
7. Housing Discrimination in Canada: Stakeholder Views and the Need for Policy Based on Sound Research

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Housing policy should include consideration of equitable access to housing, but there is little information about housing discrimination in Canada. Research from the United States cannot be directly applied to the Canadian situation, since the U.S. has a different history of social relations and different patterns of segregation among ethno-cultural groups.

This study, part of a larger review of the housing discrimination literature carried out for Canada Mortgage and Housing Corporation, identified what research has been done on housing discrimination in Canada in order to identify gaps that should be filled and to suggest a research agenda that could guide future housing policy. The study took the form of a literature survey and interviews with 40 key informants.

What is housing discrimination?

Housing discrimination consists of any behaviour, practice, or policy in the public or private sectors that directly, indirectly, or systematically causes harm through inequitable access to or use and enjoyment of housing by members of historically disadvantaged social groups.

Canadian law prohibits both direct discrimination and “adverse effect” discrimination. However, most Canadian case law deals with discrimination in relation to employment rather than housing.

Discrimination can take many forms. The most obvious is the denial of housing to an individual or family, but it may also take the form of charging certain people higher prices or rents for housing, applying more stringent or inappropriate screening criteria to some people, or treating certain residents differently from other residents.

As research into social equity continues, the definition of discrimination has expanded, because certain types of behaviour that were once unchallenged are now recognized as discriminatory. New forms of discrimination are coming to light, especially forms of indirect or systemic discrimination. These include statistical discrimination, and discrimination on the basis of social condition.

Statistical discrimination consists of judging people, not on their individual characteristics, but according to their membership in a certain group. For instance, the application of minimum income criteria to screen tenants has been contested as a discriminatory practice. In another example, a landlord may reject a potential tenant because that person comes from a group that the landlord associates with disruptive behaviour.

Discrimination on the basis of poverty, low education, homelessness, or illiteracy is a growing problem, but only Quebec’s Charter of Human Rights prohibits discrimination on the basis of “social condition.” Attempts to add this provision to the Canadian Charter of Human Rights or to human rights legislation in other provinces have been unsuccessful.

Discrimination is not the same thing as prejudice. Prejudice may or may not lead to discriminatory behaviour and discriminatory behaviour may be caused by motives other than prejudice.

Previous Research Findings

Landlord Behaviour

A few studies suggest that resident landlords tend to behave differently from absentee landlords (absentee landlords were more likely to rent to new immigrants, for example) and that resident landlords are

over-represented in human rights cases on housing discrimination and harassment.

Some researchers distinguish between informal landlords – those who own one or a small number of properties – and commercial landlords. The informal landlords tend to want to control their properties more closely and are more likely to ignore tenants' rights.

A few Canadian studies have looked at landlords' behaviour towards certain ethno-racial groups and have identified instances of discrimination against certain immigrant groups. Some landlords cited their own experience of communication problems, overcrowding, noise, cleaning problems, and lease violations as reasons for excluding certain groups.

The changing profile of renters may have affected landlords' attitudes. Since the early 1980s, renting has become more strongly associated with low income levels, as those who can afford to do so make the transition to homeownership. Many landlords reject families living on social assistance, and most prefer working couples, which puts single mothers and other types of households at a disadvantage.

Although in several provinces, including Ontario, it is against the law to refuse to rent to a household that depends on social assistance payments, this type of discrimination is routinely practised by some landlords, according to at least one Toronto study. Research also suggests that landlords apply more stringent financial screening criteria when vacancy rates are low and there is competition for housing.

Racial discrimination

Studies conducted since the 1950s have found evidence of racial discrimination in Canada, especially by landlords who were unwilling to rent to racial minorities. Some of the studies involved paired researchers or auditors – one white and one black, or one Aboriginal and one non-Aboriginal – who would approach agents and landlords about available rental housing. The earliest studies found more instances of discrimination than studies conducted in the 1970s and 1980s, but racial discrimination has by no means disappeared.

Although in the 1950s and 1960s, racial discrimination was often blatant, today it may be practised in more subtle ways. For example, landlords may use economic criteria to exclude certain racial groups.

The highest levels of discrimination are experienced by blacks, followed by South Asians. Recent studies have found that certain immigrant groups avoid dealing with the problem of discrimination by using social networks within their own ethno-cultural group to find housing.

