

Law Reform Opportunities in Quebec for Women Experiencing Intimate Partner Violence

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Executive Summary

The Quebec Homelessness Prevention Policy Collaborative (Q-HPPC) was created to advance policy reforms in Quebec to prevent homelessness. The Gender Research Stream, one of several research streams in the Q-HPPC, is focused on **legal reform options** on the right to adequate housing (“right to housing”) for women and girls in Quebec who experience or are at risk of experiencing intimate partner violence (IPV).

Women and their children fleeing violence face specific and gendered challenges, including having to leave their homes or losing access to housing as a result of IPV. These challenges require tailored solutions. Social supports often fail to empower and equip survivors to build secure lives when they take the courageous decision to leave settings of violence. Existing housing and shelter systems, including second step housing, do not currently meet their needs. Survivors of IPV who are immigrants, racialized, or members of ethnic minorities, and those who cannot speak English or French, face additional barriers, and the pandemic and a lack of affordable housing have worsened matters.

Successive governments in Quebec have made important strides and several reports and studies have underscored the importance of providing better support to victims of IPV. We do not propose to duplicate these efforts, but we do believe that the time has come to establish the necessary policy foundations for a rights-based approach. We propose an approach that is grounded in Quebec’s international human rights obligations towards comprehensive, gender-responsive, and survivor-centric solutions to the problem of access to housing for victims of IPV. This approach deploys law not only as a policy outcome but also as a policy driver and a source of fundamental norms that orient policy proposals in Quebec.

In the course of our research, we also identified several legislative gaps that affect victims of IPV, including income support, the protections of family law, and better social housing. We propose several straightforward “fixes” that can extend the protections of the law to victims. We also recommend significant investments in second-step housing for victims and their families. Many of these solutions have been tried elsewhere and we have included legislative texts from other jurisdictions as examples.

This paper identifies five areas for reform with 12 recommendations that have the potential to reduce the risk of housing insecurity for survivors of IPV and their children.

Reform Area A: The Right to Adequate Housing

The two recommendations in this section would, first, create a specific right to adequate housing in Quebec’s *Charter of Human Rights and Freedoms* and, second, would

operationalize that right in Quebec through legislation. A “right to housing” is part of international human rights law and has been part of Canadian federal law since 2019.

This right should be reflected in Quebec law as part of its obligations to respect, protect and fulfill the right to housing.

Enact a Right to Adequate Housing	
1. Amend the Quebec <i>Charter of Human Rights and Freedoms</i> (the “Charter”)	<p>Currently, Quebec’s <i>Charter</i> contains economic and social rights but the right to housing is not explicitly mentioned. An amendment to add this right would support Quebec’s efforts to:</p> <ul style="list-style-type: none"> • achieve the progressive realization of the right to housing. • better reflect international law obligations;
2. Enact legislation that implements the right to adequate housing in Quebec and creates accountability measures for the government to strengthen efforts to prevent homelessness.	<p>A new law would:</p> <ul style="list-style-type: none"> • explicitly incorporate the <i>International Covenant on Economic, Social and Cultural Rights</i> in Quebec law; • support the development of a national strategy; • create a mechanism to ensure the participation of affected groups; • create strong oversight and accountability measures for the Quebec government, such as oversight and monitoring of results; • create an independent housing rights advocate to promote and protect the right to housing.

Women and children fleeing domestic violence and IPV should be designated as priority groups under the provincial strategy, as they are in the federal government’s National Housing Strategy (NHS) and the related legislation, the *National Housing Strategy Act*.

In international law, the right to adequate housing represents the right to live in security and dignity, which includes factors such as accessibility, affordability, habitability, location, security of tenure, the availability of services, equipment and supports, and culturally appropriate housing (including linguistic services). In the area of IPV and domestic violence, confidentiality and security must be included as fundamental values.

Reform Area B: Enact Legislation on the Right To Be Free From IPV/Domestic Violence

Advocates have long called for comprehensive legislation that creates a right to be free from domestic violence, with appropriate protections, services and supports. Other jurisdictions

have such laws and have created a legal framework *outside the criminal justice system* to provide remedies, supports and resources for victims through the civil courts. Although the Criminal Code plays a crucial role in the area of conjugal violence, it often treats incidents of violence as unique events rather than as elements in a cycle of violence. Comprehensive legislation, on the other hand, enhances prevention, early intervention and timely responses to IPV, recognizing the need for a continuum of approaches.

Enact Comprehensive Legislation on the Right to Be Free From IPV	
3. Provide an inclusive definition of domestic violence/IPV.	A clear definition would allow for judicial intervention, including in situations of coercive control.
4. Enhance safety and supports	Courts could order a wider and more flexible range of protective orders, such as restraining orders, exclusive occupancy of the family home, counselling and sanctions.
5. Amend the <i>Civil Code of Quebec</i> to maintain women and children in rental leases and prevent eviction.	The current law allows lessees to terminate or “resiliate” leases in cases of domestic violence, but there are delays and the current process means leaving the dwelling. Additional options should be available to protect women with respect to housing, including removing a perpetrator from a lease where required for safety reasons, without evicting or penalizing the victim.
6. Undertake a feasibility study to improve access to justice by introducing integrated domestic violence courts (IDV courts).	Quebec currently has a specialized criminal court for conjugal violence matters, but IDV courts can address criminal, civil, and family law cases under one roof with case management and supports. This recommendation reiterates previous proposals that have been made in the area of conjugal violence.

Reform Area C: Improve Income Supports

Affordability is one of the main barriers facing women who are looking for housing, especially after IPV. In Quebec, at present, certain categories of people are excluded from income support or may have their support reduced, affecting their ability to access affordable housing. The following proposed reforms are designed to offer some protection to women who are financially vulnerable.

Improve Income Supports for Disadvantaged Groups	
7. Remove child support payments from “income” when determining eligibility for social assistance.	Quebec law includes child support in income when calculating eligibility for financial assistance. We propose that child support payments be excluded in calculating the financial ceiling.

<p>8. Expand eligibility for assistance for persons who have separated from abusive spouses regardless of immigration status</p>	<p>Several categories of people who are victims of abuse are ineligible for social assistance because of their immigration status. We recommend amendments to include women who leave abusive partners.</p>
<p>8. Increase the threshold for the value of liquid assets</p>	<p>Quebec law provides for very low thresholds for liquid assets: for example, for someone without dependent children, the ceiling is only \$887, above which applicants are ineligible for financial assistance. Given the rise in housing costs, among other factors, we propose an increase to the ceiling.</p>

Reform Area D: Social Housing

Social Housing	
<p>9. Widen access to low rental housing</p>	<p>Currently, Quebec law does not permit access to social housing to people whose immigration status is precarious. We propose an amendment to widen access.</p>
<p>10. Ensure that the right to housing includes further investments in the development of more second step housing.</p>	<p>Research indicates that the period after a survivor of IPV leaves an emergency shelter is critical to one's security. There is an insufficient supply of housing for survivors. Major investments are required in second step infrastructure that is safe and accessible for survivors and their families as part of the progressive realization of the right to housing.</p>

Reform Area E: Family Law Reforms

Family Law Reforms	
<p>11. Amend the <i>Civil Code of Quebec</i> to provide unmarried couples with rights to spousal support, the family patrimony and a default regime that allows for the equitable division of assets.</p>	<p>Many unmarried couples in Quebec are in <i>de facto</i> unions and lack basic protections compared to other provinces, such as access to the matrimonial home for the partner who is not the owner and who has custody of children. We recommend that the government heed calls for reform from prominent family lawyers to enhance these protections, which would have an important impact on victims of IPV.</p>

Finally, in our research, we identified several additional “upstream” measures that, while not directly related to housing and IPV, may support a comprehensive strategy on preventing IPV and homelessness:

- *The right to information and the right to know:* Explore changes in the law to provide a right to information and a “right to know” about a partner with an abusive past. Other jurisdictions, including in the UK and two Canadian provinces, have adopted measures that allow the police to provide information about a partner’s criminal or civil record of past abuse (“Clare’s Law”).
- *Healthcare sector:* Improve processes and methods in the healthcare sector on screening, training, and reporting on family violence and IPV may have improved public health outcomes.
- Amend the *Education Act* to include IPV and violence-prevention education and social-emotional learning programs in primary or secondary schools, or both.

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Acronyms and Terms

2sLGBTQIA+	2spirit, Lesbian, Gay, Transgender, Queer, Intersex, Asexual/Aromantic+
ACCES Division	Division des accusations dans un contexte conjugal et sexuel
CCQ	Civil Code of Quebec
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
FRAPRU	Front d'action populaire en réaménagement urbain
GBV	Gender-based violence
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant of Economic, Social and Cultural Rights
IDV Court	Integrated Domestic Violence Court
IFAA	Individual and Family Assistance Act
IPV	Intimate Partner Violence
NGO	Non-Governmental Organization
NHS	National Housing Strategy
NHSA	National Housing Strategy Act
Q-HPPC	Quebec Homelessness Prevention Policy Collaborative
RIGHT TO HOUSING	Right to adequate housing, as set out in the International Covenant of Economic, Social and Cultural Rights
SEL	Social-Emotional Learning
SHQ	Société d'habitation du Québec
UDHR	Universal Declaration of Human Rights
UN	United Nations
VAW	Violence Against Women

1. INTRODUCTION

The Quebec Homelessness Prevention Policy Collaborative (Q-HPPC) was created to advance policy reforms to prevent homelessness in Quebec. The Gender Research Stream of the Q-HPPC was established as one of several research streams to examine **legal reform options** on the right to adequate housing (right to housing) for women and girls in Quebec who experience or are at risk of experiencing intimate partner violence (IPV).

Canada's housing crisis has generated unprecedented calls for fundamental policy and legal reforms to combat homelessness and to improve housing security. Calls for change are in part the product of significant disinvestments in housing, especially social and affordable housing, since the 1980s and 1990s. Despite important progress and measures taken by the Quebec government, housing in Quebec has become increasingly unaffordable and the supply of emergency housing (shelters) and second-step (or second stage) housing does not meet demand. At the federal level, the housing crisis and the resulting calls to action led to Right to Housing legislation in Canada in 2019, and efforts to address inadequate housing are now part of the federal policy agenda.¹

IPV is also a policy priority that intersects in significant ways with housing insecurity and risk of homelessness. In Quebec alone, more than twenty ministries have made various commitments to prevent, detect, and end IPV.² And yet, IPV remains a pervasive - and sometimes fatal - problem.³ In Quebec's 2018 homelessness count and survey, 21% of 947 women respondents who identified as homeless cited abuse from their partner as reason for being homeless. In contrast, only 1% of men reported that partner abuse was a reason for their experience of homelessness.⁴

Community organizations and not-for-profit groups that attempt to fill service and housing gaps have consistently faced resource shortages for essential emergency, second-step and long-term shelter, as well as for supports for survivors of violence. Statistics Canada data published in 2021 shows that residential facilities in Quebec admitted more than 21,000

¹ The National Housing Strategy was released in 2017, and the *National Housing Strategy Act* SC 2019 c 29 in 2019. The 2021 [Speech from the Throne](#), "Building a Resilient Economy: A Cleaner & Healthier Future for Our Kids" (November 23, 2021) identifies housing as a major priority and commits the Government to work with its partners to obtain "real results."

² Québec, "2012-2017 "Government Action Plan on Domestic Violence" (2012) online (pdf): Bibliothèque et Archives nationales du Québec, <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Plan_d_action_2012-2017_version_anglaise.pdf>.

³ In 2015, Quebec police responded to 11 intimate partner homicides and 36 attempted intimate partner murders; 78% of these victims were women. See Carolanne Vignola-Levesque & Suzanne Léveillé, "Intimate Partner Violence and Intimate Partner Homicide: Development of a Typology Based on Psychosocial Characteristics" (2021) *J Interpers Viol* 1.

⁴ Québec, « Dénombrement des personnes en situation d'itinérance au Québec le 24 avril 2018 » (2019) at 52, online (pdf): *Ministère de la Santé et des Services sociaux* <<https://publications.msss.gouv.qc.ca/msss/fichiers/2018/18-846-10W.pdf>>.

women and children in 2014.⁵ These numbers do not include people who were unable to access these shelters. Law enforcement measures, implemented in the context of improving the response to reports of violence, have also attempted to respond to needs through specialised IPV units and sensitivity training.⁶

Successive governments in Quebec have made important strides, and several reports and studies have underscored the importance of providing better support to victims of violence. Despite these efforts, measures often fail to deliver adequate, secure and stable shelter. This is especially true for people who are vulnerable, such as immigrants, racialized people, members of ethnic minorities as well as those who speak neither English or French. This document is based on the fundamental premise that conjugal violence shapes housing insecurity. Poverty and other socioeconomic factors, as well as structural and systemic factors, propagate violence and create obstacles to finding adequate housing. Many of these obstacles are located in the legal system.

We do not intend to duplicate these efforts or existing studies and reports, but we do believe that the time has come to establish the necessary policy foundations for a rights-based approach in Quebec. The purpose of this paper is to offer law reform options that support the right to adequate housing and the right to be free from violence. We propose an approach that is grounded in Quebec’s international human rights obligations and that moves us towards comprehensive, gender-responsive, and survivor-centric solutions to the problem of access to housing for victims of IPV. This approach deploys law not only as a policy outcome but also as a policy driver and a source of fundamental norms that orient policy proposals in Quebec⁷.

A human rights-based approach is especially relevant because evidence on the effectiveness different housing services and supports for victims of IPV, and the extent to which they meet the diverse needs of victims, is limited.⁸ Having said that, an important dimension of the human rights-based approach is gender-responsiveness: studies show that without it, homelessness prevention strategies may perpetuate gender inequalities.⁹

⁵ Statistics Canada, “Table 35-10-0080-01: Admissions of Women and Children to Shelters, by Type of Shelter” (2021) online: *Statistics Canada* <<https://www150.statcan.gc.ca/t1/tb1/en/tv.action?pid=3510008001&pickMembers%5B0%5D=1.6&pickMembers%5B1%5D=2.1&cubeTimeFrame.startYear=2012&cubeTimeFrame.endYear=2014&referencePeriods=20120101%2C20140101>>.

⁶ SPVM, « Section spécialisée en violence conjugale » (2022) online: *SPVM* <<https://spvm.qc.ca/en/Fiches/Details/Module-denquetes-specialisees-en-violence-conjugale>>.

