

HOUSING RIGHTS ARE HUMAN RIGHTS

HOUSING RIGHTS ARE HUMAN RIGHTS: ASSESSING THE POTENTIAL FOR  
PROGRESSIVE POLICY SHIFTS IN CANADA'S HOUSING SYSTEM THROUGH  
THE RIGHT TO HOUSING AND THE NATIONAL HOUSING STRATEGY

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A Thesis Submitted to the School of Graduate Studies in Partial Fulfillment of the  
Requirements for the Degree Master of Social Work

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McMaster University MASTER OF SOCIAL WORK (2019) Hamilton, Ontario

TITLE: Housing Rights are Human Rights: Assessing the Potential for Progressive Policy Shifts in Canada's Housing System through the Right to Housing and the National Housing Strategy

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NUMBER OF PAGES: v, 92

## ABSTRACT

Utilizing critical and welfare state theory, this thesis is primarily centred on policy analysis regarding the design and implementation of the legislated right to housing in Canada alongside the National Housing Strategy. In examining Canada's National Housing Strategy, right to housing legislation, and analysis and commentary around the 2019 Canadian federal budget, the thesis explores the potential for the right to housing to contribute to progressive policy shifts in Canada's housing system at a time where the impacts of commodification and financialization continue to be prevalent. Additional literature related to Canada's housing system and social welfare responses, and commentary on the right to housing in domestic and international contexts contributes to an assessment of the social and economic conditions that have led to the emergence of alternative housing policy, as well as the underlying principles and ideologies which guide and influence state intervention. Through this assessment, it is evident that while the legal space in which to claim the right to housing may be an important foundation to further highlight and challenge inequities in Canada's housing system, the extent to which this results in tangible systemic change remains in question. Further topics are explored in the conclusion around the potential next steps and necessary considerations for implementation in the Canadian context. The research, analysis, and discussion present in this thesis is meant to contribute to a relevant and timely critical examination of the right to housing in Canada, centred within social work values, in order to better understand how to conceptualize and challenge inequities in Canada's housing system.

## ACKNOWLEDGMENTS

I want to start by saying a big thank you to my supervisor, Stephanie Baker Collins, for all of your wonderful support throughout this process. Your patience with all of my random questions and thoughtfulness through all of your responses helped me to focus my research and writing along the way, giving me the confidence that I could actually do this! Your supervision and guidance have helped make me a better researcher, writer, and critical thinker and for that I am very grateful.

To the entire McMaster School of Social Work, all the professors who provided guidance and support, and all of the many classmates I had over these three years: thank you for sharing your research and your stories, and for giving the space to personally reflect and critically engage in dialogue around so many important social issues in the pursuit of social justice. I want to specifically thank my second reader, Tara La Rose: for your sincere interest and investment in my research topic and for laying the foundation of how I would move forward with this research in your social policy class.

A very special thank you goes out to the Hamilton Public Library (especially the Central branch) for providing me with a space to sit down, focus, and write this thesis. Support your local library!

Thank you as well to anyone who took the time to ask about my thesis, send articles or podcasts about housing, talk on the phone or in person despite incredibly busy schedules, and anyone who gave me any amount of time to talk (and talk, and talk...) about any and all issues related to housing justice. These moments kept me going and continued to provide me with really important times to pause, reflect, listen, and learn from the experiences and perspectives of those around me.

A massive thank you goes out to all of my family for the unwavering support. The biggest thank you goes to my partner, Robyn. I could not have done this without your incredible support every step of the way. I cannot thank you enough for listening to all of my thesis-related ramblings and for all of the encouragement you have given me. To my kids: Cecilia, you make me laugh and smile and you have been such a happy distraction when things have seemed overwhelming. Elliot, thank you for being happy and healthy and for waiting until I handed in my final thesis draft before being born – perfect timing!

I want to conclude by recognizing everyone who has and continues to push for the realization of the right to housing and a more justice-oriented housing system, both here in Canada (shout out to all in Hamilton, ON doing amazing work!) and elsewhere around the world. Housing is inherently linked to issues around power, systemic oppression, and social justice, and the work to confront and address these issues remains critically important. It is my hope that we will continue to find new ways alongside one another to advocate, organize, and ultimately address systemic housing issues that have persisted for far too long.

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## **CHAPTER 1: INTRODUCTION**

As the impacts of the commodification and financialization of housing have become more widely researched and discussed, so too have the potential forms of resistance and solutions. There is a growing base of literature, dialogue, and advocacy around addressing inequitable housing systems, including how injustices may be made preventable through the transformation of housing within our political and economic systems. This is reflected in the current Canadian context where there is a shift in regards to dialogue around national housing policy. With the introduction of the National Housing Strategy (NHS) and promise of a rights-based approach to housing it is clear that the federal government is adopting new ways of exploring how to address current housing challenges.

This thesis is primarily centred on policy analysis regarding the design and implementation of the legislated right to housing in Canada. When assessing current policy shifts around the legislated right to housing and Canada's NHS, I believe it is important to consider the social and economic conditions which lead to the emergence of alternative housing policy, as well as the underlying principles and ideologies which guide and influence state intervention. To do this, I will be exploring the shifting landscape of Canada's housing system as well as the potential for the right to housing to contribute to progressive housing policy.

This topic is of particular interest to me as I have worked for many years in the social work field in the area of housing and homelessness, as a front line street outreach worker and more recently in policy analysis in Hamilton, Ontario. During much of my

career there has been a strong advocacy push for various federal parties who have formed government in Canada to create a national housing strategy, recognize that housing is a human right, and to align policy and funding decisions toward the realization of this right (Dirks, 2015; Heffernan, Faraday, & Rosenthal, 2015). While the current federal government has moved these issues further ahead by establishing the legislated right to housing for the first time in Canada, I believe it is important to assess their actions within broader political and economic contexts. In doing so, I hope to contribute to a relevant and timely analysis of Canada's commitments regarding a right to housing, as well as the necessary conditions that should be in place to support such a shift toward tangible systemic change in the pursuit of social justice.

Globally, access to safe, adequate, and affordable housing is one of the most significant socio-economic issues today. Evidence of this is clear as issues around poverty, housing unaffordability, displacement, and social exclusion have become increasingly commonplace around the world. For activists, the constant push for housing justice is centred on addressing these challenges and requires "...an analysis of the housing system in the broader contexts of class power, racism, patriarchy, and other forms of structural violence" (Madden and Marcuse, 2016, p. 87). While not necessarily a new phenomenon, as the lack of equitable access to housing has been a significant challenge for many populations over time, the current global scale of these challenges has brought a higher level of attention to this critical issue with an estimated 1.8 billion people around the world lacking adequate housing (Farha, 2019).

State priorities are evident through value statements, policy direction, and budget expenditures, and when access to safe, adequate, and affordable housing is not prioritized the impacts are severe. Approximately twenty-five percent of the world's urban population live in informal settlements; homelessness and forced evictions are on the rise globally, which highlights the scope of the current crisis and the lack of justice available to those seeking solutions (Farha, 2019, p. 3). This lack of justice is highlighted by ongoing structural issues linked to residential alienation, exploitation, and violence that are directly linked to increasingly commodified and financialized housing systems within neoliberal and capitalist states.

Some may see current global housing challenges as inevitable, however I would argue that this is inevitable only to the extent that through social and economic policies, states have created and upheld a system where housing is increasingly commodified. Through this process of commodification, housing is valued primarily on the basis of economic value both at the individual and state level, with a distinct focus on its place in market economics through production and capital accumulation rather than its place as social good (Forrest & Williams, 1983). As a result, safe and adequate housing is currently treated as an individualized right within capitalist and neoliberal states only so far as one has the privileged economic means to make it so. This acts to further stratify populations, limiting access to and security of a basic human necessity.

The impacts of the capitalist and neoliberal influence on housing policy go beyond issues of general supply, as affordability and access to existing housing remain significant ongoing challenges. In recent years there has been a growth globally in the

trend of housing being used for purposes other than as a primary residence, instead being used for economic purposes through platforms such as Airbnb and increasingly as a tool for speculative domestic and foreign investment (Doling & Ronald, 2019). Housing is in effect a commodity, treated as a stock market asset to which multiple financial actors have a stake in ensuring that economic values and return on investment continue to rise.

The Canadian context reflects these global trends as well where the state has supported the growth of housing as an economic vehicle for wealth creation. This has further entrenched housing as an area of both economic opportunity and financial risk as speculative investment in this sector of the economy has increased at a time where household debt-income ratios also continue to rise (Kalman-Lamb, 2017; Walks & Clifford, 2015). Framed as an object for individual wealth creation, policies influenced by capitalist notions of profit accumulation have served to stimulate the growth of the ideal of homeownership. Through this, new forms of profitability and accumulation of capital are benefitting the finance, insurance, and real estate sectors while homeownership is also framed through policy mechanisms as a form of wealth replacement for stagnant incomes (Kalman-Lamb, 2017, 301-302). These trends can be seen as the practical operationalization of commodification through ‘financialization’, described as “...the increasing dominance of financial actors, markets, practices, measurements and narratives, at various scales, resulting in a structural transformation of economies, firms (including financial institutions), states and households” (Aalbers, 2017a, p. 4). In many major Canadian cities processes of financialization are furthering the impacts of sustained gentrification in recent years, resulting in further inequity in housing markets.

The growth of housing as a primarily economic object has also emerged and been fortified at a time when various forms of affordable and rental housing have come under attack through state policy and funding decisions. Driven by the social and economic underpinnings of neoliberalism, state policies resulting in reductions in tenant protections and in social and affordable rental housing availability have furthered a crisis of affordability for some while creating economic opportunity for others (August & Walks, 2018). The ‘neoliberalization’ of housing policy has been used to justify shifts at the federal level in Canada to limit economic investment in social or affordable housing, while supporting the growth of rental markets that are increasingly dominated by private sector landlord investors who are driven primarily by profit (Fields, 2017; Hulchanski, 2006; Walks & Clifford, 2015). These processes are mirrored in global trends where states are active participants in creating and sustaining environments where these shifts have occurred, albeit with perhaps both intended and unintended consequences.

Entering this analysis, I position myself as someone who is both optimistic and cautious of the current embracing of a right to housing at the federal level in Canada. While I instinctively have a desire to embrace the right to housing as a progressive step for housing policy in Canada, I also critically question its potential as framed within current political and economic systems. While politicians and lawmakers are seemingly addressing an issue that has long sparked outrage amongst those impacted the most by the neoliberal influence on housing policy, I believe it is important to assess if the result of their actions can shift support to those who need it most or if they ultimately continue to

reinforce commodified systems of housing and a deserving and undeserving narrative of social welfare provision.

Personally I do believe that access to safe, adequate, and affordable housing should be considered and treated as a human right toward the goal of ensuring that everyone has “...the right to live somewhere in security, peace and dignity” (United Nations Office of the High Commissioner for Human Rights, 2009). The question becomes how this is conceptualized and operationalized at a time when the very nature of capitalism and neoliberalism may contradict this right, leading to a reproduction of existing hierarchies and power dynamics concealed in a human rights framework (Selmeczi, 2015). As various levels of government around the world shift their focus and directly declare and implement the right to housing, including Canada’s federal government, it remains important to critically evaluate the practical implications of this shift.

As principles of commodification and financialization uphold the economic value of housing over its social value, the ability to meet the universal basic need of safe and adequate housing will continue to be a struggle for many. Unless the rights of residents to live somewhere with security and dignity are progressively realized, I believe that we will continue to see the unequal negative social and economic impacts throughout Canada, especially on already marginalized populations. Whether or not the right to housing has the practical ability to address these concerns will be a central aspect of my analysis in this thesis.

For the social work field specifically, housing policy should continue to be a major area of interest as the impacts of such policy intersect with the day to day work of social workers in a variety of contexts. Most often social workers may be the professionals who are most engaged with those experiencing homelessness or housing instability, however discussion of housing policy in recent years has been described as being dominated by economists, a select number of politicians and housing activists outside the social work profession (McCarty, 2008). In collectively focusing on issues around housing injustice through sustained research and advocacy, I believe that the social work profession can and should have a positive role in addressing systemic issues, promoting tangible progressive policy change in housing systems. It is my hope that by engaging in this policy analysis around Canada's NHS and the right to housing that I can contribute to the broadening of social work research and knowledge in a way that looks to address systemic issues, while working to "...bridge the artificial divide between the personal and the structural" (McCarty, 2008, p. 85).

## CHAPTER 2: METHODS

Through policy analysis, this thesis focuses on assessing the design and implementation of the legislated right to housing in Canada, along with potential impacts and effectiveness. Aside from peer-reviewed scholarly journals, I have focused my research around Canada's NHS document, right to housing legislation, and analysis around the 2019 Canadian federal budget. Additional resources include reports and analysis regarding the legislated right to housing, both domestic and international, from sources such as the United Nations (UN) office of the Special Rapporteur on adequate housing.

The policy analysis I undertake in this thesis focuses on the exploration of the right to housing as a potentially progressive policy shift at a time where the neoliberal influence on housing policy continues to be prevalent. Centred on the right to housing and the NHS, I have focused my analysis on exploring the following five areas: the role of the right to housing in Canada's NHS; an exploration of the right to housing and its potential to contribute to progressive housing policy; the impact of the right to housing on the NHS; what needs to be in place for the right to housing to have an impact/make a difference; and if the right to housing will have an impact as currently conceived. Through this analysis I examine and evaluate the potential of the right to housing in Canada as a mechanism to ensure implementation of NHS commitments, as well as a mechanism to continue to raise critical awareness of housing challenges and bring about justice-oriented social change.

