



*Brief submitted by the **National Association of Women and the Law (NAWL)**  
to the Standing Committee on the Status of Women  
for its study on **Hate-Motivated Violence Against 2SLGBTQI+ Communities***

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## About NAWL

The National Association of Women and the Law (NAWL) works to achieve substantive equality and the realization of human rights for all women in Canada through legal education, research, strategic intervention, coalition work, and feminist law reform advocacy, particularly at the federal level.

## The Economic and Social Costs of Hate-Motivated Violence

Hate-motivated violence is one manifestation of a broader system of oppression that limits the ability of 2SLGBTQIA+ individuals to live in dignity and safety. In considering the full context of hate-motivated violence, the committee should pay attention to the ways in which **legislation can further the oppression of 2SLGBTQIA+ individuals** in a systemic way, as well as the **federal government's role in mitigating the economic impacts of hate-motivated violence**.

Hate-motivated violence extends beyond acts of physical aggression by homophobic/transphobic individuals and groups and encompasses the use of legislation to marginalize 2SLGBTQIA+ individuals. In some provinces, the Notwithstanding Clause has been deployed to uphold policies that explicitly infringe on the *Charter* rights of 2SLGBTQIA+ individuals.<sup>1</sup> Even where the Notwithstanding Clause has not been used, discriminatory legislation severely curtails the ability of 2SLGBTQIA+ communities to live safely. For example, Alberta's *Education Amendment Act, 2024* requires school boards to notify parents if a student requests to use a new name or pronoun. Notification is required even if it is reasonably expected to cause emotional or psychological harm to the student.<sup>2</sup> The fact that parental notification is required even in cases where harm could result shows that the harm to gender diverse kids will not be an unintended byproduct, but rather a direct and predictable consequence of the legislation itself.

Discriminatory legislation creates a permissive environment for further violence and harassment, which contributes to the negative socioeconomic outcomes faced by 2SLGBTQIA+ communities.<sup>3</sup> 2SLGBTQIA+ individuals experience discrimination while at work and encounter barriers in finding and advancing in employment, leading to lower incomes.<sup>4</sup> Per the 2020-2021 community engagement process for the Federal 2SLGBTQIA+ Action Plan, 25% of survey respondents reported experiencing harassment in the workplace due to their sexual orientation, while half of transgender respondents experienced harassment on the basis of their gender identity.<sup>5</sup>

Some 2SLGBTQIA+ individuals are particularly vulnerable to the socioeconomic impacts of discrimination as they experience multiple, intersecting forms of discrimination. For example, 2SLGBTQIA+ youths account for 25-40% of youth homelessness in Canada, with many avoiding shelters due to violence, discrimination and exclusion.<sup>6</sup> Legislation requiring schools to notify parents of a change in the youth's preferred name/pronoun risks exacerbating this issue as one common pathway to housing loss and insecurity for 2SLGBTQIA+ youths is conflict with a parent or guardian regarding their sexual orientation or gender identity.<sup>7</sup> Likewise, 8.7% of disabled

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<sup>1</sup> [UR Pride Centre for Sexuality and Gender Diversity v Government of Saskatchewan, 2024 SKKB 23.](#)

<sup>2</sup> [Bill 27: Education Amendment Act, 2024](#) at s. 9(2) and 9(4).

<sup>3</sup> [ACLU, "The Impacts of Anti-Transgender Laws and Policies", 2024](#) at p. 15.

<sup>4</sup> [Women and Gender Equality Canada, "Facts, stats and impact: 2SLGBTQIA+ communities", May 31, 2024.](#)

<sup>5</sup> [Women and Gender Equality Canada, "2SLGBTQIA+ Action Plan Survey Results-Employment and Workplace".](#)

<sup>6</sup> [Women and Gender Equality Canada, Federal 2SLGBTQIA+ Action Plan 2022.](#)

<sup>7</sup> [Kate MacEntee et al., "Unveiling the Pathways: Mapping and Understanding Hidden Homelessness Among 2SLGBTQ+ Youth in Ontario", Youth 2024, 4\(3\), 1224-1237.](#)

Canadians identify as 2SLGBTQIA+, with mental health-related disabilities being the most common disability type.<sup>8</sup> Minority stress, defined as the “chronic stress related to social stigma, discrimination and the internalization of negative societal attitudes,” is a common explanation for the poorer mental health outcomes among the 2SLGBTQIA+ population.<sup>9</sup>

Based on the foregoing, NAWL urges the committee and the federal government to recognize that hate-motivated violence is systemic and is not only wielded by hate groups, but also by employers, family members, and the legislature. The common denominator among these actors is the limits that this violence places on the safety, dignity, and economic security of 2SLGBTQIA+ individuals.

## Recommendations

There is a risk that the Notwithstanding Clause will continue to be used to erode the *Charter* rights of 2SLGBTQIA+ individuals. The purpose of the Notwithstanding Clause is to serve as a safety valve in the event of a judicial decision that is clearly contrary to the public interest. Instead, governments are increasingly using it as a tool to deprive vulnerable groups of constitutional protections. To address this risk, NAWL asks the committee to:

1. Recommend that the federal government commit to not use the Notwithstanding Clause to violate the *Charter* rights of 2SLGBTQIA+ individuals.

Additionally, one of the goals of the Federal 2SLGBTQI+ Action Plan is to ensure equity for 2SLGBTQIA+ individuals evenly across Canada by meaningfully engaging with provincial, territorial and municipal partners.<sup>10</sup> While the federal government may be limited in its ability to address provincial anti-2SLGBTQIA+ legislation, NAWL recommends the following **systemic measures to mitigate some of the socioeconomic impacts associated with hate-motivated violence**:

2. Increase the amount of the Canada Disability Benefit and uncouple eligibility for the benefit from the Disability Tax Credit to ensure that the benefit lifts disabled 2SLGBTQIA+ individuals out of poverty.
3. Fund dedicated transitional and long-term housing programs for 2SLGBTQIA+ individuals, particularly seniors and youths, to ensure that individuals are not required to be closeted to be housed. Consider what the federal government can do (including through funding agreements) to ensure that staff in shelters, transitional housing, drop-in services, social housing, and affordable housing are trained to provide these services in a way that is inclusive and affirming of 2SLGBTQIA+ identities.
4. Increase funding for the 2SLGBTQI+ Projects Fund to enhance support for 2SLGBTQIA+ organizations challenging discriminatory laws, policies, and practices.

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<sup>8</sup> [Statistics Canada, A profile of 2SLGBTQ+ persons with disabilities, 2022.](#)

<sup>9</sup> *Ibid.*

<sup>10</sup> [Women and Gender Equality Canada, Federal 2SLGBTQIA+ Action Plan 2022](#) at s. 6.