⁷ Pearl Eliadis, “Inscribing Charter Values in Policy Processes” in Sheila McIntyre and Sanda Rodgers, *Diminishing Returns: Inequality and the Canadian Charter of Rights and Freedoms* (Markham: LexisNexis Butterworths, 2006) 227.

⁸ Alexa R Yakubovich & Krys Maki, “Preventing Gender-Based Homelessness in Canada During the COVID-19 Pandemic and Beyond: The Need to Account for Violence Against Women” (2021) 0:0 *Viol Ag W*.

⁹ Melissa Perri and Patricia O’Campo, “A Gap in Knowledge Surrounding Urban Housing Interventions: A Call for Gender Redistribution” (2021) 36:4 *Health Promot Int* 908.

This document sets out a comprehensive “made in Quebec” legal framework to protect both the right to housing (thereby helping to prevent homelessness) and the right to be free from violence. The first proposal recommends the importance of the unequivocal recognition of the right to adequate housing, based on solid mechanisms that create government accountability for targets based on the obligation of progressive realization. Second, we propose the enactment of comprehensive legislation to address IPV that includes legal recourses in civil matters, with interventions and supports tailored to conjugal violence. These two recommendations aim to create transparent mechanisms and accountability structures, as well as recourses, principally outside the sphere of criminal law.

Not all the solutions we suggest are new. Some have been tried successfully in other provinces and countries or have been tested in pilot projects. Others represent longstanding demands by advocates and survivors. We believe that we are in a moment in time where legal solutions can be packaged in a single policy document, drawing on several recent and important developments at both the federal and provincial levels, including the 2019 [National Housing Strategy Act](#) and the compelling 2020 Quebec report, [Rebâtir la confiance: rapport du comité d’experts sur l’accompagnement des victimes d’agressions sexuelles et de violence conjugale](#), among others.

We recognize that for men who perpetrate violence, the cycles of violence and their consequences can also lead to homelessness. This can be the result of criminalization, loss of employment, and loss of access to the family home. Some of the solutions in this paper, including non-criminal protective measures, may help prevent homelessness for this group too. Having said that, we focus on women because they are overwhelmingly the victims of IPV and tend to be more economically and socially vulnerable and subject to coercive control. We recognize that more services such as counselling and support for perpetrators are needed, and that further research is required.

Lastly, since all the researchers who contributed to this project are settlers and given that the Q-HPPC is currently exploring a distinct research stream working with Indigenous peoples, we have not issued recommendations specifically with respect to Indigenous survivors of IPV in this paper.

2. TERMINOLOGY

Women: 2sLGBTQIA+ and gender-diverse persons also experience unique forms of violence and require protection. For this reason, we have sought to avoid the use of pronouns throughout the document. Many proposals in this paper will be relevant to persons in these population groups. Also, we have adopted an inclusive definition to the term “women” to encompass gender diverse persons who identify as women.

Intimate Partner Violence: Several terms are used in the literature, including violence against women (VAW), conjugal violence and domestic abuse/violence. This paper uses the term “intimate partner violence” or IPV to denote different forms of harm caused by a current or former partner or spouse. IPV includes physical violence as well as other conduct that is violent or threatening, or that demonstrates a pattern of coercive and controlling behaviour, and other actions that cause the victim to fear for his or her safety.¹⁰

We recognize that IPV differs from family violence, which may occur among any family member. According to the World Health Organization, family violence is an umbrella term that includes child abuse and maltreatment, IPV, and elder abuse. It refers to “any form of abuse, mistreatment or neglect that a child or adult experiences from a family member, or from someone with whom they have an intimate relationship”.¹¹

Right to adequate housing: The right to adequate housing or simply the “right to housing” is recognized under international law and is now included in Canadian federal law under the *National Housing Strategy Act*. While “adequacy” is determined in part by social, economic, cultural, climatic, ecological, and other factors, the United Nations Committee on Economic, Social and Cultural Rights has defined it according to the following key elements:

- Accessibility
- Affordability
- Availability of services, materials, and infrastructure
- Culturally adequate housing
- Habitability
- Legal security of tenure
- Location¹²

We also note that, with respect to IPV and domestic violence, confidentiality and security are fundamental values to be reflected in the right to housing.

3. METHODOLOGY

We scanned the legal literature and international, comparative, and national legal sources for relevant human rights standards with a focus on housing and IPV/domestic violence, paying particular attention to promising reforms that have been introduced in other jurisdictions bearing in mind the specificity of Québec’s legal culture. Where useful comparisons were identified, they were evaluated in more detail through secondary sources including peer-reviewed social science journals, government documents, and grey

¹⁰ World Health Organization, *World Report on Violence and Health: Summary*, (Geneva, 2002).

¹¹ *Ibid.*

¹² *General Comment No. 4: The Right to Adequate Housing (Art 11 (1))*, CESCR, 1991, UN Doc E/1992/23 [ICESCR Gen Comm 4] [Note: This definition will be elaborated upon further in Section 4: International Law and Canada’s Commitments].

literature such as documents from civil society. The results helped us in assessing how suggested reforms might be useful in Quebec.

Interviews and workshops

To provide additional information on areas of practical relevance to women experiencing IPV, we held interviews in 2021 with key informants who work at the nexus between IPV and homelessness prevention in Quebec. Key informants include a director of a women's IPV shelter, a director of a violence intervention centre, and public interest lawyers: all identified areas of particular importance based on their expertise and work experience. Discussions in these interviews allowed us to highlight pressing areas of reform, including potential opportunities for reform in the areas of criminal, civil, housing, social assistance, education, health, family, and employment law across federal and provincial levels. [Appendix B](#) contains the list of key informants and their affiliations.

Some major proposals in an earlier version of this paper were discussed in Q-HPPC workshops at its inaugural conference in February 2022. An earlier version of this paper was also presented and discussed at a workshop held in May 2022 with several social workers and cultural interpreters from the Shield of Athena Family Services in Montreal. We have done our best to reflect the ideas discussed in these fora.

Human rights-based approaches

Human rights-based (or rights-based) approaches to policy tell us what rights have to say about policy design. Rights-based approaches extend beyond compliance with the law to ensure that the design, development, and implementation of policy are defined by human rights principles and are operationally directed at promoting and protecting human rights.

This paper draws on international human rights law, the *Canadian Charter of Rights and Freedoms* [Canadian Charter], and the *Charter of Human Rights and Freedoms* [Quebec Charter]. In addition, reference is made to:

- Relevant elements of the UN Sustainable Development Goals, including eradicating poverty, gender equality, more inclusive and sustainable cities and communities, as well as the promotion of peaceful societies, access to justice for all, and efficient institutions that are accountable and open to all.
- An intersectional approach that recognizes not only sex and gender, but other policy-relevant factors such as age, disability, ethnicity, poverty, precarious immigration

status, race, religion, and language.¹³ The approach also considers social relationships among individuals at each stage of the development of government programs, public services, and other initiatives.¹⁴

We recognize that intercultural approaches are complex, and that people experiencing homelessness do not form a monolithic block.¹⁵ By applying a human rights-based approach to the nexus between IPV and homelessness, we are better able to analyze the multiple characteristics that may cumulatively, structurally, or acutely impact the risk of homelessness.

4. INTERNATIONAL LAW : CANADA'S & QUEBEC'S COMMITMENTS

Canada is a State party to several international human rights instruments, through which Canada and Quebec have committed to respect, protect and fulfil human rights. Canada is party to several major international instruments through which it commits to respecting, protecting, and fulfilling the rights of all human beings. The 1993 [*Vienna Declaration and Programme of Action*](#) affirms that all human rights are universal, indivisible and interdependent, and interrelated. Quebec also has obligations for many areas that are under provincial jurisdiction.

The *Universal Declaration of Human Rights* [UDHR],¹⁶ the *International Covenant on Economic, Social, and Cultural Rights* [ICESCR],¹⁷ the *Convention on the Rights of the Child*,¹⁸ the *Convention on the Elimination of All Forms of Discrimination Against Women* [CEDAW],¹⁹ the *International Convention on the Elimination of All Forms of Racial Discrimination* [ICERD],²⁰ the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* [Migrant Workers Convention]²¹ and the *Convention on the*

¹³ Intersectional approaches generally consider how an individual's multiple identities interact. For a general understanding, see Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics" (1989) *U Chi Legal F* 139 at 166-7. For a Canadian perspective, see Canada, "What is Gender-Based Analysis Plus", online: *Women and Gender Equality Canada* <<https://women-gender-equality.canada.ca/en/gender-based-analysis-plus.html>>.

¹⁴ *Ibid.*

¹⁵ Jamie Vickery "Using An Intersectional Approach To Advance Understanding Of Homeless Persons' Vulnerability To Disaster" (2018) 4:1 *Env Socy* 136 [*Intersectional Approach to Understanding of Homeless Persons*].

¹⁶ *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948) 71 Art. 25 [UDHR].

¹⁷ *International Covenant on Economic, Social and Cultural Rights*, GA Res 2200 (XXI), UNGAOR, UNTS 993 (1966) 3 Art 11 [ICESCR].

¹⁸ *Convention on the Rights of the Child*, GA Res 44/25, UNGAOR, UNTS 1577 (1989), Art. 27 [CRC].

¹⁹ *Convention on the Elimination of All Forms of Discrimination Against Women*, GA Res 34/180, UNGAOR, UNTS 1249 (1979) 13 at Art 14 [CEDAW].

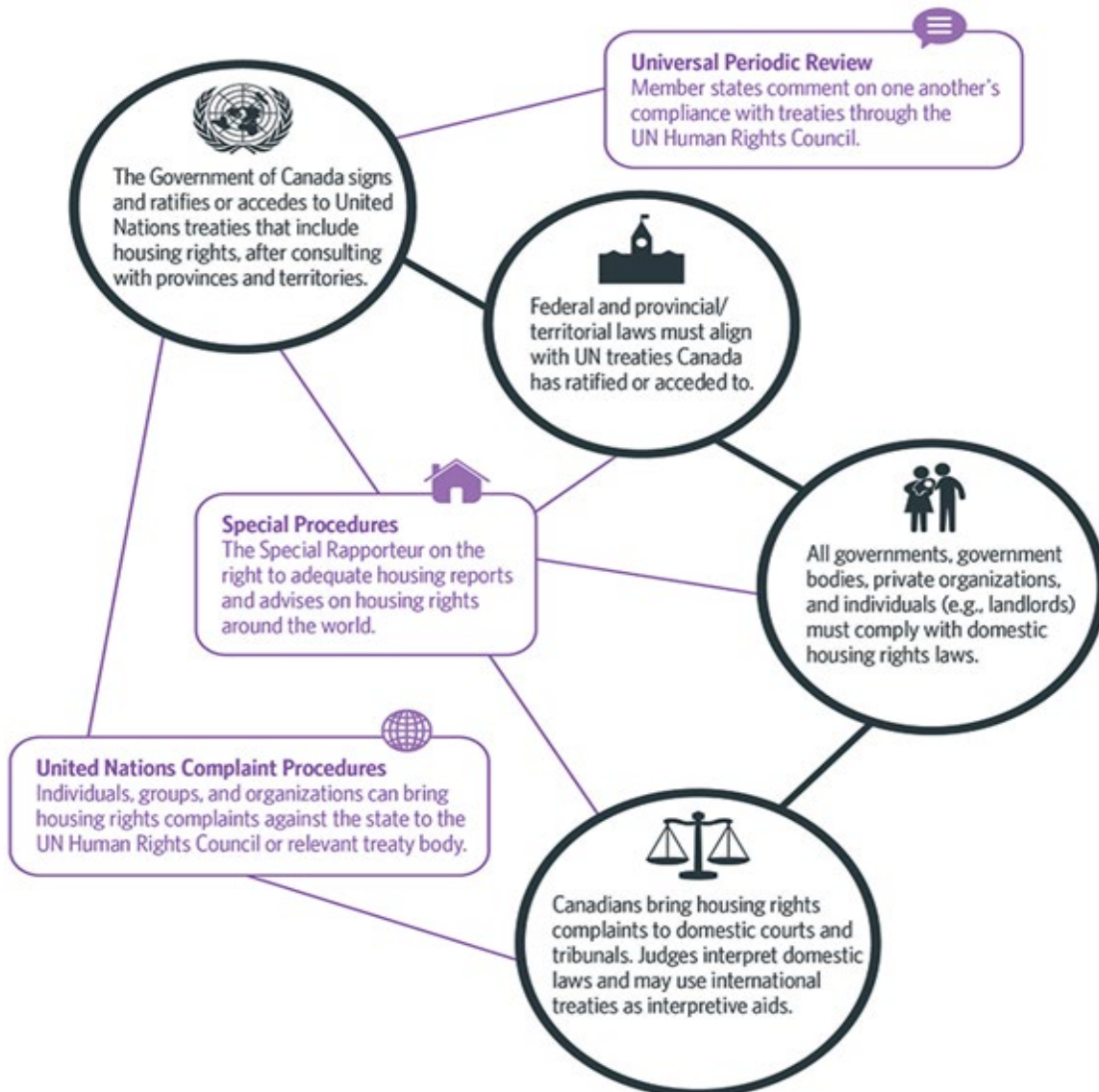
²⁰ *International Convention on the Elimination of All Forms of Racial Discrimination*, GA Res 2016 (XX), UNGAOR, UNTS 660 (1969) at Art 5 [ICERD].

²¹ *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, GA Res 45/158, UNGAOR, UNTS 39481 (2003) Art 43.1 [Migrant Workers Conventions].

Rights of Persons with Disabilities all contain protections regarding the right to housing. Canada is a signatory to all but the Migrant Workers' Convention.

The following diagram illustrates the application of human rights in the matter of the right to housing in relation to Canada's international commitments.

Housing Rights: A schematic overview of Canada’s commitments



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https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201916E

Many of these rights must be “realized” (given effect) immediately; for example, civil and political rights or the right to equality, while others, such as the right to adequate housing, are subject to progressive realization. The concept of progressive realization acknowledges that states may have resource constraints and therefore, certain rights cannot be exercised immediately. Each member state is nonetheless required to make every effort to maximize available resources to allow for the exercise of these rights. Progressive realization is not an excuse for states who are not honouring their commitments, but rather an obligation to maximize the use of what resources they have towards the exercise of the right.²² States are obliged to take steps that are deliberate, concrete and targeted as clearly as possible towards meeting their obligations.

