



Black Legal Action Centre

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Submissions to the Standing Committee on Justice Policy
Bill 108: An act to amend various statutes with respect to housing, other development
and various other matters

Submitted by: The Black Legal Action Centre

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The Black Legal Action Centre (BLAC) is a not-for-profit corporation incorporated under the laws of Ontario. BLAC's vision is a society where anti-Black racism is named and meaningfully addressed; where the humanity and dignity of Black people are centred; where the laws and the legal system are reflective of the real experiences of Black people; and where racial equity and full participation of all Black people in society is achieved.

BLAC provides legal representation on matters related to housing and shelter, income maintenance, social assistance, human rights, health, employment, and education. BLAC engages in test case litigation, law reform, and community development. BLAC also provides summary legal advice, brief services and public legal education.

BLAC was born out of the needs of the Black community, specifically as it relates to the disproportionate and troubling ways in which Black people are mistreated, scrutinized and brutalized by legal institutions and systems of power. The experiences of Black Canadians today are rooted in our country's history of colonialism, slavery and segregation.

Even after slavery was abolished, Black people have experienced segregation (both legal and de facto) in all facets of social life, including housing. The legacy of housing segregation has resulted in the racialized geography we see in many cities and neighbourhoods across this province. Given the racialization of poverty in this province, access to housing is also significantly racialized. Black Canadians for example, are over-represented in Toronto neighbourhoods most afflicted by poverty and other forms of disadvantage.¹ It is within this context that we make the following submissions.

¹ Owusu-Bempah, A. & James, C., (2018) *Expert Report on Crime, Criminal Justice and the Experience of Black Canadians in Toronto, Ontario* in *R. v. Morris*, [2018] O.J. No. 4631, p. 31.

On May 2, 2019, the Provincial Government introduced Bill 108, *An act to amend various statutes with respect to housing, other development and various other matters*. BLAC is particularly concerned that the changes proposed in Schedule 1: *Cannabis Control Act, 2017* will have a direct impact on adequate housing rights and protections for Black people across the province.

Specifically, the Government wants to repeal subsection 18(7) of the *Act* – the subsection that allows for non-application of an eviction on premises used for residential purposes. The proposed change will mean that if a criminal charge is laid against a person, and a police officer has reasonable grounds to believe that the residential premise in question was used for an alleged contravention, the officer may cause any persons on the premise to be removed until the final disposition of the charge. BLAC submits that this would cause an illegal forced eviction contrary to the *Residential Tenancies Act, 2006* (RTA), as well as several international legal instruments including the *Universal Declaration of Human Rights*, the *International Covenant on Economic, Social and Cultural Rights* (art. 11, para. 1), the *Convention on the Rights of the Child* (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the *Convention on the Elimination of All Forms of Discrimination against Women*, and article 5 (e) of the *International Convention on the Elimination of All Forms of Racial Discrimination*.²

The United Nations Human Settlements Programme (UN-Habitat), indicated that two million people in the world are forcibly evicted, and millions are threatened with forced evictions.³ BLAC submits that any eviction must be lawful and in accordance with basic procedural fairness. Appropriate procedural protection and due process are essential aspects of all human rights, but are especially pertinent in relation to housing.⁴ General Comment 7 on forced evictions states: “States parties shall ensure, prior to carrying out any evictions ... that all feasible alternatives are explored”.⁵

This proposed change will disproportionately affect racialized communities and neighbourhoods, specifically Black communities, who are already subject to over policing and experience high rates of unsafe and precarious housing. Repealing subsection 18(7) would provide police with even more power to not only lay charges against Black Ontarians, but now forcibly evict them without any legal recourse or

² United Nations Human Rights Office of the High Commissioner: Basic principles and guidelines on development based evictions and displacement; Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; A/HRC/4/18: https://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf

³ UN-Habitat, *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security* (Nairobi, 2007).

⁴ General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions

⁵ *Ibid.* para.13

oversight for those facing that eviction. Further, in multi-generational homes, or in other shared housing arrangements, all persons living on the premise, regardless of their knowledge or role in the alleged cannabis-related charge, will be forcibly evicted under this proposed change. In this scenario, an eviction pursuant to section 18 would result in children being rendered homeless as a result of the alleged actions of an adult family member. This is an unacceptable outcome and far exceeds the purpose of the legislation.

The Government has said that with this bill, there will be more housing brought to the market sooner. BLAC disputes this assertion. The Minister of Municipal Affairs and Housing is mandated to work “with local governments and partners across Ontario to build safe and strong urban and rural communities with dynamic local economies, a high quality of life and affordable and suitable homes for everyone”.⁶ BLAC believes the proposed change to Schedule 1 contravenes the above directive and impacts our community in unique and disproportionate ways.

Leilani Farha, the UN Special Rapporteur on Adequate Housing has “identified the significant responsibilities of local and other subnational governments for key aspects of housing and related programmes” and that “[f]orced evictions and discriminatory exclusion from housing often result from decisions or policies adopted at the local or subnational levels”.⁷

BLAC urges the province, as a subnational government, to consider the impact of this legislative change on the Black community across Ontario.

Thank you.

per: THE BLACK LEGAL ACTION CENTRE

⁶ Government of Ontario. (2015, October 5). Retrieved from <https://www.ontario.ca/page/ministry-municipal-affairs-housing>

⁷ Farha, Leilani, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, Human Rights Council, A/HRC/28/62, 22 December 2014 at paras 1,6.