Researchers have also noticed a discrepancy between individual and group perceptions of discrimination. People tend to perceive a higher level of discrimination against their group than against themselves as individuals.

There is anecdotal evidence of racial harassment in the Canadian housing system, and some social housing agencies have anti-racist harassment policies. However, no systematic studies have been done in Canada or the United States, although several have been conducted in the United Kingdom.

Racial discrimination may take the form of “neighbourhoodism” – discrimination against those who live in a particular area, for example, large public housing projects, such as Regent Park in Toronto. Researchers have documented instances of people living in such neighbourhoods being unable to obtain home insurance, get delivery services, or have a taxi driver pick them up from the area. Landlords may also reject applications for rental housing when they see that the applicant lives in one of these stigmatized neighbourhoods.

Sex and gender discrimination

Several feminist analysts of housing have demonstrated a male bias in the design and planning of housing. Examples include underground parking garages or isolated basement laundry rooms, which many women consider unsafe. Other researchers have criticized housing policy that appears to focus on housing traditional families and ignores the needs of non-family households or households headed by women.

Several studies have found that women renters may be harassed or intimidated by housing providers. The problems cited include unannounced visits to the unit when the tenant was absent, prying into

the tenant's personal life, insults and verbal abuse, threats of eviction, threats to cut services, and refusal to make needed repairs.

Women with children, younger women, divorced women, single mothers and women on social assistance report difficulties in securing housing that they have attributed to their sex and family or financial status. No systematic studies, such as those using paired auditors, have been done in Canada to confirm these experiences, although one such U.S. study revealed sexist discrimination in the housing market.

Interestingly, although the auditors' results clearly showed that single women and single mothers were offered rental units less often than single men and single fathers, the female auditors themselves were not aware of being discriminated against.

Sexual harassment of women by landlords and superintendents, or other tenants is reported far less frequently than sexual harassment in the workplace, but researchers have found it to be a fairly common problem that has led to formal human rights complaints. Women may underreport such events for a variety of reasons, including fear of retaliation by the harasser, lack of awareness of their rights, or psychological effects from previous abuse.

Researchers have documented sexual harassment in rental housing and non-profit supportive housing. In rental housing, as many as half of the incidents were perpetrated by landlords and housing agents; in non-profit housing, the perpetrators were nearly always other tenants.

The worst-off group is probably women of colour who are lone parents; these women are discriminated against because of their race, sex, family situation, and low income all at the same time. However, their experiences are not adequately captured either by human rights prosecutions or by research, since most approaches to discrimination deal with one factor at a time (either racial discrimination or sexual discrimination, but not both).

Discrimination against youth, gays and lesbians, and people with disabilities

No systematic research has been conducted on discrimination against youth, gays and lesbians, and people with disabilities, but anecdotal evidence suggests that such groups experience discrimination. Young

people may be refused housing by landlords who demand a credit history, and gays and lesbians may be harassed because of their living arrangements. People with disabilities face disadvantages related to housing design and accessibility. One women's advocacy organization has reported that women with disabilities are more likely to be exploited or abused in their homes than non-disabled women.

Discrimination on the basis of social status

People who are homeless, or who live in public housing or emergency shelters, or who receive employment insurance or social assistance may be subject to discrimination in housing. Research suggests that discrimination on the basis of income is growing, through the use of credit checks, rent-to-income ratios, and requests for guarantors.

Discrimination in land use planning

Certain land use planning tools have been criticized as being inherently discriminatory. Zoning bylaws, for example, by restricting housing forms, may create neighbourhoods that exclude renters or certain kinds of households.

Discrimination is also apparent in the public reaction to certain development proposals, including opposition to the creation of emergency shelters, group homes, social housing, apartment buildings, cooperative housing, seniors' homes, or other types of housing geared to particular groups.

The Not In My Back Yard (NIMBY) syndrome is well documented and is often linked to fears that the proposed housing will lower property values, although studies have refuted such outcomes. Mediation and alternative dispute resolution have sometimes been used to deal with such opposition.

Steering and discrimination in housing finance

No Canadian studies focus on discrimination in home buying, but two studies have looked at the role of real estate agents in directing certain buyers to certain areas – a process known as “steering” that may lead to residential segregation. Both studies found little evidence of steering in Canada, but several studies conducted in the United

States have found evidence that some agents steer blacks towards predominantly black neighbourhoods and whites towards predominantly white neighbourhoods. More studies are needed to determine the extent of steering in Canada.

