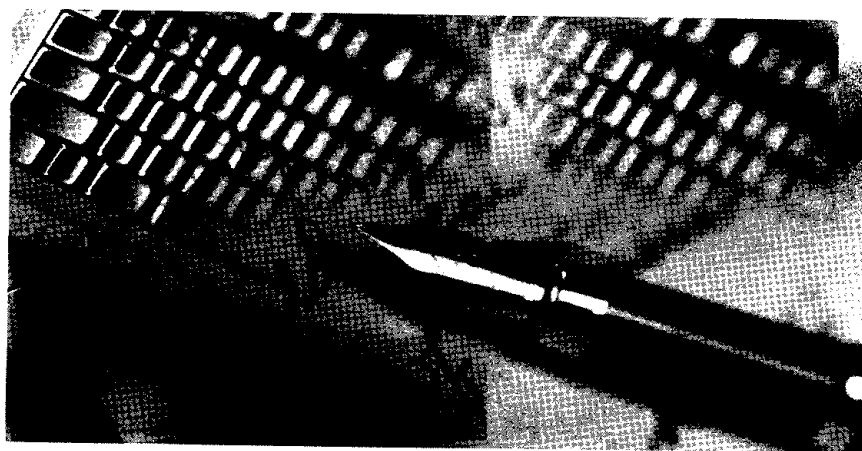




RESEARCH REPORT

HOUSING DISCRIMINATION IN CANADA:
THE STATE OF KNOWLEDGE

FINAL REPORT



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HOUSING DISCRIMINATION IN CANADA: THE STATE OF KNOWLEDGE

February 2002

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Abstract

This report is based on a review of research findings on housing discrimination in Canada, an assessment of the strengths and weaknesses of the research methods used, and a field consultation on current issues with informants from various stakeholder groups, e.g., landlord representatives, tenant advocates, real estate and financial representatives.

Much of the research has focused on perceptions of discrimination among ethno-racial minority groups. Generally, the studies are small-scale, use survey methods, use measures of perceived discrimination, and are limited to a few cities and to the rental sector. Findings from quantitative studies conducted from 1957 to 1996 show that racial discrimination is a continuing problem. More recent studies have documented discrimination against women. Other legally prohibited grounds for discrimination, e.g., family status, receipt of social assistance, age, disabilities, and sexual orientation, have not been part of any systematic research. Virtually nothing is known about discrimination in the housing sales market, mortgage lending, or home insurance.

There is widespread agreement that the existing data on housing discrimination are inadequate for directing policy decisions. This report concludes with a research agenda that would address current knowledge gaps.

Executive Summary

This report is based on a review of research findings on housing discrimination in Canada, an assessment of the strengths and weaknesses of the research methods used, and a field consultation with informants from various stakeholder groups, e.g., landlord representatives, tenant advocates, real estate and financial representatives.

For the purpose of this report, housing discrimination consists of any behaviour, practice, or policy within the public or market realm that directly, indirectly, or systematically causes harm through inequitable access to, or use and enjoyment of, housing for members of social groups that have been historically disadvantaged.

Research Findings

There is sufficient research to demonstrate that housing discrimination has been and continues to be a problem for some groups in the private rental housing sector. More than twenty unrelated studies conducted over a 40-year period (from the mid 1950s to the mid 1990s) have found discrimination against racial minority groups. More recent research has documented discrimination against women. Limitations in the scale and methodology of the various studies make it difficult to generalize their findings.

For the most part, Canadian studies of discrimination are small-scale, use survey methods and measures of perceived discrimination, and are limited to a few cities and to the rental sector. There have been no multiple-site or national studies.

We know virtually nothing about discrimination in the housing sales market, mortgage lending, or home insurance. Other legally prohibited grounds for discrimination, e.g., family status, receipt of social assistance, age, disabilities, and sexual orientation, have not been part of any systematic research.

Access to housing has been the focus of Canadian research. Studies that have investigated tenants' experiences of harassment and sexual harassment are among the first to probe discriminatory treatment and its effects during occupancy. There has been no research on racial harassment *per se*.

Compared to the U.S., Canadian research has been more probing in some respects, venturing to explore landlord's views and actions, and tenants' experiences of harassment and sexual harassment. But it has been far less rigorous in quantifying the extent of discrimination.

Commentary From The Field

Among the more than 40 informants we contacted across the country, views on the extent or severity of housing discrimination tended to vary, not surprisingly, by their occupation or association. Tenant and human rights advocates were the most likely to view discrimination as a

serious and prevalent problem in the housing sector. Those involved in residential property rental and sales and financial lending, and their advocates, were generally cautious about suggestions that housing discrimination is a significant problem, although some insiders acknowledged that discrimination occurs in the housing market, generally in subtle ways.

Landlords and their advocates believe that more professional methods, such as the use of standardized application forms and more business-like or impersonal communication, will lessen the likelihood of landlords and their agents acting in ways that constitute legal discrimination. The ability to exclude applicants or quickly evict tenants who pose economic risk is their predominant concern. Some tenant screening methods are contentious, notably the use of minimum income criteria which has been challenged in Ontario as being discriminatory.

Most informants agreed on two points:

- the existing data on housing discrimination are inadequate for directing policy decisions
- the current system for resolving discrimination complaints through human rights agencies is faulty and ineffective, and does not fulfill the role of preventing discrimination

Research Agenda

A research program on the topic of housing discrimination should aim to build an information base that is useful for policy decisions. We favour a strong focus on systematic, rigorous research that measures the extent of discriminatory actions. This is a prerequisite for clarifying the need for intervention and establishing a base for additional research in this area. It is also the case that what is perceived to be real, is real in its consequences. This applies to the behaviour of housing gatekeepers, those in the financial and real estate industries, and home-seekers in general. For this reason, it is important to develop a greater understanding of perceived discrimination and the subjective experience. Certain practices, such as risk assessment and tenant screening in the rental sector, also warrant investigation. Finally, we require some understanding of the effects or harms of housing discrimination (e.g., as a social stressor with possible negative health effects), including the economic cost borne by the victims (e.g., more extensive searches or higher housing costs due to a more limited supply of available housing).

Sommaire

Ce rapport se fonde sur une étude des conclusions des recherches réalisées au Canada sur la discrimination dans le logement, une évaluation des points forts et des points faibles de la méthodologie utilisée, ainsi que les résultats de consultations menées sur des questions d'actualité, auprès de personnes provenant de divers groupes intéressés, notamment, des agents de propriétaires-bailleurs et des porte-parole de locataires, ainsi que des représentants des secteurs immobilier et financier.

Dans la plupart des cas, la recherche est orientée vers les perceptions de discrimination parmi les groupes minoritaires ethno-raciaux. Généralement, les études sont effectuées à petite échelle, et utilisent des méthodes d'enquête ainsi que des mesures de discrimination perçue, et se limitent au secteur locatif de quelques villes. Les résultats d'études quantitatives, réalisées entre 1957 et 1996, montrent que la discrimination raciale constitue un problème persistant. Les études plus récentes ont documenté des cas de discrimination envers les femmes. Les autres motifs de distinction illicite, comme l'état matrimonial, la réception d'aide sociale, l'âge, les handicaps et l'orientation sexuelle, n'ont pas fait l'objet de recherches systématiques. Par ailleurs, on ne dispose pratiquement d'aucune information sur la discrimination par rapport aux ventes de logements, au crédit hypothécaire ou à l'assurance habitation.

Les répondants s'entendaient généralement pour dire que les données existantes sur la discrimination dans le logement étaient insuffisantes pour permettre de prendre des décisions stratégiques. En conclusion, ce rapport présente un programme de recherche qui permettrait de combler les lacunes actuelles sur le plan des connaissances.

Résumé

Ce rapport se fonde sur une étude des conclusions des recherches effectuées au Canada sur la discrimination dans le logement, une évaluation des points forts et des points faibles de la méthodologie utilisée, ainsi que les résultats de consultations menées auprès de personnes provenant de divers groupes intéressés, notamment, des agents de propriétaires-bailleurs et des porte-parole de locataires, ainsi que des représentants des secteurs immobilier et financier.

Aux fins du présent rapport, le concept de discrimination dans le logement se définit comme tout comportement, pratique ou politique, dans le domaine public ou privé, qui porte directement, indirectement ou systématiquement préjudice, en privant les membres de groupes sociaux, historiquement défavorisés, de l'accès équitable au logement ou de la jouissance de ce dernier.

Résultats de la recherche

La recherche est suffisante pour démontrer que la discrimination dans le logement a été et continue d'être un problème pour certains groupes dans le secteur du logement locatif d'initiative privée. Plus de vingt études distinctes réalisées sur une période de 40 ans (du milieu des années 50 au milieu des années 90) ont fait état de la discrimination envers les groupes de minorités raciales. Les études plus récentes ont documenté des cas de discrimination envers les femmes. En raison de la taille et de la méthodologie limitées des diverses études, il est difficile de généraliser les résultats.

La plupart des études canadiennes sont effectuées à petite échelle, utilisent des méthodes d'enquête ainsi que des mesures de discrimination perçue, et se limitent au secteur locatif de quelques villes. Aucune étude n'a été réalisée au niveau de plusieurs municipalités, ni à l'échelon national.

Par ailleurs, on ne dispose pratiquement d'aucune information sur la discrimination par rapport aux ventes de logements, au crédit hypothécaire ou à l'assurance habitation. Les autres motifs de distinction illicite, comme l'état matrimonial, la réception d'aide sociale, l'âge, les handicaps et l'orientation sexuelle, n'ont pas fait l'objet de recherches systématiques.

Les recherches canadiennes sont axées sur l'accès au logement. Les études portant sur les expériences des locataires en ce qui concerne le harcèlement et le harcèlement sexuel sont parmi les premières à sonder les traitements discriminatoires et leurs répercussions. Aucune recherche n'a été réalisée sur le harcèlement de nature raciale comme tel.

Comparativement à celles aux É.-U., les études effectuées au Canada ont été plus approfondies à certains égards, recueillant même des renseignements sur le point de vue et les actions des propriétaires-bailleurs, sur les expériences des locataires par rapport au harcèlement et au harcèlement sexuel. En revanche, elles ont été beaucoup moins rigoureuses quant à la quantification de l'ampleur de la discrimination.

Observations recueillies sur le terrain

Les points de vue des plus de 40 personnes interrogées à l'échelon du pays concernant l'ampleur ou la gravité de la discrimination dans le logement variaient généralement, comme on pouvait s'y attendre, selon leur occupation ou association. Les porte-parole des locataires et les défenseurs des droits de la personne étaient les plus nombreux à considérer la discrimination comme un problème sérieux et courant dans le secteur du logement. Ceux qui travaillent dans les domaines de la location, de la vente de logements et du crédit financier, ainsi que leurs porte-parole, étaient généralement prudents par rapport aux suggestions à cet égard, bien que certains initiés aient affirmé que la discrimination existe dans le secteur du logement, généralement de façon subtile.

Les propriétaires-bailleurs et leurs porte-parole estiment que l'utilisation de méthodes professionnelles, notamment des formules de demande normalisées, ainsi que des techniques de communication professionnelles et impersonnelles, permettraient de réduire les possibilités de discrimination sanctionnée, par les propriétaires-bailleurs et leurs représentants. La principale préoccupation de ces derniers : la capacité d'exclure des demandeurs de logement ou d'expulser rapidement les locataires qui posent un risque économique. Certaines méthodes de sélection des locataires sont litigieuses, notamment l'utilisation de critères concernant le revenu minimum, qui a été contestée en Ontario comme étant discriminatoire.

La plupart des personnes interrogées étaient d'accord sur les deux points suivants : les données existantes sur la discrimination dans le logement sont insuffisantes pour orienter les décisions stratégiques; le système actuel servant à résoudre les plaintes de discrimination par l'entremise des organismes des droits de la personne est défectueux et inefficace, et ne permet pas de prévenir la discrimination.

Programme de recherche

Un programme de recherche sur la discrimination dans le logement devrait viser à constituer une base d'information pertinente pour la prise de décisions stratégiques. Nous préconisons un programme fortement axé sur des méthodes de recherche systématiques et rigoureuses qui permettront de mesurer l'étendue des actes discriminatoires. Il s'agit d'une condition préalable pour définir la nécessité d'intervenir et d'établir une base pour les recherches complémentaires dans ce domaine. Autre fait : ce qui est perçu comme réel a de véritables conséquences. Cela s'applique au comportement des gardiens d'immeuble, de ceux qui travaillent dans les secteurs financier et immobilier, ainsi qu'aux chercheurs de logement en général. Il importe donc d'approfondir nos connaissances sur la discrimination perçue et l'expérience subjective. Certaines pratiques, comme l'évaluation des risques et la sélection des locataires dans le secteur locatif justifieraient aussi la tenue d'une enquête. Enfin, nous devons comprendre, dans une certaine mesure, les effets de la discrimination dans le logement et les torts qu'elle cause (p. ex. le stress social et ses effets éventuels sur la santé), y compris les coûts économiques supportés par les victimes (p. ex. l'accroissement de recherches poussées ou des coûts de logement attribuable à l'offre limitée d'habitations disponibles).

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Housing Discrimination in Canada

The State of Knowledge

Although in practice economic inequalities exist, democracy's legitimacy in the eyes of its citizens rests on the perception that they are not extreme, and that there is an equality of opportunity that flows from access to employment, education, income, health, food, shelter, and other social and economic rights of citizenship.

Barlow and Campbell (1995: 60)

1.0 Introduction

The make-up of Canadian society and its households has changed considerably during the latter half of the 20th century, and it will continue to do so. Primarily due to immigration, on which this country depends, there is more diversity in ethno-racial composition. Improved employment opportunities for women and changing gender relations have contributed to more variance in family and household types, as well as a decrease in their average size. Household size is significant in that smaller households are more often dependent on single earners and thereby more vulnerable to changes in the labour market and income support programs.

Significant restructuring of the labour market and diminished expenditures on unemployment insurance and welfare programs have resulted in greater socio-economic polarization among households in Canada. This is reflected in a trend toward residualization of the private rental sector (Pomeroy 1998). Over the past two decades, the income profile of renters has continually declined with a widening income gap between tenures. The proportion of immigrants and 'visible minorities' among renters has also increased, particularly in some cities (e.g., Montreal, Ottawa, Toronto, and Vancouver). As private sector landlords seek to minimize financial risk, their methods of tenant screening and assumptions about certain groups or household types may increase the likelihood that housing discrimination will occur.

An international human and housing rights expert, Leckie (1995) has argued that since public expenditure on social or non-profit housing in Canada is quite low by international standards, the role of the private rental sector in providing affordable, safe, healthy, and secure housing to low income tenants takes on added significance. And for this reason, greater, effective anti-discrimination safeguards are necessary to ensure fair access for these households.

We have very limited information on how and to what degree discrimination affects housing allocation, causes or exacerbates housing disadvantage, or affects market relations and market efficiency. This includes data on perceptions and beliefs about discrimination, which effect human behaviour and contribute to patterns of residential segregation.

In this report, we review the state of knowledge on housing discrimination in Canada, drawing on English and French language literature, as well as literature from other Western countries, notably the United States. Empirical research findings on housing discrimination in Canada are highlighted. We augment this with data from a survey of key informants on current issues in various communities across Canada and viewpoints from various stakeholders. More than forty informants were asked to identify the most common types of discrimination and undocumented trends in their communities; comment on the

effectiveness of current policies and practices; and suggest what future action is required. Finally, our assessment of the research methods that have been used to detect and measure housing discrimination forms the basis for a proposed research agenda designed to address gaps and priorities on this subject.

Our review excludes the broader and distinct literature on residential segregation. While discriminatory practices generally result in discernible patterns of housing disadvantage, discrimination is one of several factors that may be reflected in patterns of residential segregation and indicators of housing inequity.

In the absence of a strong base of research on housing discrimination in Canada, it is important to be cautious about assumptions that the situation here is similar to that in the United States. Research on discrimination in the United States has revealed a powerful interplay of negative effects for African-Americans via the creation of racially segregated neighbourhoods that spatially concentrate poverty and constitute uniquely disadvantaged environments (Massey and Denton 1993). A discrimination 'system' links housing discrimination with schooling outcomes and labour market discrimination, as well as differential patterns of policing and criminalization, and even access to health care services (Yinger 1995).¹ And because homeownership is an important vehicle for financial investment and the creation of inter-generational family wealth, the effects of housing discrimination on African-Americans have ripple effects over generations (Oliver and Shapiro 1995). Yinger (1998) has argued that patterns of residential segregation are primarily due to housing discrimination, yet the degree of residential segregation cannot be taken for a proxy indicator of the degree of housing discrimination.

Several researchers have investigated patterns of residential concentration and segregation in Canada and found them to be somewhat similar, but less extreme than in the United States. They have identified a number of possible causal factors for segregation, such as ethno-cultural clustering and reliance on networks for housing searches; labour market, economic, and structural changes in cities; suburbanization of immigrant and low income groups; as well as discrimination (Teixeira 1997, Owusu 1997, Balakrishnan and Hou 1995, Fong 1996, Ray 1998). Even the recent increase in spatial or neighbourhood concentration of poverty across Canada has not followed the racial patterns detected in research on American cities (Kazemipur and Halli 2000).

Other patterns of housing inequity have been documented. Differentials in homeownership rates and housing conditions among immigrant, ethno-racial, Aboriginal, and gender groups are also attributed to a range of factors which include housing discrimination (Ray and Moore 1991, Michalski 1997, CMHC 1996, 1997, McClain and Doyle 1984, Wekerle and Novac 1991).

Housing inequality and concentration between ethnic minority and majority populations in Europe have been explained by reference to multiple institutional and individual factors (Ray 1998). Tomlins (1998) suggests that emphasis on particular explanations for these patterns varies by country, not simply as a reflection of the varying incidence of the factors, but also according to the dominance of particular paradigms.

We have concluded that while patterns of housing inequity and residential segregation are related to discrimination, they cannot be assumed to indicate levels of housing discrimination alone.

¹ Such patterns of interlinked discrimination have not been systematically explored in Canada, however, the concept of 'neighbourhoodism' that is discussed later in this report suggests how residential segregation and housing-related discrimination interact.

2.0 Concept, Definition, and New Forms of Discrimination

2.1 The Concept of Discrimination

Any form of selection is discrimination. However, we are concerned here with the meaning of discrimination in the context of social justice issues.

Sunstein (1997) has noted that discrimination is a concept that is ‘protean,’ that exhibits considerable variety of form and meaning. It covers hatred or devaluation; selective empathy and indifference; false or excessive generalization; rational responses to the desires of third parties; the use of plausible stereotypes; and the adoption of criteria that would not be used if the burdened and benefited groups were reversed (Ibid.: 164). Thus, a wide range of motivations, behaviours, or actions may contribute to or constitute discrimination.

An international expert in the area of discrimination, Banton (1994) suggested that determinations of discrimination should involve two steps:

- 1) establish the existence of differential treatment of persons supposed to belong to a particular class of persons
- 2) consider whether or not the difference is morally justified or lawful

A legal determination of discrimination requires indication of the basis of the differential treatment, that is the “grounds” for the discrimination. Grounds are generally specified in terms of protected classes or categories, the basis for comparisons between groups of people. Group comparisons are fundamental for the purposes of social analysis as well as legal assessments. Further, the law defines both protected classes or categories of people and protected fields, and attempts to prohibit discrimination in public life, not private (e.g., who you invite to a party is exempt from intervention) (Ibid.).

Prejudicial attitudes may or may not play a role in discrimination. Yinger (1995) argued that discrimination and prejudice are mutually reinforcing, but can and do exist without each other.

[P]rejudice sometimes leads a real estate broker or lender to discriminate, and some people develop prejudice as a rationalization for discriminatory behavior, but unprejudiced brokers and lenders sometimes decide to practice discrimination whereas others obey laws against discrimination in spite of their own personal prejudice. (Ibid.: 14).

Several analysts have stressed the interlocking nature of different types of discrimination, each type making it easier to enforce other types. For example, Thurow (1975) has argued that various types of discrimination exist in “a system of mutual support” and are enforced through community and social pressure. If the various types of discrimination are viewed separately, “there seem to be powerful economic pressures leading to their elimination.” But when viewed together, “the economic pressures are either not present or present in a much more attenuated form” (Ibid.: 168). Galster (1992) also described discrimination as “embedded in a web of interlocking, mutually supportive causal connections wherein proximate consequences of discrimination lead to still other negative effects, which ultimately feed back to intensify discrimination itself” (Ibid.: 662-663).

2.2 Defining Housing Discrimination

There are several basic components to the concept of discrimination:

- the principle of equal opportunity for all
- equitable access to citizenship rights and access to products and services in the marketplace; and
- comparison of the treatment accorded dominant social groups and those with a history of social and economic inequality or oppression.

Denial of access to housing, especially in the rental sector, has been the focus of research on housing discrimination. However, other forms of discriminatory treatment occur. This includes differential terms, such as higher purchase prices or, in the rental sector, more stringent screening criteria or higher rents. Discrimination may also affect how landlords and their agents treat tenants *in situ*. Differential access to maintenance services and harassment of tenants may be discriminatory, depending on the context. Racial and sexual harassment are both inherently discriminatory.

For the purpose of this report, *housing discrimination consists of any behaviour, practice, or policy within the public or market realm that directly, indirectly, or systemically causes harm through inequitable access to, or use and enjoyment of, housing for members of social groups that have been historically disadvantaged.*

Sometimes treating applicants the same, rather than differently, constitutes discrimination. For example, some standards applied in tenant screening can appear neutral but act as a barrier to certain groups protected by human rights legislation (Garon 1997), and as such may be determined to be discriminatory in law (Hucker 1997). Reliance on credit ratings in tenant screening creates barriers for certain groups who may lack a personal credit record, e.g., women who have been financially dependent on their husbands and young adults leaving their parental home (Paquin 1990). Also, most new entrants to a housing market, including immigrants, are unable to provide a reference from a local landlord. Tenant screening based on such criteria may constitute systemic discrimination in housing (Canadian Human Rights Act Review Panel 2000).

In the determination of discriminatory acts, human rights interests are balanced against the vested economic and social interests of dominant groups. Since the late 1940s, when human rights legislation per se was first enacted in Canada, the practices that have been designated as discriminatory have altered and expanded. For tenants, the trend has been an expansion of legal protection (Abramovitch 1995).

On occasion, the courts are required to determine the balance of interests. According to Hucker (1997), the law seeks to maintain equilibrium between the aggrieved individual and the service provider through the concept of bona fide justification, which can provide a defence for actions that might otherwise run afoul of anti-discrimination laws. As an example, landlords are expected to accommodate tenants with physical disabilities by adapting buildings or units, perhaps by adding entry ramps. The principle of 'reasonable accommodation' is now well established. In individual cases, however, this expectation is tempered by factors of financial cost and burden or 'undue hardship'.

Canadian law has evolved to encompass not only straightforward *direct discrimination*, but also indirect or *adverse effect discrimination*. Case law has established that the *Canadian Human Rights Act* prohibits both acts of direct discrimination against individuals and conditions of employment or accessibility to services which have a negative effect on groups, not necessarily specified or singled out, because of their personal characteristics (Canadian Human Rights Act Review Panel 2000). The legislation addresses the

effective harm of discriminatory acts, not their intention of harm. The Supreme Court of Canada accepted a more comprehensive concept of discrimination, *systemic discrimination*, in the late 1980s. It referred to established procedures or practices by which individual differences due, for example, to disabilities, family responsibilities, or religions ‘were assumed to be of insufficient importance to be accommodated in the system or were simply overlooked.’ (Ibid.: 8).

The definition of discrimination continues to be explored, debated, and extended. Almost all the case law, however, deals with employment situations and federally regulated industries. So we have very few examples based on housing-related situations.

As social movements challenge particular practices that contribute to social inequity, new conceptions of unjust treatment emerge. For example, in Britain the problem of racial harassment, especially on council estates, has received attention due to the resistance efforts of racial minority groups. This has resulted in changes in housing policy and practice (i.e., local authorities have developed codes of behaviour and policies to deal with individual situations of harassment) as well as systematic research on the problem. There has been no research on racial harassment in Canada; however, there are some signs of local resistance and organizational response. For example, the Tamil Anti-Racism Committee in Toronto has organized in response to a 26 percent increase in racial incidents reported to the Metro Toronto Housing Authority. In turn, the housing authority has established a ‘mandate for minority rights’ (Sharrif 1999).

Claims of discrimination are highly connected to social norms and political struggles. Establishing what is discriminatory is part of an ongoing claims-making process within the wider struggle for human rights. For many, the law is the arbiter of what is discrimination. However, legal determinations are only the distilled results of an established consensus.

2.3 Historic Evolution

The term discrimination as a legal or moral wrong was first linked to the concept of citizenship rights by a U.S. civil rights bill in 1866, but it did not enter the ordinary English language until later. The earliest reference to the economics of discrimination is the equal pay controversy in Britain in the late nineteenth century, focused on the lower wages earned by women.

During the mid-twentieth century social analysts elaborated the concept of discrimination as action and distinguished it from prejudice as an attitude (Banton 1994). The post World War II passage of international and domestic laws against discrimination and subsequent revisions and additions has paralleled interest and research on the topic.

