p><i>CNH3 advocates that funded civil legal aid in housing law, human rights, social assistance, and related areas of poverty law is a necessary precondition to rights-based housing policy, including a right to counsel in low-income evictions.</i></p>	<p>For housing rights to be publicly justiciable, low-income persons must have effective access to justice so that they may claim those rights and gain redress for the breach thereof. Access to justice is therefore “a cornerstone of the right to housing.”<sup>31</sup> The United Nations has recognized legal aid as a core component of equal and effective access to justice, as well as the rule of law generally.<sup>32</sup> Community lawyers and legal workers can hold governments to account for social and economic rights by being operationally independent from government, tribunals, and court systems.<sup>33</sup> While a few Canadian provinces have partially funded civil legal aid in housing law and related areas through community legal clinics and offices,<sup>34</sup> these services must be expanded nationally to meet local need. There is substantial evidence of the reduction in eviction rates associated with funded ‘right to counsel’ approaches for poor and working-class tenants facing eviction, and it’s associated net public savings.<sup>35</sup> While</p>

<sup>27</sup> The Maastricht Guidelines on Violations of Economics, Social and Cultural Rights (1998). *Human Rights Quarterly*, 20: 691-705.

<sup>28</sup> WHO Commission on the Social Determinants of Health, see p. 195, available at: [http://apps.who.int/iris/bitstream/handle/10665/43943/9789241563703\\_eng.pdf?sequence=1](http://apps.who.int/iris/bitstream/handle/10665/43943/9789241563703_eng.pdf?sequence=1).

<sup>29</sup> UN General Assembly, Global Health and Foreign Policy, U.N. Doc A/67/L.36 (2012), para. 10.

<sup>30</sup> Transforming Our World: The 2030 Agenda for Sustainable Development. U.N. Doc A/Res/70/1 (2015), para. 51.

<sup>31</sup> UN General Assembly, *Access to justice for the right to housing*, 15 January 2019, A/HRC/40/61, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/007/29/PDF/G1900729.pdf>

<sup>32</sup> UN General Assembly, *Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels*, 30 November 2012, A/RES/67/1, available at: <https://www.un.org/ruleoflaw/files/A-RES-67-1.pdf>

<sup>33</sup> UN General Assembly, *Report of the Special Rapporteur on extreme poverty and human rights*, 9 August 2012, A/67/278, at p. 23, available at: <https://www.ohchr.org/Documents/Issues/Poverty/A-67-278.pdf>

<sup>34</sup> Canadian Bar Association Access to Justice Committee (2016). “Study on Access to the Justice System – Legal Aid,” p. 6, available at: <https://www.cba.org/CMSPages/GetFile.aspx?guid=8b0c4d64-cb3f-460f-9733-1aaff164ef6a>

<sup>35</sup> As of November 2019, the cities of New York, San Francisco, Newark, Cleveland, and Philadelphia had enacted ‘right to counsel’ legislation for eviction cases; similar programs and legislation are under consideration in Los Angeles, Detroit, Washington D.C., and the states of Massachusetts and Connecticut; studies have further





		the right to counsel in criminal trials with potential penal consequences is broadly accepted both nationally <sup>36</sup> and internationally, <sup>37</sup> eviction and its resulting homelessness represents a serious threat to life, liberty, and security of the person. <sup>38</sup>
9.	<i>CNH3 is committed to promoting action towards fulfilling the minimum core obligations and the progressive realization of the necessary maximal commitments of the right to housing and the equitable distribution of health care for the homeless and will advocate for such minimum conditions of dignity to be enforced in Canada.</i>	Minimum core obligations are a key dimension of international legal obligations with respect to the rights to housing and health. These are obligations that exist, except in restricted circumstances irrelevant to Canada, regardless of a country's economic status and are therefore of immediate effect. In its general definition of minimum core obligations, the Committee on Economic Social and Cultural Rights regards 'essential primary health care', 'basic shelter and housing', 'sanitation', and to 'ensure equitable distribution of all health facilities, goods and services' <sup>39</sup> as explicit examples of minimum core obligations. Programs developed to meet these obligations are further defined by a minimum core obligation to devise adequate monitoring and evaluation programs to ensure the realization of the substantive minimum commitments <sup>40</sup> .
10.	<i>CNH3 will support and advocate for the implementation of comprehensive monitoring of discrimination as well as systems directly tied to regulatory interventions to mitigate discriminatory practices in the</i>	The principles of equality and non-discrimination informs international human rights law <sup>41</sup> . Under international law, prohibited grounds of discrimination include 'property...physical or mental disability, health status (including HIV/AIDS), [and] social status' <sup>42</sup> . Non-discrimination on such grounds constitutes one of the fundamental minimum core obligations of the rights to both health and housing. However, every day 35,000 homeless people living in

suggested eviction reduction through counsel in Seattle, Chicago, Columbus, Cincinnati, Colorado, and Minnesota. These efforts are tracked and mapped by the National Coalition for a Civil Right to Counsel, available at:

<http://civilrighttocounsel.org/map>

<sup>36</sup> *Infra* note 4, s. 10(b)

<sup>37</sup> United Nations Office on Drugs and Crime, *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*, Vienna, June 2013, Guidelines 3, 5, and 10, available at:

[http://www.unodc.org/documents/justice-and-prison-reform/UN\\_principles\\_and\\_guidelines\\_on\\_access\\_to\\_legal\\_aid.pdf](http://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf)

<sup>38</sup> *Victoria (City) v Adams*, 2009 BCCA 563 (CanLII) at paras 70, 102-110

<sup>39</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No: 3: The Nature of States Parties' Obligations (Art.2, Para. 1, of the Covenant), 14 December 1990, E/1991/23, available at

<http://www.refworld.org/docid/4538838e10.html>

<sup>40</sup> *Ibid*

<sup>41</sup> Dworkin, R. (2002). *Sovereign Virtue: The theory and practice of equality*. Boston, MA: Harvard University Press; Dworkin, R. (2013). *Justice for Hedgehogs*. Boston, MA: Belknap Press; Yamin, A. (2009) Shades of Dignity: exploring the demands of equality in applying human rights frameworks to health. *Health and Human Rights*, 11(2): 1-18; Yamin, A. (2014). Taking equality seriously: applying human rights frameworks to priority setting in health. *Human Rights Quarterly*, 36(2): 296-324.

<sup>42</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, 11 August 2000, E/C.12/2000/4, available at: <http://www.refworld.org/docid/4538838d0.html>



	<p><i>housing and homeless health sectors.</i></p>	<p>Canada experience discrimination in their access to housing and health care<sup>43</sup>. The consequences of such discrimination include further stigmatization, emotional distress, declining health and significantly premature mortality<sup>44</sup>.</p>
<p><b>11.</b></p>	<p><i>CNH3 advocates the need for Canada's National Housing Strategy to be targeted to prioritize individuals experiencing homelessness homeless as required by its international legal obligations.</i></p>	<p>International human rights obligations require that priority be placed on the most marginalized members of society. The Committee on Economic, Social and Cultural Rights states that 'vulnerable members of society can and indeed must be protected'<sup>45</sup> even in times of severe economic constraints. With respect the right to housing, 'such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere'<sup>46</sup>. Further, state parties 'must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others'<sup>47</sup>. Similar prioritization of the most marginalized and vulnerable is made with respect the right to health wherein the Committee states that health facilities, goods and services must be accessible to all, 'especially the most vulnerable or marginalized sections of the population'<sup>48</sup>.</p>
<p style="text-align: center;"><b>The Right to the Highest Attainable Standard of Physical and Mental Health is Essential to Achieving the Right to Adequate Housing</b></p>		

<sup>43</sup> Gaetz, S., Dej, E., Richter, T., and M. Redman., 2016. *The State of Homelessness in Canada 2016*. COH Research Paper #12. Toronto: Canadian Observatory on Homelessness Press. 85 pp.

<sup>44</sup> Fitzpatrick, S. (2005). Explaining homelessness: A critical realist perspective. *Housing, Theory and Society*, 22(1): 1-17; Skosireva, A., O'Campo, P., Zerger, S., Chambers, C., Gapka, S., and V. Stergiopoulos. (2014). Different faces of discrimination: perceived discrimination among homeless adults with mental illness in healthcare settings. *BMC Health Services Research*, 14: 376-387; McCarthy, L. (2013). Homelessness and identity: a critical review of the literature and theory. *People, Place and Society*, 7(1): 46-58; Johnstone, M., Jetten, J., Dingle, G., Parsell, C., and Z., Walter. (2015). Discrimination and well-being amongst the homeless: the role of multiple group membership. *Frontiers in Psychology*, 6: 739-748.