In order to situate my analysis, the Theoretical Perspectives chapter (*Chapter 3*) outlines the theoretical frame which I utilize to engage in a critical assessment of policy from design to implementation. The theoretical positioning I utilize provides a frame from which to assess Canada's federal responses to housing over time and determine how changes in political and economic systems have impacted housing policy. In this chapter I discuss the positioning of critical theory, which provides the ability and space to assess the right to housing as contextually framed within neoliberal and capitalist systems. Beyond merely prescribing value or meaning in isolation, critical theory assesses the relationship between "...overarching social, economic, or political systems, such as capitalism...and everyday practices" (Freeman & Vasconcelos, 2010, p. 8). This allows for a more nuanced assessment of the right to housing in Canada, considering structures of oppression that inform and influence discourse in everyday practice. I also outline my utilization of welfare state theory, specifically as a frame to attempt to explain how and why Canada makes the decisions it does regarding housing, including areas where funding is and is not dedicated.

In *Chapter 4* I review key concepts and literature in order to assess the context of housing policy in Canada focusing on historical development, influence of ideology, and welfare state commitments. Through this review of the literature I examine the historical and current impacts of the neoliberal influence on housing, discussing new adaptations and challenges. It is within this chapter that I explore and define the concepts of commodification and financialization as they relate to housing in order to frame my analysis of Canadian housing policy within current dialogue around welfare state

commitments, as well as policy and funding shifts influenced by capitalism and neoliberalism.

*Chapter 5, Housing as a Human Right*, expands on the review of literature to explore the key considerations of the right to housing, both conceptually and in practice. This section outlines international definitions and commentary on the right to housing from key institutions such as the United Nations, which helps to inform the current dialogue on the right to housing in Canada. The broader knowledge and practical understanding of the right to housing is applied directly to specific policy direction in Canada, the NHS, in order to determine potential impacts, strengths, and limitations. Through my analysis I also recognize that while the dialogue at the federal level around a right to housing may be relatively new, there is a recent history of advocacy and discourse around the right to housing in Canada that has been taken up in different settings. Utilizing commentaries and position papers from prominent housing, legal, and advocacy centres also provides additional commentary around the right to housing prior to, during, and after the release of the NHS.

The review of literature centred on an examination of housing policy in Canada, as well as reports and analysis regarding the right to housing, informs the Themes and Discussion chapter that follows. In *Chapter 6* I expand my analysis to discuss practical challenges of implementing universal policy in neoliberal structures, highlighted through the persistent challenges presented within Canada's social welfare system. Through this analysis I utilize researcher David Hulchanski's (2006) framing of an inequitable duality of housing systems in Canada and the resulting policies and practice in order to highlight

challenges and contradictions in implementing universal housing principles under the influence of neoliberalism. It is within this chapter that I also focus my analysis more directly on current Canadian housing policy context, allowing for a more in depth examination of the NHS including its policy and funding commitments and relationship to right to housing legislation.

In *Chapter 7, Implications and Conclusion*, I conclude by exploring potential strategies toward addressing systemic injustice within housing systems. This chapter highlights the emergent role of cities in realizing the right to housing through practical steps that respond to neoliberal and capitalist impacts on housing. I also utilize this chapter to present final considerations regarding planning and implementation of the right to housing and the potential for its continued role in raising critical awareness around systemic housing injustice in Canada.

While contributing to an already broad base of knowledge around the importance of access to safe, adequate, and affordable housing, I hope that through this policy analysis I will be able to provide additional context to the right to housing in Canada and the social welfare responsibilities of the state. This is an emerging area of analysis that is very timely both globally and nationally as states assess how to respond to housing challenges and as Canada moves toward a federal election in the fall of 2019. As details regarding recognizing the legislated right to housing become finalized, attention now shifts to considerations around realizing this right. By exploring examples from other countries where a right to housing has been implemented I also hope to highlight key

considerations or trends that the government can and should consider, as well as issues that may help shape continued advocacy in this area.

### **CHAPTER 3: THEORETICAL PERSPECTIVES**

In recent years research and commentary on the concept of the global financialization of housing has emerged. The impacts of financialization at a structural and individual level have been revealed as a result, as well as the need to develop alternative approaches to neoliberal state policy (Aalbers, 2017b; August & Walks, 2018; Farha, 2017; Rolnik, 2013). Confident in the depth of analysis around the factors leading to the current state of housing in Canada and the need for an alternative approach to counter the effects of the financialization of housing, as a result I began to look at the potential of theoretical frameworks that would allow me to contribute to a contextual analysis of the emergence of the legislated right to housing in Canada and its potential as a catalyst toward a progressive shift in social policy.

Critical and welfare state theory provide the basis for my analysis of the right to housing in Canada, allowing me to explore and expose myths and norms in the development of housing policy while critiquing the ideologies that produce it. Welfare state theory in particular contributes to a more nuanced analysis of the integration of a right to housing in the NHS in order to better understand this social policy shift and explore how it may contribute to redefining the state's role in housing provision. While adding to the literature on this timely subject, this theoretical frame will allow me to engage in dialogue that raises critical awareness around the right to housing, its strengths and limitations, and its potential to contribute to progressive housing policy in Canada.

**Developing a research frame: critical theory**

The design of a housing system is the result of ongoing struggles between different groups and classes which serves to frame housing as a site of political action (Madden & Marcuse, 2016, p. 4). Identifying it as such opens up potential to critically assess how the state intervenes in housing and to challenge the social order that governs it. On this basis, I position my analysis within critical theory as a means of examining the social structures that govern Canadian housing policy.

One of the main strengths of critical theory is its positioning toward uncovering processes of oppression and injustice. Critical theory allows for an exploration of the processes through which values and beliefs are influenced by dominant ideologies, exposing the forms of oppression hidden within normalized social structures (Freeman & Vasconcelos, 2010, p. 11-12). From a policy analysis perspective, critical theory seeks to uncover the ideology that shapes social policy. Beyond merely looking to understand how the world works, critical theory has immense value as a frame to explore and expose power dynamics, leading to analysis on alternative approaches to addressing inequities and oppressions in order to bring about social change (Fook, 2002; Freeman & Vasconcelos, 2010; Mullaly, 2010). A critical approach, including analysis of Canada's NHS and the right to housing, allows me to enhance my ability to explore how policy is developed and shaped, assessing who benefits and who does not, as well as exploring practical avenues for political and social transformation.

Through my own personal experiences in the last number of years in front-line social work and now social policy work, both in the area of housing and homelessness, I

found that colleagues have struggled in aligning the desire to advocate around systemic housing issues with a knowledge of tangible actions that could be taken in this area to promote social change. Personally, this is something that I have also struggled with as a social worker who would often see the symptoms of broader social policy issues at the front line level highlighted by the lack of availability of and access to affordable housing, as well as a lack of readily available social welfare supports. Aligning my analysis through a critical lens allows me to highlight this gap between advocacy and tangible action as one area of importance for intervention in the social work field, positioning my analysis and my own practice as one that answers the call in the social work profession to look toward social justice, critical-conscious raising, and social transformation as opposed to charity (Baines, 2011). This frames my approach to research and analysis through a theoretical positioning that allows me the ability to look more closely at the structures that produce and sustain inequities, broadening the scope of social work knowledge and expertise around the systemic issues that create the symptoms that social workers may see on a day to day basis as they engage in the pursuit of social change.

Critical theory's focus on exposing power and challenging myths positions my research and analysis in a way that does not merely reinforce existing structures of knowledge and power. At its core, critical theory has been described as: "...evaluative as well as a political activity that involves assessing how things are in order to transform them into what they ought to be" (Freeman & Vasconcelos, 2010, p. 7). From this perspective, my analysis moves beyond a description or theoretical positioning of the right to housing and Canada's NHS toward a fuller critical assessment of the factors that

shape Canadian housing policy and how elements like the right to housing fit within the push for a more progressive and equitable housing system.

One of the main ideas that stood out to me regarding critical theory is its positioning as a path to understand and improve social conditions. In assessing the social, economic, and political factors that shape our social structures, critical theory presents a pathway to illuminating and understanding where oppression and injustices are embedded within them, while exploring ways of resistance and social change (Freeman & Vasconcelos, 2010). For example, financialization itself is a term derived from a critical frame that asks what values drive housing policy and uncovers the financial motivations and ideology influencing it.

Through my examination of the right to housing and the NHS, I see critical theory as a lens from which to better understand key questions around the social structure of housing and human rights in Canada such as: What is the role of the right to housing in Canada's NHS? Does the right to housing constitute a shift in progressive policy rooted in universalism, or does it remain selective in its application? Can the right to housing as currently conceived in the NHS be implemented and have an impact given the current neoliberal influence on housing policy? Rather than assessing the right to housing as a purely theoretical concept, a critical theoretical frame positions my analysis as a critique of the dominant structures that shape housing policy. This process of inquiry, critique, and reflection leading to conceptualizations of positive social change is compelling to me then as a researcher as a means to expand the transformative possibilities of research and analysis around the right to housing in Canada.

**Strengthening the ‘wobbly pillar’: re-positioning housing within the welfare state**

Moving beyond a critique of ideology and its influence on Canadian housing policy, welfare state theory provides the potential to assess state policy responses that have resulted from the global influence of neoliberalism. This includes policy shifts related to the emergence and growth of the commodification and financialization of housing, where housing is valued and treated primarily for its benefits as a commodity and as a form of financial capital rather than as a basic social need and right.

Described as a ‘wobbly pillar’ under the welfare state (Torgersen, 1987), it has historically been difficult to assess the place of housing within welfare states. While elements of Canada’s welfare state such as education and health care typically have a larger universal component, housing remains an area around which a more selective social welfare approach is applied, making it challenging to characterize this relationship as a whole. Despite this challenge, utilizing welfare state theory within a critical approach provides the basis for a more focused analysis centred on the right to housing, re-positioning an analysis of this shift distinctly within the context of Canada’s social welfare responsibilities.

Within welfare state theory, sociologist Gøsta Esping-Andersen presented a specific approach to analysis outlining three main types of macro-level welfare states that are present within capitalist economies, providing a means to conduct empirical analysis around the political structures of welfare state regimes. Esping-Andersen (1990) describes these welfare state regimes as: social democratic, corporatist (or conservative), and liberal, each with varying degrees of social welfare provision, organization, and level

of state involvement. Within social democratic regimes the state plays a central role in welfare provision as opposed to corporatist structures where the state is not seen as having a central role. Liberal typology, which the foundation of Canada's current welfare state is built on, would be seen as a blended approach where those 'in need' depend on welfare provision of the state and everyone else relies on the market, a process which reinforces intrinsic class distinctions (Esping-Andersen, 1990, p. 25). The liberal welfare state also features minimal state involvement, a high level of dependence on the private market to meet social welfare needs, and a social welfare delivery system which is residual in nature and focuses on those who cannot meet their needs through the market (Venter, Marais, Hoekstra, & Cloete, 2015).

Within each regime type there are different types of interactions between the state, market, and households. 'De-commodification' emerges as a central aspect of welfare state regimes, a result of these complex interactions. Mechanisms of de-commodification are of course necessary to address processes of commodification, which in simple terms refers to processes by which goods or services are valued predominantly for economic purposes. Esping-Andersen (1990) describes de-commodification as a process in which "...a service is rendered as a matter of right, and when a person can maintain a livelihood without reliance on the market" (p. 22). The degree to which de-commodification occurs is a result of which specific form of welfare state regime is in place.

'Stratification' is also an important issue in relation to the welfare state that Esping-Andersen highlights. The welfare state inherently produces forms of stratification and ordering of social relations, the degree to which again varies dependent on regime.

Stephens (2016) summarizes processes of stratification within the three welfare typologies as follows:

Stratification relates to the way in which corporatist regimes differentiate (or segment entitlements) between occupational groups or occupations, liberal regimes in their promotion of “residualism” use of means-testing, individual responsibility and use of the private and voluntary sectors, social democratic regimes produce low levels of benefit differentiation (universalism). (p. 21)

While housing was not a direct focus of Esping-Andersen’s analysis around welfare states, other contemporary researchers have expanded on his work by assessing global housing policy responses through the lens of the welfare state (Bengtsson, 2002; Hoekstra, 2003; Venter, Marais, Hoekstra, & Cloete, 2015). One of the main links between Esping-Andersen’s work and other contemporary research aligning housing and the welfare state is the positioning that modern social welfare policies are developed to respond to the increasingly prevalent issues of commodification that further stratify populations.

Advocacy around the implementation of a legislated right to housing in alignment with Canada’s NHS has incorporated universal principles in advocating for a proactive legal claim to the right to housing (Farha, et al., 2018). This is a key distinction from rights-based strategies that do not include legal mechanisms to claim rights, as it enshrines the roles and responsibilities of the state in their approaches to housing and homelessness in Canada rather than acting merely as a moral claim. Through this lens, an analysis of the right to housing as currently outlined in the NHS could identify to what extent it has the potential to actively contribute to a de-commodification of housing in a universal approach, or if it acts as a safety net to protect those ‘in need’ in a selective

manner. In other words, can it act as a catalyst toward the development of universal social policy that strengthens and de-commodifies this pillar of the welfare state, or does it continue to allow it to wobble under the weight of neoliberal ideology?

Rather than attempt to assess housing and the welfare state through empirical analysis, I utilize the three welfare state typologies as a starting point to frame a general understanding of the relationship between housing and the welfare state in Canada. Researchers such as Hulchanski (2006) have built on the theoretical foundations of welfare state theorists including Esping-Andersen, positioning an analysis of housing distinctly within the welfare state in Canada. Hulchanski frames Canada's housing system as two-part, the primary of which he refers to as the social security welfare state and the secondary which is the social assistance welfare state (Hulchanski, 2006, p. 239). In this conceptualization of a duality of housing welfare states, homeowners and those in the higher end of rental housing are the main concern of policy intervention, highlighting a deserving and undeserving narrative around provision of 'social welfare' assistance.