There is no recent Canadian research on discrimination in mortgage lending, although that does not mean that it does not occur. U.S. studies suggest that blacks are denied home mortgage loans at a higher rate than whites, even when the black and white applicants have similar qualifications such as income, credit records and other eligible characteristics.

The gap increases among marginal applicants (for example, those with a less-than-ideal credit record) according to the applicant's race or sex. Other U.S. studies indicate that women and racial minorities may be discouraged from applying for a mortgage in the first place.

Although there is no evidence of residential mortgage discrimination in Canada, community groups have expressed concern over bank closures in certain low-income neighbourhoods. Also, residents of some neighbourhoods served by credit unions or caisses populaires, which do not pool risk, may find it more difficult to obtain mortgages, because these organizations have less ability to absorb financial losses than the national banks.

Anecdotal evidence suggests that people in certain neighbourhoods with large-scale public housing projects may have difficulty obtaining insurance, but no systematic studies have been done to confirm this.

Stakeholder Views on Discrimination

The authors interviewed 40 people from across Canada about selected aspects of housing discrimination. The interviewees were drawn from various stakeholder groups, including landlord and tenant advocates, housing service providers, government planners and housing policy analysts, human rights specialists, lending and real estate agents, and representatives of financial institutions.

Defining housing-related discrimination

Most informants equated housing discrimination with the denial of access to housing by a landlord. Only a few included the treatment of existing tenants. Many were aware of instances of harassment, although some considered harassment more a matter of interpersonal conflict than discrimination.

Nearly all the informants agreed that racial discrimination occurred, but they held differing opinions about its prevalence. For example, people in areas with a large Aboriginal population reported that discrimination against this group was common.

Many informants stated that discrimination by income level is common, because of income-based screening. Others felt that those who were new to the housing market – youth, immigrants, and the formerly homeless – and those with psychiatric or developmental difficulties were at a special disadvantage. Several even felt that the elderly were the target of discrimination by landlords who may believe that they are too old to care for themselves.

Informants stated that people with disabilities are subject to particular forms of discrimination, usually related to access. For example, a blind person who relies on a guide dog may be denied housing if the landlord forbids pets.

Families with children may be excluded from certain kinds of housing, because landlords assume that children mean greater wear and tear on a rental unit. Single mothers may also be denied access to housing because landlords believe that a woman may not adequately supervise her children or attend to property maintenance (other than keeping the place clean).

Screening and risk assessment

Several informants argued that landlords need to screen tenants in order to minimize their financial risk, and that landlords were often treated more unfairly than tenants, because they had to absorb losses caused by damage or rent arrears. One person suggested that the government needed to take more responsibility for housing people with severe mental health problems, rather than expecting the private sector to house people with such disabilities.

Informants suggested that financially irresponsible or exploitive tenants constituted 5 to 10 percent of all tenants, but there is no hard data available, and landlords must do their own assessments of potential risks. It is expensive and often futile to attempt to prosecute tenants who do not pay rent. Landlords may resort to stereotypes to screen out potentially defaulting tenants.

More landlords are asking for formal applications that collect information on the tenant's employment, income, previous rental history, credit status, and character and require verification from previous landlords or character references. Some landlords also seek information from businesses that check into tenants' backgrounds, in particular their earlier relationships with other landlords.

Institutionalized discrimination

Informants provided many examples of systemic housing discrimination, including:

- the "man-in-the-house" rule, by which women on social assistance may have their benefits revoked if a welfare agent claims that they are living with a man who is contributing to the household finances;
- the criteria for obtaining priority on a housing waiting list;
- lack of physical access to housing for people with disabilities;
- government tax policies that favour homeowners over renters;
- zoning and planning practices that exclude certain kinds of households from certain areas, such as minimum lot frontage rules that ensure that only expensive housing can be created in an area, thereby excluding lower-income households.

Many informants mentioned NIMBYism, which can forestall the creation of special needs housing, or even of regular multi-unit housing. One informant mentioned that public meetings can even lead to violence, when hostility to a proposal is particularly high.

Discrimination in housing purchase and finance

An informant in the real estate industry mentioned that discrimination by agents may occur when an agent:

- avoids doing business with a client from a particular social group;
- steers a client towards certain neighbourhoods;
- gives certain clients a lower level of service.