The United Nations Committee on Economic, Social and Cultural Rights (the Committee) has provided clarification on the content of the right to adequate housing. Its 1991 General Comment 4 defines it as the right to live somewhere in security, peace and dignity and identifies seven qualifying aspects of the right:

- Accessibility
- Affordability
- Availability of services, materials, facilities, and infrastructure
- Cultural adequacy
- Habitability
- Legal security of tenure
- Location.²³

The Committee also issued the 1997 *General Comment No. 7* on forced evictions. The Committee affirms the right to not be evicted (outside the bounds of what is permitted by law), as well as to be provided adequate alternative solutions if the eviction is within the bounds of the law.²⁴

The Committee appropriately notes the association between evictions and the possibility of rendering individuals homeless. Homelessness includes not only primary homelessness (people living in the streets without shelter or using emergency shelters), but also secondary homelessness, which is referred to in Canada as “hidden homelessness.” People experiencing hidden homelessness and write the thing with that homelessness include individuals who lack access to their usual residence or who move frequently between various types of accommodations. This definition includes individuals in long-term “transitional shelters or

²² *Frequently Asked Questions on Economic, Social and Cultural Rights: Fact Sheet No 3*, CESCR, 2008, UN Doc GE08-44591.

²³ *ICESCR Gen Comm 4*, *supra* note 12.

²⁴ *General Comment No. 7: The right to adequate housing (Art.11.1)*, CESCR, 1997, UN Doc E/1998/22.

similar living arrangements and those living in private dwellings but who report no usual address on their census form”.²⁵

Also, Target 11.1 of the UN Sustainable Development Goals has set the target of ensuring access for all to adequate, safe, and affordable housing and basic services by 2030.²⁶

Women’s rights to non-discrimination and freedom from violence

The UDHR,²⁷ the ICESCR²⁸, the *International Covenant on Civil and Political Rights* [ICCPR],²⁹ CEDAW³⁰, and the *Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women*³¹ provide rights to be free from discrimination based on sex. CEDAW also provides guarantees establishing that women have the right to be free from violence.

To place these guarantees in context, the CEDAW Committee has issued two General recommendations, No. 19 on violence against women which was issued in 1992³² and its updated recommendation No. 35, issued in 2017.³³ The recommendations reflect the CEDAW Committee’s position that the prohibition of gender-based violence has evolved into a principle of customary international law. Principles of customary international law reflect repeated and universal, or near-universal, acceptance of norms within the international community. These principles create legal obligations to prevent violence, including that perpetrated by private persons, whether a state has become a party to a particular treaty or not. Article 34 of General recommendation No. 35 says that States are required to take measures against stereotypes and inequality in the family that are the underlying causes of gender-based violence. States are also liable for acts and omissions

²⁵ See *Human Rights Indicators: A Guide to Measurement and Implementation*, OHCHR, 2012, UN Doc HR/PUB/12/5 at p 94.

https://www.ohchr.org/sites/default/files/Documents/Publications/Human_rights_indicators_en.pdf

²⁶ See *Transforming our World: The 2030 Agenda for Sustainable Development*, GA Res A/RES/70/1 (2015) at p 21.

²⁷ UDHR, *supra* note 16 at Art 2.

²⁸ ICESCR, *supra* note 17 at Art 2.

²⁹ *International Covenant on Civil and Political Rights*, GA Res 2200A (XXI), UNGAOR, UNTS 999 (1966) 171 Art 2, 26 [ICCPR].

³⁰ CEDAW, *supra* note 19 at Art 14.

³¹ *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women*, GA Res 4, UNGAOR, A/RES/54/4 (1999).

³² *General Comment No. 19 on gender-based violence against women*, CEDAW, 1992, CEDAW/C/GC/35.

³³ *General Comment No. 35 on gender-based violence against women, updating general recommendation No. 19*, CEDAW, 2017, CEDAW/C/GC/35.

perpetrated by those acting under its authority and must ensure access to remedies for survivors.³⁴

Better prevention and protection for women that include measures to prevent homelessness because of IPV will also improve Quebec's compliance with its obligations in international law. This will also be a means to advance the progressive realization of the right to adequate housing.

³⁴ Further examples of customary international law include the prohibition against torture, the right to self-defense, and the principle of self-determination. See Tullio Treves, "Customary International Law" in *Max Planck Encyclopedia of Public International Law* (Oxford: Oxford University Press, 2012) online: <<https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1393?prd=MPIL#law-9780199231690-e1393-div1-4>>.

5. THE CANADIAN AND QUEBEC CONTEXTS

5.1 Gender and IPV

The 2018 Point in Time survey found that women comprised 36% of the homeless population nationally.³⁵ However, this statistic is largely seen as an underestimation. Situations such as couch surfing, survival sex, human trafficking, living in cars etc. contribute to “hidden homelessness”, thereby creating methodological challenges in accurately identifying women in these counts.³⁶

Inequality and systemic gender disparities manifest in structural and other barriers experienced by women create living conditions that endanger their personal security or hinder the ability to find and retain stable housing. Women may stay in abusive relationships, for example, or engage in survival sex, or tolerate sexual harassment to remain housed, all of which are aspects of housing need and homelessness.³⁷ Women report to be more likely to experience housing insecurity and become homeless because of the breakdown of marital or other personal relationships where they were materially dependent on partners.³⁸

According to a 2016 Statistics Canada report, women and girls constituted the majority (68%) of police-reported family violence victims.³⁹ After a period of decline, rates of violence against many groups, including intimate partners, have been on the rise in Quebec and in Canada since 2016.⁴⁰ It is estimated, however, that rates of violence may be much higher given that most cases of IPV go unreported.⁴¹ Women victims of homicide in Canada are more likely to be killed by an intimate partner than by any other type of perpetrator.⁴² Among solved homicides in 2019, 47% of women who were victims of homicides were killed by an intimate partner, compared with 6% of homicide victims who were men.⁴³

³⁵ Government of Canada, “Everyone Counts Highlights 2018” (2019) online (pdf): *Employment and Social Development Canada* <[https://www.canada.ca/content/dam/esdc-edsc/documents/programs/homelessness/reports/1981-Reaching_Home-PIT-EN_\(3\).pdf](https://www.canada.ca/content/dam/esdc-edsc/documents/programs/homelessness/reports/1981-Reaching_Home-PIT-EN_(3).pdf)>.

³⁶ See Kaitlin Schwan et al, “The State of Women’s Housing Need & Homelessness in Canada: Key Findings” (2020) online (pdf): *Canadian Observatory on Homelessness Press* <<https://www.homelesshub.ca/sites/default/files/attachments/W%26G-EN%5BKf%5D5.1.pdf>> [Schwan].

³⁷ *Ibid.*

³⁸ Suzanne Lenon, “Living on the Edge: Women’s Homelessness in Canada” (2000) 20:3 *Can W S* 123 at 125 [Lenon].

³⁹ Statistics Canada, *Family Violence in Canada 2014*, Catalogue no. 11-627-M (Ottawa: Statistics Canada, 2016).

⁴⁰ Statistics Canada, Shana Conroy, *Family violence in Canada: A statistical profile 2019*, Canada Catalogue no. 85-002-X (Ottawa: Statistics Canada, 2021) at s 3 [Stats Can 2019].

⁴¹ Statistics Canada, Adam Cotter, *Intimate Partner Violence in Canada, 2018: An Overview*, Statistics Canada, Catalogue No 85-002-X (Ottawa: Juristat, 26 April 2021) online: <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00003-eng.htm>> [Cotter Overview].

⁴² Statistics Canada, J. Roy and Marcellus, S, *Homicide in Canada 2018, , 2019*, Catalogue no. 85-002-X (Ottawa: Statistics Canada 2019).

⁴³ *Cotter Overview, supra* note 41.

In its 2019 General Social Survey, Statistics Canada found that 79% of the 107,810 victims of spousal violence or IPV reported to the police were female.⁴⁴ Statistics Canada also found that over 30% of Indigenous women in Quebec were subject to physical and sexual assault committed by intimate partners.⁴⁵ Similarly, 30% of women with disabilities in Quebec reported surviving physical or sexual assault by an intimate partner in comparison to 17% of women without disabilities.⁴⁶ Data also shows that women (34%) were more than twice as likely to report having experienced more severe forms of violence than men (16%).⁴⁷ As in previous years, 2019 rates of IPV were more than 3.5 times higher among women than among men.⁴⁸ A 2020 report from the Quebec Ministry of Public Security found that there were 19,906 reported victims of conjugal violence, 71% of whom were female.⁴⁹

These data and reports suggest that solutions should be tailored to women victims of IPV and the realities they face. IPV is often private and unreported due to the normalization and minimization of violence in society – often transmitted through presentations in the media (e.g., a marital spat, a crime of passion or a lovers’ quarrel, etc.). Such factors can lead to underreporting, making data collection particularly difficult. Gender-based forms of discrimination and harassment also mean that there is a greater likelihood of women being invisible victims of IPV.⁵⁰ Women who are marginalized face particular risks: 2sLGBTQIA+ women, for example, are often subject to risk factors for IPV, including sexual stigma, social exclusion, and homophobic harassment, and lack appropriate IPV supports but are often omitted from data on IPV.⁵¹

⁴⁴ *Stats Can 2019, supra* note 40 [Note: Statistics Canada since 2016 has defined ‘female’ as anyone identifying as such, but this study notes that, given the small number of victims identified as “gender diverse”, the data available to the public were recoded to assign these counts to either “female” or “male” in order to ensure the protection of confidentiality and privacy. Victims identified as gender diverse have been assigned to either female or male based on the regional distribution of victims’ gender].

⁴⁵ Statistics Canada, Loanna Heidinger, *Intimate partner violence: Experiences of First Nations, Métis and Inuit women in Canada, 2018*, Catalogue No 85-002-X (Ottawa: Juristat, 19 May 2021) online: <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00007-eng.htm>> [Note: see Table 6 for detailed breakdown of all regions].

⁴⁶ Statistics Canada, Laura Savage, *Intimate Partner Violence: Experiences of Women with Disabilities in Canada, 2018*, Catalogue No 85-002-X Statistics Canada (Ottawa: Juristat, 26 April 2021) online: <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00006-eng.htm>> [Note: see Table 6].

⁴⁷ *Stats Can 2019, supra* note 40.

⁴⁸ *Stats Can 2019, supra* note 40.

⁴⁹ See Quebec, Minister of Public Security, « Statistiques criminalité au Québec : Principales tendances 2016 » (Montreal 2020).

⁵⁰ S R Montesanti, “The Role of Structural and Interpersonal Violence in The Lives of Women: A Conceptual Shift in Prevention of Gender-Based Violence” (2015) 15 *BMC Wom H* 93.

⁵¹ Liza Lorenzetti et al, “Understanding and preventing domestic violence in the lives of gender and sexually diverse persons” (2017) 26:3 *Cdn J Hum Sexuality* 175 at 181.

5.2 IPV and Housing Insecurity

Some federal data do not show women and children who experience housing need as being homeless. Again, this has implications for what we know or can learn about this population group. For example, the Canadian Housing Survey specifically excludes people living in collective dwellings such as shelters.⁵² While there are gaps in the data regarding homelessness in Canada, one study has estimated that more than 235,000 people in Canada experience homelessness in any given year.⁵³

In Quebec, available surveys such as the most recent 2018 survey of Montreal's homeless population provide insight.⁵⁴ In Montreal, on April 24, 2018, surveyors counted a total of 3,149 individuals as homeless. Of these individuals, 678 had spent the night outside, 1,125 in (homeless or conjugal violence) shelters, 1,051 in transitional housing, and 295 were counted in other public institutions such as hospitals. Among the 3,149 individuals, 23% were identified as women, 35% of whom were in transitional housing, while almost 8% were sleeping outside. Of the 15% of the individuals who were identified as immigrants, women made up 22% of this group.⁵⁵

There are also gaps in identifying the connections between substance use, mental health, and homelessness for women. It is difficult to draw direct causes and effects between these experiences, but important data have emerged from British Columbia that address various barriers for stable housing for survivors of IPV who also use substances and live with mental health problems.⁵⁶ More research is needed on this topic in Quebec in part because of the distinctions among different types of shelters for victims of violence and shelters for women experiencing homelessness. There is sometimes confusion as to which clients are accepted in which shelters. Many conjugal violence shelters do not accept women experiencing homelessness (Regroupement des maisons d'hébergement), while others do accept « des

⁵² See Statistics Canada, "Canadian Housing Survey" (20 July 2022) online: *Statistics Canada* <<https://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=5269>> [Note: Under subheading "Data sources and methodology"].

⁵³ See Statistics Canada, *Characterizing people experiencing homelessness and trends in homelessness using population-level emergency department visit data in Ontario, Canada*, by Stephenson Strobel et al, (Ottawa: Health Reports, 20 January 2021) online: <<https://www150.statcan.gc.ca/n1/pub/82-003-x/2021001/article/00002-eng.htm>>

⁵⁴ Krystle Maki, "More Than a Bed: A National Profile of VAW Shelters and Transition Houses" (2019) online (pdf): *Women's Shelters Canada* <https://endvaw.ca/wp-content/uploads/2019/04/More-Than-a-Bed-Final-Report.pdf> [More than a Bed].

⁵⁵ Eric Latimer & François Bordeleau, « Je Compte MTL 2018 : Dénombrement des personnes en situation d'itinérance sur l'île de Montréal le 24 avril 2018 » (2019) at 18, 20 and 40, online (pdf) : *City of Montreal* <<https://jecomptemtl2018.ca/wp-content/uploads/2019/04/rapport-montral-rvision-8-avril-2019.pdf>>.

⁵⁶ See Iris Torchella et al, "Like A Lot's Happened with My Whole Childhood: Violence, Trauma, and Addiction in Pregnant And Postpartum Women from Vancouver's Downtown Eastside" (2014) 11:1 *Harm Red J* 1; See also Mary Clare Kennedy, "Residential Eviction and Exposure to Violence Among People Who Inject Drugs in Vancouver, Canada" (2017) 41 *Intl J Drug Pol'y* 59; Vicky Bungay, "Women's health and use of crack cocaine in context: Structural and 'everyday' violence" (2010) 21:4 *Intl J Drug Pol'y* 321.

femmes en besoin » (Fédération des Maisons d’hébergement pour femmes violentées et leurs enfants), and this category might also include women experiencing homelessness.