Hulchanski (2006) frames his description through the assertion that government plays a central role in creating, sustaining or altering housing systems and enforces guidelines around how this happens through "...legislation that defines such things as banking and mortgage lending practices, tax and regulatory measures affecting building materials, professional practices (for example, real estate transactions), subsidy programs, and incentive patterns for average households" (p. 222). This understanding reflects the diverse and complex relationship between the state and housing systems, moving beyond simplistic understandings or beliefs of how housing systems are shaped. By centring

analysis within this understanding of the broader policy frame governing housing, there is potential to more fully assess the impacts of specific policy, such as the legislated right to housing.

Hulchanski’s conceptualization of Canada’s two-part housing system also builds on considerations of how the welfare state may contribute to a system of stratification and ordering of social relations in which benefits are inequitably distributed. This reinforces the notion that even despite times of more focused growth and investment in Canada’s social welfare responses related to housing, the political and economic frameworks that underpin these decisions have still resulted in a system that remains inequitable by design. Key features of Canada’s two-part housing system described by Hulchanski (2006) are detailed in the following chart:

	Primary part <sup>1</sup> (about 80% of households)	Secondary part <sup>2</sup> (about 20% of households)
Type of welfare state	Social security welfare state: ensure high living and accumulation standards over the ups and downs of the economic cycle	Social Assistance welfare state: ensure subsistence for the “deserving” poor, without competing with the market mechanism
Method of distributing benefits	Universal benefits, distributed as entitlements, as “rights” “earned” by investors and owners	Selective discretionary benefits, distributed by means testing and targeting
Economic rationale	Ensure high and stable levels of consumption and accumulation (housing as a key sector of the economy)	Meet basic (minimum) housing needs of some of the “truly needy,” while minimizing decomodification effects of programs
Political rationale	Political clout of middle class and of house-building, mortgage-financing, and real	A “stop and go” process of addressing housing needs, depending on political circumstances and

	estate industries	strength of the beneficiary groups
Federal role based on constitutional considerations	Federal government will continue to be involved no matter what the constitutional arrangement; economic and political management issues are more important factors	Likely only if federal government seeks to enhance national unity by a strategy requiring higher federal profile on certain issues deemed to be of national significance
<sup>1</sup> Includes most homeowners, tenants at the higher end of the rental market and some social-housing residents. <sup>2</sup> Includes tenants at the lower end of the rental market, some rural and impoverished homeowners, and some social-housing residents (Hulchanski, 2006, p. 239)		

This duality of housing welfare states is reflected in ideological shifts impacting national housing policy in Canada, where social housing and other forms of affordable housing have increasingly been seen as less valuable than the prospect of home ownership (Suttor, 2016). As the influence of neoliberalism grew through the 1980s into the early 1990s, federal priorities shifted away from direct investment in affordable housing initiatives. Cancellation of housing supply programs by the federal Conservatives were carried forward by the Liberals following their election win in 1993, which led to the eventual downloading of federal housing responsibilities to other levels of government (Suttor, 2016). In some cases, this led to further cuts and shifting of responsibility to municipalities creating an even more disjointed and underfunded housing system. This is evident in the case of Ontario, highlighted by Mike Harris' provincial Conservative government and the 'common sense revolution' in the mid-1990s, which increased policy and economic pressure on municipalities and further embedded neoliberal policies rooted in a shift toward individualism and free market principles (Hackworth & Moriah, 2006). Housing policy, as the wobbly pillar in the

welfare state, was perhaps more vulnerable to be influenced and re-shaped through this targeted shift. This is not to say that a duality of housing systems was not present in Canada's policy responses prior to this point, however it certainly embedded processes that have led to the current state of the financialization of housing and need for a broader response at the policy level to challenge the economy of housing.

This context is important as I further explore this duality of welfare state provision and the political structures that continue to uphold it. My use of welfare state theory in the context of my analysis of the right to housing builds on the concept of duality described by Hulchanski, seeking to better understand Canada's ongoing functional role in shaping the housing system. Applying this frame of analysis specifically to the right to housing in Canada's NHS provides a method to better understand to whom the right to housing applies in Canada and if it presents a challenge to neoliberal and capitalist provision of housing policy rooted in individualism and free market principles. This is a tall order for any one policy to accomplish, however such a shift in social policy must be evaluated based on its ability to create and sustain social change within the social welfare context in which it is deployed.

There are several key questions that the welfare state frame can help to answer more specifically. Is the right to housing as envisioned in Canada through the NHS an effective tool to begin to shift the dualism of Canada's housing system to one that is more universal in nature, effectively de-commodifying an area that has experienced rapid commodification? Or does the right to housing in Canada simply fit within current ideology which selectively targets discretionary social benefits to those in need, the

extent to which is determined predominantly by market forces? The answer likely is not a clear yes or no for either of those questions, more likely reflecting a more contradictory middle ground in which the current political economy of housing is centred.

An analysis of Canada's NHS and subsequent policy positions taken up by the federal government provides an indication as to what type of social welfare response the right to housing embodies, and to what extent it can be a tool to address the 'secondary' part of the housing system through a justice-oriented approach that challenges the current economy of housing. By understanding this I will be better positioned to assess the extent to which the right to housing can potentially contribute to progressive housing policy in Canada, and what may need to be in place for it to have an impact.

What I find most compelling about the use of welfare state theory is its potential to inform my analysis around the use of the right to housing as a universal policy or rather one that is targeted specifically on those who have been pushed out of the housing market. This helps to build the conversation around the effectiveness and ultimate impacts of a right to housing in Canada, assessing if it merely re-positions state responsibility within a charity framework or if it may act as a catalyst for broader structural change to challenge the increased financialization of housing and bring more of a social justice focus to housing policy.

### **Assessing the right to housing: considerations of my theoretical frame**

While there are strengths to the theoretical approaches I have outlined, there remain limitations which are important to acknowledge and account for. Although Esping-Andersen provided new ways of conceptualizing the welfare state, more recent

commentary has focused on a critique of applying his three typologies directly to housing in the welfare state. The conceptualization of the three typologies for use in comparative housing research has been critiqued due a lack of portability in analysis and differentiations between housing and welfare regimes, even within countries themselves, which may make comparative analysis particularly challenging (Stephens, 2016). While I will be assessing some of the main tenets of a legislated right to housing in other areas of the world and applying these learnings to my analysis of the right to housing in Canada, I will not be performing a comparative analysis between Canada's housing system and that of other countries. With that said, Esping-Andersen's typology framework still has potential as a starting point to better frame and understand more broadly the political context of the welfare state in Canada.

Regarding my overarching theoretical positioning linked to critical theory, there are also considerations that I need to be aware of through the framing of my analysis. Emancipation and social change as main tenets of critical theory are inherently shaped by a researcher's process and context, meaning that it is necessary to both actively conceptualize and work toward forms of resistance while being open to alternative notions of what emancipation may look like (Freeman & Vasconcelos, 2010, p. 16). Given that my research is focused on policy analysis through the review of literature and policy documents, my own conceptualizations around what social change and emancipation look like will inherently be limited in scope as I look to address what needs to be in place for the right to housing to have an impact and make a difference. This is an important acknowledgement as I work to ensure that my analysis has real world

applicability as a critique of housing policy that can lead to action-oriented strategies for social change. Given this consideration I have positioned my analysis to further the dialogue around ways of resistance, building on existing literature to link both theory and action-oriented strategies.

Given the discussion and consideration of my theoretical frame of analysis, I believe that its overall strength and applicability to my research interests leads well into an exploration of housing policy and the right to housing in the NHS. While Canadian housing policy has undoubtedly been influenced by neoliberalism, further analysis is required in order to assess the legislated right to housing and its potential to contribute to progressive housing policy. Critical and welfare state theory provide a framework to build on research and experiences around the struggle to frame housing as a social and legal right, moving beyond historical analysis to provide an analysis relevant to today's political and economic processes and the social advocacy around them. Utilizing this theoretical frame allows me to form a basis for social justice-oriented analysis to assess the role of housing in the Canadian context and to better understand the variety of factors that govern and shape the ongoing development of housing policy responses.

#### **CHAPTER 4: HOUSING POLICY IN CANADA; HISTORY, IDEOLOGY, AND THE WELFARE STATE**

The availability and security of housing that is safe, adequate, and affordable is a foundation for health and wellbeing. Globally, the challenge to meet these housing needs is one of the most persistent and pervasive issues we collectively face. Canada is no exception as many residents are experiencing a crisis of housing affordability. On average, at least 235,000 Canadians experience homelessness in a year and 35,000 are homeless on any given night (Gaetz, DeJ, Richter, & Redman, 2016). These figures include Indigenous peoples, women, youth, families, racialized populations, and people who identify as LGBTQ2S+, all who face unique and differing structural and institutional barriers linked to colonialism, racism, systemic discrimination, and oppression and which serve to exacerbate their lack of access to housing. The overall scope of reported homelessness in Canada is still generally considered to be an underrepresentation of the actual level and depth of need.

In regards to the notion of a current global housing crisis, it is important to preface this discussion by acknowledging that despite more recent dialogue and debate around the causes and potential solutions to this complex issue there is a long history of persistent marginalization and struggle related to access to safe and adequate housing for many populations. Madden and Marcuse (2016) elaborate on this point, stating that “...The idea of crisis implies that inadequate or unaffordable housing is abnormal, a temporary departure from a well-functioning standard. But for working-class and poor communities, housing crisis is the norm” (p. 9). To this end, broader social and political interest in solutions to a global housing crisis may be viewed with warranted skepticism

and recent developments regarding the increasing financialization of housing have presented a new wave of challenges to be addressed.

Although it may be argued that Canada's current federal government led by Prime Minister Justin Trudeau has become more active and engaged in addressing issues around housing and homelessness in recent years, structural and systemic challenges linked to capitalism and neoliberalism persist. One of the proposed solutions is centred on the legislated right to housing as a means of addressing such structural challenges. Advocacy movements centred on the legislation of a right to housing in Canada and around the world have framed it as a progressive shift that is necessary to counter the growing financialization of housing, as well as policy responses which frame housing predominantly as a commodity. While Canada's NHS presents a potentially promising policy shift for housing in Canada, it is important to further explore key concepts and trends around the right to housing to better understand its potential impacts. It is also important to develop a clearer understanding of what the financialization and commodification of housing refers to and how it links to current literature and proposed solutions around the right to housing.

### **The global housing crisis, neoliberalism and the financialization of housing**

When assessing research and advocacy around the right to housing and the broader symptoms of housing crises experienced around the world, attention has shifted to a new driver of social and economic inequality: the financialization of housing. In recent years research and commentary on the concept of the global financialization of housing has emerged. The impact of this recent shift, at a structural and individual level,

and the need to develop alternative approaches to neoliberal state policy are now important aspects of the advocacy process (Aalbers, 2017b; August & Walks, 2018; Farha, 2017; Rolnik, 2013).

The growth of neoliberal ideology in the 1980s brought with it a focus on balanced budgets, labour market flexibility, workfare programming, and the value of individual work ethic as a means of empowerment (Mahon, 2008, p. 345). It is during this time when the foundation for the financialization of housing was laid, embedding the notion of housing as primarily an economic entity and commodity while also entrenching the role of the private market in addressing housing challenges.

Leilani Farha (2017), current UN Special Rapporteur on adequate housing, describes the ‘financialization of housing’ as follows:

The expanding role and unprecedented dominance of financial markets and corporations in the housing sector is now generally referred to as the “financialization of housing”...the “financialization of housing” refers to structural changes in housing and financial markets and global investment whereby housing is treated as a commodity, a means of accumulating wealth and often as security for financial instruments that are traded and sold on global markets. (p. 3)

Through analysis of housing markets and recent transformations in global capitalism, Aalbers (2015) explains that, while it may seem difficult to point to similarities in housing challenges across global markets, specific trends have emerged that link globalization and neoliberalism to housing policies and practices around the world. One trend points to an increase in private investment in housing specifically following the global financial crisis in 2008 as a means of capital and revenue generation

enabled by state policies focused on the ideal of homeownership (Forrest & Hirayama, 2015; Kemp, 2015).

Housing has always been commodified to a degree, however recent trends point to a deepening of the principles of financialization leading to growing inequality in housing markets. Rather than being pushed aside following the 2008 global financial crisis, neoliberalism was adapted to evolve and fit within a new context which led to a deepening of private sector involvement driven by interconnected process outlined by Forrest and Hirayama (2015):

First, there is substantial corporate investment in bargain basement, repossessed homes, Second, there is growing demand from younger and poorer households for private renting in the absence of affordable or available alternatives. Third, there has been the growth of smaller investors seeking safer havens than stock markets or pension funds for their savings, often encouraged by supportive government policies and specially tailored financial products. (p. 239)

While private investment has increased at the individual level, there has also been a dramatic shift at the systemic level with the growth of large scale investment firms entering the housing market in a much more invasive manner. Rental housing continues to be one of the main settings for this shift, as trends have emerged regarding the prevalence of private equity firms and real estate investment trusts (REITs) aggressively investing in rental housing following the global financial crisis, often prioritizing investor outcomes ahead of tenant rights (Aalbers, 2017b; Fields, 2017; Forrest & Hirayama, 2015). These processes of financialization are directly linked to the increasing neoliberalization of housing policy, which has created and sustained environments where housing is systemically viewed and treated as a commodity first and foremost.

**Canadian housing policy, ideology and welfare state commitments**

The welfare state can generally be described as a system administered by the state in order to provide a certain level of health and social benefits and protections to citizens.