The real estate industry is self-regulating and the only mechanism to ensure public accountability is the process of complaining to a business agency or human rights commission.

Little information is available on discrimination in mortgage lending, but no informant was willing to state that it did not occur. In Canada, banks do not provide information about their lending policies, so there is no public accountability in this area. Nor do banks maintain databases that track successful and unsuccessful applicants.

Informants from the financial sector reported that loan officers use a debt-service-to-income ratio to determine whether or not to approve an application, but that most officers have some discretion, and some may refuse loans to certain applicants by making assumptions about future income streams.

Signs of change

Few informants felt that racial discrimination was declining, but most felt that landlords are cautious about overt expressions of racism and that discrimination was exercised in more subtle ways. Several felt that discrimination on the basis of income was increasing.

Human rights legislation is not a guaranteed deterrent to discrimination. Sophisticated commercial landlords who can pay for legal advice are not as worried about human rights challenges as small landlords who cannot absorb as much loss. The commercial landlords also know that human rights cases are time-consuming and that tenants may drop the case before it is heard.

Informants mentioned variables that affect the prevalence of discrimination:

- vacancy rates: in general, the lower the rate, the higher the probability of discrimination;
- ease of tenant evictions: the more difficult it is to evict a tenant, the greater the likelihood that the landlord will try to avoid renting to certain groups perceived as high-risk;

- type of landlord: small-scale landlords who live alongside their tenants may be more likely to practise discrimination.

One informant suggested that negative portrayals of certain groups in the media might lead to discrimination against those groups.

When asked about emerging areas of discrimination, many informants mentioned minimum income screening criteria and the lack of protection against discrimination by social condition in all provinces except Quebec. Others mentioned rules established by non-profit or co-operative housing; the rules are designed to maintain the stability of the housing, but may penalize individuals. For example, some co-operatives require residents to contribute labour to the management of the project, which may be more onerous for single mothers than for couples. A few informants suggested that non-profit housing operated by some ethnic groups or religious groups may exclude those of different ethnicities or religions, although these projects may constitute a form of affirmative action.

(In)Effectiveness of legislation

Many informants felt that the effectiveness of legislation lay in its enforcement as much as in its wording, and that enforcement was lax or ineffective. Litigation is a time-consuming and expensive way to resolve discrimination issues. A few informants felt that higher vacancy rates would do more than legislation to lessen discrimination. Others said that an increased supply of social housing would reduce discrimination, because social housing providers can take on more risk than private landlords.

Landlord advocates wanted to see more education about rights and responsibilities in the housing system. Tenant advocates wanted to see a more efficient and streamlined human rights process, so that tenants would not give up cases because they were dragging on.

Several informants called for more research, particularly housing audits, to document the extent of housing discrimination, so that effective solutions could be developed in response.

Conclusion

The research available confirms that housing discrimination continues to exist in Canada, particularly but not exclusively in the private rental sector. The existing studies are small scale, limited to a few cities, and nearly all have focused on the rental sector and on racial discrimination. Little systematic research is available on the homeownership sector or on other forms of discrimination. Also most the studies have focused on access to housing, rather than on the treatment of people once they have secured housing.

The interviews found that people vary in their impressions of the extent of discrimination according to their occupation or association. Tenant and human rights advocates were most likely to consider discrimination a serious problem. However, most agreed that the current system for resolving disputes is ineffective and that the existing data on housing discrimination are inadequate for directing policy decisions.

The study shows that systematic research is badly needed, especially:

- housing audit studies (especially paired testing) in major cities, focusing on blacks, Aboriginals, female-headed households, families with children, youth, people with physical disabilities, and low-income households;
- surveys of perceived discrimination and its effects on home-seeking behaviour and outcomes in both large and small urban centres;
- surveys on the housing experiences of specific ethnic groups in specific cities.

Studying mortgage lending practices will be more difficult, because of the confidentiality of transactions. However, exploratory research involving surveys of the general population and of mortgage holders might indicate the nature and extent of discrimination in this area.

The full report, titled Housing Discrimination in Canada: The State of Knowledge, is available on request from the Canadian Housing Information Centre: Phone: 1-800-245-2642; Fax: 1-800245-9274; Email: chicQ@cmhc-schl.gc.ca

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