Women in crisis often turn to the support of community resources – including victims’ shelters– or become part of the hidden homeless population, or end up without shelter entirely.⁵⁷ Key aspects to be taken into consideration include not only the concern that women victims will leave abusive homes and thus experience homelessness or precarious housing, but also the question of where they can go after they leave a temporary shelter in the absence of second step housing or other secure resources. The potential for homelessness and the renewed risk of personal danger come into play if they must return to an abusive home because there is nowhere else for them to go to.

Given the higher risk of violence caused by a partner as well as risk of death, tailored security measures are required to prevent further violence. These aspects of IPV have been formulated as existing within a ‘cycle of violence’. Originally conceived by Lenore Walker, this theory assigns phases that determine how violence in an intimate relationship manifests itself: (1) tension-building, (2) acute violent episodes, and (3) loving contrition.⁵⁸ A woman in such a situation often “lives in a state of terror, lives in isolation, and is constantly vigilant against the ever-present but erratic threat of violence, knowing that justice agencies are largely unsuccessful at controlling either the psychological or the physical violence in her life”.⁵⁹

Women who go to shelters are often fleeing for their lives or are otherwise in danger. Breaking free of such violence requires not only immense resilience, but also, in concrete terms, access to shelter – be it an emergency shelter, second step housing, or a permanent and secure abode among other options. Women fleeing violence often find themselves needing both housing and essential services: an inability to access both of these resources signals a systemic failure in providing resources required by women who want to live their lives free from violence.⁶⁰

Many women, especially those with precarious immigration status, insufficient or no knowledge of the local language, extreme isolation, and a lack of familiarity with social and governmental services, face additional barriers to accessing safe housing.⁶¹ The potential for

⁵⁷ See Leslie M. Tutty et al, “I Built My House of Hope: Abused Women and Pathways Into Homelessness” (2013) 19:12 *Viol Ag W* 1500.

⁵⁸ Sibley Slinkard, “She Chose to Get Rid of Him by Murder, Not by Leaving Him: Discursive Constructions of a Battered Woman who Killed in R v Craig” (Doctor of Philosophy, York University Faculty of Graduate Studies, 2019) [unpublished] at 12.

⁵⁹ Dennis J Stevens, “Interviews with Women Convicted of Murder: Battered Women Syndrome Revisited” (1999) 6:2 *Intl R Victimology* 117 at 118.

⁶⁰ *Lenon, supra note 38.*

⁶¹ See Jill Hanley et al, “Migrant Women's Health and Housing Insecurity: An Intersectional Analysis” (2019) 15:1 *Intl J Migr H & Soc Care* 90.

homelessness for victims of IPV really comes into play at the junction of leaving the shelter and seeking safe housing. Obtaining social housing through the Société d'habitation du Québec is an option, but it is a slow process with bureaucratic procedures and for some, it may take several years before suitable lodging becomes available.

The COVID-19 pandemic has exacerbated violence against women - the number of reports of IPV and femicides has risen - and highlighted an insufficient level of resources to support survivors. A survey from Statistics Canada found that from March 2020 to July 2020, 54% of victim's services agencies reported an increase in the number of victims of IPV; A web panel survey in March 2020 also found that 10% of women and 6% of men reported concerns about the possibility of violence in their home due to social isolation and other pandemic-related restrictions.⁶² Factors related to isolation, curfews, lockdowns, and restricted mobility appear to have increased women's vulnerability and the level of danger in their lives, particularly after a stay at an emergency shelter. The pandemic has also intensified the housing crisis for these women victim of IPV.⁶³ The lack of second step housing and the difficulty in finding affordable or social housing were problems that existed prior to the pandemic; they became even more acute during the pandemic.

Women survivors of IPV form part of a larger social housing crisis. Canada's social housing supply, at 4% of total housing units, is among the lowest of OECD countries.⁶⁴ This is in stark contrast to countries such as France (19%) and the UK (18%).⁶⁵ In 2018, 13.5% of Canadian households (628,700 households) lived in affordable or social housing; in Quebec, it was 10.2% of households.⁶⁶ Exposure to IPV means that access to some sort of confidential and supportive housing is essential, at least on an interim basis, but scarce, inadequate or

⁶² Statistics Canada, *Community Safety and Crime*, Catalogue no. 11-631-X (Ottawa: Statistics Canada, 20 October 2020). The Canadian Femicide Observatory for Justice and Accountability has also reported increases in women and girls killed in the first half of 2021 relative to the previous year. See Canadian Femicide Observatory for Justice and Accountability, "#CallItFemicide 2021 Report" (2021) online (pdf): *Femicide in Canada*. See also, Conseil du statut de la femme, « Les violences faites aux femmes en période de crise sanitaire », 21 avril 2021 online : <https://csf.gouv.qc.ca/article/publicationsnum/les-femmes-et-la-pandemie/societe/les-violences-faites-aux-femmes-en-periode-de-crise-sanitaire/>.

⁶³ Léa Carrier, « Une année record pour SOS violence conjugale ». (April 10, 2021) online: *La Presse* <https://www.lapresse.ca/actualites/2021-04-10/une-annee-record-pour-sos-violence-conjugale.php>.

⁶⁴ See Marc Lee, "From housing market to human right: A view from Metro Vancouver" (2018) online (pdf): *Canadian Centre for Policy Alternatives BC Office* <https://policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2018/05/ccpa-bc_housing-human-right_may2018.pdf>.

⁶⁵ *Ibid.*

⁶⁶ Statistics Canada, Jeannine Claveau, *The Canadian Housing Survey, 2018: Core housing need of renter households living in social and affordable housing*, Catalogue no. 75F002M (Ottawa: Statistics Canada, 2 October, 2020); Réseau québécois des OSBL d'habitation (RQOH), "De premières données de l'Enquête Canadienne sur le logement" (December 3, 2019) online: <<https://rqoh.com/de-premieres-donnees-de-lenquete-canadienne-sur-le-logement/#:~:text=Donn%C3%A9e%20int%C3%A9ressante%2C%20plus%20d%E2%80%99un%20demi-million%20de%20m%C3%A9nages%20canadiens,et%2038%20%25%20dans%20les%20Territoires%20du%20Nord-Ouest>>.

unaffordable housing situations narrow the already limited options that are available to women.

Given the reality of the levels of violence and threats that women face, it is essential to address the issue of housing supply and to increase the amount and quality of emergency, transitional and social housing. Gender-based violence and the resulting harm and stigma, coupled with inadequate resources allocated to housing, raise issues of discrimination and greater gender inequality in society.⁶⁷ The next section examines the Quebec legal and policy framework on housing law and pays particular attention to intersectional approaches.⁶⁸

5.3 The Quebec Legal and Policy Framework

Courts in Canada have not yet granted constitutional protections for the right to adequate housing under the *Canadian Charter of Rights and Freedoms* or the *Quebec Charter of Human Rights and Freedoms*, although, as mentioned earlier, there is now federal legislation on the right to adequate housing. The Quebec Charter protects individuals from discrimination on grounds that include sex, gender identity or expression, civil status, and social condition.⁶⁹ In addition, s. 45 of the Quebec Charter provides a right “to measures of financial assistance and to social measures provided for by law, susceptible of ensuring such person an acceptable standard of living”.⁷⁰ While the term ‘adequate standard of living’ expressly includes a right to adequate housing in international law, however, housing is not specifically mentioned in the Charter.

Quebec also lacks holistic laws against IPV, although there are, of course, criminal prohibitions against assault and other criminal acts at the federal level. Quebec established the Government Action Plan on Domestic Violence (2018-2023), with planned investments of more than \$600 million over the five-year period and a number of objectives to prevent and counter IPV.⁷¹ In 2021, an additional \$222.9 million was pledged in response to rising reported rates of IPV and femicides during the pandemic.⁷² More recently, Quebec enacted Law 92: *An Act to create a court specialized in sexual violence and domestic violence and*

⁶⁷ Lenon, *supra* note 38.

⁶⁸ *Intersectional Approach to Understanding of Homeless Persons*, *supra* note 15.

⁶⁹ *Charter of Human Rights and Freedoms*, CQLR c C-12, at s 10.

⁷⁰ *Ibid* at s 45.

⁷¹ Québec, Secrétariat à la condition féminine, *Government Action Plan on Domestic Violence 2018-2023* [Quebec Action Plan].

⁷² Joe Lofaro and Matt Gilmour, “Quebec announces \$222 million in funding to tackle surge in domestic violence”, online: *CTV News Montreal* <<https://montreal.ctvnews.ca/quebec-announces-222-million-in-funding-to-tackle-surge-in-domestic-violence-1.5399876>>.

*respecting training of judges in these matters.*⁷³ This legislation created a specialized court to address IPV cases and will be discussed in more detail in section 6.5.

The following sections identify legal and policy reforms that show promise going forward, allowing Quebec to respect, protect and fulfill the right to housing and the right to be free from violence.

6. PROPOSED LAW AND POLICY REFORMS

This paper identifies five areas for reform with 12 recommendations that aim to reduce the risk of housing insecurity for survivors of IPV.

This paper begins with two “anchor” proposals that aim to create legislative frameworks for a right to housing and a right to be free from IPV. The proposed reforms contain original proposals, but also consciously build on recommendations from other organisations and civil society in Quebec.

The first proposal recommends the unequivocal recognition of the right to adequate housing, based on solid mechanisms that create government accountability for targets based on the obligation of progressive realization.

The second proposal recommends the enactment of a comprehensive law on conjugal violence that deals with the full range of family law and other matters before the civil courts in a single legislative framework, comparable to laws that exist in other jurisdictions in Canada, while respecting Quebec’s unique legal culture. We also discuss the possibility of a single, integrated domestic violence court that can address criminal matters along with these other matters that are generally dealt with before the civil courts.

This document sets out a comprehensive “made in Quebec” legal framework to protect both the right to housing (thereby helping to prevent homelessness) and the right to be free from IPV. The two main recommendations would create transparent accountability mechanisms as well as recourses, mainly outside criminal law.

During our research, we also discovered legislative gaps that affect victims of IPV: among other areas, they include income security for women who are at risk of, or experiencing violence, changes to family law for common law couples, and widening access to social housing. We therefore propose several “fixes” which would extend protections to victims. We also recommend substantial additional investments in the development of second step

⁷³ Quebec, Law 92, *An Act to create a court specialized in sexual and domestic violence and respecting training of judges in these matters*, SQ 2021, c 32. [Law 92].

housing for victims and for their families. We are proposed legal reforms have been tried elsewhere, and other jurisdictions, we have included legislative texts as examples.

Reform Area A: Enact a Right to Adequate Housing

These recommendations propose legislation to enshrine the right to adequate housing in the Quebec Charter and the adoption of a law that would operationalize the right to adequate housing in Quebec.

Enact a Right to Adequate Housing	
1. Amend the Quebec <i>Charter of Human Rights and Freedoms</i> (the “Charter”)	<p>Currently, Quebec’s <i>Charter</i> contains economic and social rights but the right to housing is not explicitly mentioned. An amendment to add this right would support Quebec’s efforts to:</p> <ul style="list-style-type: none"> • achieve the progressive realization of the right to housing. • better reflect international law obligations;
2. Enact legislation that implements the right to adequate housing in Quebec and creates accountability measures for the government to strengthen efforts to prevent homelessness.	<p>A new law would:</p> <ul style="list-style-type: none"> • explicitly incorporate the <i>International Covenant on Economic, Social and Cultural Rights</i> in Quebec law; • support the development of a national strategy; • create a mechanism to ensure the participation of affected groups; • create strong oversight and accountability measures for the Quebec government, such as oversight and monitoring of results; • create an independent housing rights advocate to promote and protect the right to housing.

6.1 Amend the Quebec *Charter of Human Rights and Freedoms*

The right to adequate housing is part of international human rights law, and since 2019, also forms part of federal legislation. We recommend, first, that the Quebec government amend the *Charter of Human Rights and Freedoms* to include the right to adequate housing. Section 45 of the Charter provides:

45. Every person in need has a right, for himself and his family, to measures of financial assistance and to social measures provided for by law, susceptible of ensuring such person an acceptable standard of living.

We propose that the drafting of this section of the Charter be amended in order to comply with Article 11.1 of the ICESCR:

11.1 The States Parties to the present Covenant to recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The states parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the central importance of international cooperation based on free consent.

This would create a clear legislative basis within Quebec's human rights law. It would also respond to calls for reform from civil society leaders and unions, including the Front d'action populaire en réaménagement urbain (FRAPRU) and the Confédération des syndicats nationaux.

Housing is about far more than four walls and a roof: it means that governments are committed to their obligations to respect, protect and fulfil international human rights law, including the progressive realization of social and economic rights. In international law, the right to adequate housing includes the right to live in security and dignity, which encompasses:

- accessibility
- affordability
- availability of services, equipment and infrastructure, and
- culturally adequate housing.
- habitability
- legal security of tenure
- location

Public policy efforts to address IPV also require consideration of confidentiality and security as fundamental values. Women who are from socially and financially disadvantaged groups experience particular difficulties as a result of linguistic barriers. In Quebec, as one of our partner communities noted, certain women who have been victims of conjugal violence find themselves unable to access housing because they speak neither English nor French.)

6.2 Enact a Law to Progressively Realize the Right to Adequate Housing

Second, we recommend that Quebec enact legislation, like the NHTSA, to operationalize the right to housing. This step would go beyond the declaration of the right in the Quebec Charter: it would create strong oversight and accountability measures, including

independent monitoring, and the capacity to address systemic issues to achieve the progressive realization of this right. Although the right to adequate housing would not be directly justiciable before the courts, it would render the government legally responsible to render accounts in relation to planned objectives and for results. The legislation would create control mechanisms to assess government performance within the area of its responsibilities. This proposal encompasses the following:

- explicitly incorporate the *International Covenant on Economic, Social and Cultural Rights* in Quebec law;
- support the development of a national strategy;
- create a mechanism to ensure the participation of affected groups;
- create strong oversight and accountability measures for the Quebec government, such as oversight and monitoring of results, and
- create an independent housing rights advocate to promote and protect the right to housing.

Women and their children who are fleeing conjugal violence should be designated as priority groups in the context of a national strategy, as is the case in the federal national strategy on housing, as well as in relation to the *National Housing Strategy Act*. The reinforcement of a legal framework through implementing legislation would support prevention strategies in relation to conjugal violence and homelessness, as well as the progressive development of secure and stable housing, along with appropriate supports. This is especially important during the period of vulnerability immediately following a stay at a shelter. Adequate housing further supports women's autonomy and their capacity to be free from abusive and violent relationships.