Steven Hick (2014) identifies three key functions of the welfare state as:

1. using state power to achieve desired goals (powers include government, bureaucracy, the judiciary, and political parties);
2. altering the normal operation of the private marketplace; and
3. using grants, taxes, pensions, social services, and minimum-income programs such as Social Assistance (“welfare”) and Employment Insurance (EI). (p. 5)

As discussed, Esping-Andersen (1990) framed modern social welfare responses as the result of a commodification of labour through capitalism, resulting in the need to develop a form of safety net in order to ‘de-commodify’ certain services or supports as a matter of rights (p. 21-22). The provision of a safety net in itself, however, does not necessarily result in de-commodification, as seen in the early roots of Canada’s social welfare system. It was not until Canada moved beyond its poor law roots, centred on means-tested benefits of last resort, that elements of de-commodification would be seen through the adoption of universal benefits and health insurance (Mahon, 2008).

Despite elements of de-commodification in areas such as healthcare and education, the evolution of Canada’s welfare state has remained tied to liberal roots and the principles therein. The concept of the ‘varieties’ of liberalism is a helpful tool that provides context to how elements of social democratic features can be observed within liberal regimes. The concept has also been utilized to address links between social policy and gender relations, which Esping-Andersen has been critiqued for omitting from his early typology framework.

The global emergence of neoliberalism through the 1980s into the 1990s largely resulted in retrenchment of universal de-commodified elements of Canada's welfare state, reinforcing class distinctions and residual benefit allocation within its liberal framework. Craig and Porter (2006) describe 'inclusive' neoliberalism which emerged through the 1990s and early 2000s, which maintains the core principles of neoliberalism while emphasizing "... 'empowerment' to enable participation (and ensure 'inclusion') of countries and people in global and local markets" (p. 12). It is here in which there is an element of recognition for the need to focus on social investment, however it is done so as a means to ensure participation in broader economic market-oriented processes. Inclusive neoliberalism shares the neoliberal focus on balanced budgets and an inevitability of inequality within society, and views the role of social policy as a means to empower individuals to be active participants from an economic perspective, engaging in the labour market more directly (Craig & Porter, 2006). Assistance remains means tested and principles of commodification continue to underpin state actions, which is evident through the direct focus on individual employability and labour market participation connected to social welfare responses (Mahon, 2008).

The varieties of liberalism indicate a more nuanced framing of welfare state development in various contexts. Prior to the 2008 global financial crisis, Mahon (2008) framed Canada's welfare state as one with key challenges in which it appeared clear that despite social democratic elements, neo- and inclusive liberalism remained the two most likely welfare regimes to emerge. The financial crisis had a significant role to play in determining which would emerge and would go on to more deeply impact social welfare

provision in Canada, especially regarding housing. It is here where I turn my focus directly toward positioning housing within Canada's welfare state in order to determine where it is currently situated, exploring the potential of the right to housing to de-commodify elements of Canada's housing system and possibly influence broader social policy in the process.

Typically the positioning of housing within Canada's welfare state has been determined by patterns of growth and development in the social housing sector, while also including consideration of policies related to rent control and tenant protection. From a social policy perspective, much of the historical development in the area of social housing can be linked to the establishment of Canada's National Housing Act (NHA) in 1938. Building on the Dominion Housing Act, the focus of the NHA was to stimulate growth and recovery in the housing sector following the Great Depression and eventually was the first act in Canada to provide direct funding for social housing (Canada Mortgage and Housing Corporation [CMHC], 2011). Major federal housing programs at the time were the mortgage insurance program and direct lending program, both of which were focused on ownership, while public or social housing still remained a relatively small part of the housing system until NHA amendments in the mid-1960s (Fallis, 2010, p. 180-181).

The NHA's main purposes have remained the same over time: "An Act to promote the construction of new houses, the repair and modernization of existing houses, and the improvement of housing and living conditions" (Canada, National Housing Act, 1985, p. 1). These purposes carry a financial component in which the goals outlined rely

on either direct funding from the state or the private sector. Embedded within these purposes is the root of Canada's two-part housing system, which supports development through the private market and pays specific attention to those left out of it. With a growing welfare state in Canada through the 1930s and 1940s and a lack of private sector interest in financing affordable housing, the state took on a primary role in financing social housing development and growth, specifically the federal government with some provincial support through shared cost arrangements with the Canada Mortgage and Housing Corporation (Fallis, 2010).

In the period from 1965 to 1985, Canada would go on to experience an unprecedented growth in social housing. This was due to a large increase in federal funding, increased participation of private sector involvement in the rental market, and NHA amendments which provided added funding for provincial housing corporations, which marked a clear delivery system for social housing policy mandates through federal-provincial operating agreements (Suttor, 2016). While this period provided much needed social safety net of affordable housing, de-commodified elements of Canada's housing system would remain vulnerable to ideology shifts impacting its growth and protection through the 1980s and beyond.

Operationally, there appears to have been awareness at some point that subsidizing the cost of housing alone could not solve the larger systemic issues that were impacting those accessing social housing. Considerations of systemic issues around poverty, social exclusion, unemployment, and inequitable access to goods and services led to further changes in social housing provision and expansion beyond housing

exclusively built for low-income groups. The results were the increased focus on purpose built mixed-income housing developments, increased development of co-operative housing, and a shift away from large scale development to smaller, community based non-profit housing projects (CMHC, 2011). This was a significant policy shift from the federal level as government was no longer the sole provider of low-income social housing. The scope of policy implementation changed and other partners were brought to the table to build, operate, and maintain forms of non-profit housing. This expanded the scope of social housing to involve more local non-profit organizations and housing co-operatives, which encouraged the promotion of community based design, the growing presence of grassroots engagement initiatives, and a greater shift to more of a mix of subsidized and market rent apartments (Fallis, 2010).

If the period from 1965-1985 is considered the ‘golden age’ of social and affordable housing in Canada, the period that followed into the early 1990s provides a stark contrast and highlights dramatic shifts in Canada’s welfare state. While certain elements of ‘universal’ benefits such as healthcare and education were able to be maintained to an extent, housing did not have and may not have ever had the same protections, which allowed it to be a target for dismantling. This is not to say that elements of Canada’s housing system had not been de-commodified through social welfare responses, however the extent to which they remained de-commodified was limited by the liberal ideology rooted within Canada’s political system. While the postwar period may have led to promising outcomes in affordable housing growth and investment, the notion of the ‘golden age’ of housing policy may apply more to supply

levels rather than universal policies directed at equitable access to, appropriateness and affordability of housing.

### **Neoliberal social policy and the financialization of housing in Canada**

Specific social policy shifts in the Canadian context signalled state retrenchment in certain areas of the housing system, and more intensive participation in others. The elimination of Canada's national federal housing program in the early 1990s by the federal Liberal government remains a major turning point in terms of housing policy in general, specifically regarding the position of housing in the welfare state, eliminating many gains achieved in previous decades (Hackworth & Moriah, 2006). This elimination dramatically reversed the focus in growth and development in public affordable housing, shifting a majority of the administration of social housing to the provinces and territories while looking more intently to private market developers to meet the needs of the broader rental market (Canadian Centre for Policy Alternatives, 2006). From an ideological perspective the shifts were rooted in principles of capitalism and neoliberalism, following the growing global trend around the commodification of housing.

Homeownership programs and private sector investment strategies took precedence over social housing and other non-market affordable housing development, furthering retrenchment in this area of Canadian housing policy (Canadian Centre for Policy Alternatives, 2006). These shifts in housing policy would act as precursors for current challenges brought on by increased financialization of housing in the Canadian context. The processes of neoliberalization and financialization of housing in Canada are not to be seen as inevitable outcomes, but are encouraged and sustained by the state

where nonmarket forms of affordable housing have been pushed aside in favour of private sector investment amidst a broader retrenchment of Canada's social welfare state (Walks & Clifford, 2015, p. 1639).

The current financialization of housing in the Canadian context shares broad similarities with the aforementioned trends related to policies promoting homeownership: prevalence of private landlordism, and rapid emergence of private equity firms in the housing market following the global financial crisis in 2008. These trends have been facilitated in part by structural changes to Canada's mortgage system. This includes adaptations related to mortgage securitization, described as a main element in the 'neoliberalization of housing policy' and utilized as a "...method for widening private sector participation in the funding of loans, facilitating increased access to credit, and for distributing lending risk among different investors" (Walks & Clifford, 2015, p. 1624). A reduction in tenant protections and state withdrawal from social housing production over time have been identified as main drivers in creating a crisis of housing affordability in large Canadian cities, providing investors of various sizes with the means to profit while tenants face increased risk and reality of displacement (August & Walks, 2018).

Relevant research into the financialization of housing in Canada has detailed specific trends linking austerity measures and the shrinking welfare state alongside structural changes and more direct federal involvement in mortgages and lending, leading to an environment of contradictions in which the government backed away from one area of housing policy while further entrenching its influence in another (Walks & Clifford, 2015). Through these processes, mortgages were re-shaped as accessible, low risk options

to provide a means of asset accumulation and financial return, resulting in further commodification of housing and stratification of populations through the unequal accumulation of wealth and unequal access to adequate housing (Kalman-Lamb, 2017).

Kalman-Lamb (2017), in exploring rapid appreciation in housing value from 2015-2017 in Toronto and Vancouver, highlights the growth in wealth inequality through the financialization of housing which created an environment in larger Canadian cities where private equity firms and REITs increased their speculative investment practices. This reflects some of broader trends Aalbers (2015) refers to, where despite the variegated nature of the financialization of housing there are common trends in how it has advanced globally. This then may point to the usefulness in looking at common trends in how to address the financialization and commodification of housing in our current socio-political environment, leading to a larger assessment of the global and domestic advocacy around housing as a human right.

## CHAPTER 5: HOUSING AS A HUMAN RIGHT

The right to adequate housing is a concept that has and continues to take on various meanings and practical applications in various settings. It is generally understood internationally through a broad conceptualization in which freedoms and entitlements are protected and in place in order to ensure that people have the right to live somewhere in security, peace, and dignity (United Nations Office of the High Commissioner for Human Rights, 2009). Freedoms and entitlements act as a form of de-commodification for the right to adequate housing to be realized regardless of social or economic status. As a belief statement it may provide a values position for policy, planning, and decision making. However, as will be discussed in the following sections, without an embedded framework to understand what a right to housing entails, how to apply it and how to hold people or institutions accountable, it may provide little more than an aspirational slogan rather than a targeted strategy toward ensuring equal access to safe, adequate, and affordable housing for all.

The notion of housing as a human right evokes considerations regarding challenges to the social and economic structures that treat housing as a commodity. While there remain both strengths and challenges within rights claims in legal systems, the conceptualization of the right to housing acts to challenge the status quo of housing systems as Madden and Marcuse (2016) describe:

An actual right to housing necessarily implies fundamental challenges to the existing system. The efficacy of this sort of right is that it can articulate a demand around which a mass movement can mobilize: the demand for truly decent housing for all irrespective of one's economic or social status. (p. 195-196)

The starting point for much of the international dialogue and advocacy around the right to housing has centred on existing agreements through the UN and its member states. Most notably, the Universal Declaration of Human Rights is a formative document classifying the right to adequate housing alongside other human rights in Article 25:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (United Nations, 1948, p. 7)

Although it is a non-binding treaty, Article 25 has been pointed to as a baseline commitment for UN member states to meet basic requirements while pursuing the further enshrinement of the right to an adequate standard of living in national or territorial contexts. Article 11, the International Covenant on Economic, Social and Cultural Rights (ICESCR), built on this commitment further calling on member states to ensure social welfare policy both recognizes and realizes the universal right to an adequate standard of living (United Nations, 1966). In 2015 the UN Sustainable Development Goals and the International Covenant on Economic, Social, and Cultural Rights were committed to by member states, including target 11.1 to ensure safe, adequate, and affordable housing for all by 2030 (Farha, 2017).

From an international perspective, the right to an adequate standard of living and ‘housing for all’ does not necessarily mean that governments are responsible for building and providing housing for everyone, however it does include universal concepts toward ensuring adequacy of living conditions and security of tenure. Examples include freedoms such as protection against forced eviction and the right to choose where to live,

as well as entitlements such as security of tenure and equal and non-discriminatory access to housing (United Nations Office of the High Commissioner for Human Rights, 2009).

Rolnik (2014), UN Special Rapporteur on adequate housing from 2008 to 2014, argues for a broader conceptualization of the right to housing which encompasses:

...the security of all forms of tenure and the protection against forced evictions; access to basic services, including health care, education, potable water, food, electricity, sanitation, waste disposal, transport, leisure, green spaces and a healthy environment; the right to use appropriate and adequate materials ensuring habitability, including adequate space and effective protection against natural threats to health and life; affordability of, and access to means of subsistence, including access to land, infrastructure, natural and environmental resources, and sources of livelihood and work; the right of participation in all stages and processes of decision-making related to housing; and the prioritisation of the needs of vulnerable and historically marginalised minorities. (p. 294)

While this may be a wide-ranging and seemingly unattainable spectrum to address, it is important here that the context of housing rights is not limited to housing alone and takes into account social factors which may move dialogue and action away from principles of commodification to that of universal principles centred on adequate housing as a human right. In doing so the conceptualization of housing and human rights becomes about much more than the physical structure of four walls and a roof.

### **Recognizing and realizing housing rights**

In practice, recognizing a right to housing may be simpler than realizing it, which is likely one of the main reasons why despite the aforementioned presence of international agreements and treaties there remains a global housing crisis and growing social and economic inequality. The responsibility of states to realize the right to housing from within neoliberal contexts has been pointed out as contradictory in nature, as commodification and the use of housing as a source of financial capital through processes

of financialization takes precedence over the predominant value of housing as shelter (Whitzman, 2018). Where advocacy around the right to housing has existed, critique has centred on the contradiction describing the potential to realize housing rights at a time when social safety nets have been retracted as potentially “...futile, quixotic, even bizarre” (Hartman, 1998, p. 223).