<sup>45</sup> See note 31

<sup>46</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing (Art. 11(1) of the Covenant), 13 December 1991, E/1992/23, available at: <http://www.refworld.org/decid/47a7079a1.html>

<sup>47</sup> *Ibid*

<sup>48</sup> See note 38



<p>12.</p>	<p><i>CNH3 advocates that the Provincial and Federal Governments make provisions to ensure meaningful and effective access to primary care and mental health service for sheltered and unsheltered people experiencing homelessness a condition of receiving funds for housing and shelter programs delivered as part of National Housing Strategies and Provincial initiatives.</i></p>	<p>The right to adequate housing has been interpreted by the Committee on Economic Social and Cultural Rights to entail a right to live somewhere in ‘peace, security and dignity’<sup>49</sup>. The Committee further explicitly rejected the conception of shelter as ‘merely having a roof over one’s head’<sup>50</sup>. The dependence of the right to adequate housing on health and health care are noted numerous times by the Committee:</p> <ul style="list-style-type: none"><li>a. When discussing the availability of services, it states that an ‘adequate house must contain certain facilities essential for health, security, comfort and nutrition’<sup>51</sup>. This position places health at the foundation of the concept of ‘housing’ itself. Canadians are regularly are forced by circumstance to live in shelters and homes that do not meet the basic international legal standards to qualify as a home.</li><li>b. When considering affordability, there is a legal obligation to ensure that ‘the attainment and satisfaction of other basic needs are not threatened or compromised’<sup>52</sup>. As physicians for individuals experiencing homelessness, we are made aware daily of the tragic decisions that people must make between rent, food and medicine to survive through the day.</li><li>c. The most explicit consideration of health is contained in the Committee’s discussion of habitability, where it cites in entirety the World Health Organization’s Health Principles of Housing<sup>53</sup>. Such principles ensure that housing promotes health and protects from disease, structural hazards and harmful environmental exposures. Despite such ideals, every year, numerous people living homeless in Canada perish due to such exposures.</li><li>d. Reviewing the legal obligations for criteria in housing prioritization, health considerations are cited repeatedly as relevant to such decisions including ‘the physically disabled, the terminally ill, HIV-positive</li></ul>
------------	--	---

<sup>49</sup> See note 38

<sup>50</sup> *Ibid*

<sup>51</sup> *Ibid*

<sup>52</sup> *Ibid*

<sup>53</sup> *Ibid*; World Health Organization. (1989). *Health principles of housing*. Geneva: World Health Organization





		<p>individuals, persons with persistent medical problems, [and] the mentally ill<sup>54</sup>. Canadians suffer profound health inequities, however, such morbidity seldom translates into prioritization for housing.</p> <p>e. The right to adequate housing stipulates that the location of housing must allow access to health care services<sup>55</sup>. As individuals experiencing homelessness frequently face profound stigmatization, discrimination and economic and health related restrictions to mobility, requiring separately located or non-outreach health services is a substantial barrier to access<sup>56</sup>. Therefore, for those living in shelters, health services need to be available in shelters themselves. For those sleeping on the street, outreach services are necessary.</p> <p>CNH3 is determined to ensure that the health and housing rights of people experiencing homelessness are respected, protected and fulfilled. Adequate health care located in shelters and delivered by street outreach for people who are unsheltered are minimum requirements of the right to housing itself, in addition to the right to health.</p>
<p><b>13.</b></p>	<p><i>CNH3 notes with concern that most housing services for Indigenous Peoples in Canada are not designed, delivered or controlled by Indigenous Peoples. CNH3 is committed to supporting and advocating to ensure that housing services for homeless Indigenous Peoples be delivered in models consistent with the principle of self-determination.</i></p>	<p>The international right to health for Indigenous Peoples explicitly includes stipulations requiring self-determination in the provision of health care. Housing rights are reciprocally tied to the realization of the right to the highest attainable standard of physical and mental health for everyone, including Indigenous Peoples, and the latter cannot be meaningfully self-determining without including self-determination in housing, there is an implicit right to the self-determination of housing for Indigenous Peoples.</p>
<p><b>The Right to Adequate Housing is Essential to Achieving the Right to the Highest Attainable Standard of Physical and Mental Health</b></p>		

<sup>54</sup> See note 38

<sup>55</sup> *Ibid*

<sup>56</sup> Shortt, S., Hwang, S., Stuart, H., Bedore, M., Zurba, N. and M. Darling. 2008. Delivering primary care to homeless persons: A policy analysis approach to evaluating the options. *Healthcare Policy*, 4(1): 108-122; Hwang, S. and T. Burns. (2014). Health interventions for people who are homeless. *The Lancet*, 284: 1541-1547; Luchenski, S., Maguire, N., Aldridge, R., Hayward, A., Story, A., Perri, P., Withers, J., Clint, S., Fitzpatrick, S., and N. Hewett. (2018). Morbidity and mortality in homeless individuals, prisoners, sex workers, and individuals with substance use disorders in high-income countries: a systematic review and meta-analysis. *The Lancet*, 391: 266-280.