Reform Area B: Enact Legislation on the Right to Be Free From IPV/Domestic Violence

Advocates have long called for comprehensive legislation that creates a right to be free from domestic violence, with appropriate protections, services and supports. While the Criminal Code ensures important protections, there is no single and holistic Quebec law that creates a legal and non-criminal framework to support victims of IPV. Key elements of framework legislation in this regard would:

Enact Comprehensive Legislation on the Right to Be Free From IPV	
3. Provide an inclusive definition of domestic violence/IPV.	A clear definition would allow for judicial intervention, including in situations of coercive control.
4. Enhance safety and supports.	Courts could order a wider and more flexible range of protective orders such as restraining orders and exclusive occupancy of the family home, as well as counselling and sanctions.

<p>5. Amend the Civil Code of Quebec to maintain women and children in rental leases and prevent eviction.</p>	<p>The current law allows lessees to terminate or “resiliate” leases in cases of domestic violence, but there are delays and the current process means leaving the dwelling. Additional options should be available to protect women with respect to housing, including removing a perpetrator from a lease where required for safety reasons, without evicting or penalizing the victim.</p>
<p>6. Undertake a feasibility study to improve access to justice by introducing integrated domestic violence courts (IDV courts).</p>	<p>Quebec currently has a specialized criminal court for conjugal violence matters, but IDV courts can address criminal, civil, and family law cases under one roof with case management and supports. This recommendation reiterates previous proposals that have been made in the area of conjugal violence.</p>

Unlike Quebec, several provinces and territories have dedicated legislation on IPV or family violence (or domestic or family violence, depending on the jurisdiction). These laws offer a suite of measures to address violence outside the criminal law context but outside the *Criminal Code*, although breach of certain orders may result in fines and imprisonment.

At the same time, we have learned a great deal in Quebec about the importance of case management and integrated services within the court system, including social services, such as those offered by the Municipal Court of Montreal. A Quebec statute could ensure the provision of similar services, as well as provide tailored definitions of domestic or family violence, protection orders, and special sanctions for breach of protection orders, all of which would complement or offer alternatives, as appropriate, to measures in the *Criminal Code*.⁷⁴ these measures could include specific provisions dealing with the occupation of the family dwelling.

6.3 Provide an Inclusive Definition of IPV/Domestic Violence

A comprehensive provincial legislation would include a definition of IPV and domestic or family violence. (The *Criminal Code* does not provide for these definitions either; it focusses on acts such as threats, assault, and criminal harassment.) A clear definition would make it easier for courts to recognize these acts and provide protection to victims, particularly in the civil (i.e., non-criminal) context, which has a lower threshold of proof. Courts would also have a wide degree of discretion to develop appropriate orders depending on the circumstances. These laws may offer much more flexibility and create less stigma than

⁷⁴ *Criminal Code*, RSC, 1985, c C-46, s 127, 145(3), 177, 215, 218-221, 229-231, 235, 264-268, 271-272, 279, 279.01, 280-282, 322, 328-332, 334, 346, 366, 372, s.380(1), 430, 733.1, 811.

criminal sanctions. See for example, the definition provided [here](#), by Ontario's [Protection Against Domestic Violence Act](#).⁷⁵

In addition, it is important to include coercive control in the definition of IPV. Coercive control is defined in the literature as frequent and routine acts of both coercion and control “through the use of force and/or deprivation to produce a victim’s obedience, ultimately eliminating their sense of freedom in the relationship”.⁷⁶ The tools used to produce obedience can be psychologically, financially, and culturally abusive, among others, with the intent of removing “the victim’s sense of individuality and prevent[ing] them from believing they have the ability to make their own decisions”,⁷⁷ With this definition, we can understand that violence in IPV is not limited to physical harm but can include financial control, forced social isolation and other coercive behaviours, and should be codified in law as such. (We note that the Government of Canada’s Office of the Federal Ombudsman for Victims of Crime commissioned research that recommends the adoption of a coercive control offence.⁷⁸ As well, a private member’s bill, Bill C-247 was tabled in 2020 to add this offence to the Canadian *Criminal Code*.)⁷⁹

6.4 Enhance safety and supports

Provincial legislation may make it easier for courts to provide protection to victims, particularly in the civil context where there is a lower threshold of proof, and courts have a wide degree of discretion to develop appropriate orders depending on the circumstances. These laws may also carry less stigma than criminal sanctions.

There have been several innovative developments in Quebec that are important to recognize.⁸⁰ Quebec’s *Code of Civil Procedure* already provides for certain civil protections (e.g., protection orders and safeguard orders), but there are notable differences with what

⁷⁵ *Domestic Violence Protection Act*, 2000, S.O. 2000, c. 33 s 1.

⁷⁶ Carmen Gill & Mary Aspinall, “Understanding Coercive Control in the Context of Intimate Partner Violence in Canada: How to Address the Issue through the Criminal Justice System?” (2020), online: *Federal Ombudsman for Victims of Crime* <<https://www.victimfirst.gc.ca/res/cor/UCC-CCC/index.html>> [Gill & Aspinall]. See also Evan Stark, *Coercive Control : The Entrapment of Women in Personal Life* (Oxford: Oxford University Press, 2009); Regroupement des maisons pour femmes victimes de violence conjugale (RMFVVC), « Le contrôle coercitif, un levier pour mieux repérer et intervenir en contexte de violence conjugale » (2022), online: <<https://bit.ly/RevueControleCoercitif>>.

⁷⁷ Gill & Aspinall, *supra* note 76.

⁷⁸ *Ibid.*

⁷⁹ Bill C-247, *An Act to amend the Criminal Code (controlling or coercive conduct)*, 2nd Session, 43rd Parliament, 2020.

⁸⁰ With respect to initiatives in criminal law, in February 2022, the Minister of Public Security tabled Bill 24, *An Act to amend the Act respecting the Québec correctional system to provide for the power to require the offender be connected to a device that allows the offender’s whereabouts to be known*. The Minister introduced the bill as “control intervention” for compliance with orders imposed, thereby providing directors of detention facilities the authority to enact conditions on bail, parole, and other reasons why an individual may temporarily leave incarceration. The Bill was passed into law in May 2022. (2022, c 32).

is offered in other Canadian jurisdictions. Civil protections in Quebec are not specifically tailored to circumstances of IPV and have a maximum term of three years. Safeguard orders may also provide emergency interim relief. However, they too are limited by a maximum term, in this case 6 months. The maximum penalty for breach of these protection or safeguard orders in Quebec is \$10,000 for a first instance of non-compliance and up to one year of imprisonment for further instances of non-compliance.⁸¹

Examples of penalties for breaching protection orders can be found in Prince Edward Island's *Victims of Family Violence Act*.⁸² [See below for excerpts from PEI's *Protection Against Family Violence Act*](#) on penalties for non-compliance. Offences include failure to comply with protection orders and range from financial penalties to imprisonment. PEI does not mandate a limit on the duration of protection orders.

Alberta's *Protection Against Family Violence Act* allows for more tailored responses to the type and circumstances of restraining orders that can be issued without the need for criminal sanctions.⁸³ The Alberta legislation can be viewed [here](#). It also contains financial protections regarding exclusive occupancy of the family home and can prevent homelessness by securing access to housing and protecting income, among other benefits.⁸⁴

While conducting research for this paper, we heard that perpetrator counselling services should be offered in many languages, including English. Quebecers who seek counselling often experience months-long delays that discourage them from obtaining assistance. Setting targets for federal agencies, provinces, territories, and municipalities to meet funding and prevention goals could act as incentives for governments to address this issue. Orders, services, and interactions with government officials should be available in English as well as in French.

6.5 Amend the CCQ to Allow for Victims to Remain in Rental Leases and to Avoid Eviction

We propose that the Civil Code of Quebec (CCQ) be amended with respect to leases and evictions. At present, [CCQ 1974.1](#) permits the termination of a lease if the safety of oneself or one's child is at risk due to violence. Terminating the lease allows victims to distance themselves from the perpetrator, but the process is bureaucratic and time-consuming. The applicant must file a notice and attest to the harm to the civil servant who receives the

⁸¹ *Code of Civil Procedure*, CQLR c C-2501, s 62.

⁸² *Victims of Family Violence Act*, RSPEI 1988, c V-32, s 16.

⁸³ *Protection Against Family Violence Act*, RSA 2000, c P-27 s 4 [*Alberta PAFVA*].

⁸⁴ *Ibid.*, at s 4 (c) and (d).

application.⁸⁵ Although the civil servant must act “promptly”, termination only takes effect two months after a notice is sent to the lessor, unless the parties can reach an agreement to end the lease and vacate the premises earlier.⁸⁶ Regardless of the procedure or timelines, the result is that the survivor may be without housing for some time, with no immediate access to shelter.

Quebec law does not prevent eviction, allow for the removal of the perpetrator from the lease, or ensure safe housing upon the termination of the lease. There are other jurisdictions that do offer these protections: in the United States, the [Violence Against Women Reauthorization Act 2013](#) is a federal law that protects survivors of violence in their homes.⁸⁷ Title VI: Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking - (Sec. 601) prohibits publicly-funded landlords from denying admission to housing for domestic victims of violence and requires leases to state explicitly that domestic violence is not a legal reason to evict the victim of violence. It further allows lessors of assisted housing to “bifurcate” leases, that is to evict, remove, or terminate assistance to any tenant or lawful occupant who perpetrates domestic violence or IPV, without evicting or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.⁸⁸ These provisions help to ensure that survivors can lead stable lives, bearing in mind that terminating a lease and leaving a neighbourhood also entails leaving all the amenities, services, childcare, employment, support networks, and much more that go with it. Similar policies and laws in Quebec would ensure that survivors have the institutional supports necessary to live their lives free from violence.

⁸⁵ See *Civil Code of Québec*, CQLR c CCQ-1991 Art 1974.1.

⁸⁶ *Ibid.*

⁸⁷ Lois Gander & Rochelle Johannson, “The Hidden Homeless: Residential Tenancies Issues of Victims of Domestic Violence” (2014) online (pdf): *The Centre for Public Legal Education Alberta and The University of Alberta* <<https://www.cplea.ca/wp-content/uploads/2015/01/FINAL-Report-The-Hidden-Homeless.2014Jun05.pdf>>.

⁸⁸ *Violence Against Women Reauthorization Act of 2013*, Title VI, 42 USC § 13701 (2013).

6.6 Assess the Feasibility of Integrated IPV Courts in Quebec

Many jurisdictions in Canada have *specialized* courts to deal with IPV matters, including Quebec, Alberta, and Manitoba.⁸⁹ The term “specialized courts” is used here mainly to refer to a type of integrated courts that handle *criminal* proceedings related to cases of domestic violence.⁹⁰

Specialized courts were created to better serve the parties and address shortcomings of adjudication and case management in traditional court settings. Innovations in the way in which cases are dealt with include: judging “overlapping concurrent charges relating to separate incidents with the same partner”,⁹¹ avoiding re-victimization for survivors of violence through survivor-sensitive protocols such as the ability to navigate a case while avoiding testifying,⁹² and offering support programs and related services through community and government agencies.⁹³ Specialized courts also operate with the principles of “early intervention for low-risk offenders”, “vigorous prosecution for serious and/or repeat offenders” and “a commitment to rehabilitation and treatment”.⁹⁴

Specialized courts can help to minimize time off from work and childcare costs, as well as other factors that may exacerbate financial and social precarity for women. Faster and fewer court processes can also lessen emotional and psychological burdens. They can order counselling for the perpetrator and monitor completion of counselling or courses, as well as offer protective orders.

Specialized Courts: Quebec

In Quebec, *An Act to create a court specialized in sexual violence and domestic violence and respecting training of judges in these matters* (Law 92) was passed into law in November 2021, establishing a new court under the Criminal and Penal Division of the Court of Quebec.⁹⁵ The law amends other legislation on legal aid and services, municipal courts, the *Public Service Act*, and several regulations.⁹⁶ The new law also ensures training for judges on

⁸⁹ Canada, Department of Justice, *Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation* (Ottawa 2001) at s 2 [Spousal Abuse Policies].

⁹⁰ *Ibid.*

⁹¹ Leslie M Tutty, “Specialized Domestic Violence Courts: A Comparison of Models” in Leslie M Tutty & Janice Ursel (eds), *What’s Law Got to Do with It?* (Toronto: Cormorant Books, 2008) at 75 [Tutty Domestic Violence].

⁹² *Ibid.*

⁹³ *Ibid* at 75.

⁹⁴ *Ibid* at 76.

⁹⁵ *Law 92, supra* note 73.

⁹⁶ *Law 92, supra* note 73. Law 92 provoked a strong reaction from the Court of Quebec’s Chief Justice Lucie Rondeau who raised concerns that the title of the new court would suggest that allegations of violence are well

the “realities relating to sexual violence and domestic violence”, aims to focus on the needs of victims, rebuild victims’ trust in the justice system, offer integrated psychosocial and judicial supports, and reduce delays in the justice system.⁹⁷

Although Law 92 allows for a dedicated prosecutor for each case, it does not address cases outside the criminal context.⁹⁸ Also, Law 92 does not address the issue of services to rehabilitate or treat perpetrators. It should be noted, however, that the specialized court in Montreal’s Municipal Court may already provide such services.

Impacts of Specialized Courts

There have been both successes and challenges with these types of courts. Successes include mandatory counselling and lower reoffending rates in studies of Ontario and Manitoba rehabilitation programs and speedy case conclusion.⁹⁹ In Quebec, Montreal’s Municipal Court introduced a specialized suite of services that include referrals to health services and internal social workers who are assigned to the victims. An interview with the former Chief Justice of the Court points to the importance of building on those successes, including outside the criminal context. It has been argued that what makes these courts effective is not the courts in and of themselves, but rather the specific processes of coordination, dedicated judges and prosecutors, integrated psychosocial supports, and more.¹⁰⁰

Challenges include the feasibility of establishing these types of courts in remote areas or in regions with low case volumes, where integrated services for victim support and early intervention may not be easily available.¹⁰¹

Integrated Domestic Violence Courts

While specialized courts usually hear only criminal cases,¹⁰² *integrated* domestic violence (IDV) courts, on the other hand, can go a step further and address criminal, civil protection, and family law cases all in one space. A fully integrated IDV court would better direct cases

founded and, among other perceived drawbacks, that the training requirements would not reflect an appropriate allocation of training resources. She proposed a separate model which presently exists in the Quebec court system: The ACCES Division (*Division des accusations dans un contexte conjugal et sexuel*). See Cour du Québec, Submission from the Cour du Québec et du Conseil de la Magistrature du Québec to Members of the Commission of Institutions (25 October 2021).