The 1945 United Nations Charter declared that the U.N. would promote human rights and fundamental freedoms for all “without distinction as to race, sex, language or religion” (Article 55). The Universal Declaration of Human Rights adopted in 1948 by the United Nations General Assembly added more grounds: colour, political or other opinion, national or social origin, property, birth or other status, and, since these were cited as examples, it was implied that the list could be extended. From the UN Charter’s original intention to protect human rights ‘without distinction as to race, sex, language or religion’, the movement has spread in some countries to define as discriminatory the unequal treatment of disabled persons, the elderly and homosexuals (Banton 1994: 53).

Canadian governments and courts began to act against the most blatant forms of discrimination after World War II (Hucker 1997). Early cases involved land covenants that attempted to prohibit sales of real

estate to Jews, blacks, or “persons of objectionable nationality” (Bickenbach 1993). In the 1940s and 1950s, provincial governments began enacting fair employment practices and fair accommodation laws. They also started to provide for the investigation and conciliation of complaints. The initial focus was racist discrimination; attention to sexist discrimination followed. Until the 1960s, however, coverage of anti-discrimination laws remained spotty, and the level of protection varied from province to province. The 1960s and 1970s were a period of growth and consolidation that saw the emergence of full-fledged human rights commissions across the country and expansion in the number of groups entitled to protection of law. Human rights codes were amended to include people with disabilities, age, family or marital status, and in most jurisdictions sexual orientation, as prohibited grounds of discrimination. The contemporary stage is one of transition, characterized by attempts to move beyond individual claims and deal with notions of indirect and systemic discrimination. It has become more difficult to apportion responsibility for problems that are found to exist and to tailor effective remedies that enjoy broad public support. The shift from equal treatment to the less clear-cut concept of equal opportunity has politicized the human rights arena (Hucker 1997).

Consideration of what is legally and morally relevant is subject to social norms, and public opinion in these matters can change. And public opinion is now much more tolerant than 40 years ago of claims to equality of treatment irrespective of gender, race, and sexual orientation (Banton 1994). Yinger (1995) noted that U.S. studies of white aversion to black neighbours show a steady decline in the proportion of white people who care whether a black person with the same income and education moves into their neighbourhood, who would move if a black family moved in next door, who believe whites have the right to keep blacks out of white neighbourhoods, or who oppose fair housing legislation.

The existence of scarcity also influences discriminatory actions. Miles (1989) argued that “acts of discrimination and exclusion are premised on the need to allocate scarce resources and services and therefore involve decisions of worth or eligibility” (Ibid.: 77).

2.4 Discrimination and Market Dynamics

According to some free-market analysts, competition is a great equalizer, and discriminatory behaviour is illogical. This is because discrimination imposes a financial penalty that should right itself over time due to competition (Block and Walker 1982). While the reasoning behind this argument tends to be simplistic and does not account for the complex dynamics of human behaviour and social inequality, there may be some merit to the argument that discrimination is diminished where it causes discriminators a significant financial loss, for example, in housing markets with a high vacancy rate.

The argument is basically this: where the vacancy rate is very low (less than 1 percent), the demand is strong for low and medium rent units, and landlords are less likely to accept applicants equally. In markets where the vacancy rate is very high (6 percent), demand for rental units is weak, and landlords may be more likely to accept tenants who have low incomes, those who receive social assistance, and immigrants. This argument has not been empirically tested. There is some evidence that discrimination still occurs in low demand markets. It appears that discrimination is simply more severe in high demand markets.

The argument that discrimination is economically unviable, at least over time, has failings obvious to many analysts. Marcuse (1987) asked: if the market or competition is effective in eliminating or even diminishing discriminatory behaviours, than why have racism and sexism persisted for so long? Thurow (1975) noted that the “persistence of discrimination despite economic theories that would seem to call for

its rapid elimination is one of the major problems in the analysis of discrimination” (Ibid.: 162). Sunstein (1997) argued that although relatively unencumbered markets are necessary for democratic societies, the economic arguments that markets eliminate discrimination, even in the long term, are not sound. This is largely because markets play a powerful role in promoting discrimination. By nature, they register consumer preferences, including discriminatory ones. Thus, markets incorporate the norms, preferences, and practices of advantaged groups.

2.5 Grey Areas or Emerging Types of Discrimination

Grey or emerging forms of housing discrimination reflect new challenges against practices, policies, and legislation that are detrimental to disadvantaged groups. They are generally indirect or systemic forms of discrimination. Some prominent examples of grey or emerging types of discrimination and challenges to them are outlined below.

2.5.1 Minimum Income Criteria and Statistical Discrimination

Hulchanski (1994) relied on the concept of ‘statistical discrimination’ to argue that the use of minimum income criteria in the Ontario rental housing market constituted discrimination against many of the groups protected by human rights legislation, based on stereotypes about poor people and people receiving social assistance.

Whether intended or not, group identity on the basis of lower than average level of income results in discrimination against many of the households composed of members of groups protected by human rights legislation. It constitutes an untested stereotype about the characteristics of a group: lower than average income households. Faulty assumptions about the willingness or ability to pay rent on time have been made and applied to all individuals who are members of households with lower than average levels of income. The literature on discrimination identifies this category or type of discrimination as being based on “statistical discrimination.” (Ibid.: 9-10)

Statistical discrimination occurs when individuals are judged, not on their own personal characteristics, but on the basis of average characteristics of the group or groups to which they belong, regardless of whether the assessment of group characteristics is valid. It serves as a powerful conservative force in that individuals are prevented from improving their status due to their group’s historic disadvantage (Thurow 1975).

Sunstein (1997) noted that statistical discrimination is not due to hostility or prejudice, but is a response to generalizations or stereotypes that may be economically rational, e.g., women have lower incomes, in part because they perform unpaid labour within their families. Such categorical judgments are pervasive and understandable; stereotypes are less costly to use than any more individualized inquiry. In fact, discriminatory practices frequently involve ostensibly rational economic stereotypes; and contemporary anti-discrimination law ‘singles out’ some of these practices to ban in the interest of long-term social goals.

Statistical discrimination is practiced by landlords who “exclude tenants from certain groups because their experience indicates that group identity correlates with unstable rent payments, poor maintenance, severe damage, and disruptive behaviours” (Galster 1992: 653). It is often directed to tenants with low incomes. The use of minimum income criteria for screening tenants has been successfully challenged in Ontario as

a violation of human rights. However, landlords are still allowed to ask applicants questions about source and level of income, as well as other financial information, according to their own assessments of what is financially relevant.

2.5.2 First Nations Women and Reserve Housing

A lawsuit against the federal government has been launched by the Native Women's Association of Canada claiming that the Indian Act and the First Nations Land Management Act violate the Charter of Rights because neither piece of legislation gives Aboriginal women and their children access to law that would allow them to remain in their homes if they separate or divorce, even if domestic violence is involved (Eggertson 1999).

In the early 1970s, the issue of women's equitable access to housing on reserves was a key factor in challenges to the Federal Indian Act which denied Indian status to Indian women who married non-Indian men but did not deny Indian status to Indian men when they married non-Indian women. The Act embedded a European patrilineal system of status determination that had potent implications for Indian women living on severely crowded reserves (Tobique Women's Group 1987). When couples separated, Indian women, and usually their children, often had to leave their family homes, while their Indian husbands could move in new spouses, Indian or white. Since the Act gave men sole ownership of property through certificates of possession, many separated and divorced Indian women were forced to live in condemned houses or with relatives in over-crowded conditions. Indian women who returned to live on their reserves after having married 'white' men were denied equal access to housing. First Nations women took their legal challenge all the way to the United Nations to finally achieve recognition of this form of discrimination. An amendment to the Act was passed in 1985 (Ibid.).

More recently, activists have contested the fact that the Federal Indian Act says nothing about property disputes on tribal lands following divorce. Provincial laws are either not applicable or inadequate to the task (Monture-Angus 2000). Some First Nations women have declared that the First Nations Land Management Act, which allows some reservation councils to create their own local property statutes, is inadequate and violates the rights of women to the point of effectively causing eviction after divorce.

Despite the legislative amendment that reinstated women's Indian status with its attendant rights, women on reserves are still being forced to leave if they separate or divorce because certificates of possession continue to be drawn up in the names of male spouses or partners rather than jointly or in the woman's name. Moreover, the houses are the property of a First Nation and solely under federal government jurisdiction, which has no provision for rights to residential matrimonial property (provincial law can be used by women living on reserves to divide other family assets). Band councils who are taking greater control over their reserve land are in the process of developing land codes that might address such issues.

2.5.3 Poverty and Social Condition

Submissions made to the Canadian Human Rights Act Review Panel, along with its own research, provided ample evidence of widespread discrimination based on characteristics related to social conditions, such as poverty, low education, homelessness, and illiteracy, i.e., persons who experience persistent patterns of social and economic disadvantage (Canadian Human Rights Act Review Panel 2000).

The Panel determined that there existed a close connection between poverty and economic disadvantage among people who share many of the characteristics protected in the Canadian Human Rights Act, such as race, sex, and disability. Systemic issues of credit-worthiness assessment, deposit requirements, and co-signer requirements frequently pose barriers to housing access for people living in poverty. In fact, such systemic discrimination exacerbates poverty.

The Québec *Charter of Human Rights and Freedoms* is the only provincial human rights law prohibiting discrimination on the ground of ‘social condition,’ which has been interpreted to mean receipt of social assistance and other singular conditions of poverty. Most of the other provinces include narrower grounds that cover similar discrimination, i.e., discrimination based on ‘social origin’ ‘source of income’ and ‘receipt of social assistance,’ sometimes only applicable in the context of accommodation or housing.

The Québec courts and Tribunal have clarified the factors that should be considered in determining whether an act is discriminatory on the ground of social condition. Objective components (such as occupation, income, education level, or family background) and subjective components (associated negative perceptions) in combination result in a plaintiff being regarded as part of a socially identifiable group who is discriminated against on that basis.

Though “social condition” does not mean the same thing as poverty, for the purpose of our examination, we will take it to refer to identifiable classes of individuals in disadvantaged social and economic situations. This identification rests on the social and economic indicators of disadvantage these individuals share (the objective component), as well as the way they are perceived by others (the subjective component). The idea that a group can suffer because of the perceptions of others and can be defined by those perceptions is contrary to the concept of equality. This is how stereotypes work. (Canadian Human Rights Act Review Panel 2000: 112)

Stereotypes about the poor reveal that are often seen and treated as a distinct group. Perceived causes of poverty are frequently based on moral explanations, such as lack of responsibility, that blame poor people for their own misfortune and ignore structural explanation, such as structural unemployment.

After careful deliberation, the Panel recommended that ‘social condition’ be added to the prohibited grounds for discrimination in the Canadian Human Rights Act and that it be defined according to the Québec definition, but limited in application to disadvantaged groups. In 1999, there was an unsuccessful attempt to add the ground of ‘social condition’ to the Act (Bill S-11 passed the Senate but was defeated in the House of Commons). The Panel’s subsequent assessment and recommendation should support another attempt to add this ground. Claims of housing discrimination within the private sector, however, will not be directly affected by such a change as they are subject to provincial human rights legislation.

3.0. Research Findings on Housing Discrimination

3.1 Social-Psychological Research

Intent is too intimate a thing to be more than approximately interpreted by another. It even escapes self-observation. How often we mistake the true reasons for our acts!

(Durkheim [1897] 1951: 44)

Given the great difficulty of attributing intent in one's actions, it is fortunate that we do not consider this a necessary step for the determination of discrimination. Intent is not unimportant, simply very difficult to establish. Prejudice, based on negative attitudes toward or rejection of particular groups of people, may or may not lead to discriminatory behaviour; and discriminatory actions may be driven by purportedly reasoned assessments of business risk, among other things.

Since it is primarily discriminatory actions that affect outcomes of disadvantage, we have excluded from review studies of attitudes or prejudice unless they are specific to a residential or housing context. This decision excludes most of the voluminous social-psychological literature on prejudice, which has focused on social attitudes, feelings, and behaviour in artificial settings (Maluso 1995). It is important to note that these aspects of prejudice are relatively independent (Lott 1995). For instance, past programs to decrease racism were found to be successful only in changing beliefs, not behaviours (Allport 1954). Lott (1995) suggested that dealing with behaviour itself, rather than cognitive aspects of prejudice, leads to changed attitudes and beliefs by "creating changed institutional practices and new situations of interpersonal interaction" (Ibid.: 25).

Social psychologists generally define discrimination in terms of "the distancing from and avoidance and exclusion of persons in low-status social categories by persons with greater power," the consequences of which involve "interference with access to resources, and restriction of movement and opportunities — the defining characteristics of low power" (Lott and Maluso 1995: 3). While this covers both the phenomena of institutional and interpersonal discrimination, the research has focused on interpersonal actions. While most of the research has investigated racial prejudice, similar patterns of distancing and avoidance are applied to people with physical disabilities (Snyder et al. 1979). In the case of female-male interactions, the pattern is more complex, involving both 'approach' and distancing behaviour depending on the circumstances (Lott 1995).

Based on a review of several studies, Maluso (1995) noted that a prejudice-discrimination relationship existed in informal social interaction, however, in structured tasks with well-defined expectations and goals, there was no relationship between prejudice and discrimination. She attributed this distinction to the salience of clear normative criteria for equitable and fair behaviour. In other words, people can distinguish situations where their personal prejudices should not be acted upon. Where behaviour is not anonymous, the cultural norm of egalitarianism inhibits expressions of prejudice and discrimination (Crosby et al. 1980).

This has clear implications for research intended to measure discriminatory behaviour. Unobtrusive measures of behaviour are more valid indicators of actual discrimination than self-report measures of attitudes and beliefs.

3.2 Research on Landlords and Agents

According to Galster (1992), most discriminatory acts are undertaken without clear motivations other than generalized habit, and the dominant cause of (racial) discrimination in housing transactions is due to agents' stereotyped beliefs about the characteristics, beliefs, or preferences of others. Similarly, Ondrich, Stricker, and Yinger (1998) noted three principal hypotheses about the causes of racial and ethnic discrimination in housing: broker prejudice, customer prejudice, and brokers' perceptions about customers' preferences.

This conclusion suggests that researchers have investigated and understand the discriminatory attitudes and behaviour of housing gatekeepers such as landlords and real estate agents (at least in relation to racial or ethnic discrimination). And it attributes the cause to stereotypes, i.e., faulty assumptions about a social group, or assumptions about a social group that are incorrectly assumed about an individual member of a social group. The reality may be more complex than this.

When Krohn et al. (1977) investigated rental practices in a Montreal neighbourhood, he suggested that ethnic affinity played an important role in the case of resident landlords (i.e., owner-occupiers) because the owners and the tenants were choosing not merely partners to a rental contract but also neighbours. And for absentee landlords, this factor was diminished, with the result that absentee landlords were more likely to rent to new (racial minority) immigrants. In another neighbourhood, he found that the landlords tended to select tenants without children, and thereby tenants with children were left to choose from among the most dilapidated dwellings.

In another attempt to explain the dynamics of landlord behaviour toward tenants in Montreal, McNicoll (1993) attributed the persistence of residential segregation to inertia associated with "cultural comfort" in a city which does not have a single majority group, and where white French Quebecers feel threatened. McNicoll suggests that the "taste for cultural comfort" may be grounded in a desire for familial preservation or protection and neighbourhood familiarity within a broader environment perceived as different and hostile.

Among Canadian cities, Montreal is distinctive in the predominance of a particular 'plex' housing form (two or three-storey buildings of two to five units with individual access to the street) and small-scale landlords who in many cases are owner-occupiers. Does this scale and proximity affect landlord behaviour toward tenants?

3.2.1 Landlord Typology and Attitudes Toward Tenants

Allen and McDowell (1989) have classified landlords into several types and suggested ideological and behavioural patterns to match. In their scheme, informal landlords included

resident landlords (i.e., owner-occupiers) and those owning few properties, who have a "sharp experience of the tension between their property as personal possessions and as a source of economic gain" (Ibid.: 86).

Such landlords identify closely with their right to 'control' their property... [They] share a strong sense of individualism and independence...[which] often manifests itself as a resentment of their economic need to let accommodation and an attempt to deny tenants any right to treat the hired space as other than the owner's possession... Their antagonism towards their tenants results from disputes over their right to supervise the use of their properties, rather than their rights to benefit financially from them (Ibid).

In contrast, Allen and McDowell characterize commercial landlords as those who assess rental housing for its short-term profitable return (rather than long-term capital investment) and have no commitment to service provision. This landlord type has a wide knowledge of tenants' rights and of ways that they can be circumvented, legally or otherwise. Examples of such behaviour were revealed in a study undertaken at a time when affordable urban housing stock in Toronto was quickly being converted through apartment building demolitions, luxury renovations, and condominium conversions. While commercial landlords' actions to make their tenants move were, in many cases, legal, although distressing to tenants; in some buildings illegal harassment or intimidation were used to facilitate the displacement of tenants (Social Planning Council of Toronto 1988).

Allen and McDowell suggest that informal landlords have more opportunity to harass their tenants by virtue of their close, informal contact, and a greater likelihood to ignore tenant rights, and even engage in unscrupulous treatment of tenants, owing to a strong free market ideology. Novac (1994) extended this characterization to suggest that paternalistic attitudes among informal landlords may be associated with a greater likelihood to sexually harass female tenants.

Some researchers have suggested that discrimination is more common in certain kinds of rental accommodation than in others. Owners of rooming houses and owner-occupiers (where the owner lives in the building) have been noted in this regard. This impression is supported by the fact that owner-occupiers, in particular, are over-represented as defendants in human rights cases of housing discrimination and harassment (Novac 1994; Quann 1979).

We lack sufficient empirical research to determine whether, and to what extent, such characterizations of landlords are actually associated with their actions toward tenants and the likelihood of engaging in discriminatory practices.

3.2.2 Landlords' Attitudes and Behaviour

The few Canadian studies that have investigated landlord's attitudes and behaviour toward various groups have focused on ethno-racial differences. Landlords' views and policies regarding low-income groups, especially those receiving social assistance, have also begun to receive some research attention.

Hilton, Potvin, and Sachev (1989) investigated the willingness of white French Quebecer landlords to rent to tenants of different racial/ethnic backgrounds. Most of the 59 respondent landlords were small-scale landlords or owner-occupiers with 'plex' buildings of only a few rental units. Landlords' reactions to the in-group (French Quebecers) were compared to their reactions to four out-groups (English Quebecers, Italians, Asiatics, and Haitians) during a time of relatively high demand for apartments so that landlords had a clear market advantage over tenants. Each of the out-groups was considered less desirable as tenants than French Quebecers, and only 15 percent of the landlords had ever rented to out-group members. A clear hierarchy was revealed in the landlords' perceptions of disadvantages of renting to outgroups (i.e., language, overcrowding of apartment, noise, cooking odours), such that 81 percent listed them for Haitians, 44 percent for Italians, 34 percent for Asians, and 17 percent for English Quebecers. Most importantly, three-quarters of the landlords reported that the racial/ethnic identity of the tenant was of some importance in evaluations of tenants, and 29 percent felt that it was extremely important.

According to Hilton et al., social identity factors rather than economic considerations influenced landlords' willingness to rent to the in-group, while both factors were associated with renting to English Quebecers. Economic rather than identity considerations contributed to the variance in renting to Italian and Asian groups. And both factors influenced landlords' (un)willingness to rent to Haitians.

A more recent survey of Montreal landlords' perceptions indicated some discrimination against immigrants, especially Haitians, and social assistance recipients (Serge 1998). Most of the thirty landlords interviewed owned walk-up buildings. Despite relatively low rental market demand, these landlords said they selected their tenants according to economic considerations and their views of the characteristics of good tenants (Ibid.).

A survey of 20 landlords who controlled in total over 4,000 rental units in Kitchener-Waterloo found that almost half of them were reluctant to rent to ethnic minority immigrants (Shaftoe and Alcade 1991). The predominant reasons given related to previous negative experiences involving overcrowding, communication difficulties, lack of cleanliness, and cooking aromas (presumably considered unpleasant). Overcrowding was rated as the most disruptive problem type. The researchers found anecdotal evidence that discrimination necessitates longer housing searches and may cause racial minority persons to accept housing and service of less favourable quality (Ibid.).

An investigation of the landlord-tenant relationship for new immigrants revealed that communication difficulties and the unresponsiveness of building managers were the predominant concerns of tenants. Landlords also cited communication barriers as a problem. Their concerns included overcrowding, cleanliness standards, noise, and lease violations. The landlords felt the basic problem was new immigrants' lack of adequate knowledge and understanding, as well as deliberate violation of understood regulations (Prairie Research Associates 1991).

3.2.3 Changing Tenant Profile and Landlords' Views

Pomeroy (1998) demonstrated that over the past two decades rental tenure has encompassed an increasing proportion of disadvantaged households, since those with better income prospects have been able to make the tenure jump to ownership. He called this process 'residualization' and investigated the attitudes of small-scale landlords in relation to this trend. He found that a majority of his respondents agreed that the proportion of tenants they considered high risk or undesirable was increasing and it was becoming harder to find and retain good tenants. Some landlord-investors confirmed that they would not accept households on welfare. Overwhelmingly, their preference among various household types was for a working couple, suggesting that social assistance recipients and single mothers in general were at a disadvantage, especially where there is excess demand for lower priced units (Ibid.).

3.2.4 Economic or Financial Considerations

Some landlords believe that economic considerations legitimate their discriminatory practices (Ledoyen 1999). It is not uncommon for landlords, especially small, unsophisticated landlords who expect to escape negative consequences, to select tenants who appear more financially secure and less likely to complain. And some landlords have engaged in "illegal or questionable behaviour designed to increase revenues ... or to reduce costs" (Stanbury and Todd 1990).

A survey of 27 corporate landlords in Toronto found that six of the respondents (who collectively controlled approximately 61,000 moderately priced apartments) said they did not rent to persons receiving social assistance, a position that violates provincial human rights legislation and constitutes discrimination (Hulchanski and Weir 1992). The respondents also applied rent-to-income criteria that ranged from 25 to 40 percent to screen tenant applications. (The vacancy rate among the respondents was 3.4 percent at the time.)

The use of various tenant screening criteria can be expected to vary according to the relative power accorded landlords due to changing levels of demand. For example, there is some evidence that vacancy rates have an influence on the use of income or employment-related information. In an effort to investigate the rent-to-income profile of tenants in particular buildings in Toronto where minimum income criteria were used, Ornstein (1994) discovered that the screening practice under dispute², used by three corporate landlords, was largely eliminated under the pressure of increased vacancy rates following the onset of an economic recession.

² This research was conducted for an Ontario human rights hearing on whether the use of minimum income criteria was discriminatory. The eventual decision was that it was, at least if used as a sole criterion.

It is not known how varying market demand influences landlords' behaviour in relation to various forms of discrimination. Two-thirds of 54 small-scale landlords surveyed by Pomeroy (1998) said that "depending on the specific circumstances and market conditions, they would prefer to hold a unit vacant for a month in order to get a low risk ("good") tenant, rather than rent it to someone that did not meet their criteria" (Ibid.: 38).

And what did these landlords consider a good tenant to be? When asked about various household types as prospective tenants, the landlords' first preference was for a "working, young couple" followed by a "working lone parent." They generally rejected households on welfare. A few landlords explicitly cited families with children, welfare households, and single parents among the tenants they considered less desirable; while some said "senior couples" were their preferred choice (Pomeroy 1998).

3.3 Findings on Racial Discrimination

3.3.1 Human Rights Complaints of Housing Discrimination

During 1979, the Manitoba Association for Rights and Liberties surveyed social service agencies in Winnipeg to conduct a review of active human rights complaints made by aboriginal peoples (Manitoba Association for Rights and Liberties 1981). Of the twelve complaints that involved housing discrimination, ten were brought to the Manitoba Human Rights Commission. The reasons stated for refusal of housing included race, source of income, marital status, family status, or a combination of these reasons. It was concluded that discrimination was evident in both public and private rental sectors, and that many of the complaints lodged against aboriginal tenants (often resulting in eviction), were based on noise and often complicated by domestic problems.

3.3.2 Rental 'Policies' and Agents' Willingness to Discriminate

The first survey of housing providers in Canada was conducted in 1957 to determine the extent of racial discrimination in rental practices in Toronto (Toronto and District Labour Committee for Human Rights 1957). The researchers selected 47 advertisements for rental apartments from three newspapers. During phone calls about the units, they asked "would it make any difference if I told you we were coloured?" The results revealed that 11 out of 47 apartment managers said yes, it would make a difference (16 said no, 10 were not sure, and 10 could not provide an answer at the time of the call).

In 1960, a similar method was employed to survey 61 landlords or their agents in Winnipeg. Of these, 59 percent had no objections, 30 percent had a racial restrictions policy or practice, and 11 percent did not provide sufficient information to make any determination (Manitoba Labour Committee for Human Rights 1960).

