

CANADIAN
CIVIL LIBERTIES
ASSOCIATION



ASSOCIATION
CANADIENNE DES
LIBERTES CIVILES

Submission on Trans Women’s Right to Shelter: A Human Rights- Based Approach to Gender-Aligned Access in Canada’s Shelter System

to the Standing Committee on the Status of Women (FEWO)

Canadian Civil Liberties Association

Howard Sapers, Executive Director

Aaden Pearson, Staff Lawyer and Trans Rights Legal Fellow

Harini Sivalingam, Director of Equality

June 12, 2026

Canadian Civil Liberties Association

124 Merton St., Suite 400

Toronto, ON M4S 2Z2

apearson@ccla.org

www.ccla.org

The Canadian Civil Liberties Association (“CCLA”) is an independent, national, nongovernmental organization that was founded in 1964 with a mandate to defend and foster the civil liberties, human rights, and democratic freedoms of all people across Canada. Our work encompasses advocacy, research, and litigation related to the criminal justice system, equality rights, privacy rights, and fundamental freedoms. CCLA is committed to advancing the rights and freedoms of marginalized groups and individuals whose rights to full equality has not been realized.

Background

Trans women¹ in Canada experience violence at dramatically disproportionate rates, yet are routinely excluded, screened out, or made unsafe within the shelter system. A 2023 Trans PULSE Canada report (commissioned by the Canadian Human Rights Commission and the Federal Housing Advocate) found that nearly 1 in 10 trans and non-binary respondents had avoided accessing a shelter when needed because of their gender identity or expression.² Moreover, the report found half of participants surveyed for the report anticipated discrimination in housing based on their identity.³ This is of particular concern for trans and non-binary people who are more than twice as likely than cisgender people to experience violent victimization, particularly by intimate partners, and may be in need of shelter supports.⁴

Provincial and territorial human rights regimes already establish that trans women are entitled to access shelters that align with their lived gender identity. The Ontario Human Rights Commission's policy on gender identity and gender expression confirms that, while sex-segregated shelters may lawfully exist, "a trans person should have access to the shelter that matches their lived gender identity," and that shelters cannot otherwise discriminate on this basis.⁵ Despite this, implementation of policies that are trans-inclusive across the shelter and transitional housing sector remains uneven. A 2018 Women's Shelters Canada survey found that while 46% of shelters had served trans clients, the sector relies on a spectrum of approaches that range from full inclusion, exclusion, to ad hoc, undeveloped policy.⁶

Housing as a Human Right Centred in Dignity

Canada has ratified the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which recognize housing as essential to an adequate standard of living. The UN Committee on Economic, Social and Cultural Rights' General Comment No. 4 makes clear that the right to adequate housing is not merely the right to a roof, but "the right to live somewhere in security, peace and dignity," encompassing habitability, accessibility, and cultural adequacy.⁷ The *National Housing Strategy Act* (2019) entrenches this obligation domestically, declaring housing as "essential to the inherent dignity and well-being of the person" and committing the federal government to its progressive realization.⁸

For trans women, a shelter bed that does not align with their gender identity is not "accessible" or "adequate" within the meaning of these instruments. Placement in a men's shelter, or refusal of entry to a women's shelter, exposes trans women to harassment, transmisogynistic abuse, sexual violence, and exclusion that the shelter system exists to prevent. A right to shelter that is not aligned with gender identity is, for trans women, no meaningful right to shelter at all.

Sections 7 and 15 of the Charter

Canadian courts have affirmed that binding international instruments such as the ICESCR inform the scope of *Charter* rights through the presumption of conformity. Section 7's guarantee of life, liberty, and security

¹ Throughout this brief, the term "trans women" is used inclusively to refer to transfeminine people of all genders, including trans women, transfeminine non-binary people, and other gender-diverse people who are feminine-spectrum and assigned male at birth. This group of people may experience similar barriers to gender-aligned shelter access and similar risks of transmisogynistic violence and exclusion.

² Trans PULSE Canada, "Housing barriers among trans and non-binary adults in Canada" (prepared for the Canadian Human Rights Commission, April 26, 2023), online: <<https://transpulsecanada.ca/results/responsive-report-housing-barriers-among-trans-and-non-binary-adults-in-canada/>>.

³ *Ibid* at pages 8, 10.

⁴ Statistics Canada, "Experiences of violent victimization and unwanted sexual behaviours among gay, lesbian, bisexual and other sexual minority people, and the transgender population, in Canada, 2018," *The Daily* (9 September 2020), online:

<<https://www150.statcan.gc.ca/n1/daily-quotidien/200909/dq200909a-eng.htm>>; Women's Shelters Canada, Community of Practice: Supporting Trans Women in VAW Shelters (2019), online: <<https://endvaw.ca/wp-content/uploads/2026/03/Community-of-Practice-trans-women.pdf>> at 1.