⁹⁷ Law 92, *supra* note 73 at 6.

⁹⁸ Law 92, *supra* note 73.

⁹⁹ *Tutty Domestic Violence*, *supra* note 91, at 77-78, 81.

¹⁰⁰ *Spousal Abuse Policies* *supra* note 86 at 39, 48.

¹⁰¹ *Spousal Abuse Policies*, *supra* note 86 at 47.

¹⁰² The literature regarding specialized and integrated courts uses the term ‘integrated domestic violence court.’ For consistency, this paper will also use that term without replacing domestic violence with IPV.

to judicial actors familiar with the parties involved and their case files.¹⁰³ We note that the 2020 Quebec report, *Rebâtir la confiance* supports these types of courts.¹⁰⁴ The report *Rebâtir la confiance* makes several recommendations that may also foster better access to justice for survivors and:

- Notes the barriers faced by survivors with precarious immigration status, for example, those who do not speak English or French, and recommends that a bank of translators and accredited interpretation services be available to help in accessing legal support or the court system.
- Observes a lack of expertise-sharing among different support services in courts and recommends a less siloed and more holistic approach.
- Recommends a specialized and cultural appropriate tribunal for Indigenous survivors and better provision of institutional and social supports.
- Recommends the establishment of a legal aid fund for IPV survivors along with four hours of free legal counsel.¹⁰⁵

Integrated courts aim to prevent fragmentation and conflicting and confusing results that may occur if civil, family, and criminal cases are heard separately.¹⁰⁶ IDV courts are intended to have a more holistic approach to domestic violence issues, better monitoring for accountability, better informed decisions through increased information sharing, and better coordination of social and legal services.¹⁰⁷

In 2014, Ontario implemented the first IDV court in Canada. Situated in Toronto, it offers a unified process in which criminal and civil cases can be heard together.¹⁰⁸ This court has been

¹⁰³ Jennifer Koshan, “Specialised Domestic Violence Courts in Canada and the United States: Key factors in prioritizing safety for women and children” (2018) 40:4 *J Soc Welf & Fam L* 515 [Koshan IDV Can & US].

¹⁰⁴ The 2020 report *Rebâtir la confiance*, written by an expert committee, also made recommendations to better support survivors of sexual violence based on the literature on integrated courts and considers the implications for Quebec. Not only did the report recommend specialized courts, but it also mapped out what such a court should do, including coordination and provision of psychosocial supports for survivors. IDV courts can also act as a centralized hub for other services, such as shelter and housing with staff equipped to make referrals to other services and find housing for survivors. Another key recommendation is the collection of data from specialized tribunals. In continuously monitoring services and keeping track of recidivism and use of services, the courts can learn from feedback and better adapt to the needs of survivors. See Committee of Experts, “Rebâtir la confiance” (2020) online (pdf): *Secrétariat à la condition féminine* <<http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Rapport-accompagnement-victimes-AG-VC.pdf>>.

¹⁰⁵ *Ibid.* Note: Quebec has implemented the recommendation of four free hours of legal counsel. Cabinet du ministre de la Justice et procureur général du Québec, News Release, “Deux nouvelles mesures pour favoriser l'accès à la justice pour les personnes victimes de violences sexuelles et de violence conjugale” (September 27, 2021) online: <https://www.quebec.ca/nouvelles/actualites/details/deux-nouvelles-mesures-pour-favoriser-lacces-a-la-justice-pour-les-personnes-victimes-de-violences-sexuelles-et-de-violence-conjugale-34897>.

¹⁰⁶ Koshan IDV Can & US, *supra* note 103.

¹⁰⁷ *Ibid.*

¹⁰⁸ Rachel Birnbaum, Nicholas Bala, and Peter Jaffe, “Establishing Canada's First Integrated Domestic Violence Court: Exploring Process, Outcomes, and Lessons Learned” (2014) 29:1 *Can J Fam L* at 141-45 [Establishing Canada's First IDV].

recognized for its efficiency and for being advantageous for children, providing such services as “child legal representation and counselling”.¹⁰⁹ Furthermore, users found that perpetrators were more likely to attend mandated counselling sessions as a result of the ‘one judge, one family’ approach requiring the same judge to hear family law and criminal law cases for a single family. Also, close monitoring of cases was found to ensure greater accountability in the Toronto IDV court.¹¹⁰

IDV courts can provide a structured response for perpetrators that integrates counseling and treatment and this, in several areas of law. Counselling has proven to be a success. A study of the Partner Assault Response (PAR) program in Ontario found that men’s attitudes after interventions improved: they demonstrated increased personal responsibility for abuse and less denial of expected relationship difficulties, in addition to slight changes in other attitudes such as less sexist beliefs about women, less partner blame, and greater readiness for intervention.¹¹¹ Programs may be less effective in the absence of such services: in an examination of Winnipeg’s Family Violence Courts, a key criticism touched upon the lack of enforced treatment for perpetrators to hold them accountable for their actions.¹¹²

Research points to the value in counselling services for both survivors of IPV and perpetrators. Many women victims will stay in or return to potentially dangerous partners in the hope that they will change as a result of group treatment”.¹¹³ It must be noted that counselling may not ‘solve’ all violence nor prevent a perpetrator from reoffending. Nevertheless, lessons drawn from these jurisdictions can be applied to IDV courts in Quebec to ensure accountability and treatment of perpetrators, while keeping the needs of victims at the centre of decision-making not only in issues of criminal law, but also with respect to family and housing matters, among others.

There have been general concerns about IDV raised in the US and in Canada about information being centralized in one justice system and about the adverse effects on victims of violence: parties may be subjected to “over-zealous child protection proceedings” among other family law matters; there may also be an impact on the ability to choose to participate in criminal cases when they are put together with family law cases; there are also overarching due process concerns as a result of consolidation of cases, and the systems grapples with a shortage of lawyers with sufficient expertise in both family and criminal law, which can potentially impede hearings.¹¹⁴ The literature also notes a concern that specialized

¹⁰⁹ *Ibid.*

¹¹⁰ Rachel Birnbaum, Michael Sini & Nicholas Bala, “Canada’s First Integrated Domestic Violence Court: Examining Family and Criminal Court Outcomes at the Toronto IDVC” (2017) 32 *JF Viol* 621.

¹¹¹ Katreena Scott & Laura-Lynn Stewart, *Attitudinal Change in Participants Of Partner Assault Response (PAR) programs: A pilot project*, Research and Statistics Division Department of Justice Canada (Ottawa: 2004) at 27.

¹¹² *Spousal Abuse Policies*, *supra* note 86 at 41.

¹¹³ *Tutty Domestic Violence*, *supra* note 91 at 77.

¹¹⁴ *Koshan IDV Can & US*, *supra* note 103.

and integrated courts could lead to IPV issues becoming privatized (outside the criminal justice system, there is no Crown prosecutor and victims would have to take the initiative) and marginalized.¹¹⁵

The Quebec Bar Association has commented on the ambiguity surrounding concurrent roles that the Superior Court of Quebec will play alongside the new specialized court. The Bar recommends that, in circumstances where cases initially brought in the specialized courts may be transferred to the Superior Court “following a re-option exercised by the accused”, services provided for victims of violence should continue without interruption to ensure “fair and uniform treatment of all sexual assault and spousal violence cases in Quebec”.¹¹⁶ Similar concerns may be relevant to integrated courts.

Research will be required on the functioning and impacts of the new specialized court in Quebec, as well as on the relative merits of an integrated court system, including a close study of jurisdictions like Ontario’s.

Reform Area C: Improve Income Supports

In Quebec, certain categories of persons are excluded from income support or are subject to having their support reduced. Access to financial resources can be pivotal to empowering survivors of IPV to access safe housing and can fundamentally shape the ability to secure safe housing, especially when the victim is financially dependent on the perpetrator. These resources are especially significant during the period after a survivor of violence leaves an emergency shelter when individuals cannot secure housing that is away from the perpetrator of violence. Quebec’s social assistance legislation, therefore, directly affects access to safe housing for survivors of IPV.

Quebec legislation in the area of income supports has a direct impact on the right to adequate housing in relation to the component of financial capacity to pay.

Improve Income Supports for Disadvantaged Groups	
7. Remove child support payments from “income” when determining eligibility for social assistance.	Quebec law includes child support in income when calculating eligibility for financial assistance. We propose that child support payments be excluded in calculating the financial ceiling.
8. Expand Eligibility for Assistance for Persons For Persons who Have	Several categories of people who are victims of abuse are ineligible for social assistance because of their

¹¹⁵ *Ibid.*

¹¹⁶ Barreau du Québec, Letter to André Bachand “Projet de loi no 92 intitulé Loi visant la création d’un tribunal spécialisé en matière de violence sexuelle et de violence conjugale et portant sur la formation des juges en ces matières » (October 21, 2021). <<https://www.barreau.qc.ca/media/2973/memoire-pl92.pdf>>. (Our translation.)

Separated From Abusive Spouses regardless of Immigration Status	immigration status. We recommend amendments to include women who leave abusive partners.
9. Raise Threshold of Liquid Assets	Quebec law provides for very low thresholds for liquid assets: for example, for someone without dependent children, the ceiling is only \$887, above which applicants are ineligible for financial assistance. Given the rise in housing costs, among other factors, we propose an increase to the ceiling.

As a general matter, under Quebec’s *Individual and Family Assistance Act* (IFAA), individuals who are ineligible for social assistance can still apply to the Minister to receive income assistance, including in cases of danger to health and safety or complete destitution.¹¹⁷ These provisions are similar to those in other jurisdictions, but they involve delays. (We note that in 2021, Quebec created a new emergency fund for victims of criminal acts.¹¹⁸ The fund is administered by the organization *SOS violence conjugale* and its *Info-aide violence sexuelle*. As its name suggests, it is designed to provide rapid assistance in urgent cases and the announcement was generally well-received by women’s groups.¹¹⁹).

This section addresses two areas to address gaps in Quebec’s social assistance legislation and proposes an increase in the ceiling for the value of liquid assets.

¹¹⁷ *Individual and Family Assistance Act*, CQLR c A-13.1.1 at s 49 [IFAA].

¹¹⁸ Quebec, Cabinet du ministre de la Justice et procureur général du Québec, News Release, “Aide financière d’urgence pour les personnes victimes de violence sexuelle et de violence conjugale” (October 15, 2021) <<https://www.quebec.ca/nouvelles/actualites/details/aide-financiere-durgence-pour-les-personnes-victimes-de-violence-sexuelle-et-de-violence-conjugale-35439>>.

¹¹⁹ Regroupement des maisons pour femmes victimes de violence conjugale, « Actualités aide financière d’urgence : une solution supplémentaire pour la sécurité des femmes victimes de violence conjugale : Communiqué » (October 15, 2021) online : <<https://maisons-femmes.qc.ca/aide-financiere-durgence-une-solution-supplementaire-pour-la-securite-des-femmes-victimes-de-violence-conjugale/>>.

6.7 Amend the IFAA to Remove Child Support Payments from Eligibility Criteria

Individuals who can pursue child and spousal support payments are required to do so *before* applying for social assistance.¹²⁰ The IFAA provides that parents must exercise their rights, or take advantage of other statutory benefits, when doing so would affect their eligibility for assistance programs or operate to reduce the amount of assistance. For women who are owed child support, such a requirement can place them at risk of violence by forcing them to engage with the abuser to receive the support to which they are entitled. The procedures under the IFAA also take time and delays can affect access to housing.

We propose that child support payments be excluded from “income” for purposes of determining eligibility. This is already the case in Ontario where, since February 1, 2017, child support payments are fully exempt as income (and do not affect a person’s eligibility for Ontario Works.) Child support payments are therefore exempt from the calculation of income with respect to social assistance benefits. See the excerpt below:¹²¹

*General Regulation, O Reg 134/98**

“54. (1) The following shall not be included in income:

[.....]

31. A child support payment made by a person who has an obligation to support a member of the benefit unit under the *Family Law Act*, the *Divorce Act* (Canada) or similar legislation in another jurisdiction.”

* Under the *Ontario Works Act, 1997*, S.O. 1997, c. 25

6.8 Expand Eligibility for Assistance for Persons For Persons who Have Separated From Abusive Spouses

Article 26 of the IFAA generally restricts eligibility for social assistance to citizens, permanent residents, and refugees, subject to ministerial discretion and to the regulations.¹²² The regulation provides an additional three categories of persons who are eligible for “last resort financial assistance”: (1) refugee claimants, (2) persons who have been refused refugee status but are nonetheless permitted to remain in Canada, and (3)

¹²⁰ *IFAA*, *supra* note 117 at s 63-66.

¹²¹ *General Regulation*, O Reg 134/98 s 54(1)(31).

¹²² *IFAA*, *supra* note 117 at s 26.

those who have applied to become permanent residents on humanitarian or public interest grounds *and* who have a selection certificate issued under Quebec *and* whose spouse meets the general immigration requirements.¹²³ This means that women who do not fall into these categories may be excluded from assistance under the IFAA, and while they may apply to the Minister, such applications may be time-consuming process and the Minister's decision is discretionary.¹²⁴

Women who are ineligible because of their own status or the status of their spouse may be forced to stay with abusive partners, work under the table or ask their partners for support to cover expenses. They are thus faced not only with physical insecurity associated with fleeing violence, but financial, employment, and housing insecurity.

British Columbia's social assistance law contains a general regulatory exception to the ineligibility of victims who have separated from an abusive spouse provided they have applied for permanent residence, and subject to some additional factors. It should be noted that the status of the applicant's spouse is not a relevant consideration. An excerpt from BC's *Employment and Assistance Regulation* reads as follows:¹²⁵

BC Employment and Assistance Regulation 263/2002

7.1 (1) Despite section 7 (1), a family unit that does not satisfy the requirement under that section is eligible for income assistance if the minister is satisfied that all of the following apply:

- (a) the applicant is a sole applicant or, in the case of a recipient, the recipient is a sole recipient;
- (b) the applicant or recipient has one or more dependent children who are Canadian citizens;
- (c) the applicant or recipient has separated from an abusive spouse; (emphasis added)**
- (d) the applicant or recipient has applied for status as a permanent resident under the *Immigration and Refugee Protection Act* (Canada);
- (e) the applicant or recipient cannot readily leave British Columbia with the dependent children [...]

