



Egale Canada's response to the  
**Federal 2SLGBTQI+ Action Plan**

**September, 2022**

On August 28, 2022, Prime Minister Justin Trudeau, accompanied by the Minister for Women and Gender Equality (WAGE) the Honorable Marci Ien, released Canada's first *Federal 2SLGBTQI+ Action Plan*, announcing investments and strategic guidelines for advancing rights and strengthening social, economic, and health outcomes for 2SLGBTQI+ Canadians. In doing so, the plan resolves to further an investment of up to \$100 million over five years, operationalizing the following six objectives related to the inclusion and support of 2SLGBTQI communities in the country (WAGE, 2022, p. 9):

1. Prioritize and sustain 2SLGBTQI+ community action.
2. Continue to advance and strengthen 2SLGBTQI+ rights at home and abroad.
3. Support Indigenous 2SLGBTQI+ resilience and resurgence.
4. Engage everyone in Canada in fostering a 2SLGBTQI+ inclusive future.
5. Strengthen 2SLGBTQI+ data and evidence-based policy making.
6. Embed 2SLGBTQI+ issues in the work of the Government of Canada.

The development of these objectives involved major consultation efforts with over 25,000 respondents to a survey, 102 written reports by organizations, and seven roundtable gatherings of over 100 community members. In furtherance of this process, Egale Canada hosted a national conference 'Identity'<sup>1</sup> wherein thematic areas intersecting with rights and inclusion of 2SLGBTQI populations in Canada were discussed forming the basis for Egale's written submission<sup>2</sup> provided to the government outlining evidence-based recommendations on strengthening rights and advancing socio-economic and health outcomes for 2SLGBTQI+ communities in Canada based on over 35 years of dedicated experience in research, education, and legal advocacy for 2SLGBTQI communities in Canada.

While we laud the historic launch of the Federal Action Plan (Action Plan), the purposeful deliberation of domestic objectives and funding reallocation to

<sup>1</sup> <https://egale.ca/awareness/identity-conference-report/>

<sup>2</sup> <https://egale.ca/awareness/nationalactionplan/>

support 2SLGBTQI+ communities in Canada, based on our extensive knowledge and expertise on issues of health and justice inequalities that 2SLGBTQI people encounter in Canada, we note gaps within the policy guidance and the implementation modality proposed in the Action Plan. To this end, Egale Canada provides a response to the measures that are described in the plan, with hopes of guiding further consultations with communities and organizations so as to amend and streamline the implementation of the current plan.

## I. Positive Measures

Of the numerous measures that are promised in the Action Plan, Egale appreciates that many will have a positive impact on the quality of life, wellbeing, access to healthcare, decrease in instances of discrimination, and general inclusion of 2SLGBTQI communities in the country.

- The prioritization of Indigenous communities, in relation to the *Missing and Murdered Indigenous Women, Girls, 2SLGBTQQIA+ People Federal Pathway and National Action Plan*, in the 2SLGBTQI+ Action Plan – via the establishment of a separate objective (without denying the inclusion of Indigenous folks in the other objectives of the plan) and the appointment of a Two-Spirit Senior Advisor at the WAGE 2SLGBTQI+ Secretariat. The Government of Canada also changed the name of the Secretariat, placing “2S” at the front of the acronym, with the addition of “I” calling it the 2SLGBTQI+ Secretariat. This amendment of the acronym is crucial in respecting Two Spirit people as the first sexual minorities in Canada while recognizing the inclusion of intersex persons within the 2SLGBTQI+ rights mandate. The appointment of Two-Spirit Senior Advisor to inform policies and programs impacting indigenous 2SLGBTQI+ communities rightly acknowledges and seeks to alleviate disproportionate impacts of discrimination leading to further marginalization of Two Spirit populations in Canada, recognizing the importance of intersectionality.
- Increased and *permanent* funding to the 2SLGBTQI+ Secretariat to facilitate stakeholder engagement for the implementation of the Action

Plan and support cross-departmental initiatives to support 2SLGBTQI+ initiatives within the federal government is a welcome step as it appoints a body accountable for the implementation of the plan while enabling sustainability of federally led 2SLGBTQI+ initiatives.