The Canadian Civil Liberties organization conducted a telephone survey in 1976 of Ontario real estate agents (in Toronto, Hamilton, London, Windsor, and Ottawa) to determine whether agents

were willing to screen out racial minority home seekers. Each interviewer claimed to be calling “on behalf of a family who wanted to sell their home, but because of existing relations with the neighbours, did not want to sell to someone who was not white.” Of the 30 agents surveyed, 90 percent agreed to comply with the ‘gentleman’s agreement’ to discriminate. One of the most effective ways to prevent offers of purchase being made by non-whites was to exaggerate the price (Borovoy 1977).

3.3.3 Perceived Racial Discrimination

Henry (1969) conducted the first study of perceived racial discrimination in Canada. The author examined discrimination against blacks and Japanese in Hamilton. The sample was drawn from a list of Japanese surnames from a Japanese telephone directory and a membership list of the Steward Memorial Church, a predominantly black congregation (augmented by long time black residents). When compared to 1961 census data, the sample revealed a slight under representation of Japanese and a slight over representation of blacks.

Perceived discrimination was measured in relation to residential concentration, housing, income, and education. The interviews questions were indirect; rather than ask specifically about discrimination, respondents were asked a range of questions about the places in which they had lived. The results revealed that Hamilton’s Japanese experienced little discrimination. They were not residentially concentrated, and their housing was equal or superior to the Hamilton population as a whole. Only four percent of their complaints were related to discrimination. Black respondents experienced considerable discrimination. They were residentially concentrated in the poorer inner sections of the city, and their housing quality was below the average for the Hamilton population. A fifth of their complaints were related to discrimination (Henry 1969:460).

In 1973, Chandra (1973) conducted interviews with immigrants from East India, Pakistan, and Bangladesh who were living in Montreal to explore their experiences of discrimination. (Chandra also conducted housing audits or tests for discrimination, the results of which are discussed below). A sample of 180 South Asian people was drawn from an estimated population of 1,800. (A list was devised from the telephone directory, organizations, associations, ethnic clubs, ethnic newspapers, and word-of-mouth. All persons were contacted by phone to determine their actual national origin, immigrant status, and occupation. Since the researcher found no ethnic enclaves or areas where a high proportion of South Asian immigrants resided, the technique of random sampling was used to select the respondents.) The results revealed that 32 percent of East Indians and 8 percent of Pakistanis and Bangladeshis believed they had experienced housing discrimination. Moreover, 28 percent of East Indians and 25 percent of Pakistanis and Bangladeshis avoided discrimination by applying for apartments only where they knew landlords and apartment owners accepted ‘coloured’ people.

Head (1975) revealed the extent of perceived housing discrimination among ‘blacks’ of different backgrounds. A random sample of 210 ‘blacks’ (both Canadian-born and immigrants from the Caribbean) living in Toronto (and reflecting a range of occupational and educational levels) was

drawn. Housing discrimination was the second most important area of concern, after employment, for respondents. A very high proportion (83 percent) of them said they believed that discrimination occurred. Immigrants were more likely than Canadian-born respondents to believe that 'a great amount' of housing discrimination occurred (almost one-fourth vs. a tenth). However, this difference disappeared when both response categories "great amount" and "some" were combined; then, two-thirds of either group agreed. Even among the 53 non-black respondents, half believed that some racial discrimination in housing occurred.

Of the respondents who indicated that they had personal experiences of discrimination (60 percent overall), 35 percent experienced discrimination in rental housing; and 4 percent experienced discrimination in housing sales. When discrimination did occur, the overwhelming majority (90 percent) felt that it was subtle. Most of the respondents (77 percent) were not concerned about a black ghetto forming in metropolitan Toronto. And there was a fairly widespread belief that housing discrimination was decreasing, in part due to the fact that more landlords were black and rented to black tenants. Young respondents were less likely to believe that housing discrimination was decreasing.

A survey to explore all forms of racial discrimination among 17 ethno-racial minority groups was conducted in 1982 in Manitoba (Manitoba Association for Rights and Liberties 1982). The majority (78 percent) of the 349 respondents were identified as being racial minority. Of all the respondents, 43 percent said that they or members of their ethnic or racial group had been discriminated against. More specifically, 26 percent said they had experienced discrimination during housing searches; and 20 percent said they had experienced discrimination within their neighbourhoods.

A survey of tenants in Montreal, conducted by Bérubé and Teitelbaum (1982), found that 62 percent of 43 English-speaking Caribbean respondents in the neighbourhood of Côte-des-Neiges, and 31 percent of 50 Haitian respondents in the suburb St.-Léonard believed that landlords engaged in discriminatory practices in certain neighbourhoods. Most of the respondents believed that skin colour was more of a determinant than economic factors.

The Canadian-African Newcomers Aid Centre conducted a study of black African immigrants in Toronto (Kasozi 1989). A list of 957 names and addresses was compiled from several African community organizations. Due to address changes and the recent arrival of some immigrants, only 250 of the returned questionnaires could be used for the study, resulting in a response rate of less than 30 percent. The results revealed that 43 percent of the respondents encountered discrimination due to race or colour when searching for a house (Kasozi 1989). Equally important is that few African immigrants (12%) ever made complaints of such racial discrimination. Moreover, when such incidents were reported, it was usually to their families, friends, and members of their ethnic or cultural organization, and only rarely to the provincial human rights commission. Kasozi (1989) concluded that racial discrimination based on race or skin colour was a barrier to the integration of African immigrants into Canadian mainstream society.

In 1992, the Centre for Equality Rights in Accommodation (CERA), an advocacy organization in Ontario, released a study on racial discrimination based on a survey of callers with apparently valid complaints of housing discrimination. Participants were asked to self identify their race and colour. Of the 442 participants who indicated their race or ethnic origin, 30 percent belonged to a “visible minority” group, mostly Asians and blacks. Overall, 58 percent of the callers were women, and 53 percent were single women with children. The study concluded that single mothers are the most likely group to experience discrimination in housing, particularly women of colour, and that the interaction of discrimination based on race, sex, family status, and poverty is particularly potent (D’Souza 1992).

CERA caseworkers, who have extensive experience with tenants’ claims of housing discrimination, have noted that explicitly racist behaviour is far less common than subtle and indirect behaviour.

[F]ew landlords will announce overt racial discrimination in the way they still sometimes state outright that they do not want single mothers, children or people on welfare Landlords often do not need to discriminate overtly on racial grounds to exclude members of racial minorities because a myriad of economic and social factors are used which have the effect of disqualifying the majority of applicants who are members of visible minorities. (Ibid.: 1)

In 1996, Murdie et al. released initial focus group findings on the housing experiences of three groups of new immigrants in Toronto (Afro-Jamaicans, Somalis, and Polish newcomers). A series of open-ended questions were asked about the barriers encountered when searching for housing in the Toronto area. Skin colour or race was stated as a primary barrier making the housing search more difficult for Somalis and Jamaican immigrants (Murdie, Chambon, Hulchanski, & Teixeira, 1996, 1997).

Focusing on one small immigrant group, Ghanaians, Owusu (1996) examined in detail how an English speaking, black African group searched for housing in Toronto and whether discrimination was experienced. A random sample of 100 Ghanaian households was selected for interviews from 1,997 households identified by their distinctive names drawn from telephone directories for the years 1985 to 1994.

Seven percent of the respondents indicated that they had experienced some degree of racial discrimination in the housing market; 70 percent said they had not experienced any discrimination in their search for housing; and 23 percent could not tell whether or not they had been discriminated against (Owusu 1996:130). Owusu explained the low percentage of reported discrimination by Ghanaians as related to their housing search strategy and living arrangements. Many Ghanaians rely on friends and relatives for information and help about available housing. As a result, their housing search tends to be limited to areas with a significant number of Ghanaians and other ‘blacks’. This strategy increases the odds that housing will be found more readily; it also minimizes the chances for discrimination.

3.3.4 Group Perceptions and Perceived Neighbourhood Discrimination

Researchers have noted a discrepancy between individual and group perceptions of discrimination. There is a tendency for respondents to perceive a higher level of discrimination directed at their group as a whole than at themselves as individual members of that group. Taylor et al. (1990) tested this discrepancy on a sample of 136 Haitian and 108 South Asian women, two groups of Canadian immigrants residing in Montreal, all of whom had arrived in Canada between 1966 and 1986. Strong support for the discrepancy was found in their perceptions of personal and group discrimination on four separate dimensions: race, culture, status, and gender.

The 1992 Minority Survey was conducted in Toronto by phone interviews with 902 respondents from six ethnic groups representing racial minority groups (blacks, Chinese, and South Asians) and white ethnic minority groups (Italians, Jews, and Portuguese). Using this data, Dion and Kawakami (1996) also found a general tendency among racialized minority groups to perceive greater discrimination toward their group than themselves personally in reference to jobs, pay, and promotions, loans, and club memberships. Black respondents perceived the highest levels of both group and personal discrimination, followed in turn by Chinese and South Asian respondents.

For this report, we were able to obtain additional analyses from the Minority Survey data (Dion, personal communication). Of the six ethnic groups surveyed, South Asians and blacks were the least likely to live in a detached house and most likely to live in an apartment. Black respondents were the least likely to own their residence and were the least satisfied with their housing. If renters, they were the least satisfied with the availability of rental housing in Toronto. And they were most likely to perceive prejudice toward their group in the neighbourhood where they live. Of all respondents who perceived prejudice in their neighbourhood, black respondents were most likely also to say there was a higher level of it (i.e., “a great deal” or “quite a bit”).

Black respondents were also the most likely to experience prejudice or discrimination when moving into a new neighbourhood and within the neighbourhood afterwards. South Asians and Chinese respondents reported higher levels of discrimination directed toward them in these circumstances than did Italians, Portuguese, and Jewish respondents. When moving into a new neighbourhood, discrimination was experienced by over a quarter of the black respondents, about a sixth of the South Asians, an eighth of the Chinese, about a twelfth of the Italians and Portuguese, respectively, and a twentieth of the Jewish respondents. The proportions reporting subsequent discrimination in the neighbourhood (after the move-in period) was quite similar.

A comparison with findings of similar previous surveys of racial minority and white ethnic minority groups suggest a lack of progress in Toronto over the past twenty years. Members of racialized groups have consistently perceived considerably greater discrimination directed at their groups than did members of white minority groups. This is matched by the stated preferences of many Canadians for “white, ethnic and immigrant groups of European origin” over racial minority and immigrant groups (Dion and Kawakami 1996). Such perceptions represent an important psychological reality for ethno-racial minority groups, regardless of their

status or adequacy as social indicators of actual discrimination or intolerance. For instance, such perceptions are associated with feeling unwelcome and a lack of belonging in Canada (Moghaddam et al. 1989). Perceptions of group discrimination are also predictive of discontent with the status quo and a desire to take remedial actions (Dion and Kawakami 1996).

3.3.5 Testing or Audit Research on Racial Discrimination

The first effort to use the paired testers or audit method to detect discrimination in housing in Canada was conducted in 1959.³ Two testers or auditors, one black and one white, approached agents about 26 available apartments in Toronto. If the black auditor was refused an apartment, an attempt was made to determine the reason for the refusal provided it was not explicitly stated as race or colour. In those cases where the rental agent said the reason for refusal was not race or colour, the white auditor would approach regarding the same apartment shortly after the black auditor left. Then both black and white auditors were asked to fill out a form and record the statements of the rental agents verbatim. The results of the audits revealed that twelve of the rental agents did not discriminate against the black auditor, and ten of them would only rent to the white auditor. For four of the agents, it could not be determined whether race played a role in their behaviour (Toronto & District Labour Committee for Human Rights 1959).

In 1973, Chandra used paired tests to supplement surveys of perceived discrimination. He used coloured and white auditors with the same characteristics in terms of age, appearance (except for colour), income, and the use of language. Both the white Canadian and 'coloured' auditor spoke English and French, but the 'coloured' auditor had a slight accent. Forty landlords with available units were contacted, and the 'coloured' auditor was discriminated against in five cases. This included being told the unit was already rented when it was not, and being asked for higher rent. One landlord told the 'coloured' auditor, "no place for niggers here." Most times, 35 out of 40, the responses of the landlords were the same for both white and 'coloured' auditors (Chandra 1973: 52).

In the mid 1980s, the Manitoba Association for Rights and Liberties conducted an audit using an unreported number of pairs of aboriginal and non-aboriginal testers. The testers contacted two commercial rental agencies. The results revealed that the non-aboriginal testers were supplied with more listings and better quality housing. Both rental agencies were also more helpful to non-aboriginal testers (Arnold 1988).

A pilot audit was conducted in 1986 using black and white single women applying for rental apartments in Toronto (Henry 1989). Out of 73 housing audit tests, 31 cases (42 percent) revealed racial discrimination. This included black testers being told there was no vacancy (when

³ Testing for housing discrimination in Britain has been done since 1973 (Smith and McIntosh 1974), and a major study was conducted in various towns and cities throughout the United Kingdom in 1990 (Commission of Racial Equality 1990). In the United States, testing studies have been conducted since the 1940s, and in 1989, a major study was funded by the U.S. federal housing agency, HUD.

later available to white testers), higher rents quoted for same unit, and different availability dates given to black testers.

Garon (1988) conducted a study of 203 residential units using paired testers in Montreal. The pairs were black and white applicants with similar backgrounds. The black applicants were subdivided into Haitian and Canadian-born black anglophones. Several measures of discrimination were made. The results revealed that 12 percent of the Haitians and 11 percent of the black testers were not shown units, while the paired white applicants were shown units. In eight cases (4 percent), the rent stated by the landlord was higher (\$10 to \$150 more) for the black applicants. Based on assessments of the comments made by landlords, 64 percent of white testers vs. 55 percent of the black testers had a positive experience, and 9 percent of whites compared to 13 percent of the blacks had a negative experience. While few of the black or white testers (7 percent of each group) felt discouraged about obtaining the unit, only 27 percent of the blacks felt encouraged compared to 41 percent of the whites. In 36 percent of the cases, landlords asked more screening questions of black applicants. And, supplemental information about the units were provided over the phone to only 23 percent of the Haitians compared to 44 percent of other cases (with no discernible accent). Overall, blatant discrimination was observed in 33 percent of the Haitian cases and 16 percent of the black anglophone cases. Another 30 percent of all black testers faced discriminatory differential treatment when applicants viewed units.

3.3.6 U.S. Testing or Audit Research on Racial Discrimination

The literature on housing discrimination is dominated by research on racial discrimination conducted in the United States where paired testing or housing audits were initially designed primarily for litigation purposes.

In 1977, nine years after the U.S. Congress passed the Fair Housing Act, a nationwide study of racial discrimination in the sale and rental of housing was conducted in 40 metropolitan areas. The federal-government-funded Housing Market Practices Survey (HMPS) consisted of 1,609 rental and 1,655 sales paired test results. The study found that nationally blacks encountered discriminatory treatment with regard to availability in 27 percent of the rental audits and 15 percent of the sales audits (Wienk et al. 1979). Since then, HMPS, audits have been done on Hispanics and non-Hispanic whites; Native Americans and whites; and Asian Americans and whites (Newburger 1984; Galster 1990a, 1990b, 1990c).

A subsequent major HUD-commissioned national study of discrimination (the HDS) confirmed continued patterns of racial discrimination in housing (Turner et al. 1991). That study found an overall incidence of discrimination against 53 percent of black renters; 46 percent against Hispanic renters; 59 percent against black homebuyers; and 45 percent against Hispanic homebuyers.

Galster (1990c) analyzed 71 fair housing audits conducted by private and public organizations during the 1980s, covering metropolitan areas in every region of the United States. Twenty-one audits focused on home sales and 50 on the rental sector. Most audits employed black and white

teams. However, 10 involved Anglo (white) vs. Hispanic; one compared white vs. Native American; and one involved white vs. Asian American. The sample size varied from 12 to 280. This meta-analysis revealed that black auditors seeking homes for sale faced a one in five probability of being discriminated against and a one in two probability of discrimination in seeking rental housing. Hispanics faced a one in three probability of being discriminated against while seeking rental housing. There was no data on Hispanic testers seeking to buy homes. Galster concluded based on these results that racial discrimination continues to be a dominant feature of metropolitan housing markets in the United States more than 20 years after passage of Title VIII of the 1968 Civil Rights Act.

Reed (1991) similarly reviewed the results of 76 rental audit studies and 45 sale audits conducted between 1977 and 1988, covering metropolitan areas in every region of the United States. His overall conclusions were that black auditors consistently encountered discrimination in housing and home seekers in the rental market seemed to be more likely to encounter discrimination than homebuyers.

After examining the extent of research on discrimination in housing, Galster (1992) concluded that the typical form of discrimination in housing in the United States is subtle in nature as opposed to overt, and therefore difficult for the individual to detect. While the frequency of discrimination has not changed noticeably since 1977, the behaviours of discriminators have become much more subtle. Unlike in the past, most brokers, landlords, and apartment owners are more courteous and friendly to racial minorities. Moreover, the refusal to show minorities any homes or apartments at all has become less common.

What has become more common is showing racial minorities fewer homes or apartments than those shown to whites. Minorities are more often shown homes or apartments that are located in different school districts, neighbourhoods, developments, and sections of buildings; or they are of lower quality than those shown to whites. More specifically, minorities are more often shown fewer homes in all white or predominantly white neighbourhoods and more in all black or racially mixed neighbourhoods. On the other hand, whites are more often shown more homes in all white or predominantly white neighbourhoods and even discouraged from searching for homes where a sizeable percentage of racial minorities are residing presently or expected to reside. This behaviour is called “steering” and it is illegal in the United States.

In 1990, Galster (1990a) conducted a secondary analysis of 36 fair housing audits that investigated racial steering. Among the studies investigated, 23 focused on steering in the home sales sector and 13 in the rental sector. All assessed differential treatment between black and white testers, except one Denver study, which also included Hispanic testers (James et al. 1984). Sample sizes ranged from 16 to 156. Galster’s review revealed that racial steering was widespread in American metropolitan housing markets. Patterns of steering in the housing sales market showed that agents were less likely to show white testers options in neighbourhoods where blacks constituted more than a mere handful of residents, while they would show black testers a disproportionate number of homes in neighbourhoods with a significant proportion of blacks. Galster (1990a) concluded that the pattern was consistent whether geography was defined

by city block, census tract, municipality, or school district. The outcome of such steering perpetuates residential segregation such that predominantly white or all white neighbourhoods remain so, and few racially integrated areas occur.

3.3.7 Racial Harassment

A 1976 investigation of racial hostility in Toronto revealed incidents of racial harassment directed at the homes of South Asian families (Pitman 1977). Dansereau and Séguin (1995) noted a more recent incident in Montreal. Near a large public housing project with a high concentration of black residents, a huge inscription was painted declaring the area a ghetto. Project residents viewed this as an act of collective or community harassment. And D'Souza (1992) found that 8 percent of the 134 racial minority callers who approached social service agencies in Toronto with complaints of housing discrimination involved racial harassment. Only a small number of these complaints progressed into formal human rights complaints, and those that did tended to languish at the investigation stage.

There is anecdotal evidence that racial harassment in relation to housing is a problem in Canada, and some social housing agencies have adopted anti-racist harassment policies. However, there have been no systematic studies of its nature or extent, or how it affects the housing searches of racial minority households.

There has been no systematic research on racial harassment in the U.S. housing literature. The problem undoubtedly exists, and is perhaps taken for granted as an aspect of discrimination, especially as one of the ways in which the presence of racial minority persons is resisted in certain neighbourhoods.

So far, British researchers are leading the way in investigations of racial harassment of tenants, especially those living in Council housing. Since this housing is owned and managed by public authorities, there has been a call for more sensitive handling and resolution of complaints, and attempts to provide managerial remedies.

Bowes et al. (1990) defined racial harassment as attacks on racialized minority persons and interpreted racial harassment as an expression of racism. Analogous to feminist definitions of sexual harassment, a subjective determination of the act by the target or victim, or any evidence of racism, is the basis for assessment of what constitutes racist harassment. The violent act may be verbal or physical, and includes attacks on property as well as on the person.

Bowes et al. (1990) conducted a survey of 341 racialized minority persons in Glasgow. The vast majority of them were South Asian, and a few were Chinese or Afro-Caribbean, reflecting the local composition of racial minorities. They found that 11 percent of the respondents identified problems of harassment in their neighbourhoods. Of that sub-group of respondents, over a third (i.e., about a dozen respondents) reported experiences of violence, threats, or harassment directed against themselves or a member of their household. The major types of harassment were verbal abuse, personal attacks, and attacks on their homes.

Bowes et al. (1990) also sought to assess management responses and outcomes of complaints. Only half of the Glasgow survey respondents reported their experiences of racial harassment to the housing authority or police; slightly more in the case of attacks on the home and burglaries, slightly fewer in the case of physical attacks on the person. The low rate of reporting was due to the beliefs of victims that there was little to be gained by complaining and that the police were also racist.

Cooper and Qureshi (1993) reviewed thirty cases of serious and prolonged racial harassment in a London neighbourhood that included physical assaults, arson, and vandalism. They found a low level of satisfaction with how the housing authority had dealt with complaints.

Based on their own and other research, Bowes et al. (1990) argued that racial harassment occurs more often in poorer areas, and that middle class white homeowners have different ways to resist the entry of racialized minority persons in their neighbourhoods. High levels of harassment can create 'no-go' areas for racial minority groups. Victims of racial harassment may give up their tenancies and move, in some cases to less desirable housing. If they stay, they are likely to continue to be subject to ongoing abuse, since racial harassment, if unchecked, invariably worsens (Cooper and Qureshi 1993). This translates into more limited housing options and diminished housing benefits or quality of life.

Addressing the situation in several European cities, Tomlins (1998) noted some of the impacts of racial harassment on housing location and stigmatization. He argued that racial attack and its threat, actual and perceived, reinforces concentration and segregation between ethnic groups, and forces minority ethnic communities to preserve a defensive cultural identity through the creation of enclaves. In turn, such enclaves may offer a self-perceived community resource, but also prompt a fear of difference amongst the majority population and consequently further discrimination.

3.3.8 Neighbourhoodism

The nexus of racial discrimination, harassment, and residential segregation sometimes results in neighbourhood stigmatization. This occurs through a "racialisation of space in which a poor urban environment is at least associated with, and is often perceived as resulting from, the residence of a particular ethnic group" (Tomlins 1998: 6). Where this labelling process occurs, it stigmatizes the daily interactions of particular ethnic groups throughout every area of life.

Such labelling is part of what some advocates in Toronto have begun to call "neighbourhoodism." Neighbourhoodism has been described as a form of discrimination based on residential location and is associated with class and ethno-racial differences. Certain neighbourhoods, generally those with high concentrations of public housing, low-income households, or immigrant and ethno-racial minorities, become negatively characterized, and their residents are subjected to stereotypes. Such neighbourhoods may be given derogatory names and subjected to negative media representations.

Since 1993, media representations have been the target of organized protest and efforts to change public attitudes and media reporting practices by the Coalition Against Neighbourhoodism (C.A.N.). C.A.N. has identified six neighbourhoods in the Toronto area that are adversely affected by negative stereotyping, biased media reporting, and related discriminatory outcomes that effect residents' employment and social opportunities. Some landlords are influenced by the stereotypes when cued by an applicant's address in a stigmatized neighbourhood (Weinroth et al. 1996).

The consequences for those living in stigmatized neighbourhoods include the following (Peters 1998: 5):

[F]ood delivery services ... would not deliver or insisted that I wait in the lobby for the order; cab drivers ... would not stop and pick up fares; insurance companies ... considered Regent Park a high-risk area so they refused to provide coverage or would charge outrageous amounts; visitors ... would not bring their cars [to the neighbourhood] because they were afraid they would be vandalized or stolen; and young people in tears because they were caught hanging around our kids [against the wishes of their parents].

Dansereau et Séguin (1995) discovered similar avoidance practices by food delivery services and insurance companies regarding some public housing projects in Montreal.

3.4 Findings on Sex or Gender Discrimination

A gender-based analysis of housing discrimination has a much shorter history than a race based analysis. Except for the concentration of female-led households, and more particularly racial minority women's households, living in poverty in large public housing projects, women's housing-related inequality is not very visible in spatial terms.

At a systemic level, several feminist analysts of housing have demonstrated how the gendered basis of planning, design, and architecture creates 'discrimination by design' or a 'man-made environment' (Weisman 1992; Spain 1992; Roberts 1991; Hayden 1984; and Matrix 1984). Examples of this include the design of many underground parking garages, poorly lit parking lots, and laundry rooms that are physically and socially isolated – places where many women feel unsafe and try to avoid if they can.

Some analysts of discrimination see parallels between sexism and racism in the ways that housing gatekeepers act to exclude certain groups. However there are some significant differences at the theoretical level. In part, this is because a gender-based analysis interrogates basic forms of social organization, notably the institution of the family and the gendered division of labour. Feminist analysts have critiqued the historic and continuing tendency in policy and market discourse to focus on the need to 'house the family,' and incorporate assumptions of a male-dominant family household, while largely ignoring so-called 'non-family' households (Watson and Austerberry 1986). This reflects a conflation of family and housing policy (Novac 1990), promotes assumptions that households are male-headed, and contributes to the lack of attention to the housing needs of women (McClain and Doyle 1984). Female-led households,

especially single-mother households, are very likely to have low incomes, to be renters, and to have severe housing affordability problems. And since the majority of landlords are male, there is an automatic gender imbalance of power overlaying that of property-owner and tenant (Pilote 1997).