Legislated frameworks have been shown to structure roles and responsibilities of the state in terms of their accountability in upholding rights-based principles of non-binding international agreements and enacting policies and programs that ensure basic housing needs are met, while positioning people in need of housing and supports as entitled rights holders (Farha, 2017; Rolnik, 2013; Watts, 2014). More than just value-based statements with little imperative for action, right to housing legislation provides a specific legal framework for the realization of housing rights. Within these frameworks, it is important to assess whether these legislated rights have been effective in protecting and promoting the right to housing for individuals and groups, especially considering the current context around the financialization of housing.

Based on assessment of global trends in housing, Madden and Marcuse (2016) are clear in their assertion that a right to housing is no panacea, and impact and effectiveness of such legal frameworks rely on structure, implementation, and ongoing monitoring and accountability processes (p. 196-197). Globally, there are examples of nations where there are degrees of judicial protection through a legislated or constitutional right to housing, including Scotland, South Africa, and France. In Scotland, analysis has shown positive outcomes related to their commitment to a right to housing and the mechanisms

used to achieve this, however larger challenges and limitations include global financial pressures and a lack of investment from a central governing body which has impacted the potential effectiveness of such legislation (King, 2015). Similarly, the constitutional judicial protection of the right to housing in South Africa has been praised, however it is framed more as a floor of legal protection rather than being a mechanism for the promotion of larger institutional change regarding policy and funding allocation (Mercy Law Resource Centre, 2018, p. 19). In France, the complexity around implementing right to housing legislation within a fragmented, or absent, welfare state is evident where multiple entities have competing interests or goals that may not actually align with the provision of safe, appropriate, and affordable housing as a right and not a commodity (Lévy-Vroelant, 2015).

Within the examples presented there appears to be commonality in the sense that the right to housing presents a standard floor for legal protection, however this still relies on individuals to challenge the state to ensure protection. Also, in order to maximize some of the potentially proactive elements of such legislation the literature demonstrates that there remains responsibility within multiple levels of government to cohesively enact policy decisions that reflect core tenets of the right to housing, ensuring existing and ongoing funding is present to support such decisions (King, 2015; Lévy-Vroelant, 2015; Mercy Law Resource Centre, 2018).

It is here once again where tension is highlighted between the implementation of progressive legislation as a means to combat commodification and financialization from within a neoliberal system that upholds such processes, influencing how governments

shape policy and funding decisions. So, while the presence of a floor of legal protection may still be beneficial, the legislation of the right to housing still may not have a significant impact in increasing the allocation of state resources to support structural change regarding socio-economic conditions.

### **The right to housing in Canada**

As the push toward legislating the right to housing has gained prominence through global advocacy movements, Canada has responded by referencing a ‘rights-based approach’ as a key tenet of the NHS. While the discussion from the Canadian federal government around a legislated right to housing may be relatively new, there is a recent history of advocacy and discourse around the right to housing in Canada that has been taken up in various settings.

While it is not possible to name every individual, group, or organization that has advocated and advanced the cause for the right to housing in Canada, I believe it is important to broadly acknowledge their influence and contributions around this issue. One of the more specific recent examples of such advocacy is that of the Right to Housing (R2H) Coalition in Ontario formed in 2008, brought together by the Advocacy Centre for Tenants Ontario (ACTO) following the examples of countries such as France and Scotland who had enacted right to housing legislation.

The R2H Coalition has engaged in various forms of advocacy around the right to housing in Canada, utilizing community organizing principles to strengthen its campaign. Much of the work of the Coalition centred on legal advocacy at the ‘point of decision’, utilizing these legal interventions to lobby governments while at the same time

attempting to “...exert influence in the public sphere” (Dirks, 2015, p. 139). Through its advocacy work, the Coalition highlighted the unique role and positioning of community legal clinics in their ability to support advocacy movements as organizations who are not funded directly by the governments they may need to influence (Dirks, 2015).

One of the most significant initiatives undertaken by the R2H Coalition was the support provided to the right to housing Charter challenge against the federal government and Ontario provincial government. The Charter challenge, which began 2010, alleged that the governments created circumstances through policy and funding decisions that led to conditions of inadequate housing and the prevalence of homelessness, pointing to international covenants Canada had signed which reference responsibilities related to ensuring the right to adequate housing to various degrees (Dirks, 2015). Despite the challenge being dismissed by the Superior Court of Justice and later by the Court of Appeal, important lessons were learned around the complexity of rights protections and the lack of justice surrounding the process for marginalized communities to claim social and economic rights in Canada (Dirks, 2015; Heffernan, Faraday, & Rosenthal, 2015).

The gap between recognizing and realizing a right to housing in selective or universal settings is one that continues to be raised through the research on the legislated right to housing. Heffernan, Faraday, and Rosenthal (2015) have highlighted an unspoken assumption that has been reflected in research on countries where there is a legislated right to housing, where there is a presumption that “...an individual starts with an experience of rights protection and the impugned state action is an aberrant divergence from that presumed status of security” (p. 44). In other words, an assumption or

perception that the state is inherently working in the best interests of all individuals and that rights-violations are individualized deviations from this perceived norm. This continues to highlight an ongoing tension regarding the potential selective nature of the right to housing in practice where a floor of legal protection may be beneficial, however there remain structural limitations that prevent the progressive realization of universal human rights regarding safe, adequate, and affordable housing for all.

In addition to this tension, there is also the acknowledgement through the experience of the R2H Coalition Charter challenge that the pursuit of rights protections, even when successful, requires collective action to be able to address and ultimately challenge and change larger systemic issues around marginalization and discrimination (Heffernan, Faraday, & Rosenthal, 2015). Ultimately this speaks to the larger tension around ‘rights and needs’ discourses present in capitalist welfare states such as Canada in recent decades, requiring new ways of thinking and planning around affordable housing advocacy to produce tangible change (Whitzman, 2018). To this end, the right to Housing charter challenge confronted the Canadian legal system that privileges civil and political rights, engaging in the advancement of socio-economic rights through increased dialogue around the need for Canada to adopt a national housing plan or strategy (Heffernan, Faraday, & Rosenthal, 2015).

### **Housing rights are human rights; Canada’s National Housing Strategy**

In the development of housing strategies, Farha (2017) emphasizes the need to address gaps and inequalities in systems while acknowledging that legislative protections of the right to housing may not always be effective in addressing violations. Alongside

specific legislation promoting and protecting legal rights, Farha also stresses the need for universal rights-based strategies to account for factors including but not limited to: allocation of maximum resources; engagement all spheres of government; meaningful participation of marginalized groups through consultation; recognition of and actions toward addressing the impacts of colonization; and ongoing accountability and monitoring processes (Farha, 2017, p. 21).

At the unveiling of Canada's NHS in November, 2017, Prime Minister Justin Trudeau proclaimed: "Housing rights are human rights and everyone deserves a safe and affordable place to call home...and one person on the streets in Canada is too many" (Tasker, 2017). The NHS document itself reflected this language, referencing the right to housing and Canada's obligations regarding UN Sustainable Development Goals and the International Covenant on Economic, Social and Cultural Rights.

Important commitments through the NHS at the time of its release included the promise of new legislation promoting a rights-based approach to housing and the appointment of a new federal housing advocate to address systemic barriers limiting access to adequate housing (Employment and Social Development Canada, 2017). The NHS also specifically referenced the need to target specific housing interventions to vulnerable or marginalized populations through rights-based approaches.

Long-term funding commitments were also made in the NHS, including a ten-year plan to invest forty-billion dollars along with territorial and provincial cost matching agreements (Employment and Social Development Canada, 2017). While the announcement was presented as a historic investment in Canada, ensuring funding over a

long period of time, some critiqued the initial implementation strategy which was back loaded beyond the next federal election in 2019.

Beyond the broad commitment outlined in the NHS, recent budget allocations provide a clearer sense of the position of housing among broader federal funding commitments. The title of the federal Liberal's 2019 federal budget is 'Investing in the Middle Class' and outlined priorities including "...good, well-paying jobs for the middle class and people working hard to join it; more help for families struggling with the high cost of living; strong, connected communities; and better opportunities for our children and grandchildren" (Canada, Department of Finance, 2019, p. 9). Housing features predominantly in the 2019 federal budget, citing rising house prices and limited supply of housing as major issues for Canadians. Three main areas of focus identified in the budget to make housing more affordable include measures to reduce barriers to homeownership for first time homebuyers, boost supply for housing and rental markets, and increase fairness in the real estate sector (Canada, Department of Finance, 2019, p. 22). Beyond general acknowledgment of the 'unaffordability' of housing, the budget did not specifically reference a rights-based framework for housing as seen in the NHS.

Despite enhanced funding commitments, some have argued that Canada's NHS implementation has not necessarily had a significant impact on budgetary expenditures. Hulchanski has argued that current federal spending commitments relating to housing have been rolled into those of previous governments and that while total spending may appear high, actual grants and expenditures from 2018 amount to approximately 0.8% of the total federal budget making it one of the lowest proportional investment commitments

since the 1970s (Gold, 2019). Others, including researcher Steve Pomeroy, have noted that it takes a significant amount of time to plan, finance, and build housing such as that promised through the NHS. While this may be a practical consideration, he has also called on the federal government to accelerate delivery and outputs in 2019, while at the same time critiquing implementation of the federal commitment to end chronic homelessness to which approximately only five percent of the forty-billion dollar housing commitment had been allocated toward (Canadian Housing and Renewal Association, 2019).

In April 2019, following the release of the federal budget, and almost one and a half years after the release of the NHS, specific legislation was officially presented by the federal Liberal government around a right to housing in Canada, elaborating on broad commitments made earlier. Bill C-97 (2019a) included the National Housing Strategy Act, moving Canada closer to legislating the right to housing by further committing to strategies consistent with the ICESCR.

Despite strategies consistent with the ICESCR, groups such as the Right to Housing Campaign pushed for amendments to be made in order to strengthen the legislation. Recommended amendments included clarifying the roles and responsibilities of the National Housing Council and Federal Housing Advocate, the inclusion of informal hearings regarding systemic issues where those impacted have a meaningful voice, requirements for the Minister to respond to and address areas of concern raised by the Housing Advocate, and the inclusion of specific reference to Indigenous peoples and the UN declaration on the Rights of Indigenous Peoples within the legislation (Right to Housing Campaign, 2019a).

On May 29, 2019, the federal government announced amendments to Bill C-97 and these reflected recommendations which were made from a variety of groups and organizations involved in the Right to Housing Campaign. Elizabeth McIsaac, President of Maytree and member of the Campaign, responded to the amendments stating “The government made an important commitment to the right to housing when it introduced the National Housing Strategy... These amendments and this legislation show the government is willing to listen, take the time to get it right, and is serious about tackling Canada’s housing crisis” (Canadian Alliance to End Homelessness, 2019).

Key elements of the amended Bill C-97, the National Housing Strategy Act, include an outline for the implementation and continual development of the NHS through a rights-based approach, the establishment of a National Housing Council to further housing policy through the NHS, and the establishment of a Federal Housing Advocate whose role will include systemic reviews of housing issues and reports back to stakeholders highlighting matters pertaining to the NHS itself or the progressive realization of the right to adequate housing (Bill C-97, 2019b). The legislation, as amended, is summarized by the Right to Housing Campaign as follows:

This innovative model does not give rise to legally binding orders from a court or an official tribunal, but it creates meaningful accountability and access to justice for the right to housing through other means. Issues of compliance with the right to housing can be submitted to the Housing Advocate for investigation, opinions and recommendations. Rights holders will have access to accessible hearings into key systemic issues, before an expert panel with at least one representative of affected communities. The legislation ensures that reports and recommendations will not be ignored by governments and must be responded to in a timely and meaningful fashion. (Right to Housing Campaign, 2019b)

Bill C-97 received Royal Assent and became law in June 2019, marking the first time that there has been legislation enshrining the right to housing in Canada. While it remains to be seen how Canada's right to housing legislation will be practically implemented through the NHS, current details and relevant literature provide important context for further analysis in this thesis around the potential impacts, strengths, and limitations of the right to housing in Canada.

### **Gaps in the literature**

While global research acknowledges the human rights 'floor' that a legislated right to housing provides, there is a gap in research theorizing how to move beyond minimum standards from selective rights to universal, ensuring the right to housing applies not just in the negative sense when a violation or infraction occurs. Part of this gap may be due to the general limitations of thinking of universal housing principles from within capitalist, neoliberal frameworks. This raises the question of whether or not positive universal housing principles and rights can be ensured from within systems that continue to place housing as a key object of financialization.

Lévy-Vroelant (2015) highlights an important consideration for assessing rights-based movements regarding housing, framing the tension between immediate advocacy around housing rights for targeted rights holders and movements toward broader advocacy around re-politicizing housing as a matter of social security (p. 108). Through my research and analysis regarding the right to housing and Canada's NHS, I will be exploring this tension through an assessment of the positioning of housing within Canada's welfare state. In doing so, I hope to fill a gap in current research in the

Canadian context regarding who the right to housing applies to as currently conceived, and if it presents a progressive challenge to neoliberal and capitalist influence on housing policy.

In my review of literature related to the right to housing, there also appears to be a detachment between dialogue around a legislated right to housing and research and work positioning housing within a strong welfare state, which has helped to frame my research methodology. While a legislated right to housing does not mean the state provides literal housing for all, research has demonstrated global trends in systematic retrenchment from social housing funding and development, and the need to re-focus on non-private market housing investment to address inequalities accentuated by capitalism and neoliberalism (Rolnik, 2013; Walks & Clifford, 2015; Whitzman, 2018). In doing so there is an inherent responsibility of the state to act, which a legislated right to housing implies, however there is little evidence on how the state has been and could truly be held accountable to their own commitments in this area.