(2) If a family unit satisfies the requirement under subsection (1), income assistance and supplements may be provided to or for the family unit on account of

- (a) the sole applicant or sole recipient in that family unit, and
- (b) each person in the family unit who is a dependent child.

¹²³ S 47, *Individual and Family Assistance Regulation* CQLR c A-13.1.1, r 1

¹²⁴ *IFAA*, *supra* note 125 at s 26, 28, 30.

¹²⁵ *Employment and Assistance Regulation*, BC Reg 263/2002 at s 7 [*EAR*].

6.9 Increase the Value of the Threshold of Liquid Assets

Quebec law creates a ceiling for the value of liquid assets for individuals to qualify for Quebec's Social Assistance Program. This amount depends on circumstances: for example, the ceiling is \$887 for individuals without dependent children and \$1,502.00 for an individual with two children.¹²⁶ It should be noted that the ceiling applies to independent adults and to families. As well, a woman who is a spouse is considered to be part of a "family" and thus may be subject to an income ceiling that is very high because of income from her spouse, income to which she may not have access.

Given the rapid rise in housing costs and the cost of living, we believe that the asset ceilings are too low.

In comparison, British Columbia offers income assistance to individuals with significantly greater assets. While the calculations of "liquid assets" in Quebec as opposed to "assets" may differ between jurisdictions, thus making direct comparisons difficult, these provisions raise the question of whether Quebec provides adequate benefits, including for victims fleeing violence have adequate funds. (See the excerpt from BC's *Employment and Assistance Regulation*:¹²⁷)

Employment and Assistance Regulation 263/2002

Section 11 (1.1)

(2) A family unit is not eligible for income assistance if any of the following apply:

(a) subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than **\$5,000**. (Emphasis added)

(b) subject to paragraph (c), an applicant or a recipient has one or more dependants and the family unit has assets with a total value of more than **\$10,000**. (Emphasis added)

[.....]

Quebec's lower asset ceiling for social assistance creates a barrier for individuals fleeing situations of IPV from qualifying for support. Increasing this asset ceiling would ensure that victims are better equipped to access secure housing.

¹²⁶ S 52, *Individual and Family Assistance Regulation* CQLR c A-13.1.1, r 1.

¹²⁷ See *EAR*, *supra* note 125 at s 11.

Reform Area D: Social Housing

Social Housing	
10. Widen access to low rental housing	Currently, Quebec law restricts access to citizens and permanent residents. We propose an amendment to widen access to people with precarious immigration status.
11. Ensure that the right to housing includes further investments in the development of more second step housing.	Research indicates that the period after a survivor of IPV leaves an emergency shelter is critical to one's security. There is an insufficient supply of housing for survivors. Major investments are required in second step infrastructure that is safe and accessible for survivors and their families as part of the progressive realization of the right to housing.

6.10 Widen Access to Low Rental Housing

Under Quebec law, access to low rent housing is currently limited to citizens and permanent residents. Eligibility requirements thus exclude refugees, and persons with precarious immigration status.¹²⁸ Given how vulnerable this group is, and the particular challenges they face, Quebec should consider widening access to social housing.

In contrast, Ontario includes a wider range of applicants, including people who have claimed refugee status and permanent residents, in their eligibility requirements for housing that is rent-geared-to-income according to the general regulation under the *Housing Services Act*. See Ontario's *General Regulation 367/11*¹²⁹ below:

<i>General, O Reg 367/11*</i>
Basic requirements — age, independence and citizenship, etc.
24. (1) For a household to be eligible for rent-geared-to-income assistance,
(a) at least one member of the household must be 16 years old or older and able to live independently; and
(b) each member of the household must meet at least one of the following criteria:
(i) the member is a Canadian citizen,

¹²⁸ See *By-law respecting the allocation of dwellings in low rental housing*, CQLR c S-8, r 1 at s 14.

¹²⁹ See *General regulation, O Reg 367/11 s 24 (1)*.

- (ii) the member has made an application for status as a permanent resident under the Immigration and Refugee Protection Act (Canada), or
(iii) the member has made a claim for refugee protection under the Immigration and Refugee Protection Act (Canada). O. Reg. 367/11, s. 24 (1).

(2) For the purposes of clause (1) (a), an individual is able to live independently if he or she can carry out the normal essential activities of day-to-day living, either on his or her own or with the aid of support services that the individual demonstrates will be provided when required. O. Reg. 367/11, s. 24 (2).

*Under *Housing Services Act, 2011, S O 2011, c 6*

6.11 Invest in More Second step Housing Infrastructure

The progressive realization of the right to housing requires long-term solutions to the housing crisis for survivors of conjugal violence. A law which operationalizes the right to housing, as discussed in section 6.2, above, would create clear, planned and intentional investments in longer-term solutions to housing precarity for survivors of IPV, along with accountability measures.

Interviews with experts indicate that the period after a survivor of IPV leaves an emergency shelter is critical to one's security. Without access to safe and secure housing, survivors may resort to precarious work or return to live with their abuser to avoid homelessness. The need for stable second step housing is thus essential to ensuring their safety.

The need for second step housing is particularly critical considering the lack of affordable housing in general in Quebec. Quebec has spearheaded a rent supplement program to subsidize renting in the private market.¹³⁰ However, affordable housing infrastructure is particularly limited in urban areas and especially in densely populated sectors where survivors of IPV would be able to access existing networks of support, childcare, schools, and employment. The lack of housing resources results in long waitlists for survivors to find stable housing. Long waitlists in turn accentuate the need for more accessible, secure, confidential second step housing. In addition to contributing to their safety, second step shelters also provide an address where victims can receive important documents.

¹³⁰ See Quebec, "Supplément au loyer" (2022) online: *Société d'habitation Québec* <http://www.habitation.gouv.qc.ca/programme/programme/supplement_au_loyer.html>.

Quebec is one of a few provinces that provide recurrent core funding for second step shelters.¹³¹ However, development of this type of housing is underfunded and relies on project-based and time-limited funding.¹³² As a result, there is a huge gap between supply and demand. This is particularly true since the beginning of the COVID-19 pandemic when approximately half of Quebec shelter and second step housing facilities reported a strong increase in demand and an inability to meet needs.¹³³ The funds received from the provincial government have been deemed insufficient to meet the operational needs of second step shelters.¹³⁴ More must be done to ensure that second step shelters are sustained on a long-term basis, with good wages for employees and funding, beyond bricks and mortar, that includes programming to empower survivors of IPV. This kind of reform should be a priority in a Quebec-based national housing strategy.

Reform Area E: Family Law Reforms

Family Law Reforms	
<p>8. Amend the <i>Civil Code of Quebec</i> to provide unmarried couples with rights to spousal support, the family patrimony and a default regime that allows for the equitable division of assets.</p>	<p>Many unmarried couples in Quebec are in de facto unions and lack basic protections compared to other provinces, such as access to the matrimonial home for the partner who is not the owner and who has custody of children. We recommend that the government heed calls for reform from prominent family lawyers to enhance these protections, which would have an important impact on victims of IPV.</p>

6.12 Ensure Legal Recognition of Asset Division and Access to the Home for Unmarried Couples in *de facto* Unions

Legal recognition of equitable division of assets for unmarried couples in Quebec could help prevent housing precarity following incidents of domestic violence and IPV. Quebec recognizes “unions de fait” or *de facto* unions, and while these couples have several rights and protections, they do not have the same rights when it comes to the division of family assets or “patrimony.”

¹³¹ Krys Maki, “Breaking the Cycle of Abuse and Closing the Housing Gap: Second Stage Shelters in Canada” (2020) online (pdf): *Women’s Shelters Canada* <<https://endvaw.ca/wp-content/uploads/2020/09/Second-step-Shelters-Full-Report.pdf>> [Second Stage Shelters].

¹³² House of Commons, “Surviving Abuse and Building Resilience – A Study of Canada’s Systems of Shelters and Transition Houses Serving Women and Children Affected by Violence” (May 2019) 42, 1st Session, [Report of Standing Committee on Status of Women] at 17.

¹³³ Statistics Canada, “Canadian Residential Facilities for Victims of Abuse, 2020/2021” (Apr 12, 2022) online: *Juristat: Canadian Centre for Justice Statistics*. <<https://www.proquest.com/docview/2653350659/fulltextPDF/21E35836B79F4481PQ/1?accountid=12339>>.

¹³⁴ *Second Stage Shelters*, *supra* note 131.

In *Quebec (Attorney General) v A*¹³⁵, the Supreme Court of Canada confirmed Quebec's status as the sole province that denies these couples access to the family patrimony, the family residence, compensatory allowances, and obligations of support, among other features. These rights and obligations apply only to persons who are married or in a civil union, and do not apply to de facto spouses upon separation.¹³⁶ Providing unmarried couples in *de facto* unions the benefit of asset sharing regarding family property and the equitable division of assets would provide better financial security for survivors of IPV. This legal recognition could empower women in abusive situations who are contemplating separation, knowing they could have a claim to family property that would allow them financial independence in the absence of a contractual agreement.¹³⁷

Quebec could provide such rights to those to unmarried couples after three years of co-habitation, like many other Canadian provinces. We note that a leading Quebec family law firm, Goldwater, Dubé, served a notice on the Attorney-General of Quebec on March 1, 2021, arguing for a legal framework for unmarried couples and notes that the law fails to protect unmarried women and their children.

7. RELATED AREAS FOR REFORM

As part of our research, we identified several “upstream” measures that, while not directly related to legal reforms on access to housing, may support a comprehensive strategy on preventing IPV and have indirect implications for housing insecurity. These measures are:

- Explore changes in the law to provide a right to information and a “right to know” about a partner with an abusive past. Other jurisdictions, including in the UK and two Canadian provinces, have adopted such measures that allow the police to provide information about a partner's criminal or civil record of past abuse (“Clare's Law”, see Appendix A).
- Improve protocols and procedures in the healthcare sector on screening, training, and reporting on family violence.
- Amend the *Education Act* to include IPV violence-prevention education and social-emotional learning programs in primary or secondary schools, or both.

Further research is required in all these areas and the related measures.

¹³⁵ *Quebec (Attorney General) v A*, 2013 SCC 5.

¹³⁶ Natasha Mukhtar, “A Feminist Critique of Quebec v A: Evaluating the Supreme Court's Divided Opinions on Section 15 and Common Law Support Obligations” (2017) 30 *Can J Fam L* 129.

¹³⁷ See Jennifer Thomas, “Common Law Marriage” (2009) 22:1, *J Am Acad Matrim Lawyers* 151 at 163.

7.1 Provide Access to Information About a Partner's History of Abuse Demonstrated by a Criminal or Civil Record ("Clare's Law")

The right to information that the government holds about a person is generally considered to be a quasi-constitutional right in Canada. At present in Quebec, there does not appear to be any measure to allow individuals to gather information from the police about a partner's or potential partner's history of IPV. Access to a history of stalking, harassment, violation of restraining orders, or other relevant aspects of a person's record of violent behaviour can allow women to obtain information that may prevent them from placing themselves in vulnerable situations, including having to flee their home.

Inspired by Clare's Law in the UK,¹³⁸ both Alberta¹³⁹ and Saskatchewan¹⁴⁰ have legislation allowing individuals considered to be at-risk and other authorized individuals to apply to police departments to obtain information about whether a person has a violent history. The UK also includes a 'right to information' which places the onus in part on law enforcement and social services to provide information to persons whom they know are at risk of danger.

We note that the 2020 report, [*Rebâtir la confiance: rapport du comité d'experts sur l'accompagnement des victimes d'agressions sexuelles et de violence conjugale*](#) refers to the need for access to this information to ensure the safety of women and to reduce the risks associated with IPV, and recommends that consideration be given to adopting Clare's Law.

While the research appears to be mixed in terms of the success of these measures, UK data suggest a high level of demand for this information.¹⁴¹ In Alberta, early indications show an uptake in its application.¹⁴² The police data does not appear to be collected in a way that can connect the use of these measures to housing situations (or related decisions) of individual victims or potential victims. Nonetheless, this information appears to be in high demand for both women and advocates who are working with them, although lack of rapid access to this information and inconsistency in information services appear to be barriers. We are of the view that closer examination of this issue is required, with attention given to important considerations regarding privacy.

¹³⁸ *Domestic Abuse Act 2021*, (UK), s 18.

¹³⁹ *Disclosure to Protect Against Domestic Violence (Clare's Law) Act*, SA 2019, c D-13.5 at s 2-4 [*Alberta Clare's Law*].

¹⁴⁰ *Interpersonal Violence Disclosure Protocol (Clare's Law) Act*, SS 2019, c I-10.4.

¹⁴¹ Data in the United Kingdom between 2014 and 2020 shows that Clare's law was used 11,556 times by individuals their friends and relative and 37% received information disclosures. United Kingdom, Home Office Policy Paper: Domestic Violence Disclosure Scheme Factsheet" July 11 2022.

¹⁴² In Alberta, applicants can seek not only information but also support, which allows people to reach out for guidance on prevention. See e.g. Bill MacFarlane, "Clare's law showing early successes say police and social services agencies" CTV News (October 21, 2021).

7.2 Strengthen Screening, Training, and Reporting Requirements in Healthcare Facilities

Canada does not currently require physicians to screen for IPV in healthcare settings. Evidence for initiating universal screening programs for IPV in the medical sector remains mixed. While there appears to be evidence that screening detects violence more frequently, Canada has not yet determined that there is sufficient evidence to demonstrate that screening results in decreased violence against partners in relationships.¹⁴³ This being said, there is a difference between universal screening of all women, versus active case finding of those who present signs or symptoms of exposure to violence or who are more at risk.¹⁴⁴ Protocols and procedures for screening can be useful to healthcare staff, especially in emergency, obstetrics and maternity departments. There is also a need for training healthcare providers in responding to victims of violence when it is identified.¹⁴⁵

Additionally, Canada does not currently require mandatory reporting of IPV, although there are exceptions, such as in Quebec where healthcare professionals have a duty to report to youth protection if there is potential for harm to a child.¹⁴⁶ Moreover, if the mental state of a person presents a “grave and imminent danger to himself or to others”, a court can order an involuntary confinement of 48-72 hours.¹⁴⁷

However, in the United States, the United States Preventive Services Task Force recommends screening for IPV of women of reproductive age.¹⁴⁸ As well, many states have adopted mandatory disclosure laws for IPV akin to obligations to report child abuse or a patient’s lack of fitness to drive, such as the law in California excerpted here.¹⁴⁹

California Code, Penal Code

“S 11160

(a) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician’s office, local or state public health department, local government agency, or a clinic or other type of facility

¹⁴³ British Columbia, Ministry of Health: Healthy Women, Children and Youth Secretariat, *A Framework for Addressing Violence Against Women in Relationships* 2012 at 7.