3.4.1 Perceived Sex or Gender Discrimination

There have been very few studies of women's perceptions of housing discrimination. Two surveys of female tenants have been conducted, based on samples drawn in Montreal and Ontario.

Aubin et al. (1986) conducted a survey in several Montreal neighbourhoods of women's experiences of discrimination as tenants. Of the 297 randomly selected respondents, 40% said they had experienced housing discrimination, most commonly during housing searches. An additional 16 percent reported experiences of subtle discrimination, e.g., being told the unit was not suitable, to call back later, or that the unit was already rented.

Moreover, almost half of the respondents said they had been targets of harassment or intimidation. This took a variety of forms: unscheduled visits when the tenant was absent or without the tenant's permission (25 percent); prying into the tenant's personal life (24 percent); insults and verbal abuse (11 percent); threats of eviction (9 percent); and threats to cut services and refusals to make urgently needed repairs (7 percent).

A subsequent survey of randomly selected female tenants in Ontario was conducted (Novac 1994). Of the 342 respondents, 31 percent said they had experienced discrimination during housing searches. They attributed the discrimination to being female, having a child, or being young, being divorced, being a single mother, or being a recipient of social assistance. Sixteen percent also said that they had experienced (non-sexual) harassment during housing searches.

Novac (1994) also investigated women's perceptions of group discrimination. Over three-quarters of the respondents believed that discrimination against female tenants occurred at least "sometimes." A similar number of the respondents believed that female tenants are sexually harassed "sometimes." Women's experiences and perceptions of discrimination apparently affect their housing search behaviour. Aubin et al. (1986) found that 19 percent of their respondents made attempts to ward off discrimination with tactics such as inventing a husband, inventing a job, giving false references, and hiding their children.

3.4.2 Testing or Audit Research on Gender Discrimination

Although women testers have been involved in housing audit research in Canada, there have been no housing audits to test for gender discrimination. In most housing audit research, testers have posed as male-female couples, or individual testers have been presented as part of such a couple. The gender of the tester has never been an issue.

Galster and Constantine (1991) claimed that no systematic theoretical or empirical investigations had previously been undertaken of discrimination against female-headed households in rental housing in the United States. They conducted such a housing audit in a small Ohio town. The racial status of the testers was unstated.

Their data showed that both single women and single mothers were offered rental units less often than single men and single fathers, and sexist discrimination was widespread. Differential treatment of women was established for 82 per cent of the trials. And while the rate of discrimination was the same for women with or without children, the severity of differential treatment was greater for single mothers. They were more often denied at phone contact or told that the apartment was not immediately available when, in fact, it was, plus they were treated less courteously and queried more intensively about their references.

Surprisingly, none of the female auditors felt discriminated against (no perceived discrimination). Because of this subtlety, Galster and Constantine suggested that enforcement based on ongoing, random audits was necessary to make rental agents believe that their would be sanctions for their acts of discrimination (Ibid.).

Galster (1992) claimed that the large proportion of complaints to HUD alleging gender and familial status discrimination made it “imperative that comprehensive, rigorous testing studies be conducted to ascertain the nature and extent of such acts” (Ibid.: 648).

Galster and Constantine (1991) also attempted to test three theories of gender discrimination: a prejudice theory, a statistical theory, and a ‘rip-off’ theory.⁴ However, the data did not establish the dominant motivator for agent discrimination (according to their primary distinctions of prejudice and profit motives).

3.4.3 Sexual Harassment Complaints

In 1989, the Supreme Court of Canada found that sexual harassment was a form of sex discrimination.

During the first decade since the human rights legislation in two provinces was amended to include the ground of sexual harassment (from 1982 in Ontario, and 1983 in Quebec), the vast

⁴ In Galster and Constantine’s prejudice theory, the prejudicial tastes of rental agents, who perceive women as undesirable, inferior, unreliable, and perhaps deviant tenants, or, if women are single mothers, even morally tainted, are acted on. In the statistical theory, agents are not averse to female householders but act out of the market rationale that female householders are less profitable tenants, e.g., viewed as incapable of performing minor apartment maintenance and repair tasks, have children who may impose higher damages due to less supervision, and may have lower, less reliable income. Also, agents are profit-maximizers and if they believe that other tenants in the facility objected to a proximate female-headed household, especially if she had children, the agent could lose rents from them or have greater apartment turnover. The rip-off theory is similar in thinking to the statistical theory, but the strategy is to view female householders as a potential source of extra profit because they can be charged (and will accept) higher rents.

majority of complaints were related to employment, not housing. Of the few housing-related complaints, most of the perpetrators were small-scale, unsophisticated landlords (Lescop 1993, Novac 1994).

There are several factors that account for the suppression of women's responses to sexual harassment and the low number of formal complaints. These include internalized and actual victim blaming; psychological effects from previous sexual and physical abuse; fear of escalation and retaliation by the harasser; unawareness of rights; and lack of effective recourse (Novac 1994).

Lescop (1993) noted that sexually harassing behaviour is frequently repeated and may escalate over time. She suggested that women with otherwise satisfactory housing conditions or terms were more likely to delay the decision to lodge a formal complaint of sexual harassment than those who experienced poor maintenance or other service inadequacies.

Successful claims in Ontario have resulted in minor financial awards, generally the equivalent of a month's rental payment (Novac 1994).⁵

3.4.4 Perceived Sexual Harassment

Aubin et al. (1986) found that explicitly sexual forms of harassment were reported by 12 per cent of the 297 respondents surveyed in Montreal. The most common behaviour was leering (10 per cent). A few women reported sexual propositions (2.4 per cent) and inappropriate touching (1.7 per cent). There were no reports of sexual assault.

Novac (1994) found that 25 per cent of 342 respondents had personally experienced or witnessed sexual harassment as tenants (lifetime prevalence). Sixteen percent of the respondents were direct targets of sexual harassment. As has been found in research on sexual harassment in other settings, the less severe forms of sexual harassment occurred more frequently. The behavioural typology used by Novac (1994) revealed that 47 percent of the incidents were verbal comments that were degrading. Direct and indirect requests for sexual compliance accounted for 30 percent. And non-verbal displays (pornographic or sexual images or materials, cornering or crowding a woman, sexual posturing; inappropriate sexual touching; and sexual assault) accounted for 23 percent overall. The sub-category of sexual assault was reported by only 2.5 per cent of respondents.

Aubin et al. (1986) found that two-thirds of the perpetrators in the Montreal survey were landlords and their agents. Novac (1994) found that almost half of the perpetrators in the Ontario survey were landlords and their agents.

⁵ A major sexual harassment case in the United States involving a property manager and thirteen complainants living in a large apartment complex was settled for \$1.26 million (Gross 1992).

In a predominantly working class area of Vancouver, Doyle et al. (1996) surveyed 260 female single parents and found an 11 percent lifetime prevalence of sexual harassment by a landlord or building caretaker.

Almost half of the surveyed 100 female residents living in various non-profit supportive housing buildings located in Toronto had either been targets or had witnessed sexual harassment during their current tenancies, which ranged from only 3 months to 7 years (Novac et al. 1996). Virtually all the perpetrators were male residents; none were staff or managers. There was more sexual harassment in buildings with mixed-sex, shared accommodation than in buildings with individual self-contained units. The fact that many of the male residents had previously lived on the street may have contributed to the very high prevalence of sexual harassment. Management policies and protocols for dealing with sexual harassment complaints were lacking in most of the buildings, so the incidents were largely unreported and unchecked.

3.4.5 Intersectionality

Interactions of racial and gender discrimination, along with low income and social class differences, are likely to alter and increase the degree of discrimination faced by some women. For example, Smoke (1987) and Quann (1979) noted the very vulnerable situation of Aboriginal single mothers as tenants in urban settings. A case study investigation revealed that an “interplay of discriminatory factors (i.e., gender, national origin, ‘race,’ presence of children, employment status and income) helps to explain how minority immigrant women’s households are the most disadvantaged in our housing system” (Novac 1996: 91).

Racial minority women have pointed to the exclusion of their particular experiences of discrimination by analyses that assume either ungendered subjects or gendered subjects without racial status. Iyer (1996) has reviewed the texts of Canadian human rights cases to demonstrate how anti-discrimination legislation deals with “only one thing wrong at a time”⁶ – i.e., one basis of comparison from the assumed norm of white men – and thereby obscures important aspects of the discrimination faced by racial minority women. The legal approach of ‘separate grounds’ dilutes the specificity of certain cases (e.g., when white female owner-occupiers refuse to rent rooms or portions of their house to black males, but not black females).

An interactive model of racism and sexism is proposed by Smith and Stewart, one that would “allow us to identify those aspects of experience that distinctly define each [gender-race] group's unique response to sexism and racism.” They argue for more research “in areas involving the inner emotional experience and cognitive structuring of the external world by members of all four [gender-race] groups” (Smith and Stewart 1983: 7).

6 The tendency to consider ‘one thing at a time’ is also prevalent in most of the social research on discrimination, especially by experimental research methods that involve controlling for comparisons by one variable at a time.

3.5 Other Bases for Discrimination

There is anecdotal evidence, but no systematic research, that various other groups experience housing discrimination, e.g., youth, and gays and lesbians.

Youth applicants have been rejected by some landlords who consider them simply too young to be living independently (Webb 1994). Youth, as well as other newcomers to the housing market, may face procedural barriers in the rental sector with its increasingly complicated application forms and the need for previous landlord references and credit history (Housing Equality for Youth 1991a, 1991b). Post-secondary students frequently experience difficulties in finding rental accommodation, not only because their incomes are low, but because some landlords feel that it “makes more sense from a business perspective to choose a professional” than a student who may move within a year (Elton 1998).

It is unclear to what extent lesbians and gays experience housing discrimination on the basis of their sexual orientation. Unusual appearance or behaviour is likely to increase the likelihood of discrimination during housing searches. It is possible for gays and lesbians to hide their sexual orientation, but not their living arrangements, which may give rise to discriminatory treatment. Both gays and lesbians have reported being harassed due to their sexual orientation by landlords, superintendents, and neighbour tenants. In a case study description of a lesbian couple who were harassed, it was the nature of their sexual relationship that motivated a building superintendent to repeatedly violate their privacy and eventually threaten them (Novac 1994).

A significant number of human rights complaints that are made on grounds of ‘family status’ involve discrimination against families with children, although this has not been the subject of any systematic analysis or research. By the mid-1980s, the practice of designating rental buildings in Ontario as ‘adult only’ was successfully challenged (with the exception of buildings specifically designated for seniors). And, in a successful human rights case, the rules governing a condominium building’s recreational facilities (e.g., no children’s sports allowed on grassed areas, severely restricted swimming pool access) were found to be unreasonable and to discriminate against children (Pacey 1998).

3.5.1 Discrimination Against People with Disabilities

Tenants with mobility disabilities commonly face barriers due to building design, and the number of human rights complaints made by people with physical disabilities has been increasing. Residential landlords have been charged with some responsibility to alter their buildings to accommodate tenants, at least to the degree that doing so would not cause an unreasonable financial burden.

DAWN (1987), a women’s advocacy organization, has reported that women with disabilities are more likely to be exploited and abused in their homes than those without disabilities. This applies to behaviour by family members and caretakers as well as landlords. In the case described below, a landlady’s paternalism degenerated into disapproval and harassing or abusive behaviour towards her tenant.

The Ontario case dealt with a young woman who has cerebral palsy involving some cognitive deficiency as well as ataxia (lack of muscle co-ordination). She also has bilateral cataracts, which impairs her vision considerably. In 1986, the woman, her mother, and her social worker decided that she would live independently, and she moved into a basement apartment. At first, relations between the sixty-eight-year-old proprietor and the young woman were quite amicable, involving visits and shared coffee breaks. Then the young woman assumed a more independent lifestyle than the proprietor desired or thought appropriate. The relationship degenerated, and ultimately the young woman moved out. During the period of acrimony, the proprietor asked her: "What's a retarded girl like you doing having a boyfriend?" Later she sent a note that began: "Listen retarded and listen good." (Lightman 1992: 174).

There have been no systematic studies of housing discrimination in Canada against people with disabilities.

In the United States, people with severe mental illness have worse housing and neighbourhood circumstances than the overall population, even those with similar incomes and housing tenure. This suggests that discrimination by housing gatekeepers is a factor. Probably due to their poor housing and neighbourhood conditions, people with severe mental illness also move more often, thereby limiting their ability to establish neighbourhood and social ties (Newman 1994).

3.5.2 Social Situation or Condition

When the Canadian Human Rights Commission commissioned a survey of Canadians in 1979, seven percent of the respondents said that within the previous year they had been excluded from social or economic activities on grounds that they felt were discriminatory. Of those experiences, the most frequently mentioned ground (17 percent) was 'disadvantaged social situation', a term which included living in public housing, have a low income, and receiving unemployment insurance or social assistance (Canadian Human Rights Commission 1979).

In only one province, Quebec, is social situation or condition a prohibited ground for discrimination. There is some potential for this ground to be better elaborated and adopted in other Canadian jurisdictions. For example, it could be argued that the situation of being homeless is a variant of 'social condition,' one that is reportedly associated with much housing discrimination. For example, a Toronto newspaper reported that a building superintendent refunded a woman's rental deposit after learning that she was staying in a shelter, yet the apartment was still on the market a week later (Philp 1997).

The Daily Bread Food Bank in Toronto conducted a survey of its users and found that one quarter of the 471 respondents who had moved within the previous twelve months were refused rental accommodation at least once. The most common reason for the refusal was the receipt of social assistance (43 percent), a prohibited ground. In a third of cases, no reason for refusal was given. About a third of the respondents were refused because their incomes were too low. While a quarter of the respondents found premises that were either cheaper or better, over half of the respondents ended up renting units that were more expensive or in poorer condition than the ones they were denied (Daily Bread Food Bank 1995).

Housing discrimination not only limits housing options for the poor *within* the rental sector; it limits *access to* the rental sector for those pushed out of the housing system. There is anecdotal evidence that rental applicants who are staying in emergency shelters in the Toronto area face an extremely high rate of rejection by landlords.

Several researchers have pointed out that certain neutral-appearing practices have effects that limit the rights of groups who are protected from discrimination by human rights legislation (Garon 1997, Bennett 1996, and Paquin 1990). Bennett (1996) stated that the fastest growing form of discrimination is based on income, and that this correlates with other disadvantages related to gender, family situation, ethnicity, age, and ignorance of human rights protections. The use of credit checks, rent-to-income ratios as screening criteria, and requests for endorsers are examples of practices that are contentious.

So far, social condition as a basis for housing discrimination has not been systematically investigated.

3.6 Discrimination in Land Use Planning

Various planning-related actions have been criticized as being discriminatory. For example, it has been argued that zoning by-laws that create neighbourhoods that exclude tenants (i.e., exclusion of rental secondary suites) is discriminatory (D'Souza 1993). Similarly, municipal zoning that, through the exercise of land use controls, excludes group homes or excludes unrelated people from living together has been determined to be discriminatory (Makuch 1983, Campsie 1995).

Changes in land use or proposals for new developments are sometimes contentious and can prompt resistance by local residents. Legitimate issues may be raised (e.g., concerns over increased traffic or demand for parking, loss of recreational use or sun rights, and safety issues). However, resistance is sometimes focused on the proposed new residents and may be discriminatory in nature. In the following examples, discriminatory motives or outcomes are suggested:

- The development of an emergency shelter in Charlottetown, PEI was cancelled due to public opposition. Comments at the public hearing included assumptions that the residents were unemployed, engaged in illegal activities, or were 'foreigners' (Energy Pathways 1994a).
- Although no land use change or official public debate was involved, residents of a new Hamilton-area subdivision strongly opposed the nearby development of a social housing project by a non-profit Aboriginal group. Some of the resistance was attributed to racism (Horwath 1994).
- Kitsilano residents have repeatedly challenged any multi-unit development proposals (Aird 1994).

- There was opposition to the mixed-use agricultural clusters meant to accommodate Mennonites and others who rely on horse and buggy in an Ontario township. While the township council tried to balance the needs of people and protection of farmland, some farmers claimed that the special treatment was unfair (Mennonite Reporter 1997).
- North York Council attempted to pass a by-law that would have prevented the Zoroastrian Society of Ontario from engaging in religious activities on property they purchased (Makuch 1983).
- A proposed women's housing co-operative development in Toronto was hotly opposed by local residents, some of whom publicly voiced opinions that the co-op residents would not be able to maintain the building and would engage in prostitution (Wekerle 1986, personal communication).
- Sixty angry neighbours mounted a sign campaign adamantly opposing the opening of a group home for teenage wards of the Children's Aid Society in Ottawa. They placed signs on their porches stating that the group home and youth were not wanted (Rupert 1997).

Strong local resistance can stop a development completely or, more often, alter its size and configuration. Even when a resisted project is finally built or implemented, its residents may be subject to subsequent harassment. This occurred to the original tenants of a new women's housing co-operative in Toronto who faced acts of vandalism and verbal taunting by local residents (Novac 1987). In another case, residents of a new subdivision patrolled the streets with the intention of discouraging prospective buyers by telling them that two undesirable low-income projects were going to be built nearby (De Bono 1994). In the Ottawa group home case cited above, teenagers slated to live in the project were exposed to lawn signs expressing opposition to their presence and, at a public meeting, heard accusations that they would engage in criminal activities (Rupert 1997)

The Not-In-My-Backyard (NIMBY) syndrome refers to negative reactions from local residents to proposed new development. NIMBY reactions to social housing projects have linked the phenomenon to expressions of intolerance and prejudice. Neighbourhood residents have frequently revealed deeply held beliefs about residents of social housing, including negative perceptions about their personal and moral habits and assumptions about their ethnic backgrounds or racial status (Energy Pathways 1994a).

When housing for special needs groups is proposed, conventional neighbourhood groups resist to varying degrees depending on their views of certain people and behaviours. Wolch and Dear (1993) found that the proportion of persons who are resistant to proximate facilities that accommodate people with various disabilities or special needs is lowest for the elderly (4 percent opposed) and people with physical disabilities (6 percent); higher for those with developmental

disabilities (21 percent) and psychiatric disabilities (39 percent); and highest for alcoholics (55 percent) and substance abusers (78 percent).

Although studies have repeatedly demonstrated that social housing projects do not decrease property values, the problem of neighbourhood resistance continues, especially from homeowners (Ekos Research Associates 1989). Based on a survey of 350 residents in Charlottetown, PEI, residents who were unaware of the existence of a social housing project nearby were more likely to have negative fears. About twice the number of unaware respondents were likely to attribute negative impacts as compared to aware respondents. They expected worse conditions in terms of street noise, feeling of safety, traffic, physical appearance, property values, and overall satisfaction with neighbourhood (Energy Pathways 1994a).

An innovative application of alternate dispute resolution for land development approval processes has been devised and tested by the Kamloops City Council and Development Services Department. It involves an optional mediation process, facilitated by trained impartial mediators, prior to a public hearing. The mediation process encourages early resolution of disputes before time, energy, and money are needlessly wasted; forces both sides to look seriously at the merits of their positions at an early stage; and avoids the adversarial approach inherent in the traditional public hearing (Word-Works Communication Services 1997).

3.7 Discrimination in Housing Purchase and Finance

3.7.1 Housing Purchase

There have been no Canadian studies of housing purchase processes or outcomes and discrimination. However, the role of real estate agents in ethnic residential segregation has been explored in at least two Canadian studies.

Teixeira and Murdie (1997) found that Portuguese-Canadian homebuyers in the Toronto area relied more extensively on ethnic sources of information in their housing search, particularly real estate agents from the same ethnic background. However, they were equally likely to purchase houses in Portuguese and non-Portuguese neighbourhoods, suggesting that realtors played a limited role in reinforcing existing spatial patterns of Portuguese settlement within and outside of Toronto.

In Montreal, Paré (1998) also found that homebuyers relied more extensively on real estate agents of the same ethnic background. She interviewed 50 real estate agents who were members of the following ethno-racial groups and served clients of these groups: Haitians; Chinese, Vietnamese and other Asians; Italians, and French-Canadians. She found that the real estate agents sometimes directed clients, but according to various factors such as housing cost, clients' residential preferences, life style, and very rarely according to ethnicity. She concluded that "ethnic steering" was not a significant practice among the agents she interviewed.

3.7.2 Mortgage Lending

When Skabursis (1996) found no discernible difference in the rate of home buying between young single women and men, he suggested that gender discrimination in mortgage lending might not exist in Canada. However, there have been no studies to investigate mortgage lending and discrimination in Canada.

After a thorough review of both Canadian and American sources, Prairie Research Associates (1995) uncovered no evidence of research activity or newspaper articles addressing the issue in Canada. Despite the lack of any empirical, anecdotal, or testimonial evidence, it cannot be concluded that the problem does not exist in Canada. And its impact may be 'buried' among other (systemic) factors that affect access to housing (Ibid).

Mortgage lending transactions in Canada are heavily veiled, unlike the United States where mortgage and lending institutions are obliged by government to track the outcomes of applications.⁷ Financial regulators in the U.S. are imposing reverse onus procedures, where lenders must prove they do not discriminate (Prairie Research Associates 1995). The enforcement of U.S. anti-discrimination laws combined with stiff financial penalties is proving to be one of the most effective methods to challenge discrimination in mortgage lending.⁸ Nevertheless, U.S. government tracking of finalized loan applications ignores various prior steps during which discrimination can occur: dealing with real estate agents, shopping around for loan terms, meeting with financial officers in one or more institutions, completing a loan application, and having their prospective home appraised (Turner et al. 1991). The full process involves buyers, sellers, insurers, appraisers, and others (Prairie Research Associates 1995), with complexities and subtleties that are difficult to observe and measure.

While U.S. researchers have conducted many studies of mortgage lending discrimination over the past two decades, there remains little consensus on interpretations of the results. Indirect measures have been used to infer discrimination from observable differences in loan amounts, types, and terms, and differences in consumer attitudes (Galster 1992). There are clearly

7 The U.S. federal Home Mortgage Disclosure Act of 1975 requires banks to reveal the number of loan applications that have been received, approved, or rejected in each census tract, the reasons for which loans are refused (e.g., high debt-to-income ratio, poor employment history, poor credit rating, insufficient collateral or cash, unverifiable information or inability to get mortgage insurance), and the gender, race, and income level of applicants. This data has been used to evaluate the performance of various lenders in white-versus minority-dominant census tracts. And the Community Reinvestment Act of 1977 allows for geographic tracking of investment capital. Initially, U.S. lenders were to ensure the availability of loans to all; now the goal of fair lending has progressed to the point that lenders must seek out borrowers and market itself equally to all market segments, with equal promotions and products and equally convenient facilities and hours. The focus has shifted to more subtle, however unintentional, means of lending discrimination (Schulman 1995).

8 For example, test results by the Fort Worth Texas Human Relations Commission prompted the agency to file complaints against three lending institutions. At one bank, white officials posing as mortgage applicants qualified for a significantly higher loan amount (\$70,000 versus \$55,000) than black officials, although they presented similar profiles. Negotiations with the Department of Housing and Urban Development prompted the lending institutions to set aside \$1.4 billion in loans and programs over a three-year period for low-income and minority homebuyers (Janofsky 1998: A13).

differential rates of successful applications between African-Americans and non-African-Americans. The explanations for this differential include, but are not limited to, discrimination.

As Wienk (1992) noted, risk assessment for credit worthiness by lenders includes many factors that are unique to individuals: job history, income level, down payment level, credit history, and other credit factors. An inspection of 2,679 mortgage applications found that banks' underwriting criteria were applied in a generally consistent manner and did not discriminate on the basis of race, gender, or geography (Kohn et al. 1992). And Munnell et al. (1992) found that clearly eligible minority applicants did not encounter discrimination. However, discrimination may have occurred in marginal cases where lenders may have had sound business reasons for denying a loan. Similarly, Bostic (1997) argued that significant racial differentials existed only for marginal applicants and were not present for those with higher incomes or those with no credit problems. Overall, whites had better credit histories and blacks had better mortgage histories, despite having less wealth and income in general. Still, the average minority applicant who did not have a completely clean credit record was rejected significantly more often than a similar applicant who was white. The size of this racial gap decreased as debt-to-income ratios decreased and as loan-to-value ratios increased.

There have been few audit studies of discrimination in mortgage lending in the United States. Paired testing is usually conducted before formal applications are made. Hawley and Fujii (1991) revealed that racial minorities and women more often than white men are discouraged from applying for a loan, all other factors being equal. Small-scale audit studies have shown evidence of differential treatment by loan officers who provided more information, assistance, and encouragement to white testers and tended to direct the black testers toward government insured loans (Galster 1992). The Boston Federal Reserve Bank study was the first to control loan rejection rates by credit history and other factors. It found that the black/Hispanic denial rate was 1.8 times that for whites (Munnell et al. 1996).