## CHAPTER 6: THEMES AND DISCUSSION

UN Special Rapporteur on adequate housing Leilani Farha recently completed a visit to France to assess progress in their work around housing and homelessness in the context of their human rights commitments, reporting afterward that there remain gaps in implementation that limit overall effectiveness. In a press release summarizing their official UN visit, Farha commented that the right to housing in France is not working as effectively as it should, reflected in the lack of space in emergency shelters, use of hotel rooms in lieu of shelter space for families, and harsh living conditions in informal settlements (United Nations Office of the High Commissioner for Human Rights, 2019). If this is current state of housing in a setting where the legislated right to housing has been in place for some time now, what are the prospects for tangible change in the Canadian context even if the NHS moves ahead with right to housing legislation? This question provides another element of the right to housing in Canada to assess within the context of my own analysis and discussion, assessing what may need to be in place for a right to housing to have an impact both in the short and long term.

As currently enacted, the legislated right to housing will create new accountability measures to ensure the federal government is meeting commitments through the NHS and may help to highlight broader systemic housing challenges in Canada. Along with being a tool for advocacy, global examples also demonstrate how the right to housing may also provide a legal floor of protection. However, while framed as mechanism to shift dialogue and policy towards regarding housing as a social good, it is unclear to what extent the right to housing will be a practical and effective tool to more fully address

systemic oppression and marginalization embedded within Canada's housing system.

Although it presents the federal government with a potential roadmap forward toward policy change, there is no certainty that funding or material conditions will be impacted federally or at other levels of government.

Despite potential for the right to housing to further challenge elements of systemic housing injustice, there are limitations highlighted through this chapter including contradictions between universal social programs, neoliberal and capitalist state regimes, and the precarious positioning of housing in the welfare state. The following sections build on existing research and evidence in order to contextualize themes related the right to housing in Canada, exploring its promise and practical potential in the context of current housing policy.

### **Universal housing policy within neoliberal structures: contradictions and challenges**

Processes of commodification and the growth of the financialization of housing sustained by capitalist and neoliberal economies present a persistent challenge in attempts to promote universal housing policy. This remains a clear and consistent struggle in realizing the right to housing among international contexts examined in the literature. Considering this ongoing struggle it should not be surprising that as strategies of de-commodification are implemented, even in their ideal form, processes of commodification and financialization continue to adapt and evolve as a response.

Comparative analysis of international right to housing strategies based on legal principles has determined that the presence of a legal floor of protection may be beneficial, however is not enough in itself to address the level of housing and

homelessness challenges that states have in front of them as there is little evidence that it alters decisions concerning the allocation of resources (Mercy Law Resource Centre, 2018). While a legal floor of protection regarding adequate housing may be afforded, universal elements may be limited without deeper political will to act on broader structural elements of housing and social welfare systems that produce and sustain inequities. The presence of a legal floor then may be seen as either complimentary to state action or as conflicting with state inaction, placing broader responsibility “...with the elected branches, and the existence of sufficient and enduring political will to vindicate the right to housing through difficult budgetary and policy choices” (Mercy Law Resource Centre, 2018, p. 18).

Inherently there are contradictions between human rights strategies regarding housing rooted in principles of universalism and states that operate from within predominantly capitalist and neoliberal influenced frameworks. The vision and structure of housing as an asset and a means of financial capital has been embedded into social policies, making social class the major determinant of who has access to the right to housing and how they are able to claim this right (Rolnik, 2014). For rights-based strategies to create structural change, this inequity embedded into housing policy needs to be fully addressed or else the right to housing may be limited in its universal application, instead producing positive social change for limited segments of the population while others continue to experience disproportionate impacts of an inequitable housing system.

Where freedom or emancipation granted by rights conflict with realities of neoliberal principles and governance, these rights may be reduced to being illusionary in nature and may in fact reproduce inequitable structural power dynamics between those who govern and those who are governed (Selmeczi, 2015). As seen in the example of France, ‘post-welfare’ state reality in which universal protections have been dismantled has resulted in an institutional narrative of deserving and undeserving related to social supports as well as the mechanisms to claim the provision of such supports (Lévy-Vroelant, 2015). Universal rights claims may then be reduced to selective realization of rights or selective application of resources at the determination of the state.

It is here in which the positive impacts of the right to housing may rely on its potential as an advocacy tool and as a means of broader resistance, defined and conceptualized by those who claim this right and not by those who govern. The example of the R2H Coalition Charter challenge provides learning around a legal advocacy approach in how it was framed, directly challenging “...systemic roots of marginalization, aiming to hold government accountable for building an identifiable network of interconnected laws and policies that predictably facilitate and exacerbate oppression and marginalization” (Heffernan, Faraday, & Rosenthal, 2015, p. 11-12).

In Canada, the legislated right to housing is designed as a right that will be claimed collectively rather than individually. The role of the assembled review panel will be to hear systemic issues related to the progressive realization of the right to housing, which will be referred by an appointed Housing Advocate (Right to Housing Campaign, 2019b). While this may seem to mitigate some of the issues around the individualization

of housing rights and the deserving and undeserving nature of who can claim such rights, there remains a need to scrutinize the structure of the right to housing in Canada in order to assess possible risks, limitations and unintended consequences once implemented.

As human rights cases will be brought forward in a collective manner, what elements will be in place to ensure that some rights claims are not minimized or filtered out prior to being brought to the review panel? In this current structure, the role of the Housing Advocate and Housing Council would appear to be central in ensuring that collective rights claims move forward in the pursuit of justice. In their role as Special Rapporteur on adequate housing, Leilani Farha recently highlighted the centrality of the access to justice in realizing housing rights. In their report, Farha (2019) states:

Violations of the right to housing are as much failures in the administration of justice as they are failures of housing programmes. If those living in inadequate housing and in homelessness have no access to justice, they are deprived of agency to bring violations to light, to address root causes or ensure appropriate responses. They are unable to challenge the policy choices and decisions that created the conditions in which they live. (p. 3)

Despite the evidence pointing to the presence of a legal floor of protection through a legislated right to housing and more legal systems around the world adopting legal principles regarding this right, access to justice still remains fairly limited for those seeking the progressive realization of the right to housing (Farha, 2019). The result of a number of contextual factors including inadequate legal frameworks and the limits of justice systems, as well as the adaptation and push back of capitalist and neoliberal economies which impacts policy and resource allocation, the limitations regarding access to justice raises important considerations when assessing the potential of the right to housing in the current Canadian context.

Despite apparent contradictions and tensions present that limit immediate impact, this alone should not be a sole deciding factor in embracing or rejecting the right to housing as a legal principle. In exploring the potential unrealistic nature of effective rights-based frameworks related to housing within neoliberal systems, Hartman (1998) states that “...the fact that establishing such a right does not appear to be immediately feasible in no way detracts from the argument that our society ought to embrace it” (p. 224). Here it is highlighted again that while *realizing* the right to housing may be the ultimate goal, *recognizing* it still remains a crucial step in re-framing and re-positioning housing as social good over commodity.

Processes toward the realization of human rights have been framed as “...an evolving societal sense of justice and entitlement, won, always, in political struggle (frequently undergirded by various intellectual efforts)” (Hartman, 1998, p. 224). In this, the legislated right to housing in Canada and the NHS must not be seen as the one guarantee of housing rights alone. Instead, they may be conceptualized as elements of a broader movement toward the transformation of Canada’s housing system to one that reflects universal rather than selective rights and provision of resources. Madden and Marcuse (2016) highlight the necessity of a more comprehensive movement as follows:

In a world where the dignity of working-class and poor people is under attack and where poor people’s housing is so often a source of alienation, the idea of universal access to home as a place of dignity has radical potential. (p. 113)

It is within this radical potential that we must continue to consider where and how the legislated right to housing may fit as a tool toward necessary structural change and the radical reconstruction of housing and social welfare in the Canadian context. In order to

do this, an ongoing critical examination of Canada's housing and social welfare systems is integral to ensure that proposed remedies amount to more than superficial changes which merely uphold selective policy in which access to justice and access to resources remains unequal.

### **The persistent duality of Canada's housing system**

Inherent contradictions between the goals of a truly universal housing program within a neoliberal framework continue to be reflected in Canada's current housing and social welfare systems. Hulchanski's analysis asserts that Canada has and continues to support a 'universal' housing program, however one in which housing and associated benefits are framed as a right only insofar as it is earned by investors and owners as those with the means to compete in commodified housing markets (Hulchanski, 2006).

Hulchanski's analysis around the duality of Canada's housing system highlights structural challenges in implementing right to housing principles through the NHS. Despite the actions of the current federal Liberal government to create the NHS and bring forward right to housing legislation, questions remain around the willingness or ability of federal leadership to adequately address systemic issues within our current political and economic systems.

A general skepticism or apprehension around effectiveness of rights-based strategies is highlighted through consultations conducted by Emily Paradis with people with lived experience of homelessness or housing instability who expressed concern that rights-based strategies or policies may not take into account their needs or promote their interests. Those consulted expressed frustration in the experience of "...everyday

violations of their rights they experience in local state-funded systems” (Paradis, 2018, p. 16). Perhaps this frustration speaks to elements of trust that need to be rebuilt between people and institutions responsible for upholding housing rights. It also highlights the need to address the structural factors that lead to ‘rights violations’ and systemic oppression by the state. Through this process it continues to be necessary to critically assess value statements and positions by the state, along with policy and funding decisions and outcomes.

Despite apparent alignment with key principles outlined in international standards, there appears to be an element of misalignment between right to housing principles and the policy and funding commitments put forth so far through the NHS. Canada’s NHS reflects language utilized by the federal Liberal government in recent budgets regarding strengthening the ‘middle class’. While stating that the NHS is symbolic of the federal government re-engaging in housing, it is described as “...a key element of our Government’s plan to help strengthen the middle class, promote growth for everyone, and lift more Canadians out of poverty” (Employment and Social Development Canada, 2017, p. 3). Despite the assertion that the NHS symbolizes a re-engagement in housing at the federal level, I would argue that there is strong evidence to suggest that they have been significantly involved in housing despite specific policy and funding retrenchment in social welfare related areas. This is also the case in examples of global counterparts, where reduction for social housing does not equate to a reduction of involvement in housing systems in general.

While some researchers have viewed global trends in government retrenchment from social housing alongside the growth of homeownership as indicative of the reduction of the role of the state in housing, others have maintained that the state remains actively involved in many areas of housing policy linked to commodification and financialization (Aalbers, 2017b; Rolnik, 2013). Researchers argue that the role of the state in housing is active, diverse, and complex, requiring a more nuanced and contextual analysis of housing and the welfare state in order to understand this relationship (Fahey & Norris, 2011). Despite neoliberal claims of limited government or state involvement in social housing in practical terms the government in Canada remains heavily focused on private market solutions to public issues, confirming Hulchanski's description of Canada's dual housing system. This is important to acknowledge as it places responsibility on the state rather than framing housing challenges as natural processes or occurrences.

A rights-based approach should avoid generalist application, and ultimately should be targeted to those with the highest level of need. This type of focus would then necessarily have to acknowledge the duality of Canada's housing system and the inequitable impacts of continuing to uphold this system through policy and funding decisions. It would also need to focus on systemic discrimination and oppression that individuals and groups face, which is highlighted by experiences of homelessness or housing instability. The need to focus on those with the greatest need is supported in international commentary on the right to housing from the UN Special Rapporteur on adequate housing who states:

Strategies must prevent housing systems themselves from sustaining and increasing socioeconomic inequality and exclusion. They must recognize and address the close association between laws and government policies that position housing as a commodity, and the unaffordability of housing for those in the lowest income brackets, leading to growing homelessness and displacement and increased concentration of wealth. (Farha, 2018, p. 7)

Bill C-97 (2019b), Canada's right to housing legislation, recognizes the role of the NHS to "...focus on improving housing outcomes for persons in greatest need", however to what extent this influences future policy and funding remains to be seen. The federal government has made attempts to boost affordable housing stock through the NHS, and although financial commitments for affordable housing units are the highest they have been since the early 1990s, they still fall short of higher yearly commitments through the 1970s and 1980s and public spending on federal non-profit and co-operative housing remains historically low (Canadian Centre for Policy Alternatives, 2019).

While assessing commitments is an important element of analysis, assessing actual units created and protected is a critical piece to examine in order to understand the practical outcomes of federal policy. Since 2014 there has been a significant increase in purpose built rental units in Canada, with yearly totals approaching high points in the 1980s. Although more rental units are being produced, a product of public policy through incentives and programs of the NHS, affordability remains a challenge. Much of the policy and funding support to this point has been directed to private investors to build rental housing, and while more rental housing may generally be available, low vacancy rates have meant that rents remain high in these 'subsidized' new rental builds (Canadian Centre for Policy Alternatives, 2019).

One direct federal initiative aimed at addressing affordability for those in greatest need is the Canada Housing Benefit, co-developed with provincial and territorial governments and planned to launch in 2020. Focused on providing support to approximately 300,000 low-income households, the benefit will provide financial assistance to afford rent in both private and public housing settings (Employment and Social Development Canada, 2017). While the 300,000 potential beneficiaries may seem high, the budget cap placed on this proposed benefit will assist at most 12% of the estimated 2.4 million Canadians who will be spending more than 30% of their income on rent in 2020 (Canadian Centre for Policy Alternatives, 2019). In theory, a rent support program aimed directly at housing affordability for low-income households makes sense, however important funding and policy considerations remain regarding provincial/territorial implementation as well as the protection and expansion of rent controls and tenant rights “...ensuring the benefit flows to families and not landlords” (Canadian Centre for Policy Alternatives, 2019, p. 30). At this point, some of the current policy direction and investment commitments outlined have the potential to have a significant impact, however the immediate impacts felt thus far would seem to indicate smaller pivots in Canada’s housing system rather than fuller transformation.

