



MEETING SD 31-20-24

STANDING COMMITTEE ON SOCIAL DEVELOPMENT

**WEDNESDAY, OCTOBER 9, 2024
DET'ANCHOGH KÚÉ - EAGLE ROOM / ZOOM
10:30 AM**

AGENDA

1. Call to Order
2. Prayer
3. Review and Adoption of Agenda
4. Declarations of Conflict of Interest
5. Public Matters:
 - a. Public Briefing on Housing as a Human Right with Sarah Buhler, University of Saskatchewan
6. New Business
 - a.
7. Date and Time of Next Meeting: Wednesday, October 9, 2024 at 1:30PM
8. Adjournment

Eviction and the Human Right to Housing

Sarah Buhler

Associate Professor

University of Saskatchewan College of Law

Introduction and overview

- Eviction from rental housing engages issues relating to the human right to housing.
- Provincial/ territorial governments can ensure that their eviction laws and related policies support tenants' human right to housing.
- I will discuss two ways to promote the right to housing and security of tenure for renters facing eviction: (1) enhanced legal aid for renters; (2) incorporating a “proportionality requirement” into residential tenancies legislation.

Eviction: Definitions, Contexts, Impacts

Definitions

- Evictions can be “formal” or “informal”.
- My research focuses on “formal” evictions that are enacted through the legal system.
- It is important to make sure the formal system is working fairly because what happens in the formal system influences informal evictions.

Eviction: Definitions, Contexts, Impacts

Contexts of eviction

- Evictions play out in a deeply uneven field.
- Tenants who already face multiple and intersecting forms of oppression and discrimination are most vulnerable to eviction.

Eviction: Definitions, Contexts, Impacts

Impacts of eviction

- Evictions are traumatic events
- Individual impacts
- Community and neighbourhood impacts

Eviction and International Human Rights Law

Evictions are not prohibited under international human rights law.
But certain criteria are set out:

- “Meaningful engagement” with those affected;
- Proportionality and exploration of alternatives to eviction –
eviction as a “last resort”;
- Evictions into homelessness are a “gross violation” of the human
right to housing.

1. Promoting the Right to Housing through Enhanced Legal Assistance for Renters

Background: Eviction law and procedures

- Each province/ territory has its own residential tenancies law and system to deal with evictions.
- “Non-complex” law? But “the rule of law is no less significant in an administrative hearing room...than in a courtroom, and arguably...it may be more so” (Lorne Sossin).
- Given the deeply consequential impacts of eviction, meaningful access to justice is important.

1. Promoting the Right to Housing through Enhanced Legal Assistance for Renters

Landlords' access to justice

- “repeat players” and social capital
- research showing systemic bias in favour of landlords in eviction hearings
- structural dynamics can skew the process in favour of landlords

1. Promoting the Right to Housing through Enhanced Legal Assistance for Renters

Tenants' access to justice

- Most tenants in Canada do not have access to legal help or representation because most provinces and territories do not have coverage for tenants facing eviction.
- Tenant experiences of eviction legal processes – confusing, intimidating, feeling like outcomes are predetermined.

1. Promoting the Right to Housing through Enhanced Legal Assistance for Renters

Impacts of legal assistance

- Research: legal representation has a startling impact on outcomes in eviction matters
- Why?
 - Knowledge of law and procedure
 - Lawyers help balance power
 - Deter meritless claims
 - Force tribunals to follow the law
- Other benefits:
 - Moral, emotional, logistical support to tenants
 - Build the law and advance the right to housing

1. Promoting the Right to Housing through Enhanced Legal Assistance for Renters

The path forward

- Governments should take a new reading of their obligations to ensure vulnerable tenants have access to justice.
- The Federal government should provide funding for provincial and territorial legal aid systems to provide eligible tenants with legal representation. Note that the new federal Blueprint for a “Renters’ Bill of Rights” calls on provinces and territories to provide legal aid or representation to “even the playing field for renters.
- Ideally, funding should support legal assistance programs that are immersed in the realities and contexts of local communities and that are focused on both individual representation and systemic strategies to advance the right to housing.

2. Incorporate “proportionality” framework into eviction legislation

Proportionality framework – refers to criteria that must be considered by eviction decisionmakers.

Means that a household or person can only be evicted if:

- Eviction has a legitimate objective;
- There is no reasonable alternative to eviction;
- Consequences of eviction must be proportionate to the objective.

Means adjudicators must look at all circumstances of the case, including interests of children, etc.

2. Incorporate “proportionality” framework into eviction legislation

Proportionality approach has been adopted by the UN Committee on Economic, Social and Cultural Rights as a means of determining whether evictions are compliant with the International Covenant on Economic, Social, and Cultural Rights.

2. Incorporate “proportionality” framework into eviction legislation

The Path forward

- Amend legislation to ensure decisionmakers are required to treat eviction as a last resort and consider proportionality in their decisions.
- Training for decisionmakers about the impacts of eviction.
- *Note that the federal Blueprint for a Renters’ Bill of Rights talks about proportionality: urging provinces and territories to adopt
“measures that promote or require proportionality in renting practices...Proportionality means that actions affecting renters such as ...evictions...consider factors like timing and fairness. This is particularly important for renters with fixed incomes, living with disability or complex medical needs, or for families with school-aged children.”

Thank you!

sarah.buhler@usask.ca