In addition to differential treatment in the amount of loan in which blacks and whites of equal financial status qualify, there is also differential treatment in another area, i.e., type of loan. Black applicants more often receive information from lending institutions about Federal Housing Administration (FHA) loans, while whites are more often given information about conventional financing (Pearce, 1983). The FHA Loan Program allow buyers with less money for a down payment to buy a home, but the interest rates are usually higher than those for conventional loans, and FHA loans are especially profitable for lenders. Nationally, black and Hispanic buyers receive FHA loans more than twice as often as white homebuyers.

In paired tests of more than 50 real estate firms in the Chicago metropolitan area during 1997-98, real estate agents not only steered minority homebuyers into minority neighbourhoods when buyers had expressed no preference, but also steered minority buyers to lenders that specialized in FHA loans (Sedman 1998). This occurred despite that fact the minority testers had higher incomes and were more credit worthy than white testers, and regardless of the average income level of the black or Hispanic neighbourhoods. Even in high-income minority neighbourhoods, the percentage of FHA loans was higher than in low-income white neighbourhoods.

According to Ratner (1997), U.S. housing finance research literature is dominated by complex analyses of large data sets and large national surveys that address broad outcomes in relation to social equity, but offer limited understanding of whether and how discrimination occurs. He argues that ethnographic studies of specific minority and immigrant groups' house-buying processes reveal a wide diversity in particular community, cultural, and social class contexts. His review of four such studies summarizes the barriers to homeownership and home mortgage financing faced by such groups: lack of appropriate affordable housing, limitations of existing financing tools, lack of home purchasing knowledge, credit knowledge, and credit judgment; and cultural gaps, biases, and misunderstandings. Immigrants with professional and business occupations and fluent English language skills encountered fewer difficulties and rarely interpreted any difficulties as arising out of discrimination. Working class immigrants were less knowledgeable, but many misconceptions were avoided with the help of real estate agents, loan officers, and mortgage brokers of the same ethnic group.

Ratner (1997) also argued that it is not feasible to create adequate dummy financial and employment histories to support an in-depth paired audit of mortgage discrimination. In fact, he argued that this is increasingly the case for housing rentals, as well.

3.7.3 Banking and Lending Services

The Canadian Community Reinvestment Coalition is an advocacy organization that argues banks should provide more information on their lending practices and reveals the outcomes of their practices within individual communities. While the Coalition is concerned about equitable access to a full range of banking services, they have not reported any evidence of residential mortgage discrimination.

There has been some concern expressed over bank closures and the imbalance of banking services between low and high-income neighbourhoods. Banks with high transaction rates, not uncharacteristic of the poor, have closed in favour of those with higher profits. A government relations official with a major Canadian bank pointed out that, unlike the United States which has hundreds of small banks, Canada has a national banking system with a few big banks operating in most communities and some regional financial institutions, and it does not have the same inner-city problems as that of U.S. cities (Beauchesne 1997). The dominance of credit unions in Quebec, and possibly some Western cities, may affect banking services regarding loans for home renovation, and determination of financial risk. For instance, caisses populaires (or credit unions), which are prevalent in Quebec, do not pool their lending risk. This means that individual organizations that lend in neighbourhoods where property values are decreasing, or at high risk of decreasing, are especially cautious as they have less ability to absorb financial losses.

A recent review of Canadian banking services confirms that there is virtually no information on which to evaluate equity in access to services (National Council of Welfare 1998). There are only anecdotal reports of inadequate services in low-income neighbourhoods (in Montreal,

Calgary, eastern Ontario, Cape Breton and nearby parts of Nova Scotia, Vancouver's downtown eastside area, and the North). And there is no data on mortgage and residential lending.

3.8 Discrimination in Home Insurance

There has been no systematic investigation of the provision of homeowners' insurance or household contents insurance for tenants and discrimination in Canada. There are only anecdotal indications of inequities in the provision of home contents insurance for renters living in neighbourhoods with large public housing projects (Dansereau et Séguin 1995, Peters 1998).

U.S. testing audits have found differential treatment of racial minority households in the provision of homeowners' insurance. The Fair Housing Council of Greater Washington, D.C. uncovered evidence of discrimination by three insurance companies against African-American testers and those living in predominantly African-American neighbourhoods. The unequal treatment included the imposition of higher cost for inferior policy coverage or benefits (Fair Housing Council 1998).

Table 1: Summary of Quantitative Studies of Housing Discrimination in Canada

Researcher	Year	Topic	Location	Method	Number of Cases
Toronto Labour Committee for Human Rights	1957	policies of racial discrimination	Toronto	telephone survey of rental housing agents	N = 47
Toronto Labour Committee for Human Rights	1959	observed racial discrimination	Toronto	paired testing audit rental sector	N = 26
Manitoba Labour Committee for Human Rights	1960	policies of racial discrimination	Winnipeg	telephone survey of rental housing agents	N = 61
Henry	1969	perceived racial discrimination	Hamilton	interviews with racial minority residents	unreported
Chandra	1973	perceived racial discrimination observed racial discrimination	Montreal	survey of residents paired testing audit / rental sector	N = 180
Head	1975	perceived racial discrimination	Toronto	survey of residents	N = 210
Borovoy	1977	policies of racial discrimination	London, Toronto, Ottawa, Hamilton, & Windsor	telephone survey of real estate agents	N = 30
Manitoba Association for Rights and Liberties	1982	perceived racial discrimination	Manitoba	survey of ethno-racial minorities	N = 349
Bérubé and Teitelbaum	1982	perceived racial discrimination	Montreal	survey of racial minority groups	N = 93
Aubin et al.	1986	perceived sex discrimination	Montreal	random sample telephone survey of tenants	N = 297
Manitoba Association of Rights and Liberties	1988	observed racial discrimination	Winnipeg	paired testing / rental sector	unreported
Garon	1988	observed racial discrimination	Montreal	paired testers / rental sector	N = 203

Researcher	Year	Topic	Location	Method	Number of Cases
Henry	1989	observed racial discrimination	Toronto	paired testers / rental sector	N = 73
Hilton et al.	1989	attitudes of ethno-racial discrimination	Montreal	interviews with landlords	N = 59
Kasozi	1989	perceived racial discrimination	Toronto	survey of racial minority immigrants	N = 250
Saftoe and Alcade	1991	attitudes of discrimination	Kitchener-Waterloo	interviews with landlords	N = 20
CERA	1992	perceived racial discrimination and harassment	Ontario	telephone survey of callers / clients	N = 134
Hulchanski and Weir	1992	policies of discrimination against social assistance recipients	Toronto	telephone survey of major landlords	N = 27
Novac	1994	perceived sex discrimination & sexual harassment	Ontario	random sample mail survey of tenants	N = 342
Daily Bread Food Bank	1995	perceived discrimination against poor and homeless	Toronto	survey of clients	N = 471
Dion and Kawakami	1996	perceived racial discrimination	Toronto	telephone survey of six immigrant groups	N = 902
Owusu	1996	perceived racial discrimination	Toronto	random sample interviews with Ghanaian immigrants	N = 100

4.0 Informants' Input on Housing Discrimination

More than 40 informants from various communities across Canada were asked about selected aspects of the topic of housing discrimination. They were chosen for their expertise on the functioning of the housing market or system, and efforts were made to achieve representational diversity among the informants. To allow the informants to speak freely, their names, occupations, and associations are confidential.

This modest outreach provides data for a preliminary exploration of current issues and situations regarding housing-related discrimination, however, it is subject to significant limitations. We do not claim that the data are representative of all constituencies; for the most part, informants offered their opinions and observations as individuals. Some of the informants work for organizations that serve specific groups and are primarily aware of the circumstances and experiences faced by that group. Their knowledge base is therefore selective and predominantly based on anecdotal or case information. This type of information is nevertheless instructive in identifying much of the range and variation in experiences and viewpoints on issues of discrimination.

In line with the particular expertise of each informant, the guideline questions used for the telephone interviews were adapted to focus on their knowledge and experience, and therefore not all questions were answered, or answered to the same degree, by all informants. Content analysis was conducted on the responses to a core set of questions, as well as questions specific to particular areas of knowledge (see appendix for questions used). About thirty informants addressed the full set of questions, while others commented only on portions. There was no intention to compare the responses of informants based on their affiliations or bases of expertise, although certain oppositional viewpoints and patterns became apparent.

It is noteworthy that there are no national organizations or coalitions that address issues of housing-related discrimination per se. The largest provincial landlord associations are located in Ontario and British Columbia, and an English-speaking association of landlord groups (the Canadian Federation of Apartment Associations) has members in eight provinces. Tenant organizations are concentrated in the same locations and are even less connected across provinces.

4.1 'Bad' Tenants and the Need for Risk Assessment

As the term is associated with moral and legal accusations of wrongdoing, questions about discrimination sometimes aroused defensiveness. A couple of informants suggested that research on housing discrimination was inherently unfair to landlords (despite being aware that landlords' views were sought in this study). They suggested that landlords were more often treated unfairly than tenants, e.g., by tenants who damaged their apartments and then left without paying the full rent due. They also claimed that racial discrimination was unlikely to occur in areas with a relatively high proportion of racial minority residents, because landlords were 'occupancy maximizers' who would rent to someone considered less desirable than have an empty unit.

A couple of informants asked, in essence, "Why are landlords being asked to absorb risk?" The assumption behind this question is that landlords screen tenants to decrease their financial risk and restrictions on their ability to do this result in economic losses and are an unfair imposition on business operators. One informant pointed out that the government is neglecting its role in accommodating those who cannot afford market housing. For instance, policy trends such as deinstitutionalization have placed landlords in the position of renting to a higher proportion of low-income tenants and sometimes assuming additional management responsibilities for a highly

needy group. For small-scale landlords, especially in ‘slow’ housing markets, the financial liability of even modest levels of rental arrears may promote divestment in the real estate market.

Another way to frame the question about financial risk to landlords is: to what degree should the achievement of human rights or social goals of equality be imposed on private landlords engaged in business transactions? This question has been posed for other private sector actors, primarily employers, but far less so for landlords.

As noted, financially irresponsible or exploitive tenants present a problem for landlords. When asked what proportion of tenants this represented, estimates by a few of our informants varied from 5 to 10 percent. Unfortunately, there has been no systematic investigation of the actual extent of this problem. Instead, landlords are left to their own assessments of risk levels. Not only are irresponsible tenants a liability to landlords, but there is generally limited recourse for landlords to re-coup their losses for arrears and damage. The available legal remedies are costly, and they are irrelevant against tenants without the ability to pay. Landlords have an obvious interest in diminishing such losses, especially small landlords with minimal capital who have a narrow margin for error without severe financial repercussions.

When landlords have such problems with tenants, some tend to associate the financial loss with particular characteristics of the ‘bad’ tenants. As an example, it was suggested that when immigrants damage rental units and leave in arrears, landlords associate such behaviour with particular ethno-racial groups, and this contributes to discrimination against future applicants with ‘similar characteristics.’

The behaviours of good (and conversely, bad) tenants are fairly clear. A good tenant is clean, quiet, pays their rent on time, and causes no unwarranted trouble for the landlord and other tenants. But how do landlords conduct assessments of applicants to avoid bad tenants?

4.1.1 Mechanics of Risk Assessment

Landlords vary in the type and extent of information they require from applicants, however there appears to be an overall increase in the use of formal applications and in the variety of information required. As part of the ‘professionalization’ process promoted by landlord associations, there is stronger reliance on standardized application forms that are adapted according to legislative changes. The forms also incorporate more clauses stipulating behavioural expectations dealing with a range of issues from pets to wall decoration. Corporate landlords use elaborate standardized forms most often to ensure that their staff act in compliance with legal requirements and to create a highly detailed contractual agreement.

There are several general types of information commonly requested of applicants by landlords, which may include all of the following:

- employment and income data (e.g., verification of length of employment, amount of income, bank references and bank account balance)
- rent to income ratio (as much as 35 percent for some landlords, but this varies)

- previous landlord references and rental history, (ideally more than just the current landlord who may be eager to ‘get rid’ of tenant)
- credit information (not used as often by small-scale landlords as there is a cost; not always considered a good indicator since it reflects unpaid debts, i.e., department store accounts, that may not be relevant)
- judgment of character (for those who make a face-to-face assessment, usually small-scale landlords)
- personal references
- where income level or stability is considered weak, co-signers or guarantors (which implies a second risk assessment)

Verification is commonly required for employment and income information, as well as landlord references. A full range of income sources is generally not considered (e.g., child support or other family payments).⁹ There is a strong preference for employment income because wages can be garnished by court order in successful suits for rental arrears or property damage. In some sub-markets, additional information is required. For example, photo identification may be used in the rooming house sector to ensure authenticity. Some landlords, especially small-scale landlords, are willing to place more faith in their determination of an applicant’s character and rental history than on financial information.

The primary basis for risk assessment and tenant screening is determination of the ability to pay, frequently determined by employment or occupation status and income level. This is confirmed by the phrases commonly used in rental advertisements that specify preferences for ‘professionals’ or ‘working’ couples (or singles). There is also strong reliance on credit history information. Beyond the conventional credit bureau services, new businesses are evolving to explicitly serve landlords by providing tailored information – a package of credit information and reports from former landlords. In Toronto, a business of this type also lists whether tenants have ever been involved in any kind of court dispute with a landlord. Landlords who use such services can be expected to automatically reject any applicant whose name appears on such a list. Since there is no attempt to clarify the reason for a tenant’s involvement in a court action, the report makes no distinction for tenants with legitimate claims against their landlords. The sales literature for the service frames this information as a necessary safeguard against ‘frivolous litigation’ by tenants ‘intent on abusing their rights.’ The founder and president of Rent Check Credit Bureau says his service is intended to help landlords protect themselves from rental market ‘predators’ or ‘professional tenants’ who manipulate the law to live rent-free for periods of time, or renters with a lengthy history of unpaid rent and damaged apartments. By his guess, these problematic tenants constitute about ten percent of the general population of tenants (Cain

⁹ Hulchanski (1994) outlined the various forms of financial and economic resources available to households with limited cash income from the formal economy. The majority of landlords do not take into account the range of alternate sources, from different economic spheres and webs of social relationships, used by households to meet their basic needs.

1998). The service is used primarily by small-scale landlords with fewer than four units (Acharya 1998).

Actual reliance on various screening criteria may vary according to the vacancy rate. There may be stricter or more stringent reliance when the vacancy rate is low. When asked how a landlord would screen from among ten applications for a unit where only one or two failed to meet the basic criteria, one informant, who is a landlord, responded that the applicant with “a better job” would more likely be offered the unit.

Landlord associations perform an educational as well as advocate role for their members. The professionalization process advocated by such associations is considered critical to the prevention of unlawful discrimination. On the belief that whatever discrimination does occur is due to the ignorance of unsophisticated landlords who are not adequately aware of human rights and landlord and tenant legislation, professional advice will address the problem of discrimination, including adherence to the bounds of proper discussion with applicants.

There was careless language used in the past. We train landlords to be more professional and this leads to fewer complaints. We tell landlords not to engage in any unnecessary conversation with applicants — something said could be misconstrued and lead to an accusation of discrimination or harassment. The problem is that landlords get into trouble out of stupidity or carelessness, not intent. This tends to happen during extensive conversations.

The strategy of limiting conversation to a regimented exchange suggests unusual caution and a suspicion that claims of discrimination or harassment are unjust.

4.2 Defining Housing-related Discrimination

Many of our informants used abstract principles or concepts to define discrimination, such as treating groups differently or denying equal opportunity based on irrelevant stereotypes, prejudice, or particular characteristics that are prohibited by law. Some of their definitions were similar in wording to that of human rights legislation.

Some informants used examples to describe what they considered discriminatory behaviours, for example, denying housing to “decent” people because of the appearance of being “down and out, on welfare, or dirty and smelly.” More often, they simply cited racial discrimination in a taken-for-granted way, suggesting its status as the classic or predominant type of discrimination. A couple of examples of what was *not* considered “real” discrimination were offered: 1) when two older white women refused to rent a room in their house to a black man,¹⁰ and 2) when landlords refuse accommodation to crack cocaine users (based on the great likelihood that they would not pay the rent and would draw other illegal drug users to the house).

¹⁰ The informant clarified that the kitchen and bathroom facilities were shared, but did not specify whether the critical factor was that the applicant was male, or black, or a black male.

There were frequent references to discrimination being based on judging individuals (presumably unfairly) on the basis of group characteristics or assumed characteristics, such as source of income or racial status. One informant noted that even if it were the case that poor households were more likely to be in default than rich households, this was not an adequate basis for denying access to poor households.

The predominant portrayal of housing discrimination was that of a landlord denying access. Only a few informants made any reference to treatment of *in situ* tenants, such as withholding services or infringement on the ‘right to enjoyment.’ Many informants referred to patterns of systemic discrimination against low-income households in general,¹¹ and specific groups in particular, such as those with psychiatric disabilities, racial minorities, or women.

A broad range of forms of discrimination was itemized by one informant: blatant denials of access; using rules to make access more difficult for certain groups; harassment by staff or management; differential treatment in terms of service levels; and social distancing mechanisms, such as reluctance to admit or serve, and unrestrained gossip by other tenants.

One informant stated that there were serious flaws in defining housing discrimination in a manner analogous to employment or other fields of economic activity, or in limiting the concept of housing discrimination to actions based on grounds that have been established in existing human rights codes. And two informants proposed quite broad definitions. One declared that as racism is about power and control over individuals based on skin colour, any aspect of this dynamic, related to housing, constituted discrimination. The other proposed that “any systematic barrier to safe, affordable, appropriate housing” was discrimination, since “otherwise people are disenfranchised.”

4.2.1 Discriminatory Harassment

Many of the informants acknowledged that they were aware of situations involving harassment between landlord and tenants and between or among tenants. While some of this behaviour was considered solely due to interpersonal conflict, it was viewed as discrimination when differentially directed toward protected groups or based on racism or sexism.

Several informants who were familiar with the rooming house or low-rent sectors referred to the exploitation of particular vulnerable groups of tenants as examples of discriminatory harassment. Their examples included the following: slum landlords who exploit youth; rooming house operators who exploit tenants with disabilities (by pressuring them to sign over their social assistance cheques, or threatening to withdraw services or send tenants to institutions if they lodge complaints); and rooming house tenants who prey upon other residents, especially elderly

¹¹ One example offered was the refusal of newer trailer parks to offer leaseholds to those with old trailers, ostensibly because of their lower standard of facilities (plumbing and fixtures), but more likely because of their poor appearance.

men, and harass cross-dressers, gay men, and lesbian women. One informant discussed a case in which a landlord had harassed a lesbian couple.

4.2.2 Racial Harassment

On the topic of discriminatory harassment, three of the informants, all racial minority women, offered examples from their personal experience.

One referred to past arson attacks on a newly purchased house; a hasty purchase offer from white neighbours on another house she had offered to buy; and racial harassment of her child, (each incident occurring in different neighbourhoods). Her summary comment was compelling: “I have never lived in a hospitable neighbourhood.”

Another informant recalled that when she first came to Canada, an Irish immigrant woman who lived across the hall hung a large Canadian flag on her door and pinned a note on it saying “Keep Out.” A barrage of complaints about the newcomer’s behaviour followed (i.e., too much noise and use of pesticides). In retrospect, this informant reassessed the behaviour as harassment.

Yet another informant noted that she was the target of immediate accusations of blame when “something bad happened, like a fire,” as well as complaints about “bad” cooking odours. She also remembered that a young female relative of hers was denied equitable maintenance service.

4.2.3 Sexual Harassment

A few informants mentioned sexual harassment in their definitions of discrimination. They referred to situations of sexual harassment in both the private and public rental sectors. One informant suggested that sexual harassment by landlords was most likely to occur in owner-occupier situations, e.g., unsophisticated landlords renting out basement apartments. Another informant said the worst sexual harassment occurs in the rooming house sector where male tenants, who predominate, assume that female tenants are prostitutes and “act on that assumption.” Yet another informant referred to situations of female tenants living in public housing who are sexually harassed by male staff.

Tenant advocates were especially receptive to the inclusion of concepts like ‘the creation of a hostile environment’ in their definitions of discriminatory harassment. For instance, it was suggested that inadequate lighting in parking areas, which increases fear among female tenants, could constitute discrimination.

4.3 Common Types of Discrimination

There was a great deal of agreement among the informants regarding those groups most affected by housing discrimination.

4.3.1 Ethno-racial Minority Groups

Virtually all the informants agreed that racial discrimination occurred, and most of them believed it to be common, although the prevalence varied by locale. Where there was a large proportion of Aboriginal people, regardless of community size, racial discrimination was reported to be common. Otherwise, racial discrimination was generally perceived to be less common in smaller communities, or those where there are proportionately fewer racial minority people.

Several informants noted that the combination or intersection of various protected grounds, such as race and sex, resulted in a greater likelihood of discrimination. For example, it was suggested that while low-income single mothers generally face a high degree of discrimination, the likelihood of discrimination against an Aboriginal single mother would be ten times as great. Being female, racial minority, and low income was most often mentioned as instances of what one informant called 'multi-discrimination.'

4.3.2 Low-Income Households

Just as landlords are primarily concerned with applicants' income information, many informants stated that the most common form of discrimination is that based on income level. Informants in Quebec referred specifically to discrimination against social assistance recipients. Discrimination based on income level is not prohibited by current legislation; although discrimination against social assistance recipients is prohibited in most provinces, and in Quebec, discrimination on the basis of 'social condition' is prohibited. The latter has been interpreted to cover recipients of social assistance and social housing residents.

Income-based screening functions to exclude many protected groups, such as single mothers, young people, people with disabilities, and recent immigrants and refugees. And when minimum income level is used as a legitimate criterion for applicants, protection for social assistance recipients becomes ineffective.

It was also reported that new entrants to the Canadian housing market, such as immigrants and youth, along with vulnerable groups, such as those with psychiatric or developmental disabilities, are more susceptible to various illegal or exploitative practices, e.g., charges for key money or for additional household members, and threats or harassment by landlords.

4.3.3 People with Disabilities

People with disabilities are more likely to experience discrimination. Those with discernible disabilities may be challenged by housing gatekeepers who question their ability to function independently. Those with guide dogs are frequently denied access, especially in buildings where pets are not allowed. Tenants who are deaf or blind worry about the adequacy of warning systems and fire escape routes in their buildings. Based on the complaints made by people with disabilities, outright denial of access to housing is not as common as issues of adequate physical accessibility. In 1998, the Ontario government introduced, but did not pass, a bill (the Ontarians

with Disabilities Act) that would more comprehensively address accessibility to buildings and services.

While people with psychiatric disabilities rarely make formal complaints, they were included among the groups who are more likely to face discrimination. A couple of informants stated that some landlords cite the inadequacy of community services and assistance as reasons to evict tenants who have special needs. This is a problem for tenants with changing needs, including elderly tenants.

4.3.4 Youth and Elderly

According to several informants, youth (aged 16 to 25 years), particularly those receiving social assistance, are another group who are more likely to face discrimination. Independent youth aged 16 and 17 years of age generally are not eligible for income support programs and are at especially high risk of housing-related exploitation. In Montreal, a formal complaint was laid with the Commission des Droits de la Personne by a 17 year old woman whose mother's offer to co-sign her lease was refused by a landlord because he did not want a lease signed by someone who did not live in the building.

Post-secondary students similarly face great difficulty in rental access, especially in large cities such as Toronto. This is largely due to their low incomes, but also affects applicants whose guarantors are not located in the same city. Landlords remain less willing to accept them, probably because of the extra cost or nuisance for landlords who may have to contact or pursue the guarantor for payment in situations of default.

While landlords generally view senior tenants with favour, several informants stated that very elderly tenants (over 75 years old) with low incomes face discrimination. Landlords are reluctant to accept tenants who they suspect may become unable to adequately care for themselves without assistance, especially if that assistance is not readily available in the community.

4.3.5 Children, Single Mothers, and Women

Discrimination against children remains common, and this affects families in general. It is not unusual to see rental advertisements stating 'not suitable for children.' Some landlords declare that the physical design, layout, or location of their rental property is not appropriate for children, or that children would exacerbate noise complaints in buildings with inadequate soundproofing or play spaces. There is a widespread assumption that children cause greater 'wear and tear' on rental units and common spaces. Families with many children are especially likely to find it difficult to be accepted by housing gatekeepers, in both the private and public sectors.

Sole support women with dependent children are a group who quite frequently face discrimination, especially when there are several children or when the mother herself is very young. Some landlords voice concerns about whether single mothers, especially young mothers, have sufficient control over their children. Landlords tend to assume that delinquent behaviour

and vandalism by insufficiently supervised teenagers are more likely to be problems when there is no adult male in the household.

Some landlords also assume that women are less able to fulfill basic maintenance requirements (other than cleanliness) and make higher service demands. A human rights case in Ontario involved a woman who successfully challenged a landlord for refusing her application to rent a house because he believed she would not be able to maintain the property adequately, e.g., cut the grass and shovel snow.