- Consultations on criminal law and policy as promised in the Action Plan is a notable contribution towards preventing state sanctioned criminalization of 2SLGBTQI+ populations and preserving bodily autonomy of intersex persons in the country. Criminalization of non-disclosure of HIV status as sanctioned by Canadian criminal law has magnified public health and human rights concerns. Additionally, medically invasive, “sex normalizing” surgeries on intersex children qualify as Torture under the normative framework of the UN Convention Against Torture. In this context, the proposed consultations are judicious and imperative for Canada’s compliance of its international human rights commitments and constitutionally guaranteed rights protected by the Canadian Charter of Rights and Freedoms.

## II. Existing Gaps

Although the government’s Action Plan contains programmatic guidance and funding allocations that will contribute to the advancement of 2SLGBTQI rights and wellbeing, little is laid out concerning numerous key domains that need immediate attention and continuous efforts to improve the lived experience of 2SLGBTQI individuals in the country. Below, we highlight fundamental gaps on issues related to Healthcare and Mental Healthcare Access; Poverty, Housing, and Employment; Education Access; Sports Inclusion; Seniors; Criminal Law Reforms, as well as International Assistance that have not been adequately addressed by the government’s Action Plan wherein further engagement is imperative to successfully deliver on the policy and programmatic outcomes envisioned by the Action Plan. We further emphasize recommendations from Egale’s submission in 2020 to bridge the aforementioned gaps that will serve to guide government efforts to steer further iterations of the Action Plan.

## Healthcare and Mental Health Access

The Action Plan makes no explicit mention of development of a strategy around healthcare and mental healthcare to cater to the unmet health needs and strengthening access to healthcare/mental health for 2SLGBTQI populations who encounter exacerbated difficulties in accessing appropriate care on account of discrimination and stigma. While there exist some ongoing initiatives, as they relate to 2SLGBTQI health, wherein Canadian Institutes for Health Research, Health Canada and the Public Health Agency of Canada are responsible for determining which projects get funded, there is no Canada-wide integrated framework/strategy driving cohesive action on strengthening access to healthcare for trans and gender diverse people, including timely access to services, accessibility of mental health services, and coverage of gender-affirming care. The development of such strategy is necessary to guide cross-governmental communication, programs, and policy development on various aspects relating to alleviating structural barriers impacting access to healthcare/mental health for 2SLGBTQI communities in Canada. An integrated framework/strategy is also instrumental in preventing duplication of advocacy, research, and education efforts, as seen in the case of Government of Canada sanctioning a study on challenges and barriers experienced by 2SLGBTQI seniors through the Action Plan, a research project already undertaken by Egale in 2021.

Additionally, we salute the arrest of discriminatory practices for blood donations for men who have sex with men (MSM) and trans people but call for similar guidelines for sperm and tissue donation which still take place within the same discriminatory frameworks.

Mental health, one of the major elements at stake for the wellbeing of 2SLGBTQI communities, is also mentioned in the Action Plan, but yet again, no concrete measures are explicitly laid out to facilitate access to mental health services and support 2SLGBTQI people.

## **Recommendation - Based on recommendations from Egale's submission in 2020, the Federal Action Plan must include:**

1. Funding and consultations necessary for the development for government-wide integrated framework on strengthening access to healthcare/mental health for 2SLGBTQI populations in Canada with goals of developing and implementing a universal, national gender affirming healthcare strategy to support trans and gender diverse communities across Canada that is competent, transparent, and accessible within a reasonable time; accessible without a mental health diagnosis of gender dysphoria; comprehensive in covering all gender-affirming care expenses.
2. Dedicated funding allocations for mental health services beyond major urban centers and inclusion training (pre and post-graduation) for all regulated service providers to ensure that they have knowledge and resources to serve and respond to the needs of 2SLGBTQI people.
3. Dedicated funding allocation and consultations for the development of a National Harm Reduction Strategy to address the mental health needs and substance abuse challenges of 2SLGBTQI individuals.