Framing the challenges regarding intent versus impact is the consideration of who has influence over government decision-making, program design, and implementation. Hulchanski (2006) notes that house-building and real-estate lobby groups had significant influence over federal policy changes in the early 1990s resulting in more universal subsidies linked to homeownership programs at the same time as social housing programs

continued to be reduced and co-operative housing programs were cut all together. The impact these decisions had on housing in Canada were significant as seen in the analysis around federal implementation of affordability initiatives and public housing investment, as well as recent trends around homeownership and rental rates.

Canada's homeownership rate currently remains close to seventy-percent, higher than that of both the United States and the United Kingdom, and more than half of renter households in Canada are in the bottom forty-percent of the income scale (Alini, 2019). The support of a two-part housing system also reflects growing stratification and inequality supported and sustained by active state involvement, reflected in feelings of power and powerlessness in each part of the housing system. Through this the 'secondary' part of Canada's housing system has been made increasingly vulnerable through state policy which has positioned those in rental and social housing as undeserving, contributing to and upholding ongoing processes of race, gender, and class inequality (August, 2016a).

The framing of dual housing system highlights that there are specific systemic issues related to housing that continue to persist in Canada where conceptions of 'universal' housing policy, programs, and rights are in reality selective in nature and linked to the increasingly commodified nature of housing. The processes of commodification and financialization have resulted in an unequal focus on homeownership and accumulation of wealth over other types of accommodation, as Kalman-Lamb (2017) describes:

As the different levels of the Canadian state respond to the intensifying contradictions without breaking from fiscal restraint or the private provisioning of

housing by profit-driven finance, developers, and landlords, a larger proportion of the population is faced with unaffordable housing, stagnant wage incomes, the burden of greater economic insecurity, and intensifying wealth inequality, even in the absence of a full-blown foreclosure and financial crisis. (p. 314-315)

Once again this duality in Canada's housing welfare state invokes questions around the role of the state in actively promoting a more just and equitable housing system. If we are to view the right to housing as a progressive shift, there must be continued recognition by all levels of government in Canada that the right to housing has and continues to be systematically denied for many people by design. Overcoming the systemic denial of the right to housing for people with lived experience then remains one of the major hurdles for the NHS. Paradis (2018) elaborates on the reality of the systemic denial of rights based on consultations with people with lived experience of homelessness and housing instability through the development of the NHS:

This reality, alongside the social stigma and disenfranchisement they experience, poses obstacles to rights-based participation and accountability on both sides. For people with lived experience, mistrust and fear may discourage their engagement in participatory processes. But even more importantly, for governments, a legacy of denial of the right to housing and other social rights in policy processes must be overcome, in order to create new processes of rights-based accountability. (p. 26)

As long as capital accumulation through housing remains upheld by state policy, structural issues around housing policy will persist and housing will not be valued first and foremost for its position as a social good (Aalbers, 2015). The positioning of the right to housing to address these issues is tied to adequate response and accountability measures at all levels of government in Canada to begin to shift not only the dialogue around these issues, but to shift state action.

The power of those in the primary part of the housing system means that ‘middle-class’ interests will hold more political influence, along with mortgage and real-estate industries. For the right to housing to have an impact, the ‘secondary’ part of Canada’s housing system cannot continue to be treated as an afterthought that is focused on only when it is politically convenient to do so. Ongoing activism around increased accountability measures, transparency, access to justice, and ultimately the alteration of Canada’s inequitable approach to housing policy must then be key elements of effective rights-based strategies to potentially see some form of tangible positive outcomes.

### **Government funding and social policy implementation**

Social policy and government funding are inherently linked, as funding is often times a key element in broader forms of policy change or implementation. While not mutually exclusive, as for example policy change such as improved tenant rights and protections can occur at the same time as increased funding for non-profit housing, funding is often a major indicator as to where the state places its priorities and to what extent it aims to support public or private solutions to social issues. So whereas a policy may seem to indicate intent at addressing social issues through direct funding or investment, if this investment is not adequate to meet the level of need or if it upholds private market interests then the practical materialization of policy may be divergent from the original perceived intent. For that reason, when policy analysis occurs it must also include an assessment of financial commitment and spending outcomes in order to determine if policy intent and funding are consistent and in alignment. It remains to be seen to what extent the right to housing can be an effective tool to ensure ongoing

consistency between policy intent and funding, leading the shift away from a more dominant economic and market driven view and treatment of Canada's housing system while providing a space to actively de-commodify housing. This chapter assesses early results of Canada's NHS, including funding and policy implementation, as well as considerations around the possible impacts of right to housing legislation.

The stated primary focus of the NHS is to meet the needs of 'vulnerable populations' including women and children fleeing family violence, seniors, Indigenous peoples, people with disabilities, those dealing with mental health and addiction issues, veterans, and young adults (Employment and Social Development Canada, 2017, p. 4). The NHS also sets out specific funding streams flowing from an estimated forty-billion dollars over ten years dedicated to meeting targets such as a 50% reduction in chronic homelessness, as many as 530,000 households being taken out of housing need, up to 100,000 new housing units, and 300,000 repaired or renewed housing units (Employment and Social Development Canada, 2017, p. 4). The NHS as a guiding document provides additional context and detail regarding the intent and potential outcomes of specific housing-focused policy interventions.

There are several significant potentially positive policy impacts that the NHS can provide through effective consultation, implementation, and funding in order to ensure that rights-based proposals have rights-based impacts. As discussed in the previous section, the Canada Housing Benefit may have its limitations as currently proposed, although it does provide indication that housing affordability is a key priority at the federal level and through the NHS marks a significant strategic turning point in Canadian

housing policy (Suttor, 2017). While implementation challenges regarding elements such as this benefit may be present, the right to housing may act as a mechanism to highlight such issues and demonstrate how the government may need to make adaptations to ensure the greatest level of impact for those with the greatest level of need.

While there is little indication at this time of any significant expansion regarding funding commitments to create new social and co-operative housing, there have been commitments through the NHS to enhance initiatives to re-invest in protecting existing housing stock in these areas. As ongoing commitments for federal funding had been due to be phased out, new sustainability measures have been put in place through the NHS such as the National Housing Co-Investment Fund and the Community Housing Initiative in order to remove risk in the non-profit and co-operative sector while providing sustainability in funding over the next decade (Falvo, 2017; Suttor, 2017). Ensuring sustainability in these areas is a key element of national housing policy moving forward, signifying the return of the federal government to an area of concern in which it was removed from following the cancellation of housing programs in the early 1990s.

The stated focus on non-profit and co-operative housing should generally be seen as a positive starting point in the NHS. Ensuring stability and security of tenure, social housing in many forms has acted at minimum to de-commodify elements of Canada's housing system (Canadian Centre for Policy Alternatives – Manitoba, 2018). When funding shifted away from social housing, so too did policy which then looked primarily to private market solutions. One area of analysis that is an area of interest and potential concern relates to the shift away from traditional social housing models toward mixed-

income development, where funding will be made available to both non- and for-profit landlords (Falvo, 2017). In practice, this has led to a new wave of public-private partnerships and the emergence of mixed-income social housing redevelopment where welfare state provisions are funded through the profits of real estate development (August, 2016b). While framed as an important shift toward financial sustainability and one that acts to ‘diversify’ communities, policy shifts such as this should continue to be critiqued in order to ensure that intended social investment does not disproportionately benefit private market developers and result in practices tied to gentrification and displacement (August, 2016a).

From a tangible funding perspective, early results of actual spending compared to commitments through Canada’s NHS have raised concern as to the federal government’s political will to address longstanding gaps related to housing. In June 2019, the Parliamentary Budget Officer (PBO) released an analysis of federal spending on housing affordability related to the NHS with a distinct focus on how funding would be directed to what Hulchanski refers to as the ‘secondary’ part of the housing market. The PBO report concluded that it is not clear that the NHS will reduce housing need relative to 2017 levels and that while the NHS maintains overall funding levels related to housing there was a slight reduction in the funding available for households in core housing need (Office of the Parliamentary Budget Officer, 2019). The report also highlighted a reduction in funding for ‘assisted’ housing programs, instances where provincial funding had been reduced despite bilateral cost matching agreements, and substantial decreases in funding for Indigenous housing providers compared to the previous ten years.

As for the potential impacts of the legislated right to housing, in the near future, questions continue to remain around how it tangibly may result in further spending commitments from the government. The PBO report directly addresses this issue, outlining that the human rights based approach to housing in the NHS as currently proposed will primarily focus on reporting, oversight, and participation in decision-making:

Budget 2019 Implementation Act, Bill C-97, Division 9 of Part 4, enacts a National Housing Strategy Act. The National Housing Strategy Act does not have any fiscal impact beyond the administrative costs associated with maintaining a National Housing Strategy and supporting the National Housing Council and Federal Housing Advocate. It does not create any enforceable individual rights that would give rise to future statutory spending, nor does it bind future parliaments to commit voted spending to housing programs. (Office of the Parliamentary Budget Officer, 2019, p.22)

While raising considerable concern around the potential for impact of the NHS and its stated rights-based framework on core housing need in Canada, the PBO also reflects a growing dialogue around critical policy analysis that continues to emerge. While many have advocated for a national housing strategy as well as the legislated right to housing, this critique appears to be moving past face value assessments of measures we may think of as inherently good.

With the federal government's current strategy regarding housing, there are numerous questions as to how strategy, policy, and funding align within a rights-based framework. Despite policy goals that connect to rights-based strategies, the actual implementation of such policies is proving to be a challenge. New affordable housing programs are in place through the NHS and have been made available, and while some forms of investment have been successful others have not to this point as seen in the

following chart from the Canadian Centre for Policy Alternatives (2019) outlining the status of new Canadian Mortgage and Housing Corporation affordable housing programs:

Status of new CMHC affordable housing programs (new units only)				
	National Housing Co-investment Fund	Rental Construction Financing Initiative	Affordable Housing Innovation Fund	Federal Lands Initiative
New units with committed financing	1,813	8,412	7,384	-
New unit goal	60,000	42,500	4,000	4,000
Percentage of this goal that has commitments	3%	20%	185%	0%
Percentage of the program's timeframe that is complete	11%	20%	60%	33%
Program start and end dates	2018 to 2027/28	2017 to 2027/28	2016 to 2020/21	2018 to 2020/21
(Canadian Centre for Policy Alternatives, 2019, p. 27)				

Despite the strategic shift represented in the NHS, the current results continue to demonstrate Canada's liberal roots, although reflecting elements of the 'inclusive' neoliberalism Craig and Porter (2006) describe as a more nuanced adaptation of neoliberalism to the challenges it has met. This demonstrates the need to continue to explore the ideological and political structures that underpin state actions in order to critically assess the impacts of social policy. So while the NHS and federal budget commitment of forty-billion dollars over ten years may be held as 'progressive' in the current context, its roots it may not be vastly different than previous attempts to tie

housing policy to elements of economics, free market principles, and individualism which have further emerged since the 2008 global financial crisis.

Where then does this leave the right to housing and its potential to contribute to progressive policy in Canada? In critically assessing the relationship between social policy and government funding, we need to critically look at what is funded and what is not, while also taking into account where the burden of responsibility to act has been shifted away from the state through processes of commodification and financialization directly facilitated by states themselves (Rolnik, 2013). If housing policy remains heavily influenced by neoliberal and capitalist ideology, budgets will continue to be directed to areas that uphold Canada's two-part housing system rather than challenging this duality through universal benefits and even well intentioned policies will be undermined. Policies will also look to prioritize private market solutions to public issues, which remain fundamentally unsuitable to address the social and economic conditions of increasingly marginalized populations (August, 2016b).

The necessary critical assessment of the relationship between strategy, policy, and funding is relatable to me personally as someone who has believed that the NHS and right to housing could be important building blocks for housing policy in Canada. Questioning the social, political, and ideological structures that develop such policy does not push aside all consideration of the positive potential for the NHS or the right to housing in Canada; in fact it allows us to further realize this potential through critical approaches that challenge dominant ways of thinking or knowing which have been embedded in oppressive structures (Freeman & Vasconcelos, 2010). The right to housing may then

have potential to symbolically, and ideally practically, challenge embedded practice and ideology related to Canada's housing system, especially as it relates to the relationship between policy and funding.

### **The right to housing in Canada as a symbolic step**

For those who have advocated for the right to housing in Canada, the result of the legislation put forward by the federal government remains generally consistent with international standards and best practices outlined by key stakeholders. As a result of this, there has been considerable praise for the actions of the federal government in moving right to housing legislation forward in alignment with the NHS.

Tim Richter, President and CEO of CAEH and member of the Right to Housing Campaign, responded to Bill C-97 amendments in May 2019 stating: "This legislation lays the groundwork for a more effective National Housing Strategy, cements long-term federal leadership on housing, and sets Canada on a path for the elimination of homelessness" (Canadian Alliance to End Homelessness, 2019). As the federal government assesses how it must respond, is Canada ready to take on a leadership role in this area, both domestically and internationally? Certainly there are international examples around the acknowledgment of the right to housing to draw on, although any specific strategy in Canada needs to take into account contextual factors that shape the experience of homelessness or housing instability in this context including processes of systemic oppression and marginalization.