Some landlords also evince inappropriate concerns about the nature of single women's relationships with men and their sexual conduct. It was suggested that this is more often the case among small-scale or owner-occupier landlords. This is also a factor in some cases of sexual harassment.

4.3.6 Lesbian Women and Gay Men

Several informants stated that they were not aware of difficulties for lesbian women and gay men in accessing housing, unless it was based on unconventional appearance. *In situ* residents may be more easily identified as homosexual and more likely to face harassment.

4.3.7 Homeless People

People without housing, especially in large urban areas, face great difficulty entering the housing market. Not only are their incomes low and quite likely derived from income assistance programs, their rental histories reveal the current place of residence, which is generally a shelter. While landlords may not recognize these addresses, they become aware when shelter staff answer the telephone or when references are provided by social workers. As an example of the extent of the difficulty, one informant reported that a homeless family in Toronto, housed by the municipality in a motel and receiving social assistance, had unsuccessfully applied to over two hundred landlords in their search for permanent housing.

4.4 Institutional and Systemic Discrimination

The informants noted various forms of institutional and systemic discrimination. Some of their examples are listed here:

- the 'man-in-the-house' rule, by which women receiving social assistance, including housing subsidies, are disqualified or have their benefits reduced when welfare agents claim that a boyfriend or male partner is part of the (economic) household. Such determinations of cohabitation often involve unwelcome intrusions on the personal privacy of the affected women, their families, and friends. And the bases or procedures for determining whether such relationships are actually or effectively marital (with assumptions of mutual financial support) remain in dispute.¹²

¹² The Canadian Civil Liberties Association has repeatedly contested this practice as discriminatory, and its legal

- the criteria for obtaining ‘points’ or priority on waiting lists for public housing (e.g., in British Columbia and Ontario) do not give any, or sufficient, crisis priority for applicants who are homeless. The effect of this is severe given the extremely lengthy waiting lists.
- the lack of physically accessible units in condominium and rental buildings for people with disabilities; a general reluctance to co-operate in building adaptations; and no mechanism to address this pattern of development.
- various government policies and programs, including tax expenditure policies, favour homeowners and are therefore regressive toward renter households which are predominantly those headed by women, racial minorities, youth, and people with disabilities.
- instances of discrimination within zoning and planning practices were also cited. For example, by-law amendments in new subdivisions that increase lot frontage cause the housing to be more expensive. In the name of conformity, this promotes spatial segregation by ability to pay.

Most of the examples of institutional discrimination offered by our informants were situations where neighbourhood input is sought over zoning changes for new developments or housing projects.

4.4.1 *NIMBY Syndrome*

Discrimination within the context of the NIMBY (Not In My Backyard) syndrome is especially prevalent in the case of proposed group home projects, but this form of neighbourhood resistance tends to be directed at any low-income housing project or special needs housing, or whenever the term ‘affordable housing’ is used. Such projects are associated with subsidized housing and equated with higher crime, lowered property values, and vehicle or traffic problems.

There are numerous examples of neighbourhood resistance to social housing projects and other new developments. A range of concerns may be aired in public meetings attended by municipal planners and project representatives. These meetings can become quite heated and contentious. In some cases, there are opposition campaigns that extend beyond the bounds of public meetings. One informant recalled an example:

In 1984, there was some hysteria about the proposed opening of a group home for people with developmental and physical disabilities. There were lawn signs that said, ‘No group homes in North York.’ There was also a door-to-door petition signing campaign.

validity under the Charter of Rights and Freedoms has been challenged (Canadian Civil Liberties Association 1986 and 1996, Borovoy 1995 and 1996, Ruimy 1998).

The public meetings elicit opinions and attitudes expressing legitimate concerns as well as prejudicial ones. These are not always easy to distinguish. In some neighbourhoods of detached houses, owners object to any multi-unit project whenever zoning changes are required. They may directly argue against the 'type' of people who will move in, or do so indirectly by opposing any increase in traffic, parking, or noise.

Experienced planners try to balance the democratic goal of eliciting resident input into neighbourhood changes and preventing harmful expressions of public prejudice and discrimination against particular groups. There are obvious limits to their ability to maintain that balance. One informant commented that while planners try to disallow racist or discriminatory remarks being made during such public discussions, their ground rules tend to fail "when feelings run high, and you can't always retain control of the meeting."

In one meeting regarding a facility for ex-cons, the level of dissent resulted in stopping the meeting. In such cases, we prefer to work in smaller groups with community leaders and address their fears and concerns up front. It is rare, but there are cases where violence has erupted during such meetings.

4.5 Purchasing, Lending, and Ownership Issues

4.5.1 Purchasing

According to an informant working within the real estate industry, there are several ways in which discrimination may occur during transactions:

- at first contact, e.g., if a foreign accent tips off an agent, the agent may not want to pursue business with the client and avoid her or him,
- by steering, e.g., an agent may direct or limit the range of choices by making assumptions about what neighbourhood is most appropriate for the client, yet give the appearance of choice, and
- in general service, i.e., an agent may not care to give some people the best possible service, including full information.

To some extent, agents and sales representatives in the real estate industry hold prejudicial beliefs, particularly about recent immigrant groups (e.g., Somalis and Sri Lankans are dirty and dishonest). There are also negative stereotypes about Jamaicans, even though this immigrant group has been resident in Canada for a longer period of time. Since it takes some time for newer immigrant groups to establish real estate agents from their own ethnic group, they are necessarily reliant on agents who are different from themselves.

Codes of ethics, including principles of non-discrimination, exist within the real estate industry; however, it is largely self-regulated, with no mechanisms for public accountability other than complaints to business agencies and human rights commissions.

4.5.2 Lending

Bankwatch is a consumer advocacy coalition that addresses equitable access to banking and financial services in Canada, and although there are housing agencies listed as members, none of them has raised issues of discrimination in mortgage lending or insurance. This suggests that there have been no such complaints. While there is evidence that loan officers and entire branches are being withdrawn from low-income neighbourhoods in various communities across Canada, there is no sign that consumers have complained about inequitable access to mortgage lending or redlining practices.

On the other hand, there has been no systematic investigation of inequities. So questions remain regarding access to mortgage and home improvement lending. Despite several attempts, we were unable to review any financial institution's policies or guidelines for such lending. These are strictly internal documents, and there is currently no public accountability regarding this. Applicants themselves are not told what the guidelines are. Moreover, the basis for existing guidelines is unknown; it appears that banks and credit unions do not rely on any actuarial or research data regarding default rates by income levels, debt-service ratios, or any social characteristics such as age.

Without some mechanism to enforce public accountability, there is no record of who does and who does not get approved for mortgages, or the various financing terms for successful applicants.

Informants from major banks and credit unions located in Toronto and Montreal reported that their assessments are rule-based, i.e., compiled from a debt-service-to-income ratio, and that loan officers' decisions are accountable to a supervisory review. While loan officers are obligated to apply "due diligence," they have some degree of discretion in their assessments. Despite the formulaic basis for assessment, it is feasible that different officers could assess the same applicant somewhat differently. There are anecdotal reports that some loan officers have been arrogant with some applicants, especially immigrants. Determinations of income streams may be affected by the racial, gender, or family status of some applicants. The actual income and legitimate deductible expenses of those who are self-employed are especially difficult to assess.

According to industry informants, there is no practice of redlining in Canada (although they cited no systematic study to support their belief). No informant, however, ventured to declare that there was no discrimination in mortgage lending. While the 'security' aspects of an applicant may be tangible (i.e., the applicant's financial assets), the 'promise' aspect is not (i.e., likelihood that the applicant will be financially responsible). It is likely that any discriminatory assessments apply predominantly to applicants with borderline financial status, e.g., where there is a poor credit rating or high debt-service ratio.

4.5.3 Homeowners

Very few discrimination issues that involved homeowners were mentioned by our informants, other than the previously noted incidents against a black purchaser in Halifax, which was not recent, and past practices against Jewish people, especially Hasidic Jews, in some affluent

Montreal suburbs. None of the informants identified or were aware of current examples of discrimination faced by homeowners.

Some homeowners were portrayed as defensive, wanting to ‘protect’ their property and social status interests by resisting the proximity of individuals and families with less wealth or lower social status. This was associated with, but not identified as, discrimination.

4.6 Signs of Change

Only a few of the informants believed that the prevalence of racial discrimination was diminishing. Most of them agreed, however, that landlords are more cautious about overt expressions of racism. Several informants noted that racial discrimination is now generally covert. One respondent referred to obfuscation used by some landlords:

Racial discrimination is very subtle and usually attributed to other issues like low income. Sometimes a black tenant will be told that one of our listings is no longer available, yet the landlord keeps it on our list; these landlords give bizarre excuses and explanations. They are careful not to make racist remarks.

Several informants said they believed that discrimination against people who receive social assistance is increasing, especially in Ontario where the assistance rates have been substantially reduced and the use of income information for tenant screening is widespread. Human rights legislation in several provinces prohibits discrimination against those in receipt of social assistance, however, screening questions about applicants’ amount and source of income may be asked.

While landlord advocates suggested that discrimination is decreasing with the introduction of standardized application processes, tenant advocates perceived more subtle and systemic forms of discrimination.

Things have generally changed for the worse. There is either more actual housing discrimination, or there is greater awareness among tenants who are more open about their complaints. Landlords are getting more creative, more sophisticated, about how they discriminate. [Personal] presentation matters, especially for racial minorities [who must look conventional and accommodating]. The opportunity to try to persuade gatekeepers [not to discriminate] has diminished with the increasing use of bureaucratized or standardized application processes that are supposedly anonymous. Landlords are using all kinds of criteria: income level, source, credit rating, and references. Landlords will generally accept a co-signer in cases where income doesn’t cover a 30 percent [rent-to-income] rule. They resist those on social assistance, but say that it’s strictly an income issue, not source. They also say that they are able to garnishee wages, but not public assistance [income], to explain their actions.

4.6.1 Prevention and Deterrence

Existing social norms are a powerful tool for the prevention of discrimination, and Canadian society does not tolerate what it did fifty years ago. The primary method for challenging and changing these norms with respect to housing discrimination are legal disputes over what is allowable action or behaviour.

Discriminatory practices have become increasingly subtle over time, making it harder for tenant advocates to produce evidence for claims of discrimination. While landlords argue that their standardized practices diminish or eliminate the potential for discrimination, tenant advocates state that these practices give landlords more legitimate bases to refuse applicants in ways that simply disguise discrimination.

Sophisticated landlords are more likely to be aware of the consequences of their actions in terms of potential charges of discrimination.

[All cases of discrimination] are difficult to resolve, but it's harder with 'savvy' corporate landlords who are knowledgeable about Human Rights Commission procedures and processes. Their attitude is frequently the equivalent of saying, "So, sue me," because they know that it will be years before there is an outcome. They bank on tenants dropping the case or on the [Human Rights] Commission dropping the case. Cases involving small landlords are easier to mediate because they take them more seriously.

Unlike tenants, or even small-scale landlords, corporate landlords are able to pay for professional legal assistance to challenge discrimination claims. And when landlords lose, the awards paid to claimants are surprisingly low. Discrimination claimants are usually renters with modest incomes. Because the prevailing premise is to reimburse the claimant for financial losses incurred, successful claimants receive only minor monetary awards that reflect a month's rent or moving costs. These are not effective deterrents to discrimination.

Not only is it harder to establish when discrimination by landlords occurs, it is also very difficult to challenge racist acts by white neighbours.

Racial discrimination is hard to prove. It exists, but is of secondary interest to most landlords, except small landlords. It also happens among tenants where there are cultural differences, for example, against Somalis. In public housing, there's tension over newcomers; for example, coincidental loss of service is attributed to them. The white tenants say, "They won't celebrate Canada Day. They don't want us serving alcohol. Their wives won't talk. We've lost our community."

One respondent pointed out that landlords have some responsibility for resolving tenant-on-tenant harassment complaints, but that it is generally difficult to obtain evidence and witnesses.

It's like [dealing with] two customers in a store, where you have no direct control.
Small-scale landlords, especially, are not prepared to manage social relations among their tenants, so that intra-tenant tensions and discriminatory attitudes and behaviours sometimes escalates to harassment against some tenants.

The 'customers in a store' analogy is used by some landlord advocates, but rejected by tenant advocates who point to legislation that addresses landlord responsibilities to ensure 'quiet enjoyment' of rented premises.

4.7 Factors Affecting Prevalence of Discrimination

Certain factors that affect or contribute to the extent of discrimination were mentioned repeatedly by informants: the status of the local housing market or sub-market, especially vacancy rates or the availability of certain types of units; ease of evictions of tenants; and type of landlord. A couple of informants also mentioned moral panics or group-specific fears (usually associated with criminal activities) as causes of temporary or short-term increases in discrimination.

4.7.1 Vacancy Rates and Availability

Several informants referred to conditions in the housing market or system to account for a higher or lower prevalence of discrimination.

The extent of discrimination mirrors the state of the housing market, e.g., vacancy rates, and the reduction in social housing.

More households across Canada are unable to afford market rents, and the supply of subsidized housing is no longer increasing. Therefore, more low-income tenants are competing for the limited, and dwindling, supply of low cost rental units. Most informants believed that this was correlated with a greater prevalence of discrimination.

A few informants suggested the corollary: that high vacancy rates in some housing markets produced financial pressure on landlords to accept tenants whom they would otherwise prefer to exclude. Even if true, these conditions are rarely at play for low and modest cost housing in large cities such as Toronto and Vancouver.

One informant described a microcosm of the dynamics of market pressure and the recent changing tenant profile in the Toronto rooming house sector. People who received relatively higher social assistance rates — families and people with disabilities — were displacing single tenants who receive general welfare assistance.

There's discrimination in rooming houses that used to be filled with singles. After the welfare cuts, those getting FBA/GAINS-D [family benefits or a disability pension] are preferred over those getting GWA [general welfare assistance] because their shelter allowance is higher, and landlords can charge more. Now there are families in rooming houses, those who have been evicted from subsidized housing. They are getting substandard housing at higher rents [than previously], and the singles are being pushed out into the streets.

These changes not only reflect discrimination based on income, but also suggest some of the connections between discrimination and homelessness, and who becomes homeless.

4.7.2 Ease of Evictions

The length of time required and difficulty of evicting a tenant in default, or one who is violating some other aspect of the tenancy agreement, is a significant factor in landlords' assessments of financial risk. Landlords in Ontario reported a time lapse of six or eight months for the eviction process to be completed (previous to legislative changes in the summer of 1998). During this time, the tenant may be able to live rent-free or even damage the unit in retaliation. In a minority

of cases faced by some non-profit housing managers who serve 'special needs' populations, the distressed tenant may engage in violent behaviour that endangers neighbour tenants and staff.

According to tenant advocates, the majority of tenants facing notice of eviction leave peaceably and quickly, but there are a minority who delay, usually to avoid homelessness. And there are a few who delay as part of an intentional plan, which in some cases may involve a valid defence of their rights. Landlords refer to the latter group as 'professional' tenants who 'know how to work the system.' This last scenario is the spectre raised when landlord groups lobby for better protection. It is not known, however, how many tenants behave this way, how many are exploitive, or what degree of harm they cause landlords.

Among the 1988 changes in Ontario legislation is a provision to allow for the direct payment to landlords of the shelter allowance portion of social assistance income for tenants who are in default. According to landlords who lobbied heavily, this provision will lessen their concerns about rental loss. It may cause some landlords to be more amenable to accepting applicants with social assistance income, and it may contribute to the prevention of eviction and homelessness. Unfortunately, it also contributes to paternalistic treatment and the loss of dignity of tenants who are struggling to survive with subsistence level incomes.

4.7.3 Type of Landlord

Several informants suggested or implied that discriminatory practices were more common among small-scale and unsophisticated landlords, especially owner-occupiers who have strong preferences in terms of their tenants' ethnic origin, type of household, and behaviour.

On the other hand, it was also suggested that some landlords at the lower end of the market range, while they acted on prejudicial stereotypes, were nevertheless more tolerant and accepting of a wide range of tenant lifestyles and less concerned about standards of 'respectability' among their tenants.

Landlords act on stereotypes; they associate blacks with crack [heroin] and natives with alcohol. I mostly deal with slum landlords, and they are less discriminatory than the bourgeois ones. Landlords at the bottom end can't really afford to discriminate as much as the rest. The slum landlords are accustomed to all kinds of deviant behaviour, and they are blunt. I was with a young Iranian woman who was asked questions like: Do you do crack [use crack heroin]? Do you hook [work as a prostitute]? She was mortified and burst into tears at the last question.

This is clearly a tolerance born of necessity. The landlords' comments in this example are not only crude, but reflect sexist and racist assumptions.

4.7.4 Moral Panics

One informant described how racism and racial discrimination could be heightened and directed by negative media representations. For example, when media stories in Vancouver described how Honduran male youth were smuggled into Canada to work in drug dealing operations, there

were signs that increased overt racism was directed to all Latinos or those perceived to be Latinos in the local area. The stories were followed by a wave of complaints from Latinos about being denied access to housing and being evicted by landlords, as well as racist comments directed to Latino children and youth at schools.

This association between a specific ethno-racial group and criminal activities is the critical component of what Sibley (1995) calls ‘moral panics’ which are episodic and involve the “creation of folk devils that are manifestations of deep antagonisms within society,” e.g., between adults and teenagers, blacks and whites, heterosexuals and homosexuals (Ibid.: 69).

Exaggerated and distorted portrayals of ‘black inner city’ areas are another version of this phenomenon, especially in the United States. In Canada, moral panics tend to be applied to people who have psychiatric disabilities, those who are homeless, prostitutes, and some racialized minority groups.

4.8 Grey or emerging areas of discrimination

The informants raised a few ‘grey’ or emerging forms of discrimination. The most prevalent of these is the use of minimum income criteria to screen tenants. The others refer to certain practices by non-profit housing agencies; and ‘reverse’ discrimination by group-specific non-profit housing projects.

4.8.1 Minimum Income Screening Criteria

The grey or emerging claim of discrimination mentioned most often was the use of minimum income criteria by housing gatekeepers to screen out households with low incomes. This is reflected in the frequent references to low-income households as those who are most affected by discrimination.

Discrimination based on ‘social condition,’ which is prohibited in Quebec, has been interpreted to refer to people with low incomes or those who receive social assistance. Even high rent-to-income ratios cannot be invoked as a legitimate reason for refusing an applicant if the tenant can prove that a similar rent, or proportional rent, has been paid previously.

In Ontario, the Human Rights Commission decided in 1999 that arbitrary income criteria or rules are prohibited as discriminatory. Landlords are currently advised to adopt additional criteria for screening, so that income does not constitute the sole screening factor. They thereby avoid challenges of discrimination.

An extensive array of data was presented to an Ontario Human Rights Board of Inquiry to argue that the use of income criteria such as rent-to-income ratios constituted housing discrimination. Much of the evidence presented countered the position that landlords could conduct meaningful risk assessment using rules such as requiring a minimum rent-to-income ratio of 30 or 35 percent. The following key points were argued:

- Landlords and tenants do not view their relationship in the same way and do not stand in an equitable position.

While residential landlords tend to view the relationship with tenants as a traditional business contract, tenants view it differently. A successive, and generally progressive, history of legislated protections for tenants have acknowledged this special relationship and the inherent imbalance of power between landlords and tenants. Housing has been recognized to be a basic necessity, a fundamental human right. And the denial of access to housing, or the arbitrary eviction from housing, is much more akin to the denial of education or health care or the right to vote, than the typical goods or services for which we normally contract (Abramowicz 1995: 3).

- Canada is a signatory to a series of international covenants against discrimination and in support of the right to equality in access to housing, agreements that require an effective remedy within the legal system of the State party, i.e., the country's domestic legislative system.

Income criteria qualifications could compromise the fundamental international right to freedom to choose one's residence and constitute income-based discrimination. And it would be inconsistent with provisions of international law if Canadian courts were to view security of tenure provisions as a justification for exclusion of low-income applicants on the basis of any real or imagined increased risk of default in rent and the cost of judicial procedures for termination of tenancy for arrears (Leckie 1995: 26).

- There is little substantiation for landlords' claims that arrears can be anticipated on the basis of rent-to-income criteria.

The findings of a 1994 survey of 280 tenants who had received a notice of eviction by their landlords revealed that more than half of them were withholding rent over a dispute with the landlord (generally over maintenance and repair issues). Those who were unable to pay were experiencing financial losses for various reasons usually beyond their control. Very few (about 4 percent) of the tenants indicated that their income was not high enough when they entered into the tenancy to pay the rent (Metro Tenants Legal Services 1994).

- There is similarly little substantiation for landlords' claims that evictions for arrears are lengthy and involve high financial losses.

Although landlords frequently cite instances of extremely difficult, drawn out cases of tenant eviction, most tenants leave willingly and quickly on the receipt of an eviction notice. In disputed cases, evictions are generally completed within three months and the landlord will either have the arrears paid or will have an enforceable order against the tenant (Abramowicz 1995).

- What is the effect of using income criteria as a screen for tenant applicants from various groups who are currently protected by antidiscrimination legislation? In other words, do

minimum income criteria disproportionately disadvantage such groups and thereby construct indirect or adverse discrimination?

Using 1990 Census and HIFE data for Toronto and Ontario renters, Ornstein (1994) found that income criteria have an exclusionary effect on various protected groups, especially single mothers (with some regional variations within the province).

The use of income screening criteria remains a problematic form of discrimination against low-income households.

4.8.2 Non-Profit and Co-operative Housing and Community Standards

Although most of the examples of housing discrimination offered by the informants occurred in the private rental sector, there were some questions raised about situations specific to the non-profit housing sector. Both non-profit housing agencies and housing co-operatives have 'rules of conduct,' some of which have instigated, perhaps inevitably, some novel charges of housing discrimination. For instance, a non-profit housing project with a mandate to house abused women has established a rule, with the agreement of a majority of the residents, that men known to be abusive cannot enter the building. When a neighbour tenant complained about the presence of a man previously convicted of assaulting the girlfriend he was visiting, the manager asked the man to leave the building even though he was not doing anything objectionable at the time. In this case, the girlfriend was dissatisfied with the outcome. This demonstrates a tension between individual and collective rights, i.e., between the preferences of individual residents and the community standards determined democratically by a majority of the residents in a particular building or complex. One tenant advocate raised questions about this balance of interests.

There is potential conflict between community standards and the behaviour of individual tenants. Does the community have the right to impose such rules? This is a frequent problem in supportive housing projects with tenants who have violent, psychotic episodes. What do you do when other tenants are upset by the violence? What is allowable? There's not enough money for conflict management. If the violent tenant is evicted, he or she feels discriminated against, saying: "Why am I being thrown out? I have to fight the noises, so I scream at them." Legal advocates have to defend such individuals, and then the other tenants feel discriminated against, too. Does this fit the category of discrimination?

Housing co-operatives also develop their own rules of conduct, and similar questions arise. Moreover, housing co-operatives are unique in asking applicants questions about their willingness to partake in the volunteer work of self-management. These expectations may be more onerous for certain groups of people, such as single mothers and recent immigrants. Since housing co-operatives do not give reasons when they refuse an applicant, suspicions sometimes lead to accusations of discrimination.

A couple of informants referred to inequitable treatment and harassment of low income members, frequently single mothers who receive housing subsidies, who do not 'participate' (i.e., contribute volunteer labour of some kind) in the co-operative. Some co-operative residents

have complained of being stigmatized and facing hostility from other members for these reasons. This has been described as an expression of social class-based tension.

Because the [co-op] philosophy is grounded in community participation, applicants have to espouse certain principles to get in, and there's resentment of those who don't participate. Some [subsidized] members who don't participate are harassed. Noise complaints are used unfairly to get rid of them. They call [me] and say they are not treated the same. Some people say they have had to endure humiliating procedures and questioning before Boards and entire memberships. These are very hard to resolve because it's their word against the co-ops. I suspect some of the questions put to applicants are inappropriate.

The housing co-operative sector is unique within the non-profit sector in its collective ownership and resident self-management. Resident members collectively incorporate both landlord and tenant roles. One informant compared housing co-operatives' techniques with applicants to those of owner-occupier landlords who prefer tenants who are similar to themselves and who will treat their property with care.

Due to their organization structure, housing co-operatives are also uniquely able to acknowledge and respond to problems raised by members, including concerns over conflict resolution, discrimination, and harassment. Some regional federations of housing co-operatives have added these topics to their ongoing member services and educational programs to increase sensitivity and awareness of rights and responsibilities among its members and to avoid the use of practices that cause direct or indirect bias against particular groups. While there are some signs that housing co-operatives tend to be progressive with regard to social and housing issues, such as domestic violence and harassment, there is also a tendency to adopt practices used by the private sector that may contribute to systemic discrimination, e.g., rigid reliance on credit ratings.

4.8.3 Group-specific non-profit housing projects

A few informants raised questions regarding the apparently discriminatory practices by housing projects intended to serve particular groups. One informant referred to ethno-specific and church-specific groups who manage private non-profit housing projects and favour their own ethnic or church members among applicants.

Generally, the designation of social housing projects to accommodate particular social groups has the same purpose as anti-discrimination legislation: to improve housing access for groups that are demonstrably and systematically disadvantaged in our society. Debate continues as to whether group-specific projects are a beneficial strategy, especially for recent immigrant groups.