## **Poverty, Housing, and Employment**

2SLGBTQI people are disproportionately affected by poverty and it is pertinent to note that poverty is inextricably associated with adverse physical and mental health outcomes, food insecurity, and inadequate access to quality education, employment, and housing. In this context, a targeted poverty-reduction measure addressing poverty gaps of 2SLGBTQI+ individuals under Canada's existing Poverty Reduction Strategy needs to be developed by the government. Except for a few isolated, already-existing employment-focused programs, the Action Plan does not put forth any programmatic guidance or funding towards addressing challenges related to the income-related poverty gap that exists for 2SLGBTQI populations in Canada.

Similarly, while recounting ongoing policy level and community-based measures combatting issues of homelessness impacting 2SLGBTQI+ populations, the Action Plan completely lacks concrete guidance on funding allocations for newer programmatic objectives on issues of 2SLGBTQI+ communities. This was also a missed opportunity on conceptualizing tangible measures for improving access to housing for 2SLGBTQI+ persons, in execution of the National Housing Strategy and developing an overarching framework to improve housing and decrease homelessness in 2SLGBTQI+ communities in Canada.

Furthermore, the Action Plan again reports on other ongoing projects/initiatives wherein 2SLGBTQI+ communities are beneficiaries of the said programming on employment inclusion, skill development, and access to employment, however, fails to make any independent funding or programmatic contributions to the issue of safe and equitable employment for 2SLGBTQI+ communities in Canada to complement the ongoing programs and initiatives. Although the ongoing initiatives mark positive advances towards equal and equitable employment for 2SLGBTQI+ people, the plan itself presents no targeted social assistance funding for trans and gender diverse people, who are particularly affected by employment inequalities.

**Recommendations - Based on recommendations from Egale's submission in 2020, the Federal Action Plan must be amended to include:**

1. Consultations and specific funding allocation for harmonizing Canada's Poverty Reduction Strategy with tangible measures under the Action Plan on research/policy and programmatic development pertaining to issues experienced by 2SLGBTQI communities in accessing federal to provincial income support benefits and alleviating these challenges.
2. The synergizing of the National Housing Strategy with the Action Plan through specific funding allocations and consultations for targeted housing and housing related services for 2SLGBTQI communities, and ensuring services for those experiencing homelessness or housing

insecurity are inclusive and affirming for 2SLGBTQI people across all sectors through policy development and training of staff in shelters, transitional housing, drop-in services, social housing, and rent-geared-to-income (RGI)/affordable housing.

3. Specific funding allocation to strengthen 2SLGBTQI diversity and inclusion in the federal government, acting on the recommendations arising from ‘Emerging from the Purge: The State of LGBTQI2S Inclusion in the Federal Workplace and Recommendations for Improvement’<sup>3</sup> report. While the Action Plan makes mention of this report to reference the objective of strengthening 2SLGBTQI diversity and inclusion in federal workplaces, the same cannot be achieved without dedicated funding.
4. Consultations for the development of a comprehensive national implementation strategy for Bill C-16 that targets funding for the development of comprehensive and inclusive policies, programs, and training around gender identity and gender expression.
5. Sexual orientation, gender identity, gender expression, and sex characteristics must be added as protected grounds against discrimination in the Employment Equity Act with special emphasis on diversity and inclusion practices for Two Spirit and trans persons.

## Access to Education

Within the Action Plan’s objectives of strengthening 2SLGBTQI+ rights and advancing inclusivity, there is a lot of room for initiatives strengthening access to quality education for 2SLGBTQI+ communities and ensuring 2SLGBTQI+ inclusion at all levels of the K-12 educational curriculum. The Action Plan is completely silent on both of these aspects which is a serious oversight given the role of education in strengthening rights and advancing inclusivity, the two noted priorities of the Action Plan.