On paper, the NHS and right to housing in Canada reflects high level considerations from the UN Special Rapporteur on Housing regarding the development of

housing strategies including the acknowledgement of the right to housing based in law and legal standards, emphasis on rights-based participation, rights-based goals and timelines, and accountability and monitoring (Farha, 2018). What is less clear at this point is what actual implementation will look like. While Canada has committed to recognize the right to housing, is the federal government along with intergovernmental partners willing to work toward the realization of this right by proactively addressing existing issues highlighted, responding to violations and transforming the housing system? This question is even more important on the cusp of a federal election in the fall of 2019 where potential change in federal representation may risk ideal elements of the implementation of the right to housing in Canada, or even risk the legislation itself as there remains the possibility that it could be rescinded by a future government as a non-constitutionally protected right.

A claim of the right to housing, while a potentially important legal apparatus, remains limited if it does not address broader systemic issues. While individual rights claims may produce a legal floor for protection, they may result in individual remedies to systemic issues where the status quo actions of the state in producing and sustaining inequities remain unchallenged (Mercy Law Resource Centre, 2018). Heffernan, Faraday and Rosenthal (2015) acknowledge that systemic rights claims are complex in nature and express the following consideration around how the legal system engages with constitutional rights claims:

*Charter* litigation that proceeds on the basis of challenging a single law in isolation is premised on the notion that the baseline experience is one of constitutional compliance that delivers security and rights protection. The unspoken assumption is that an individual starts with an experience of rights

protection and the impugned state action is an aberrant divergence from that presumed status of security. As a result, the more a claimant has a lived experience of rights protection and security-the closer an individual sits to the centre of privilege-the easier it is to see a rights violation as an unconstitutional aberration. By contrast, the more bricks there are in the state edifice that supports and sustains discrimination and marginalization, the more immune it is to challenge. If one challenges a single statute in isolation, even if successful, the edifice does not fall; it simply readjusts. (p. 44)

In order to become more than just a symbolic gesture, the value of the right to housing in Canada will be judged based on its ability to be utilized as a tool to dismantle the ‘bricks in the state edifice’ that uphold discrimination and marginalization. While expecting this to happen immediately may be unrealistic, there is some evidence that suggests that the legislated right to housing may initially be effective at highlighting housing policy responses and the challenges and contradictions therein (Lévy-Vroelant, 2015). Perhaps then its value in the Canadian context initially may be to highlight systemic housing challenges and expose embedded beliefs and values that are generated and reinforced by oppressive systems. To what extent this produces systemic change depends on a number of contextual factors, however empirical international evidence related directly to the right to housing as a means to achieve this change remains limited at this time. This is not to say that as presented the right to housing is not a positive step forward in Canada. Symbolically, the acknowledgement of the right to housing in Canada is a significant step forward for a country that has largely ignored right to housing principles in recent decades at various levels of government and at minimum may provide a path forward to re-politicize housing as social good.

Given the practical concerns and considerations raised, it is fair to continue to ask to what extent the right to housing will have an impact in Canada. To answer this we

likely need to continue to re-visit the issue of political will toward action, which is linked to considerations around how to effectively build consensus around housing issues in order to reframe housing as social good rather than commodity. The legal space in which to claim the right to housing may be an important foundation to further highlight and challenge the duality of Canada's housing system, however the extent to which this disrupts and challenges notions of 'deserving' and 'undeserving' is not clear and will depend on how collective rights claims move forward. While the power of the court may be one way in which to highlight and challenge systemic issues, Dirks (2015) highlights one persistent question that remains: "How do people who are homeless or poorly housed, together with their allies, become powerful enough to change the behaviour of government?" (p. 140).

## CHAPTER 7: IMPLICATIONS AND CONCLUSION

Despite the many considerations of how to operationalize universal housing rights, I believe it is important to pause and acknowledge the steps Canada has taken to recognize housing as a human right. This step reinforces the work of advocates that have pushed for the recognition of the right to adequate housing. I believe that while the systemic considerations and limitations I have acknowledged and highlighted through my analysis must be considered in our collective assessment of the right to housing in Canada, they must also inform our collective response to challenge systemic injustice in the housing system in order to work toward realizing the right to housing for all.

As discussed, the R2H Coalition laid a foundation for how to challenge broader systemic issues related to housing in a legal setting. This foundation may inform how advocacy moves forward, and should provide important context in terms of how to challenge injustice through legal processes. By acknowledging and hearing systemic issues, there remains potential to raise critical consciousness in order to challenge the systems that create and sustain inequality rather than focusing on single policy measures. As Heffernan, Faraday, and Rosenthal (2015) discuss, the R2H Charter challenge highlighted this key systemic element:

While our equality jurisprudence has long endorsed this understanding of systemic discrimination, there have been very few legal claims that have directly impugned a discriminatory system. The *Right to Housing* challenge does this. (p. 37)

While I am hopeful that systemic housing issues will now be brought forward and heard in a legal setting, I remain cautious of how the right to housing may contribute to progressive policy and structural change for Canada's housing system. Those engaged in

legal processes acknowledge that systemic social and economic rights claims remain complex, reflective of the depth of marginalization and oppression experienced by those who claim such rights (Heffernan, Faraday & Rosenthal, 2015, p. 44). It is in this complexity that we must remain acutely aware of who is included and excluded in legal rights claims, and to this end aware of who does and does not receive equal access to justice.

Once again, I argue that the right to housing in itself may not bring about the systemic change in Canada's housing system for where universal housing rights are recognized and the secondary part of the housing system is given attention beyond when it is merely politically convenient. Universal housing and the means to achieve this remains contradictory to the market systems and capitalist and neoliberal structures. The idea of universal access to good housing may remain "...a perpetually deferred promise that the system uses to legitimize itself" (Madden & Marcuse, 2016, p.193).

Advocacy around the right to housing moving forward must consider strengths and limitations of such legal processes, while working toward more 'radical' conceptualizations of such rights and the movements toward the realization of them. Toward this, some have looked to critical urban theory and movements such as the 'right to the city' put forward by Henri Lefebvre. Marcuse (2009) builds off of Lefebvre's concepts, highlighting housing as a key area where we can and should challenge the value of housing as a vehicle for financial profit, as well as the private market solutions to public services. While the global scale of the issue of financialization and housing may

seem daunting, it has provided venues in which to challenge the structures that uphold profit over social good at localized levels.

While the right to housing in Canada may be a legal declaration at the national level, Lefebvre's perspective highlights the potential to work toward realizing this right in different ways at the local level in cities. The right to the city challenges notions of private interest in public systems and frames action toward this right as part of a broader social and political struggle toward systemic change (Marcuse, 2009). This does not necessarily conflict with legal understandings of housing rights, however it may supplement advocacy around them in order to highlight persistent structural issues. It may also provide space outside of legal processes to continue to guide tangible action and movement toward exposing, proposing, and politicizing issues regarding access to universal housing systems (Marcuse, 2009).

As specific housing related advocacy moves forward, there will need to be important considerations around other social welfare issues that directly intersect with adequate housing. Returning to Rolnik's (2014) expanded conceptualization of the right to adequate housing, a more universal understanding may be necessary to fully realize equity and belonging in all aspects, framing the right to housing as "...a gateway to other rights" (p. 295). Building on this concept, Rolnik (2014) describes violations of the right to housing as "...part of exclusionary machineries which block part of the city inhabitants to be an integral part of the city's social, cultural and political fabric" (p. 298). These violations are reflected in day to day social struggles in urban settings and connected to 'Lefebvrian' concepts of the right to the city. Within this frame the potential of the right

to housing in Canada then may remain limited unless it fully addresses contextual housing challenges and can act as a catalyst toward the enhancement of broader social welfare responses.

The dimensions of rights violations and resistance in urban settings raises considerations of the role of cities in recognizing and realizing the right to housing, an area which remains an important avenue for future research and organizing. While states around the world may be more willingly engaging in discussions around housing rights, it is cities which arguably are leading the way in regards to tangible change. Through United Cities and Local Governments (UCLG), cities such as Amsterdam, Berlin, Barcelona, London, Paris, New York, and Montreal have endorsed Cities for Adequate Housing which advocates for: more powers to regulate the real estate market; more funds to improve public housing stock; new tools to co-produce alternative public-private and community-driven alternative housing; urban planning that combines adequate housing with quality, inclusive, and sustainable neighbourhoods; and enhanced collaboration across municipalities in residential strategies (United Cities for Local Government, 2018). As advocates in Canada look to engage with the legislated right to housing federally, there may be ways in which to leverage the recognition of housing rights at a national level to develop strategies for action in cities.

Cities around the world are emerging as leaders in proposing and enacting radical proposals regarding housing policy in the face of neoliberal and capitalist regimes. In order to respond to the impacts of gentrification and financialization of housing, Berlin has proposed to freeze rents for five years from 2020, while activists have also pushed for

the nationalization of properties and further regulation around speculative corporate landlords (Agence France-Presse, 2019). Other examples include: Barcelona, which has expropriated empty apartment units owned by banks; Oregon, which has implemented state-wide rent controls; and British Columbia, which has established a speculation and vacancy tax, similar to an empty homes tax established in Vancouver to boost rental supply and affordability, and combat financialization (CBC News, 2016; Madden, 2019). While political will plays an important part in proposals such as these, collective action through social movements and community campaigns leads to these actions and creates the power and influence toward social change.

There remains power in legal mechanisms that force the government to act, and even when such legal challenges may fail they do outline an approach to advocacy using argument, education, and coercive power as seen in the example of the R2H Charter challenge (Dirks, 2015). While the legislated right to housing will produce the space for legal challenges regarding systemic housing issues in Canada, it remains important for advocacy to continue to pursue social change through other means. This is not to detach informal from formal institutional challenges, however it does highlight the need to continue to operate outside of broader political, economic, and legal systems which may uphold dominant language and ideology.

Along with potentially positive elements of the right to housing in Canada, it remains critical to recognize the potential for further systemic marginalization if ongoing considerations around equity in claiming rights and bringing issues forward to the National Housing Council and Housing Advocate are not explicitly addressed. This is

also true of localized consultation, community organizing, and mobilization efforts around realizing the right to housing. It is here once again that every measure must be taken to ensure that the right to housing does not exclude communities through overly formalized and governed processes. Policy researcher and consultant Brittany Andrew-Amofah raises this issue in a broader critique of how decision making processes have been conducted at the local level:

Too often, resident stories are shared through formal, impersonal processes known as consultations and deputations. Residents who experience marginalization must take time off work to participate in high-pressure situations, often under a time limit, to present their case. Their story, in effect, is weakened. (Andrew-Amofah, 2019)

These considerations must be part of the planning and implementation process around elements of the right to housing, especially as it related to how concerns are raised and addressed through the National Housing Council and Housing Advocate, and subsequently through the NHS itself through policy and funding decisions. Cheryll Case, an urban planner based in Toronto, has advocated for improved community planning and consultation processes to broaden the scope of consultation beyond narrow demographics. Case has been involved in recent community planning workshops in Toronto, specifically addressing women’s rights to affordable housing, and highlights that when their consultations directly addressed accessibility concerns for populations such as renters, women, and people of various ages the results “...differed widely from what is typically produced in traditional consultation settings” (Case, 2019). While speaking to broader issues regarding community based consultation processes, I believe that the considerations raised by Andrew-Amofah and Case highlight important issues

around participation, equity, and inclusion that should be considered through processes to recognize and realize housing rights in Canada.

One specific key area for consideration moving forward remains the need to contextualize the right to housing within the experiences of Indigenous peoples in Canada. For example, ‘home’ and ‘homelessness’ are often conceptualized in Western terms, whereas the definition of Indigenous homelessness in Canada has been defined more broadly as:

...a human condition that describes First Nations, Métis and Inuit individuals, families or communities lacking stable, permanent, appropriate housing, or the immediate prospect, means or ability to acquire such housing. Unlike the common colonialist definition of homelessness, Indigenous homelessness is not defined as lacking a structure of habitation; rather, it is more fully described and understood through a composite lens of Indigenous worldviews. These include: individuals, families and communities isolated from their relationships to land, water, place, family, kin, each other, animals, cultures, languages and identities. Importantly, Indigenous people experiencing these kinds of homelessness cannot culturally, spiritually, emotionally or physically reconnect with their Indigeneity or lost relationships. (Thistle, 2017, p. 6)

Despite a broad base of research on the impact of neoliberalism on housing policy and subsequent impacts, Prout Quicke and Green (2017) have identified in their research in the Australian context that “...few attempts have been made to locate Indigenous peoples within these discourses” (p. 175). This is also true of dominant discourse centred on notions of universal citizenship which has not explicitly acknowledged unique needs of Indigenous peoples, which in the Canadian context has undermined constitutionally enshrined Indigenous rights (Alaazi, Masuda, Evans, & Distasio, 2015). As the context of the right to housing and ‘universal’ approaches to ensuring such rights continues to be

explored, we need to be critically aware of and actively work against the potential of continued systemic erasure of Indigenous identity and culture through these processes.

For social workers, building a critical awareness of issues related to housing struggles may lead to meaningful advocacy and action around transforming Canada's housing system. Framing this advocacy within the right to housing in Canada may mean utilizing legal means to collectively challenge housing injustice, while continuing to question and challenge the systems that create and sustain inequity for many populations. It may also mean supporting or engaging in other disruptive tactics to pursue justice, including "...rent-strikes, sit-ins and civil disobedience" (Dirks, 2015, p. 141). The extent to which social workers, both individually and collectively, can participate in these tactics can and will vary. The support that social workers can provide to these movements may be significant, however it remains necessary to critically assess if and when advocacy or action merely upholds oppressive social structures rather than challenging them.

As many celebrate the recognition of housing rights in Canada, this moment should not be considered the final destination or outcome of advocacy. Instead it should signal the continuation of a long struggle toward recognizing universal housing rights through the transformation of Canada's housing system. To what end the legislated right to housing contributes to this transformation remains to be seen, however for the time being it does raise important critical consciousness around systemic housing and social welfare issues throughout Canada.

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