Some of these projects constitute a form of affirmative action in housing, and consequently face occasional charges of 'reverse' discrimination. The pressure to resolve this question would undoubtedly be more urgent if there were a more sizeable number of such projects, such that they imposed a meaningful restriction on the options of tenants at large.

4.9 Effectiveness of Current Legislation

A few of our informants held the view that anti-discrimination legislation was strong, or at least adequate, and that it served an educational function. Many informants stated that the difficulty lay primarily in lax and ineffective enforcement. This was attributed in part to the fact that the system relied on “informed actors who can protect themselves,” which is difficult for many tenants and especially for recent immigrants.

While pointing out that the current system for resolving discrimination complaints is a “costly and blunt instrument to correct imperfections in the market,” landlord advocates called for more efforts on the part of human rights commissions and other government agencies to educate all parties about their rights and responsibilities, rather than rely on adjudication and litigation. Uncertainty about what are allowable practices and behaviour troubles landlords who prefer to have clear rules. A few landlords apparently suspect that they have been subject to ‘testing’ by potential applicants. This is unlikely and suggests an atmosphere of defensiveness and mistrust among some landlords.

There was general agreement among the informants that human rights commissions have not provided remedies that are effective. Tenant advocates charge the existing system as too slow, complicated, and conciliatory. A couple of informants suggested that high vacancy rates have improved access to housing for low income people far more than have human rights legislation and enforcement.

With widespread lack of faith in the effectiveness of remedies for human rights complaints, few people will rely on this system. The complaint process is apparently sensitive to even minor barriers. When the Saskatchewan rentalsman began charging tenants a twenty-dollar application fee to lodge a complaint, tenants’ rights advocates attributed the sudden drop in the number of applications to the barrier this posed to low-income tenants (O’Connor 1994).

Several informants stated that housing discrimination was becoming less direct or blatant and that this contributed to the difficulty of establishing evidence. It was suggested that explicit fair housing legislation might be required to address the wider impacts of differential access and treatment.

Pressure for legislative change continues, as does conflict over whose interests will be secured. Tenant advocacy groups are pushing to extend anti-discrimination protections, and landlords are seeking to extend their ability to evict tenants more quickly. For example, the Ontarians with Disabilities Act Committee is advocating for physically accessible housing and ‘visitable housing.’ And despite the fact that the length of evictions proceedings have been significantly shortened in Ontario, some landlords feel that even six weeks is too long.

4.10 Suggestions for Change

There exists in Canada only one small agency dedicated to housing discrimination *per se*, the Centre for Equality Rights in Accommodation, located in Toronto. The role of human rights

commissions across the country remains critically important in dealing with housing discrimination. Faith in the effectiveness of human rights agencies, however, was not strong among most of the informants. Some called for quicker resolutions, stronger enforcement, and the addition of more racial minority staff, along with court challenge funds to mount high profile cases against homelessness and a meaningful right to housing. Others expressed grave doubt that advocacy and confrontational methods would significantly alter the tendency to discriminate. Most of their suggestions focused on systemic changes.

Foremost was the call for more social housing. Many informants stated that this would have the most advantageous effect on reducing discrimination. The social housing sector not only offers affordable housing for low-income households, it is prepared to accept more risk than the private sector. This is especially important for vulnerable tenants who require support services. A few other suggestions were to train and license landlords; legalize all rooming houses; and adopt inclusive neighbourhood zoning policies.

Many of the informants suggested improved methods of education. Primarily, this referred to government-funded projects and programs designed to better inform both landlords and tenants of their rights and responsibilities. Tenant associations and immigrant organizations also require more funds to extend their educational activities; this includes publishing informative pamphlets in various languages and notices on anti-discrimination legislation in newspaper rental sections. Anti-racism and cross-cultural educational programs that specifically address housing issues were also suggested. Where educational programs have been introduced, e.g., for staff in a major social housing agency, the results have been positive and served to minimize barriers faced by racial minority immigrant groups.

Virtually none of the informants, other than researchers, were able to refer to any systematic data or research on housing discrimination to substantiate the extent of the problem. The existing data on housing discrimination is not sufficiently rigorous or applicable to help direct policy formation. And rather than continue to rely on the “claims of advocates who represent vested interests,” several informants stated that housing audit data is needed. In the words of one informant, “we need a valid assessment of how much discrimination actually occurs, especially before talking about whether there is more or less of it happening.”

5.0 Methods of Measuring Housing Discrimination

Discrimination in housing has either been inferred by an indirect approach that attempts to identify the consequences of discrimination, or it has been measured by a direct approach that attempts to empirically detect or observe behaviours that constitute differential treatment (Galster 1992).

5.1 Indirect Approach

Some analysts have pointed to persistent patterns of housing inequity and residential segregation among certain social groups, usually designated in racial terms, and suggested that housing discrimination accounts for the differentials, at least in part. In other words, group differences in homeownership rates, housing costs and conditions, and patterns of residential segregation, have been attributed to factors that include housing discrimination.

Such research is generally based on secondary analysis of large databases such as the census. For example, Murdie (1994) used census data to investigate patterns of social concentration in Toronto. He found an increasing concentration of black residents in public housing neighbourhoods and suggested that changes in immigration and the housing market as well as housing discrimination were explanatory factors. And Spain (1990) used U.S. census data to determine that female-headed households, even when controlling for household income levels, paid more than male-headed households for similar quality housing. She suggested that housing discrimination contributed to this outcome.

Thus, housing inequity and residential segregation are assumed to be outcomes of discrimination. However, it is not the objective of these studies to measure housing discrimination *per se*. So housing discrimination becomes the ‘black box’, the unmeasured or residual variable that may account for the differences not explained by other measured factors.

Outcome measures have been used in the United States to argue for the existence of systemic or ‘adverse effect’ discrimination. For example, when geographic patterns of mortgage denials for inner-city properties were observed and documented, the case for racial discrimination was made. The practice of ‘redlining’ disadvantaged the predominantly African-Americans residents and thereby had an adverse effect in racial terms. Consequently, legislation was passed to prohibit such practices. Similarly, higher denial rates for African-American mortgage applicants led to U.S. legislation that requires mortgage-lending institutions to file certain types of information. This information has been compiled to create a database (HMDA) used by researchers to further investigate denial rates for mortgage applicants.

Indicators of systemic discrimination are useful for outlining the interactions that comprise housing inequity and suggesting where discrimination is occurring, but only research that is focused on housing discrimination can answer questions about its nature and extent.

5.2 Direct Approach

Housing researchers in Canada have used several basic methods to detect or measure the extent of housing discrimination. They are:

- collection of formal human rights complaints
- surveys of housing consumers and providers
- housing audits or paired testing

5.2.1 Formal Complaints

Human rights commissions in Canada regularly publish reports on the aggregate numbers of formal complaints filed and their disposition, usually distinguished by the type of prohibited ground and sector (e.g., employment, services, housing). Comparisons in the data over time and across provincial and territorial jurisdictions may be possible. While there are some legislative differences, most of the prohibited grounds are similar across provincial and territorial jurisdictions.

The data from this method has the advantage of legitimacy since it is collected by governmental agencies according to an administrative protocol. However, this method underestimates the extent of discrimination. Many victims of housing discrimination are unaware that they have been discriminated against.¹³ Of those who are aware or even certain, many do not file formal complaints with human rights commissions (Quann 1979). Henry (1989) suggested several reasons why victims do not complain: (1) unfamiliarity with human rights legislation or the existence of human rights agencies; (2) little or no knowledge of what action to take; (3) complicated and time consuming bureaucratic procedures; (4) language barriers, and, among immigrants, fears that complaining may jeopardize their citizenship status; (5) lack of follow-through by complainants who find alternate housing; and (6) the difficulty of providing sufficient evidence. In fact, the formal complaint system places an enormous burden on individuals to challenge specific and isolated acts, and even successful complainants receive little remedy or compensation (Novac 1996). And critics have charged that racism and sexism affect the functioning of staff within human rights commissions in ways that discourage complainants (Young 1992, Novac and Associates 1993).

Reviews of formal complaint data, for example on new prohibited grounds such as sexual harassment, have nevertheless been instructive. They have revealed not only how many individuals take up the option of human rights complaints, but have described some

¹³ Awareness of legal protections and methods of recourse against housing discrimination likely influences the incidence of reported discrimination. For example, the Fair Housing Center in Detroit received a substantial increase in the number of mortgage discrimination complaints after several articles in a local newspaper and noted significant differences in loan denial rates between white and black applicants for residential loans in the metropolitan Detroit area. Several community forums on lending practices were also held, including a televised panel discussion. From 1990 to 1998, 11 mortgage complaints on average had been filed yearly; in the six months after the media discussions, 21 complaints were filed (*Fair Housing News* 1999).

characteristics of the defendants and their discriminatory behaviours, and the resolutions achieved by the formal complaint mechanism (Novac 1994, Lescop 1993).

5.2.2 Surveys

Another method to detect and measure discrimination in housing is to conduct surveys of housing consumers and housing providers.

5.2.2.1 Housing Consumers

Several Canadian researchers have investigated self-reported perceived discriminatory experiences. While their research techniques are described in publications, the research instruments used, such as questionnaires, are less available (except by direct inquiry). The following observations are based on a review of a few recently used questionnaires, along with inferences from reported findings.

The questions used to measure housing discrimination have tended to be direct and general. They have provided either simple dichotomous response categories, i.e., yes or no, or utilized a Likert-type scale with gradations to indicate frequency of such experiences, e.g., “Have you ever been discriminated against yourself while looking for a place to rent?” with close-ended response categories of: “a lot, fairly often, sometimes, rarely, once, never.”¹⁴ In some cases, the questions have been more specific about the type or context of perceived discriminatory experiences, for example, distinguishing experiences that occurred during housing searches from those during occupancy, or using a behavioural typology¹⁵ to distinguish the form of discriminatory act. Such questions may be restricted by a time frame to measure only recent experiences (relying on better memory retention and thereby improved reliability) and to distinguish incidence (e.g., within the previous year) from lifetime prevalence. In addition, the use of open-ended questions has allowed respondents to offer some description of their experiences. These data have been used most often to illustrate the type or range of behaviours experienced in the respondents’ own words.

Perceptions of discrimination directed toward a particular social group are sometimes measured as well. These may be used to compare individual and group perceptions, as in this example: “How much housing discrimination, if any, have you (or a member of your immediate family) personally experienced in Toronto ... on the basis of your ‘race’, that is, for being a ‘black’ person?” and “How much discrimination against Jamaican newcomers, if any, do you think exists in Toronto?” with the response categories of “none at all, a little, a moderate amount, quite a bit, and very much.”

¹⁴ These examples are drawn from the *Housing New Canadians* survey designed by D. Hulchanski, R. Murdie, A. Chambon, C. Teixeira, K. Dion, and S. Novac, which in turn adopts and adapts question design from previous studies by the same and other authors.

¹⁵ See Novac (1994) for use of a behavioural typology of sexual harassment of tenants.

In the survey method, participants are selected based on a research design (rather than self-selected). This allows for the use of scientifically determined samples and statistically based generalization of findings and, potentially, comparisons among groups and over time. The survey method may also be used to investigate a full range of forms of discrimination, including discrimination during occupancy (e.g., discriminatory service provision or discriminatory harassment) and the reactions of targets of discrimination.

The survey method has certain limitations. Respondents are likely to have different interpretations of what constitutes acts of discrimination since perceived discrimination is subjectively defined, i.e., some people may interpret an action as non-discriminatory while others interpret the same action as unambiguously discriminatory. In some studies, broad definitions of discrimination (or discriminatory harassment or sexual harassment) have been provided to guide respondents with some indication of the kind of experience that is meant by the researcher.

It is unknown whether or how awareness of discrimination legislation affects survey respondents' answers to questions about their experiences of discrimination. In Novac (1994) there was a significant correlation between respondents' awareness of human rights legislation and their likelihood of reporting experiences of sexual harassment as tenants, but it is unclear which variable preceded the other. Were tenants who said they had been harassed more likely to have been aware of their rights, or did they learn more about their rights after they had been harassed?

Surveys that measure perceived discrimination underestimate the actual incidence of discrimination, primarily because people are frequently unaware of, or unsure about, whether they have been discriminated against. Under-reporting also occurs because it is damaging to a person's self-concept to acknowledge that one has been the victim of discrimination (Frideres 1973). Moreover, each respondent has a different threshold or tolerance for discrimination, making a common standard of behaviour in determining discrimination difficult to establish, convey, or interpret. Surveys of more sensitive forms of discrimination, such as sexually harassing behaviour, and perhaps racial harassment as well, are even more prone to respondents' defence mechanisms of forgetting and minimizing their experiences (Novac 1994).

Finally, actual housing searches by minority groups or protected classes are affected by their perceptions and experiences of discrimination; their search behaviour may be restricted or altered in ways intended to avoid discrimination. Thus, the question of how much discrimination they encounter during actual searches will not reflect the level of discrimination they would face if they searched as do those groups who are not discriminated against (Yinger 1998).

The survey method, unquestionably, has provided evidence of higher prevalence of discrimination than is suggested by formal complaint data. The most serious limitation of the survey method in detecting discrimination is that respondents often do not know they have been discriminated against. This is especially important as there are indications that blatant discrimination is diminishing in favour of subtle forms.

5.2.2.2 Housing Providers

Canadian researchers have also conducted surveys of housing providers, generally private sector landlords or their agents. In surveys that investigate landlords' rental policies or their preferences and decisions about various types of rental applicants, there are obvious reasons for not disclosing acts of discrimination per se. Nevertheless, a few such surveys have been successful at assessing aspects of landlord behaviour and the likelihood of discrimination occurring, in part by asking indirect questions, by assuring respondents that the study is independent of any governmental or other organization concerned with human rights or the legality of housing practices, and by probing grey areas of behaviour such as landlord's use of minimum income criteria (for examples, see Ledoyen 1999; Serge 1998; Hulchanski and Weir 1992; and Hilton, Potvin, and Sachdev 1989). In-depth surveys can be used to determine the dynamics of landlords' preferential choice of tenants and the process of discrimination itself. This could provide information that is useful for the development of anti-discrimination programs.

5.2.3 Audits or Paired Tests

The audit or paired tests method is a more effective method to detect discrimination in housing access. For example, the audit study conducted by Garon (1988) showed that only two out of the 32 detected instances of discrimination could have been recognized as such by the tester.

According to Yinger (1998), an audit is type of survey in which people from two different groups, one of which is a 'protected class' as defined by human rights laws, are trained and assigned to two-person teams such that teammates are equally qualified to rent an apartment or buy a house. The audit teammates successively visit housing agents to inquire about an advertised housing unit and then independently record how they were treated. Discrimination is defined as systematically less favourable treatment of the auditors in the protected class in terms of differences in the content, quantity, and quality of information and service given to clients by real estate firms and rental property managers. Although the audit method can be used to detect discrimination based on any specific characteristic or prohibited ground, it has been most frequently used to detect racial discrimination.

5.2.3.1 Techniques

In practice, the audit is conducted under the supervision of a coordinator who sends teams of trained auditors to approach rental and/or sales agents, based on a sample of newspaper advertisements, to pose as home seekers. Each team is matched according to all relevant characteristics, i.e., income, family size, age, general appearance, etc. — every factor except the one being tested. Testers are sent to the same agency at closely spaced intervals, presenting similar housing desires. Each auditor then keeps detailed, independent accounts of his or her experience (Bish et al. 1973). Audit supervisors match auditors with type of housing and neighbourhood. Young adults, for example, are not sent to luxury apartments, nor are elderly auditors sent to students' apartments. Auditors have generally posed as part of a married couple.

And the minority testers are generally presented as having a slightly higher income than their testing partners (Ondrich, Stricker, and Yinger 1998).

A typical script may be as follows, as described by Reid (1984). The first apartment seeker, the black auditor, when entering the rental office, asks about the availability of the apartment advertised in the local newspaper. If the answer is clearly affirmative, the black auditor visits the vacant apartment(s) and tries to obtain information about monthly rents, application fees, and so forth. If the answer is clearly negative, the black auditor requests a larger size apartment. If no apartments are available, the black auditor inquires about a waiting list, if the agent has not previously volunteered this information to him or her. The second apartment seeker, the white auditor, visits the rental apartment building or complex within an hour of the black apartment seeker. To ensure consistency, the white auditor makes the same type of approach when entering the rental office. The white apartment seeker follows the same procedure as the black apartment seeker. The presentation order of auditors should be varied to avoid an inadvertent bias, e.g., the black auditor should not be first for all approaches.

Some audits of racial discrimination have been conducted by phone rather than face to face. The auditors are similarly prepared to report family size, marital status, type of occupation, and income, despite the fact that rental agents rarely ask such questions over the telephone. As described by Reid (1984), the first caller, the white auditor, does not mention race. After brief introductory remarks, the white auditor asks: "Do you have any apartments available now?" If the answer is clearly affirmative, the white caller asks a series of questions about the sizes of the apartments and monthly rents. If the answer is clearly negative, the white caller inquires about future availability and the waiting list. A black auditor places her phone call an hour or two after the white caller, who has established the availability of apartments. In order to test for racial discrimination, the black auditor says almost immediately: "I'm looking for an apartment in your section of the city. However, I've learned from experience that when agents see that I'm black, they say there are no vacancies. I am too busy to take the time for that, so I want to ask first whether or not you rent to black people." This introductory ruse gives the rental agent being called the impression that there is no anxiety or hostility, but that the caller is a busy person who wants to find an apartment with minimal waste of time. If the rental agent says that he does not rent to black people, the black auditor politely discontinues the conversation. If the answer is affirmative, the black auditor follows the same procedures as the white auditor.

Minority testers may be subject to direct discrimination during the conduct of such research. Moreover, during their debriefing they will learn of any indirect discrimination revealed by the outcomes for their white partners. They are likely to learn that discrimination is more widespread than they had suspected and will probably be affected by their experience (Garon 1988). Such effects were noted in a British study cited by Banton (1994:30):

[A]lthough the ethnic minority testers often felt that they were well-prepared for possible discrimination, most were to some extent traumatized by their experiences. They could feel angry and rejected, while their white partners, exposed to first-hand experience of the differences in treatment, could feel guilty and ashamed.

The debriefing sessions serve to restore the confidence and self-esteem of people who have been subjected to a dehumanizing experience (Ibid.).

5.2.3.2 Measures of Discrimination

Housing audits have been used most frequently to test for differential treatment on the availability of housing, the most fundamental form of discrimination that a home seeker will confront (Reid 1984). This was the primary objective of two major U.S. studies, the Housing Market Practices Study or HMPS (see Wienk et al. 1979) and the Housing Discrimination Survey or HDS (see Yinger 1991). Other types of differential treatment were also measured by both studies.

The HDS study was designed to measure several types of differential treatment (Urban Institute 1988):

- *housing availability* (availability according to the advertisement, availability according to the auditor's second choice of housing units, the number of units offered to the auditor as serious possibilities, the number of units the auditor is invited to inspect, the number of units the auditor actually inspects, whether the auditor is placed on a waiting list for rental units, and whether the auditor was offered a multiple listing directory in sales audits)
- *terms and conditions* (for rentals, monthly rent of advertised and other units, amount of security deposit, lease requirements, length and stringency of the credit check, agent's view of auditor's financial qualifications; for sales, price, lowest down payment suggested, lowest interest rate discussed, types of financing offered, and agent's view of auditor's financial qualifications)
- *other aspects* (agent's volunteered comments, e.g., about specific neighbourhoods or communities and their residents; requests about income, family composition, and occupation; supplemental information offered about properties; courtesy, e.g., waiting time before the interview, length of interview, and agent invitations for auditor to call back; and receipt of follow-up calls by agent)
- *steering* (positive and negative comments about units, locations, and any racial or ethnic remarks by agent, in relation to the racial composition of the neighbourhoods discussed.)

Some audit studies simply measure the incidence of unfavourable treatment of the protected class testers – the gross measure. This is considered a valid measure of the extent of discrimination by some researchers (see Struyk 1989), and an overestimation of discrimination by others. To compensate for random differences in treatment, the HDS researchers subtracted the number of cases in which the protected class testers were favoured from the gross measure – to create the net measure (Yinger 1998).

For the earlier HMPS, Wienk et al. (1979) calculated a summary index of overall discrimination by scoring all auditors favoured in at least one way and never treated less favourably in any way than their teammate, then used the net measure. For the HDS, researchers calculated gross and net measures for each aspect of treatment, e.g., excluded from available units, advertised unit

inspected, number of housing units made available, auditor asked to call back, positive comments, and rental incentives or financing assistance, as well as an overall measure (Yinger 1998).

More sophisticated measures have been applied to the HDS data by Ondrich, Ross, and Yinger (1998) who used a complex random-effects probit model to attempt to remove random factors in the calculations and by Ondrich, Stricker and Yinger (1998) who used a fixed-effects logit analysis to adjust the net measure for observable differences between teammates (Yinger 1998).

The audit or paired test method is a highly effective method to objectively measure discrimination in access to housing. Its strength is based on its experimental design, based on controlling all characteristics other than the one being tested (e.g., race, sex, age, ethnicity, familial status, disability). This is the only method employed to date that measures behaviour instead of feelings, sentiments, or motivations believed to be behind the actions of housing providers. Thus, the method's validity is strong since it measures what decision makers (such as landlords, real estate agents, mortgage lenders) actually do, instead of what they say they will do or believe they do. It allows for clarity of interpretation in determining the actual extent of discrimination. Because of its rigour, objectivity, and validity, this is the best method to use in legal actions and for public policy making.

5.2.4 Limitations of Housing Audit Research

Virtually all paired testing studies have started by sampling newspaper advertisements from major metropolitan newspapers. Such advertisements provide an unrepresentative sample of all available properties (Galster 1992; Yinger 1991). Sample populations also eliminate rental units in small buildings (fewer than six units), excluding an additional portion of the housing market. Moreover, the auditors are people who qualify (or are convincingly presented as qualifying) for the sample of advertised units. As Yinger notes, this does not reflect the whole population of renters, and especially those who are most likely to experience discrimination. The result of this is that the conventional methodology probably understates discrimination in the housing market as a whole (Yinger 1995).

Of more serious concern, housing audits cannot detect discrimination that occurs after the initial approach or marketing stage, i.e., during the granting of mortgages and the acceptance of bids in the sales market or during credit checks and the screening of tenants in the rental market (Ondrich, Stricker and Yinger 1998). Since auditors do not offer a security deposit, for example, audits are unable to detect forms of discrimination that occur after the initial audit visit. Such a limitation is more serious in the sales housing market (Reid 1984). Even in the rental market, screening practices by landlords increasingly involve obtaining deposits and credit and other information that, again, is not conventionally supplied by auditors.

Past audit studies have not revealed whether discrimination in housing is more severe or less severe for properties not advertised in major newspapers or not advertised at all. Nor have they

been designed to test treatment of the full population of tenants. For a realistic measure of housing discrimination, these are critical missing components.

5.2.4.1 Validity and Reliability of Audit Method

Reid (1984) investigated the reliability (sic) of audit techniques used by U.S. fair housing groups and agencies and concluded that the audit methodology provides an unambiguous, direct, and valid measure of discriminatory access to the rental or purchase of advertised housing. The audits simulate housing search behaviour and yield evidence on the systematic differential treatment accorded blacks and whites when they seek to rent or purchase housing. Galster agreed. He concluded after an extensive review, “There seems little doubt that tester methods of recording behaviors in the housing market are reliable and that examination of tester debriefing forms can reveal differential treatment” (Galster 1992: 647).

Nevertheless, some doubt exists regarding the rigour of the method as practiced. There are a few problems that could potentially compromise the paired testing methodology and reduce its ability to provide an unbiased assessment of the extent of housing discrimination.

One criticism concerns imperfect matching, i.e., assuring that the testing pair is identical in all regards save the dimension of interest or concern. Yinger (1998) responded to this argument:

[N]o scholar has provided evidence that an existing audit study failed to match teammates on some trait that was important to economic agents – let alone that such traits are correlated to membership in a protected class so as to bias upward audit estimates of discrimination. (Ibid.: 903).

It is especially important that auditors representing different groups be identical or closely matched in other characteristics already known to be the object of stereotyping and prejudice apart from the dimension under investigation. For dimensions such as sex, age, educational level, socioeconomic status, and physical attractiveness, powerful stereotypes are known to exist that can influence the beholder and perhaps the actor as well.

A second criticism is that audit studies are not ‘blind,’ i.e., auditors’ ‘expectancies’ concerning the hypothesis or desired outcome of the investigation may influence the outcomes and are likely to vary systematically across auditor groups. Auditors who are members of oppressed groups would, perhaps quite understandably, have stronger expectancies of being discriminated against than would their non-oppressed counterparts, and this could lead auditors to behave, either wittingly (so as to ‘prove’ that discrimination exists) or unwittingly, so as to elicit a discriminatory response from a landlord (or sales agent or lender).