¹⁴⁴ Lorna O’Doherty et al, “Screening Women for Intimate Partner Violence in Healthcare Settings (Review)” (2015) 7:CD007007 *Cochrane Datab Syst Rev* 1.

¹⁴⁵ Naira Kalra et al, “Training Healthcare Providers to Respond to Intimate Partner Violence against Women” (2021) 5:CDO12423 *Cochrane Datab Syst Rev* 1.

¹⁴⁶ *Youth Protection Act*, c. P-34.1, s. 39.

¹⁴⁷ *An Act respecting the protection of persons whose mental state presents a danger to themselves or to others*, SQ 1997, c 75 at s 7; See also *Civil Code of Québec*, CQLR c CCQ-1991 at arts 27-28.

¹⁴⁸ United States Preventive Services Task Force, “Final Recommendation Statement: Intimate Partner Violence, Elder Abuse, and Abuse of Vulnerable Adults: Screening” (2018) 320(16) *JAMA* 1678.

¹⁴⁹ *California Code*, Penal Code art 2 § 11160.

operated by a local or state public health department who, in the health practitioner's professional capacity or within the scope of the health practitioner's employment, provides medical services for a physical condition to a patient whom the health practitioner knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) A person suffering from any wound or other physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm.

(2) A person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct. (Emphasis added)

[...]

Benefits arise for entire communities when screening and reporting occurs in a culturally sensitive manner. When healthcare workers identify women with a history of IPV and employ trauma-informed care to provide the woman with options to navigate her circumstances, this in turn provides critical education for the survivor and the community she returns to.¹⁵⁰ She can learn about options on where to find financial, housing, and other resources she may have been dependent upon in her relationship and therefore be able to leave her abusive situation.

Healthcare workers should be equipped with appropriate information and resources and be trained in trauma-informed and culturally sensitive support measures.¹⁵¹ They must be able to relay information on access to services in the survivor's language. They must ensure that survivors are interviewed in private, that is, the abusive partner should not be in the examination room when the exam is being conducted and the survivor is recalling any abusive history.¹⁵² A nurse or other healthcare assistant should be in the room during the exam.

There is also a need to establish or define a process to approach such circumstances in clinical care as well as to develop and implement better guidance on the pathways and supports available for survivors.¹⁵³ This should be ensured also for individuals who find

¹⁵⁰ Kimberg & M Wheeler, "Trauma and Trauma-Informed Care" in M Gerber (ed) *Trauma-Informed Healthcare Approaches* (Cham, Switzerland: Springer, 2019).

¹⁵¹ Eva Purkey et al, "Primary Care Experiences of Women with a History of Childhood Trauma and Chronic Disease" (2018) 64 *Can Fam Physici* 204.

¹⁵² See L Kevin Hamberger et al, "Screening and Intervention for Intimate Partner Violence in Healthcare Settings: Creating Sustainable System-Level Programs" (2015) 24:1 *J Women's H* 86.

¹⁵³ *Ibid.*

themselves in situations that have not perhaps ‘escalated’ to what one might deem ‘stereotypically’ violent, but that may reflect, for example, coercive control.

The goals of such interventions can include to de-escalate violence and regain a peaceful atmosphere in the home so that families can stay together when this is deemed to be an appropriate solution¹⁵⁴. This is possible if the violence and its triggers can be resolved other than by separation (knowing that in some situations, separation is the only recourse).¹⁵⁵ By no means does this approach aim to minimize circumstances in which threats of violence and physical insecurity are present and a survivor seeks to leave – the survivor’s decision-making agency and choices are paramount.

It must be reiterated that the effectiveness of such supports is dependent on their accessibility. Services and supports must be available in multiple languages, interpretation services must be better funded and provided, and services must be ethnoculturally responsive.

7.3 Amend the *Education Act* to Require Social-Emotional Learning and Education on Family Violence as a Preventive Strategy

Quebec currently does not require schools to teach IPV prevention and social-emotional learning (SEL). Making such education programs mandatory would standardize access for children across Quebec, ensuring the recognition and prevention, later in life, of behaviours leading to IPV.

Jurisdictions in the United States have adopted such requirements into their laws. See for example the *Revised Code of Washington*.¹⁵⁶

Moreover, training for parents can also be conducive to reducing violence in the home, such as corporal punishment. This can help reduce tolerance of violence and ensure safety for everyone in the home.¹⁵⁷

¹⁵⁴ See Sandra Stith, “Negotiated Time Out: A De-Escalation Tool for Couples” (2003) 29:3 *J Marit Fam Therapy* 291. See also Sandra Stith, “Effectiveness of Couples Treatment for Spouse Abuse” (2003) 29:3 *J Marit Fam Therapy* 407.

¹⁵⁵ *Ibid.*

¹⁵⁶ See *Revised Code of Washington 2005*, tit 28A, § 300(185).

¹⁵⁷ See Andrew Grogan-Kaylor et al, “Reductions in Parental Use of Corporal Punishment on Pre-School Children Following Participation in the Moms' Empowerment Program” (2019) 34:8 *J Interpers Viol* 1563.

*Revised Code of Washington***RCW 28A.300.185****Family preservation education program.**

The office of the superintendent of public instruction shall develop a family preservation education program model curriculum that is available to each of the school district boards of directors. The model curriculum shall be posted on the superintendent of public instruction's web site. The model curriculum shall include, but is not limited to, instruction on developing conflict management skills, communication skills, domestic violence and dating violence, financial responsibility, and parenting responsibility.

8. CONCLUSION

Using a comparative analysis of Canadian and international law, this paper identifies potential areas of legislative and related policy reforms for Quebec. The objective of these reforms is to ensure support for women and girls who are victims of IPV in retaining housing or finding new, safe housing.

The suite of reforms and specific recommendations presented here can be pursued through omnibus legislation with respect to the first two proposals in this report (the right to housing and the right to be free from domestic violence) or as individual reforms that can be pursued separately or as part of more comprehensive reforms. These proposals are designed to cover civil law, immigration law, family violence legislation, and social assistance legislation, as well as other social and economic legislation to bring Quebec and Canada more in line with their international law obligations and with human rights-based approaches.

Appendix A: Texts of Selected Legal Provisions

A. Protection Against Domestic Violence Act, 2000, S.O. 2000, c. 33

Protection Against Domestic Violence Act, 2000, S.O. 2000, c. 33

“Domestic violence

1. (2) For the purposes of this Act, domestic violence means the following acts or omissions committed against an applicant, an applicant’s relative or any child:

1. An assault that consists of the intentional application of force that causes the applicant to fear for his or her safety but does not include any act committed in self-defence.
2. An intentional or reckless act or omission that causes bodily harm or damage to property.
3. An act or omission or threatened act or omission that causes the applicant to fear for his or her safety.
4. Forced physical confinement, without lawful authority.
5. Sexual assault, sexual exploitation or sexual molestation, or the threat of sexual assault, sexual exploitation, or sexual molestation.
6. A series of acts which collectively causes the applicant to fear for his or her safety, including following, contacting, communicating with, observing, or recording any person.”

B. Protection Against Family Violence Act, RSPEI 1988, c V-3.2

Protection Against Family Violence Act, RSPEI 1988, c V-3.2

“Offences”

16. Any person who

- (a) fails to comply with the provisions of an emergency protection order or a victim assistance order;
- (b) falsely and maliciously makes an application under this Act;
- (c) obstructs any person who is performing any function authorized by an emergency protection order or a victim assistance order; or
- (d) publishes any information in contravention of an emergency protection order or a victim assistance order, is guilty of an offence and upon summary conviction is liable in the case of a first offence, to a fine of not less than \$500 and not more than \$5,000 or to imprisonment for a term of not more than three months, or to both, and in the case of a second or subsequent offence, to a fine of not less than \$1,000 and not more than \$10,000 or to imprisonment for a term of not more than two years, or to both. 1996, c.47, s.16; 1998, c.11, s.10; 2002, c.45, s.5.

C. Protection Against Family Violence Act, RSA 2000, c P-27

Protection Against Family Violence Act, RSA 2000, c P-27

“4 (1) An order under this section may be granted by a justice of the Court of Queen’s Bench on application if the justice determines that the claimant has been the subject of violence.

(2) An order under this section may include any or all of the following:

- a) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the claimant or other family members, including the residence, property, business, school or place of employment of the claimant or family members;
- b) a provision restraining the respondent from contacting the claimant or associating in any way with the claimant and from subjecting the claimant to family violence;
- c) a provision granting the claimant and other family members exclusive occupation of the residence for a specified period, regardless of whether the residence is jointly owned or leased by the parties or solely owned or leased by one of the parties;
- d) a provision requiring the respondent to reimburse the claimant for monetary losses suffered by the claimant and any child of the claimant or any child who is in the care and custody of the claimant as a direct result of the family violence, including loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained, moving and accommodation expenses, legal expenses and costs of an application under this Act;
- e) a provision granting either party temporary possession of specified personal property, including a vehicle, cheque-book, bank cards, children’s clothing, medical insurance cards, identification documents, keys or other necessary personal effects;
- f) a provision restraining either party from taking, converting, damaging or otherwise dealing with property that the other party may have an interest in;
- g) a provision restraining the respondent from making any communication likely to cause annoyance or alarm to the claimant, including personal, written or telephone contact or contact by any other communication device directly or through the agency of another person, with the claimant and other family members or their employers, employees, co-workers or other specified persons;
- h) a provision directing a peace officer to remove the respondent from the residence within a specified time;

- i) a provision directing a peace officer to accompany a specified person to the residence within a specified time to supervise the removal of personal belongings in order to ensure the protection of the claimant;
- j) a provision requiring the respondent to post any bond that the Court considers appropriate for securing the respondent's compliance with the terms of the order;
- k) a provision requiring the respondent to receive counselling;
 - k.1) a provision authorizing counselling for a child referred to in section 1(1)(d)(iv) without the consent of the respondent;
- l) a provision directing the seizure and storage of weapons where the weapons have been used or have been threatened to be used to commit family violence;
- m) any other provision that the Court considers appropriate.”

D. Quebec Civil Code 1974.1

1974.1. A lessee may resiliate the current lease if, because of the violent behaviour of a spouse or former spouse or because of a sexual aggression, even by a third person, the safety of the lessee or of a child living with the lessee is threatened.

The resiliation takes effect two months after a notice is sent to the lessor or one month after the notice is sent if the lease is for an indeterminate term or a term of less than 12 months. However, the resiliation takes effect before the two-month or one-month period expires if the parties so agree or when the dwelling, having been vacated by the lessee, is re-leased by the lessor during that same period.

The notice must be sent with an attestation from a public servant or public officer designated by the Minister of Justice, who, on examining the lessee's affidavit that there exists a situation involving violence or sexual aggression, and other factual elements or documents supporting the lessee's statement provided by persons in contact with the victims, considers that the resiliation of the lease is a measure that will ensure the safety of the lessee or of a child living with the lessee. The public servant or public officer must act promptly.

If part of the rent covers the cost of services of a personal nature provided to the lessee or to a child of the lessee who lives with the lessee, the lessee is only required to pay that part of the rent that relates to the services which were provided before he or she vacated the dwelling. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.

E. Disclosure to Protect Against Domestic Violence (Clare's Law) Act SA 2019, c D-13.5.

Disclosure to Protect Against Domestic Violence (Clare's Law) Act

“Collection, use and disclosure of information

2 (1) A police service or the Minister may collect, use or disclose personal information for the purposes of

- (a) making a disclosure in accordance with section 3(1) or (3),
- (b) determining whether to make a disclosure in accordance with section 3(1) or (3),
- (c) determining whether a person is a person at risk in accordance with the regulations, or
- (d) any other purposes related to this Act identified in the regulations.

(2) If the Minister enters into an agreement with the Government of Canada or the government of any province or territory in relation to the sharing of information for the purposes of this Act or legislation that has similar purposes in the other jurisdiction, then a police service or the Minister may collect, use or disclose personal information for the purposes referred to in subsection (1) in accordance with that agreement.

Disclosure

3 (1) A police service may provide disclosure information to an applicant or a person referred to in subsection (2) in accordance with the Disclosure Protocol.

(2) Subject to the Disclosure Protocol, the following persons may assist with an application for disclosure information or make an application for disclosure information on behalf of an applicant:

- (a) a person who has the consent of the applicant, provided in the manner required by the regulations;
- (b) any other person who is authorized by the regulations to assist with an application or make an application on behalf of an applicant.

(3) A police service may provide disclosure information to a person at risk in accordance with the Disclosure Protocol, regardless of whether or not the person at risk applies for disclosure information.

(4) Every person who receives disclosure information pursuant to this section shall comply with the terms and conditions of the Disclosure Protocol.

Disclosure Protocol

4 The Disclosure Protocol must include the following:

- (a) terms and conditions for safeguarding disclosure information received by persons at risk;
- (b) terms and conditions prohibiting the subsequent use or disclosure of the disclosure information for purposes not related to this Act unless
 - (i) the person to whom the disclosure information relates has provided consent, or
 - (ii) the disclosure is required or authorized by law.”

Appendix B: Key Informants

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CANADIAN LEGISLATION

An Act respecting the protection of persons whose mental state presents a danger to themselves or to others, SQ 1997, c 75 at s 7.

An Act to amend the Act respecting the Québec correctional system to provide for the power to require the offender be connected to a device that allows the offender's whereabouts to be known, SQ 2022, c 4.

An Act to create a court specialized in sexual and domestic violence and respecting training of judges in these matters, SQ 2021, c 32.

An Act to create a court specialized in sexual violence and domestic violence and respecting training of judges in these matters, SQ 2021 c 32.

By-law respecting the allocation of dwellings in low rental housing, CQLR c S-8, r 1.

Canadian Charter of Rights and Freedoms, s 8, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

Civil Code of Québec, CQLR c CCQ-1991.

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