<p>14.</p>	<p><i>CNH3 supports and advocates for the development of a National Housing Strategy that includes a housing-focused health rights strategy, with a prioritization on people experiencing homelessness and those requiring supportive housing for mental and physical health needs.</i></p>	<p>The international legal right to health is an ‘inclusive right extending not only to timely and appropriate health care but also to underlying determinants of health, such as access to...an adequate supply of safe food, nutrition, and housing, [and] healthy occupational and environmental conditions’<sup>57</sup>. Housing is both explicitly and implicitly addressed among the minimum core obligations of the right to health including:</p> <ul style="list-style-type: none"> <li>a. Explicit reference being made to the requirement of the right to housing where it is noted that the right to health requires that states ‘ensure access to basic shelter, housing and sanitation’<sup>58</sup>.</li> <li>b. Implicit reference to housing status is made when reviewing the grounds protected from discrimination, as they include ‘property’ and ‘social status’. As homelessness is a social identity and a state involving the lack of ‘property’<sup>59</sup>, it is a prohibited ground for discrimination in health care services.</li> </ul> <p>A legal right to health has been shown to improve population health and health equity while meeting minimum requirements of international human rights obligations<sup>60</sup>. Furthermore, housing and health rights are reciprocally essential for the full realization of one another. Health-informed housing is also consistent with Canadian and international best practice in health and social service planning including Housing First and supportive housing<sup>61</sup>.</p>
<p>15.</p>	<p><i>CNH3 supports and advocates ensuring that adequate housing, including permanent health enriched supportive housing, is</i></p>	<p>The international right to adequate housing requires that adequate health and health care requirements be equitably met, with prioritization of the most vulnerable and marginalized. As health and health care are defined in international law as the right to the highest</p>

<sup>57</sup> *Ibid*

<sup>58</sup> *Ibid*

<sup>59</sup> McCarthy, L. (2013). Homelessness and identity: a critical review of the literature and theory. *People, Place and Society*, 7(1): 46-58

<sup>60</sup> Flood, C. and A., Gross (2014). Litigating the right to health: What can we learn from a comparative law and health care systems approach? *Health and Human Rights Journal*, 16(2): 62-72.

<sup>61</sup> Aubry, T., Goering, P., Veldhuizen, S., Adair, C., Bourque, J., Distasio, J., Latimer, E., Stergiopoulos, V., Somers, J., Streiner, D., and S. Tsemberis. (2016). A multiple-city RCT of housing first with assertive community treatment for homeless Canadians with serious mental illness. *Psychiatric Services*, 67(3): 275-281; Katz, A., Zenger, S., and S. Hwang. (2017). Housing First the conversation: discourse, policy and the limits of the possible. *Critical Public Health*, 27(1): 139-147; Gubits, D., Shinn, M., Wood, M., Bell, S., Dastrup, S., Solari, C., McInnis, D., McCall, T., and U. Kattell. (2016). *Family Options Study: 3-Year Impacts of housing and services interventions for homeless families*. Washington, DC: Government Publishing Office; U.S. Department of Housing and Urban Development.



	<i>explicitly included within Federal, Provincial and Territorial health strategies and policies.</i>	attainable standard of physical and mental health and includes a requirement of adequate housing and shelter, the right to adequate housing and health are inseparable.
16.	<i>CNH3 advocates that Canada respect, protect and fulfill its obligations in relation to the right of Indigenous Peoples to self-determination within health care systems with equitable funding that is based on need. Such recognition should be consistent with inherent Aboriginal rights, treaty rights, self-government agreements and comprehensive land claims agreements, the International Covenant on Economic Social and Cultural Rights and the UN Declaration on the Rights of Indigenous Peoples.</i>	The international right to health for Indigenous Peoples requires self-determination in their provision of health care services. This is implicit in the inherent rights of peoples, numerous numbered and other treaties. The Committee on Economic , Social and Cultural Rights has reviewed this as follows: ‘Indigenous Peoples have the right to specific measures to improve their access to health services and care. These healthcare services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines. Governments should provide resources for Indigenous Peoples to design, deliver and control such services so that they may enjoy the highest attainable standard of physical and mental health.’ <sup>62</sup> Indigenous self-determination in health and housing, among other policy areas, is also outlined by the United Nations Declaration on the Rights of Indigenous People to which Canada has committed itself <sup>63</sup> .

<sup>62</sup> See note 34

<sup>63</sup> See note 6 and 7.