<sup>3</sup> <https://lgbtpurgefund.com/emerging-from-the-purge/>

## **Recommendations - Based on recommendations from Egale's submission in 2020, the Federal Action Plan must include:**

1. Consultations on improving access to quality education for Indigenous children on reserves together with funding allocations to national Two Spirit organizations for developing curriculum to generate awareness of historical injustices faced by Canada's 2SLGBTQI communities and address the impacts of colonization on Two Spirit culture and identities.
2. Commitments on working with provinces to better include 2SLGBTQI learning objectives in K-12 curricula across the country.

## **Sports Inclusion**

Better inclusion of 2SLGBTQI people in sports would also make an enormous difference for the wellbeing of the communities. While the Action Plan does provide information about some initiatives that have been recently undertaken, no concrete actions/strategies or funding allocations on sports inclusion have been explicitly laid out.

## **Recommendations - Based on recommendations from Egale's submission in 2020, the Federal Action Plan must include:**

1. Commitments to include 2SLGBTQI people in the National Code to Eliminate Harassment, Abuse and Discrimination in Sport using definitions of terms that describe the identities and experiences of the 2SLGBTQI community including the explicit use of the words gender identity, gender expression, and attraction as prohibited grounds of discrimination.
2. Consultation and funding allocations to develop training materials focused on creating safer and more inclusive sport spaces and facilities, geared to coaches, athletes, spectators, and sport enthusiasts at any level.

## Seniors

Under the objective concerning data and evidence-based policy making, the government's Action Plan mentions its goal to “[i]ncrease understanding of barriers experienced by 2SLGBTQI+ seniors ageing in place” (WAGE, 2022, p. 28), focusing on financial, psychosocial, housing, medical, and legal aspects of ageing. We agree on the importance and prioritization of this goal, however, it is important for WAGE to consider ongoing research projects in Canada, such as that of Egale's on the same topic, especially given the limited resources allocated to 2SLGBTQI research in the Action Plan. Egale has already conducted an extensive interview-based research project on “Aging and Living Well” beyond health considerations on the research objectives outlined in the Action Plan.

### **Recommendations – Based on recommendations from Egale's submission in 2020, the Federal Action Plan must include:**

1. Consultation with Egale and other research groups that have already undertaken/presently undertaking research on issues of 2SLGBTQI seniors so as to avoid duplication; strategically channel funding on areas of research pertaining to 2SLGBTQI seniors that remains scarce; facilitate learning from experienced civil society groups on this issue and allocate relevant funding for the implementation of research recommendations.
2. Consultations with local organizations serving 2SLGBTQI seniors to improve access to federal benefits as part of the federal commitment to provide increased support to Community Volunteer Income Tax Program.
3. Specific funding allocation for programs that provide cultural competency training to care providers about issues specifically faced by 2SLGBTQI seniors living with dementia, (also see Egale's Report Enhancing Support for 2SLGBTQI People Living with Dementia and their Primary Unpaid Carers, National Institute on Ageing, 2022)<sup>4</sup> and programs supporting access to 2SLGBTQI friendly home care, end of

<sup>4</sup> <https://egale.ca/egale-in-action/2slgbtqi-dementia-care/#report>

life planning, cultural competency training for service providers, and financial and legal support.

## **Criminal Law Reforms**

One of the main powers that the federal government has is the ability to legislate and make appropriate laws prohibiting discrimination and ending violence to significantly contribute to safety and security of 2SLGBTQI populations in Canada. To this end, the 2020 amendment to the criminal code creating a new criminal offence prohibiting Conversion Therapy was a major step in the right direction. The proposed consultations in the Action Plan pertaining to criminal law reforms on criminalization of non-disclosure of HIV status, criminal law provisions permitting nonconsensual surgeries on intersex infants are also praiseworthy. Having said that, issues of the criminalization of sex work, more specifically Bill C-36 that gravely compromise the safety and security of 2SLGBTQI sex workers has not been included within the scope of criminal law reform consultations.