⁵ Ontario Human Rights Commission, Policy on preventing discrimination because of gender identity and gender expression, s. 13 ("Preventing and responding to discrimination"), online: <<https://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression/13-preventing-and>> at 13.6 "Shelter Services".

⁶ Women's Shelters Canada, Community of Practice: Supporting Trans Women in VAW Shelters (2019), online: <<https://endvaw.ca/wp-content/uploads/2026/03/Community-of-Practice-trans-women.pdf>>.

⁷ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, CESCR, 6th sess, E/1992/23 (1991).

⁸ *National Housing Strategy Act*, SC 2019, c 29, s. 4(a)–(b).

of the person has been interpreted, including in *Victoria (City) v. Adams*,⁹ to protect access to shelter where its absence creates serious risk to health and safety. For trans women, being denied a shelter placement aligned with their gender, or being placed in a setting where they face heightened risk of violence, engages the same dignity and autonomy-based concerns that animate the section 7 jurisprudence on encampments and homelessness.

The recent decision in *The Regional Municipality of Waterloo v. Named Respondents and Persons Unknown*¹⁰, reinforces this analysis. The Court found that the by-laws at issue infringed section 15(1) because the lack of accessible indoor shelter disproportionately burdens intersecting disadvantaged groups, expressly identifying “women, gender diverse, disabled and/or Indigenous persons” as those least able to access indoor shelter that meets their needs.¹¹ Drawing on the Supreme Court’s intersectional approach to section 15 in *Kanyinda v. Canada*,¹² the Court recognized that disadvantage flows from the “specific identities and realities” of particular groups—a framework directly applicable to trans women whose access to gender-aligned shelter is denied or restricted.

A facially neutral shelter intake policy that results in trans women being placed according to sex assigned at birth, rather than lived gender identity, is precisely the kind of adverse-effects discrimination that section 15(1) is designed to capture, as recognized in *Kanyinda*. It creates a distinction on the basis of gender identity that perpetuates and exacerbates the disproportionate violence and housing precarity trans women already face, and contributes to further housing instability.

Gaps in the Current System

- **Inconsistent intake policy:** Provincial human rights guidance establishes a right to gender-aligned placement, but individual shelters (particularly those in rural and underserved regions) often lack codified intake protocols, training, and accountability mechanisms to give effect to it.¹³
- **Data invisibility:** There is no systematic national data collection on trans women’s shelter access, denials, or outcomes, making them an invisibilized population within the shelter sector.
- **Compounded marginalization:** Racialized and Indigenous trans women, and trans women involved in sex work, face compounded barriers that are not addressed by gender-identity policy alone.

Recommendations

1. The federal government should condition federal funding to applicable women’s shelters and transition houses on adoption of intake and placement policies that guarantee access aligned with a resident’s gender identity, consistent with provincial human rights codes.
2. The federal government should fund sector-wide training to build shelter capacity to safely and respectfully serve trans women.
3. Canada should fund disaggregated, trans-specific data collection on shelter access, denial, and safety outcomes, building on the work of Trans PULSE Canada and the Federal Housing Advocate.
4. Any rights-based framework for shelter and homelessness policy must explicitly name trans women and gender-diverse people as a population requiring intersectional, accessibility-focused remedies.

Conclusion

Shelter is a human right grounded in dignity, security, and peace. For trans people, that dignity cannot be separated from gender identity. A shelter system that fails to guarantee access aligned with a person’s lived gender is not merely under-inclusive; it actively reproduces the violence and exclusion that drives women into the shelter system in the first place. Canada’s domestic and international human rights commitments, and the emerging *Charter* jurisprudence on homelessness and equality, require nothing less than a shelter system that is genuinely safe and accessible for trans women.

⁹ *Victoria (City) v. Adams*, [2008 BCSC 1363](#), aff’d [2009 BCCA 563](#).

¹⁰ *The Regional Municipality of Waterloo v. Named Respondents and Persons Unknown*, [2026 ONSC 2971](#).

¹¹ *Ibid* at para. 154.

¹² *Quebec (Attorney General) v. Kanyinda*, [2026 SCC 7](#).

¹³ See e.g. CBC News, “Where do you turn to?: Sask. project aims to help gender diverse people access women’s shelters” (28 March 2018), online: <<https://www.cbc.ca/news/canada/saskatchewan/sask-transition-1.4596481>>.