In response to this argument, Yinger (1998) has pointed out that blind auditors when subjected to extreme, blatant discrimination may be ill-prepared to fill out the survey forms accurately and correctly and that, for practical reasons, careful training and debriefing must compensate for any potential bias of this sort.

A third criticism, that diversity in skin colour or strength of accent compromises that selection of auditors, has been addressed by audit studies that have tested for these factors and found no clear pattern based on accent or skin colour (Yinger 1998).

5.2.4.2 Ethics

The housing audit relies on deception, based on the premise that landlords would deny, consciously or unconsciously, any discriminatory intent or outcome. The study by Hilton et al. (1989), in which French-Canadian landlords in Montreal were interviewed by a co-ethnic individual and found to be quite open about their ethnic preferences and discrimination in regard to tenant rentals, might question this assumption. In any case, studies relying heavily on deception are apt to receive very close scrutiny today by ethical review boards at universities, especially with implementation of the Tri-Council Policy Statement¹⁶ in the summer of 1998. Given the arguable value to society of revealing those who discriminate illegally, it is possible that a waiver from full, informed consent could be obtained for a housing audit. However, grounds for such a waiver include the study not harming the rights or welfare of the participant and that debriefing be provided whenever possible. Since the housing audit could reveal unlawful behaviour on the landlord's part, delicate and difficult legal issues (entrapment, self-incrimination, reporting requirements to relevant authorities by those conducting the investigation in cases of clear discrimination by a landlord, non-confidentiality and possible subpoena of data) should certainly be raised and resolved during the ethical review.

5.2.5 Opposition to Paired Testing

According to Dan Hill, the first full-time director of the Ontario Human Rights Commission,

“[s]ince enforceable human rights laws have been on the statute books, there has been no technique that has proven more effective in documenting complaints than that known as testing”. And since testing was first used, “there has been no technique for documenting complaints that has been so little understood and illegitimately attacked. Opponents say testing is covert, clandestine, less than gentlemanly.” But “discrimination itself is covert and clandestine, an act that can best be uncovered through testing” (Hill 1977: 34).

Although Hill wrote those words more than 20 years ago, testing for discrimination in housing has not become more frequently employed by governments in Canada.

The legitimacy of using fair housing audits to investigate and prosecute cases of racial discrimination has been fully accepted and endorsed by the courts in the United States.

¹⁶The predominant government funding mechanism for academic research relevant to the topic of housing discrimination is the SSHRC (Social Sciences and Humanities Research Council). The Tri-Council Policy Statement covers research funded by the SSHRC, the National Science and Engineering Research Council (NSERC), and the Medical Research Council (MRC)

Indeed, litigation was the primary reason testing was initially done (Wienk & Simonson 1984). Despite its usefulness in uncovering and measuring discrimination, testing is a controversial technique. This method continues to face opposition from many brokers, landlords, and apartment managers. Its strongest opposition has come from the real estate, insurance, and mortgage lending industries. Although the Department of Housing and Urban Development now accepts testing to detect discrimination in housing as an effective tool, federal regulatory lending agencies such as the Comptroller of the Currency and the Federal Reserve Board have refused to employ testing as a tool for investigating lending practices. And due to strong pressure from the insurance industry, HUD recently agreed not to fund testing in the area of homeowner insurance.

Table 2: Methods for Measuring Housing Discrimination

Methods	Effectiveness
<p>A. Collection of Formal Complaint Data</p> <ol style="list-style-type: none"> 1. Strong legitimacy, widely used by human rights and civil rights commissions 2. May reveal forms of discrimination and some characteristics of perpetrators 3. Excludes victims who are not aware that they have been discriminated against 4. Excludes victims who are not willing to file a complaint 5. Method underestimates the extent of discrimination 	<p>Indicative, but weak measure of discriminatory behaviour</p>
<p>B. Surveys of Housing Providers (individual or group, face-to-face or anonymous)</p> <ol style="list-style-type: none"> 1. Participants are selected by researchers based on research design 2. Allows respondents to state their attitudes, policies, and how they would behave if members of particular groups applied for housing 3. Method suggests, but does not measure, actual behaviour 	<p>Strong as measure of attitudes and policies, but moderate as measure of discriminatory behaviour</p>
<p>C. Surveys of Housing Consumers (individual or group, face-to-face or anonymous)</p> <ol style="list-style-type: none"> 1. Participants are selected based on research design 2. Method allows for scientifically designed samples, comparisons by target group, and generalization 3. Method provides information on perceived discrimination and subjective aspects of discrimination 4. Results are open to some range of interpretation since perceptions are subjective (i.e., discrimination may be perceived where there is none or not perceived where there is actual discrimination) 5. Assessment of severity of discrimination is similarly subjective (i.e., respondents have different thresholds or tolerance for discrimination) 6. Method suggests, but does not measure, actual behaviour 7. Conclusive proof of actual discrimination cannot be determined 	<p>Strong as measure of perceived discrimination and subjective experiences, but limited effectiveness as measure of discriminatory behaviour</p>
<p>D. Audits or Paired Tests</p> <ol style="list-style-type: none"> 1. Participants selected by researchers in a controlled experimental design 2. Shows actions that are the direct result of discrimination due to designated characteristic, since other variables are controlled 3. Measures effective behaviour instead of feelings, sentiments, or motivations believed to be behind the actions 4. Strong validity of results since it measures what people actually do instead of what they say or believe they do 5. Highly objective method that allows for clarity of interpretation in determining actual discrimination 6. Best method to use in legal actions, court cases, and for public policy making 7. Reveals discrimination during the initial stage of screening process, but not at later stages of housing search (after credit checks, deposits, etc.) or during occupancy (e.g., services, discriminatory harassment) 8. Does not measure discrimination after initial approach 	<p>Strong as measure of discriminatory behaviour in housing availability and differential treatment at initial stage of approach, but not at later stages</p>

6.0 Summary

6.1 Research on Housing Discrimination in Canada

How serious is the problem of housing discrimination in Canada? There is sufficient research to demonstrate that housing discrimination has been and continues to be a problem for some groups, specifically in the private rental-housing sector. Multiple, unrelated studies conducted over a 40 year period have found discrimination against racial minority groups. More recent research has documented discrimination against women in the rental sector. Significant limitations in the scale and methodology of the various studies make it difficult to generalize their findings.

For the most part, Canadian studies of discrimination:

- are small-scale
- use survey methods
- use measures of perceived discrimination
- are limited to a few cities
- are limited to the rental sector

Over a forty-year period, from the mid 1950s to the mid 1990s, 21 quantitative studies on housing discrimination in Canada were conducted (see Table 1 for a listing and brief descriptions of these studies). Each of these studies found evidence of discrimination. As the vast majority of the studies were focused on behaviour within the rental sector, we know virtually nothing about discrimination in the housing sales market, mortgage lending, or home insurance. The geographic locations covered by the studies that have been conducted are limited to Montreal, Hamilton, Winnipeg, and Toronto, with a couple of cross-Ontario surveys. There have been no multiple-site or national studies. Large rigorous studies are undeniably more costly to conduct. This must be balanced against the political will to address discrimination in the housing sector.

In the United States, the problem of racial discrimination in the housing market has garnered ongoing political concern and government response, primarily due to the efforts of the civil rights movement. The U.S. Housing and Urban Development Department (HUD) announced in late 1998 its plan to conduct the most comprehensive and sophisticated nationwide audit study ever conducted of racial discrimination in the rental, sale, and mortgage financing of housing, covering urban, suburban, and rural communities, with African American, Hispanic, Asian/Pacific Islanders, and Native American testers. HUD stressed the need for an “independent, objective” survey by an organization that is perceived to be unbiased, to respond to some remaining doubt as to the validity of previous audit research findings. The cost is considerable — \$7.5 million has been allocated for the study (Campbell 1998, U.S. Department of Housing and Urban Development 1998).

Most Canadian studies have investigated racial or ethno-racial discrimination. Other legally prohibited grounds for discrimination, e.g., family status, receipt of social assistance, age, disabilities, and sexual orientation, have not been part of any systematic research. The first study

of gender or sex discrimination was conducted in the mid 1980s. Following the dominant discourse of discrimination as defined by categories or grounds, the studies have generally treated racial and sex discrimination as distinct experiences of either racialized people who are 'genderless,' or gendered people who are without racial status. As a result, the studies misrepresent the experiences of racialized women and others whose experiences involve 'intersecting grounds,' or any group with more than one 'variable' from the assumed norm (Iyer 1997).

Simple access to housing has been the focus of Canadian research. A full inventory of practices, which are explicitly or implicitly discriminatory, should include differentials in the provision of information; in housing transactions; in the rights and obligations of tenure; in violence and abuse; in legislation, regulation, and their application; and in restrictions and differential access to remedies (Spector 1993). Those studies that have investigated tenants' experiences of harassment and sexual harassment are the first to probe discriminatory treatment and its effects during occupancy. Although there are indications that it occurs, there has been no research on racial harassment *per se*.

For the most part, we have surveys of the perceptions of housing discrimination by some disadvantaged groups (i.e., some ethno-racial groups and women). Of the few paired testing or audit studies that have been conducted, most were small-scale. Few studies have investigated the behaviours of landlords and their agents. And there have been no studies of the effects of policies intended to ameliorate the problem of housing discrimination.

In his review of the research on housing discrimination in the United States, Galster (1992) concluded the following:

A great deal is known about private acts of housing discrimination, but little about which policies are most effective in combating such discrimination. On the other hand, relatively little is known about the extent of housing discrimination perpetuated by local governments and public agencies and about both differential treatment and disparate impact forms of discrimination in mortgage and realty (appraisal, insurance) markets. (Galster 1992: 639)

Canadian research has been more probing in some respects regarding the various forms of 'private acts' of discrimination, venturing to explore landlord's views and actions, and tenants' experiences of harassment and sexual harassment. But it has been far less rigorous in quantifying the extent of discrimination. And there is a lack of knowledge about the extent of discrimination against Aboriginal Canadians, Asian Canadians, or other protected groups due to national origin, gender, familial status, age, disabilities, or sexual orientation.

6.2 Commentary From The Field

Among the more than 40 informants we contacted across the country, views on the extent or severity of housing discrimination tended to vary, not surprisingly, by their occupation or association. Tenant and human rights advocates were the most likely to view discrimination as a serious and prevalent problem in the housing sector. Those involved in residential property rental and sales and financial lending, and their advocates, were generally cautious about suggestions that housing discrimination is a significant problem,

although some insiders acknowledged that discrimination occurs in the housing market, generally in subtle ways.

Landlords and their advocates believe that more professional methods, such as the use of standardized application forms and more business-like or impersonal communication, will lessen the likelihood of landlords and their agents acting in ways that constitute legal discrimination. The ability to exclude applicants, or quickly evict tenants, who pose economic risk is their predominant concern.¹⁷ Some tenant screening methods are contentious, notably the use of minimum income criteria which has been challenged in Ontario as being discriminatory.

Most of the informants defined discrimination in terms of abstract principles such as the denial of equal opportunity to housing based on prejudice, or particular characteristics, and in violation of human rights legislation. In their examples, the predominant portrayal was that of a private sector landlord denying access to a racial minority or female-headed household. Discrimination in the social housing sector was also identified, with questions about what constitutes discrimination within the balance of individual and collective rights in non-profit and co-operative housing. Some examples of tenant harassment, racial harassment, and sexual harassment were also raised. There was little indication that discrimination in mortgage lending was a problem, although no informants cited studies to support their belief. Several of our informants suggested that neighbourhood and homeowner resistance to certain social groups was expressed primarily through NIMBY opposition to new housing projects.

Tenant and human rights advocates discussed discrimination within the context of a broader range of housing problems experienced by tenants or certain social groups. They believe that discrimination has become less overt and, in its subtler forms, more difficult to challenge. Housing providers, especially private sector landlords, tended to view discrimination within a quite narrow context of what they understood to be designated illegal practices. This is not to say that many landlords and private sector agents do not share a sense of fair play and ethical business methods, however, their self-interest is potentially in conflict with what some view as legislated restrictions on their legitimate commercial actions.

Most informants agreed on two points:

- the current system for resolving discrimination complaints through human rights agencies is faulty and ineffective, and does not fulfill the role of preventing discrimination
- the existing data on housing discrimination are inadequate for directing policy decisions.

6.3 What Next?

¹⁷ Postulating a distinction between discrimination and prudent management, Pomeroy (1998) noted that landlords attempt to avert financial risk rather than manage it. He suggested that a government-sponsored insurance program for landlords would evenly spread the risk of financial loss, without imposing an unfair burden on individual tenants; formalize an objective system of risk analysis; and help reduce barriers for low income households due to stereotyping.

The U.S. experience suggests that an ongoing program of random testing, coupled with an aggressive education program, can reduce some discrimination in housing (Galster 1990b, Kushner 1992). This approach has not been taken in Canada. When Garon (1988) recommended that audits be conducted systematically and randomly in a geographic pattern to identify landlords who discriminate, the Quebec Human Rights Commission chose not to act on this recommendation, stating that it preferred to promote individual human rights instead of looking for guilty landlords.

Without more rigorous research on the full extent of housing discrimination, all its implications, and the effectiveness of strategies and policies intended to ameliorate the situation, this will remain a generally unrecognized social problem in Canada. The next, and final, section of this report outlines a research agenda that would remedy the current lack of policy-relevant knowledge.

7.0 Research Agenda

The basis for political, economic, and social policy decisions should be secured on a body of evidence, despite the cost and difficulty of conducting rigorous research. Much of what we know about housing discrimination is based on conjecture that the situation in Canada is the same as in the United States or on audits based on very small samples. To progress from this state, we require a considerable amount of rigorous and experimental evidence.

A research program on the topic of housing discrimination should aim to build an information base that is useful for policy decisions. We favour a strong focus on systematic, rigorous research that measures the extent of discriminatory actions. This is a prerequisite for clarifying the need for intervention and establishing a base for additional research in this area. It is also the case that what is perceived to be real, is real in its consequences. This applies to the behaviour of housing gatekeepers, those in the financial and real estate industries, and home-seekers in general. For this reason, it is important to develop a greater understanding of perceived discrimination and the subjective experience. Certain practices, such as risk assessment and tenant screening in the rental sector, also warrant investigation.¹⁸ Finally, we require some understanding of the effects or harms of housing discrimination (e.g., as a social stressor with possible negative health effects), including the economic cost borne by the victims (e.g., more extensive searches or higher housing costs due to a more limited supply of available housing).

We recommend the following types of research be conducted:

- housing audit studies in at least five cities, e.g., Halifax, Montreal, Toronto, Winnipeg, and Vancouver, using the most effective techniques and protocols. The groups to be tested for discrimination should include Afro-Caribbean-Canadians, Aboriginal people, female-headed households, families with children, youth, people with physical disabilities, and low income households. Subsequent audit studies should include other visible minority groups to determine whether any of them is not affected by discrimination.
- surveys of perceived discrimination and effects on home-seeking behaviour and outcomes, conducted in a range of small and large urban centres and incorporating shared core questions for comparability
- surveys and qualitative or ethnographic research on the experiences of particular group-community combinations, e.g., Aboriginal people in Winnipeg, Afro-Caribbean-Canadians in Halifax, female-headed households in Toronto.

¹⁸ For instance, a study of the actual economic risks to landlords of tenants who default on rent or otherwise cause financial loss could contribute to an assessment of solutions for landlords and resolve the need for adequate tenant screening criteria.

Housing Audits As noted in the section on methodology, the advantages of paired testing audits include the ability to control sources of error, and relatively small samples can provide powerful results with strong inferences.

Suggestions to increase the rigour of this method, e.g., by ‘wiring’ auditors to more objectively and accurately record transactions, are highly contentious. Turner (1992) suggested extending audits to capture additional aspects of the complex process of renting or buying a home. This is desirable, but the feasibility of using an experimental method to measure the layers of assessment that applicants currently undergo is questionable. The process of applying for a rental unit likely involves filling out an application, providing extensive information, which may be verified, and having some interaction. There is screening at every step. The applicant may be asked to provide a cheque, perhaps certified, for last month’s rent, or at least a deposit, and may be asked to sign an agreement to rent. Sometimes, multiple applicants are processed at once. A gatekeeper may choose the first one for whom there is complete and satisfactory information or may simply choose the most desirable from more than one application. Most landlords require a credit check, and credit rating agencies, such as Equifax, leave a trail of requests that could create suspicion or make an auditor appear irresponsible.

Unlike a tightly controlled laboratory situation, the interaction between landlord and auditor in a standard housing audit is quite complex, uncontrolled, and open to being influenced. Some actions recommended in the HDS training manual,¹⁹ such as declining to provide information concerning employment, credit, or interest in a particular apartment, could easily (and perhaps legitimately) be construed by a landlord as deceptive, suspicious, or not reflecting a serious rental prospect.

Investigation of complex processes and effects are better studied by naturalistic rather than experimental methods. This is why qualitative methods should be employed to explore the impacts of actual and perceived discrimination.

Conventional housing audits, nevertheless, remain a strong instrument to measure discrimination during initial encounters of renting or buying a home. Specific design decisions about what sections of the housing market should be the focus of housing audits may benefit from the experience of U.S. researchers, however, they should take into account particular local characteristics. It appear likely that small-scale businesses would probably discriminate more, or more overtly, than large firms and that there would be more discrimination in the private rather than public sector.

Retrospective Telephone Survey Actual housing search trajectories could be studied by a random sample telephone survey of tenants who have conducted a rental search during the previous one to two years. A longer history would be increasingly less accurate due to memory

¹⁹ A package of training materials used for the 1991 Housing Discrimination Study was provided by Cliff Schrupp of the Detroit Fair Housing Centre.

loss. A minimum sample size of 1,000 or 2,000 would be required; more if additional factors are measured. The questions posed should include: the number of units considered and offered, the cost, and the quality of unit and neighbourhood. Some subjective factors could be explored, and non-searchers could be asked other questions to determine how they differ from recent searchers. The effects of demographic differences could be measured by regression analysis. The effect of varying vacancy rates and local market practices could be tested. And this method would be cost-effective. The drawbacks to this method include the high number of ineligible respondents (e.g., 40% of the Toronto population are renters, and 40% of those will have moved in previous two years); the exclusion of households without a phone; a middle range response rate²⁰; and the difficulty of determining what counts as a search given the range of casual to formal techniques used by tenants.

Retrospective Face-to-face Survey Face-to-face rather than telephone interviews, even in areas of high residential density, are more costly, but the response rate could be improved by offering incentives. A more complex range of questions could be used to explore subjective experiences and investigate plausible inter-related variables (assess triple interaction effects by regression analysis), such as the experience of single mothers receiving social assistance compared to employed couples.

Hybrid Audit and Prospective Survey A hybrid of the housing audit method and a prospective survey, using diary recording, might be feasible to track the search trajectories of either programmed auditors or perhaps even authentic searchers. Such a method could capture the most realistic comparison of how particular groups may restrict their search and use methods to avoid landlords who want lots of information and would be more likely to discriminate.

Qualitative Studies Various naturalistic techniques could be applied to explore the subjective experience of particular groups negatively affected by housing discrimination. Qualitative research would be suitable for examining the complexity of interacting aspects of personal and group perceptions, experience, housing search decisions and strategies, and consequences. Contextualized accounts of the experiences of various sub-groups of the population, such as young mothers, would contribute to our understanding of the dynamics and effects of discrimination. Intersections of race and class, as well as gender, can account for widely different experiences and subjective assessments of discriminatory treatment (Kyatt 1994).

7.1 Mortgage Lending

Various methods of investigating mortgage lending and their feasibility were carefully outlined and reviewed in Prairie Research Associates (1995), from which we draw the following key points.

20 York University's Institute for Social Research, which has well-established expertise in conducting telephone surveys using random digit dialing, generally achieves a 60% response rate for telephone interviews of less than one hour duration.

While much can be learned from the U.S. experience, the approach must be different in Canada for various reasons.

The dominant black-white racial environment in the U.S. has dramatically focused the debate in that country. It may be that in Canada, a more multicultural environment, smaller ethnic groups, and a different environment for financial regulation may diffuse the incidence and magnitude of discrimination, making it harder to detect and investigate. Further, advocacy groups may be more occupied with issues in labour or rental housing markets and may not think that mortgage markets are as pressing. Additionally, a shortage of applicable data in Canada makes it more difficult to study mortgage market discrimination. This may also suggest why community and rights groups have paid this issue little attention. Finally, it may be that mortgage market discrimination is not a problem in Canada. (Prairie Research Associates 1995: 2)

The multicultural plurality and relatively low level of residential segregation makes it virtually impossible to detect racial discrimination by census tract analysis of under-representation in mortgage markets, however it may be useful in suggesting whether patterns of discrimination are at play. A detailed analysis of public use microdata files showed that in Toronto, lower black homeownership rates occur even when blacks have the same socio-economic and demographic characteristics as whites (Darden and Kamel 2000). More studies are needed to assess whether discrimination in mortgage lending is a factor.

The U.S. regulatory and reporting system produces substantial amounts of administrative data that allows for the study of discrimination in mortgage lending.²¹ As neither such a system nor its data is available in Canada,²² a high degree of co-operation by lenders would be required to obtain the requisite client and outcome information.

There are fundamental challenges in designing and conducting research on discrimination in mortgage lending. The confidentiality of private transactions makes it difficult to apply standard research designs using direct and participant observation. This is complicated by the fact that at each stage of the process, some applicants become discouraged for various reasons. Finally, it is difficult to separate legitimate decisions based on the economic status of the applicant from illegal discrimination based on considerations unrelated to the expected repayment of the loan.

21 The U.S. Home Mortgage Disclosure Act (HMDA) of 1975 requires banks and other lenders to disclose to the public data on the location of their mortgage loans. HMDA's disclosure requirements have been extended several times since the law's original enactment. And since 1989, banks are required to disclose data on the racial and socioeconomic characteristics of all loan applicants and the outcomes of their applications. Also, the Community Reinvestment Act (CRA) of 1977 requires banks and other lenders to provide lending services in all geographic areas from which they draw deposits. Community and advocacy groups have used the authority of the CRA to pressure financial institutions to better serve minority and poor households and neighbourhoods, primarily in residential mortgage lending. As a result, the relative denial rates in mortgage lending for African-Americans has improved, and banks with CRA agreements are more responsive than other lenders to the credit needs of low income and minority households and census tracts (Schwartz 1998).

22 The National Council of Welfare (1998) suggested that financial institutions should be required to disclose mortgage lending statistics for all four categories of people covered by the federal Employment Equity Act: women, Aboriginal people, people with disabilities, and members of visible minorities.

Prairie Research Associates (1995) suggested that exploratory research begin with sample surveys of the general population or lenders' clients to determine the nature and extent of the discrimination; and depending on what is learned from this, progressively more sophisticated investigations could be implemented. However the survey method is known to underestimate the occurrence of discrimination, and inconclusive survey findings may deter the type of research necessary to detect discrimination in mortgage lending. We recommend more studies of differences in homeownership rates after controlling for socio-economic and demographic variables. If no differences exist, discrimination is probably not a factor. Among the more rigorous methods suggested by PRA (1995) are: bilateral surveys administered to applicants and lenders for balanced or dyadic view of process; paired auditing of hypothetical mortgage applicants; and trial applications to loans officers, with comparisons of risk ratings across groups.

Appendix: Informant Input

Input from informants was used to accomplish several objectives:

- | to assure comprehensive coverage of all relevant documented studies
- | to identify the range of types of discrimination, and any undocumented trends
- | to indicate the effectiveness of current policies and practices
- | to explore understanding of the concept of housing discrimination
- | to assess what future action is required, i.e., changes to policies and practices
- | to contribute to an assessment of research gaps and priorities

Method

Informants were contacted by phone and asked to answer the questions listed below, sometimes adapted according to their expertise. In some cases, the persons contacted were most helpful in providing relevant reports or suggesting other leads for informants.

Questions for Key Informants:

The following questions for key informants were used as a guide. They were adapted according to their relevance to the position and expertise of the key informant (for instance, section A is designed primarily for researchers).

A. Literature and documentation

1. *Do any of your recent works deal with housing discrimination?*
2. *Do you know of any unpublished work or agency reports?*
3. *Can you identify some of the gaps in the literature and priorities for future research?*

B. Types, patterns, and issues of housing discrimination

1. *In your experience, what are the most common types of housing discrimination in your city or region? (Probe: What social groups are most affected?)*
2. *Are you aware of any signs of change in the extent or types of discrimination over the past five to ten years?*
3. *What would you say are the most difficult situations of housing discrimination to prevent or resolve? [or: How do landlords conduct tenant selection and assess risks?]*
4. *How effective do you think are the current policies or laws in reducing discrimination? [or: What laws or policies do you think are needed to assist landlords?]*
5. *What new knowledge, laws, or policies are needed to effectively reduce housing discrimination?*
6. *There are many definitions of discrimination - what do you use as a definition for housing discrimination?*
7. *Tell me what your reaction is to broadening the concept of housing discrimination to include harassment, including the creation of a hostile environment (similar to the way that it is applied in workplaces).*
8. *Is there anyone else you would suggest I speak to about housing discrimination, either locally or in another city or region?*

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