### **Recommendations - Based on recommendations from Egale's submission in 2020, the Federal Action Plan must include:**

1. Consultations on Bill C-36, the Protection of Communities and Exploited Persons Act (PCEPA) for repeal of sex work laws criminalizing purchase of sex which have exacerbated issues of violence against 2SLGBTQI sex workers in the country.

## **International Assistance**

While the Action Plan articulates advancing the rights of LGBTI populations abroad as a priority area, there has been no additional funding allocations or programmatic objectives outlined in the plan, in furtherance of this priority. The plan does not contain any new commitments on LGBTI refugee resettlement, an approach that is not in line with the growing and exceptionally well-funded anti-gender movement intensifying homophobia and transphobia across the

globe, amplifying the need for robust investment in refugee assistance and refugee protection programs. The plan only recounts existing initiatives and reiterates previous commitment of \$10 million/year under Canada's Feminist International Assistance Policy, which is a gross misstep as Canada's Official Development Assistance still lacks adequate investment in programs related to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC). Furthermore, despite rigorous advocacy by civil society organizations to create the position of Canada's Special Envoy on 2SLGBTQI+ rights, the Action Plan is completely silent on its position on this issue.

### **Recommendations - Based on recommendations from Egale's submission in 2020, the Federal Action Plan must include:**

1. Consultations to ensure LGBTQI issues are integrated into all areas of Canada's international development and humanitarian assistance.
2. Consultation with civil society organizations to understand Canada's role in the global anti-gender movements and develop relevant strategies to counter this narrative through funding and programmatic support.
3. Consultation on Canada's Special Envoy on 2SLGBTQI rights and their role in cementing Canada's leadership on LGBTI rights globally.
4. Specific funding allocation for supporting LGBTI refugees at all stages of the settlement process, including, crisis and trauma-informed counselling; mental health counselling; inclusive housing support, and subsidized legal support to aid LGBTQI refugees in the refugee status determination process.

## **III. Concluding Remarks:**

- **Lack of substantive direction:** The Action Plan is essentially a compilation of existing initiatives, policies, and programs in relation to 2SLGBTQI communities in Canada. It has little innovation, strategic inputs on policies, operations, and plans for furthering 2SLGBTQI inclusion on key

human rights and development indicators such as access to education, health, housing, employment, and poverty reduction. The Action Plan in its present shape and form does not provide the requisite policy and programmatic guidance for advancement of 2SLGBTQI rights in Canada.

- **Whole-of-government approach not reflected:** Despite promises of a ‘whole of government approach’, the Action Plan does not reflect the same. There are no tangible measures envisioned in the Action Plan that demonstrate cross-governmental working.
- **Inadequate funding:** As explained above, the funding allocation as promised in the Action Plan, more specifically the \$35 million funding in new project grants is grossly inadequate for the realization of priorities envisioned in the Action Plan.
- **Limited guidance on project-related funding:** While the Action Plan stipulates \$35 million in project funding, it provides little to no guidance on specific project outcomes envisioned under this funding. This will limit the ability of national 2SLGBTQI organizations in conceptualizing targeted projects and forging effective partnerships in furtherance of same.
- **No guidance on the distribution of funds:** The Action Plan should have included a model on fund distribution for ease and transparency with regards to the implementation of the plan.
- **No monitoring and evaluation framework:** The Action Plan does not consist of a monitoring and evaluation framework to track progress and implementation of the plan. While the Action Plan mentions that the Department of Finance and Statistics Canada, will identify a pathway for enhancing the existing Canada’s Gender Results Framework, the Action Plan requires a transparent and independent results framework with stipulation of Key Performance Indicators, giving stakeholders the power to hold the government accountable for implementation.

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