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LIST OF ABBREVIATIONS

ACT - Assertive Community Treatment

CEDAW - Convention on the Elimination of All Forms of Discrimination against Women

CRC - Convention and on the Rights of the Child

CMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

CESCR - Committee on Economic, Social and Cultural Rights

ESCR - Economic, Social and Cultural Rights

ICESCR - International Covenant on Economic, Social and Cultural Rights

IDUIT - Implementing Comprehensive HIV and HCV Programmes with People Who Inject Drugs: Practical Guidance for Collaborative Interventions

OAT - Opioid Antagonist Treatment

NSP - Needle and Syringe Programme

OHCHR Office of High Commissioner of Human Rights

OP-ICESCR - Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

OPS - Our Place Society

PIT - Point-in-time

PHS- Portland Hotel Society

PWID - People Who Inject Drugs

PWUD - People who use drugs

Convention on the Rights of Persons with Disabilities (CRPD)

Universal Declaration of Human right (UDHR)

UN - United Nations

UNODC - United Nations Office of Drug and Crime

WHO - World Health Organisation

Victoria Cool Aid Society (VCAS)

1. Introduction

People who use drugs (PWUD) are a key population that are overlooked in the right to adequate housing discussion. There has not been a specific focus on PWUD in the Special Rapporteur of the right to adequate housing thematic reports or guidelines. The thesis hopes to provide the reader with a critical overview of the right to housing legal normative framework at the international and national level. Provide a contextual perspective on how the right to housing is practised at the micro-level in Housing First and harm reduction programmes. Also, analysing the implementation challenges and the gaps between the right to housing and PWUD. The thesis will provide a discussion on what is needed by State Parties to ensure housing strategies are inclusive of PWUD and ensure the right to housing is fulfilled at the micro-level.

1.1 Human Rights at the Micro-level for People Who use Drugs

In a profound speech by Eleanor Roosevelt, she states that human rights begin at the micro-level :¹

Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.²

The quote illustrates the need to ensure human rights are met at the micro-level for right holders. There is a disconnect between international human rights and the key population

¹ Amnesty International UK, 'What Is the Universal Declaration of Human Rights?' (21 October 2017) <<https://www.amnesty.org.uk/universal-declaration-human-rights-UDHR>> accessed 28 June 2020.

² Amnesty International UK, 'What Is the Universal Declaration of Human Rights?'

of PWUD. This is due to compounding forms of discrimination, stigmatisation and criminalisation PWUD face in society. Therefore, it is essential to examine if universal human rights have meaning to PWUD at the micro-level in their homes and communities. If State Parties cannot ensure human rights are met at the micro level for PWUD, it creates a tension between PWUD as human rights holders.

The reason behind the tension is due to the ‘war on drugs’ which was further endorsed by the creations of the United Nations (UN) drug conventions. When the UN drug conventions were drafted, the concept of human rights was not a focal point. The Single Convention on Narcotic Drugs 1961 preamble states to ‘[recognize] that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind.’³ Whereas, The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 makes a clear statement that the goal is to enforce state jurisdiction regarding drug control and ‘criminalized the entire drug market chain, from cultivation/production to shipment, sale, and possession for personal use.’⁴ In the introduction of The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 it states the following:

Deeply concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, which pose a serious threat to the health and welfare of human beings and adversely affect the economic, cultural and political foundations of society...Recognizing also the importance of strengthening and enhancing effective legal means for international co-operation in criminal matters for suppressing the international criminal activities of illicit traffic.⁵

³ Single Convention on Narcotic Drugs, 1961 (adopted 30 March 1961, entered into force 13 December 1964) 520 UNTS 7515.

⁴ R. Lines, R. Elliott, J, Hannah. et al., 'The Case for International Guidelines on Human Rights and Drug Control', *Health and Human Rights Journal*, 6 June, 2017 < <https://www.hhrjournal.org/2017/06/the-case-for-international-guidelines-on-human-rights-and-drug-control-2/> >(accessed 04 August 2020).

⁵ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (adopted 20 December 1988, entered into force 11 November 1990) 1582 UNTS 95.

The war on drugs rhetoric creates a dichotomy where there is a division of citizens, those who engage in drug activity are label as ‘criminals’, and those who do not engage in drug activity are seen as the ‘good citizens’ that need to be protected from the harms and evil of narcotic drugs. Therefore, justifying governments to implement punitive policies that do not encompass consideration for a rights-based approach and therefore contribute to human rights violations.

The tension between human rights and drug control can have consequences at a micro-level on how housing services are implemented and delivered for PWUD. The thesis will explore the tension between the macro and micro in respect to the right of housing and PWUD.

1.2 Research Question

The thesis will focus on how international and national (Canadian) human rights law is applied in practice at the micro-level. Specifically, in the context of service providers in housing services who work with PWUD in Victoria and Vancouver, Canada.

The research question the thesis will explore is: **Are international and national human rights normative standards on the right to adequate housing fulfilled at the micro-level in the context of people who use drugs in British Columbia, Canada?**

The thesis will examine the research question by first analysing how the right to housing is interpreted within international and national human rights law. Then conduct qualitative research on how the right to adequate housing is practised at the micro-level with PWUD.

1.3 Description of the methodology

The thesis will begin with an overview of the intersection of PWUD and the right to housing by providing regional and national statistics of homelessness and unlawful evictions in regards to PWUD. The majority of the statistical research will be from

Canada as the research question focuses on PWUD in British Columbia. The following sections will look into the lack of representation of PWUD within the Special Rapporteur thematic reports.

The thesis is divided into two sections. The first section will address the right to housing at the macro level and provide an overview of the normative framework of the right to housing within international law and national law.

The thesis provides an overview of how the right to housing has been interpreted within international human rights law up to the Special Rapporteur Guidelines for implementation of the Right to Adequate Housing. The report consists of 16 guidelines of specific issues with implementation measures and recommendations. The overview will focus solely on the ten guidelines that are most relatable to PWUD in Victoria and Vancouver to keep within the scope of the thesis. The following chapter is an overview of how Canada has adopted and interpreted the right to housing within national law.

The second section of the thesis will focus on the right to housing at the micro-level and look within the context of service providers working with PWUD. The thesis will specifically look at Housing First and harm reduction housing programmes as they provide services for PWUD. Both frameworks also have an overlap with a rights-based approach. The thesis will start Section 2 with an overview chapter on Housing First and harm reduction to provide the reader with an understanding of each framework.

The thesis will then look at the right to housing at the micro-level by mapping Housing First and harm reduction programmes in Victoria and Vancouver, Canada. The mapping overview was conducted by desk-based research and established a list of 12 Housing first/harm reduction housing programmes that work with PWUD in Victoria and Vancouver. After the mapping overview, a qualitative descriptive research study of Housing first/harm reduction programme was conducted by distributing surveys to service providers by email in the format of a self-completed questionnaire in a purposeful sampling manner.⁶ The surveys were distributed to the 12 Housing First/harm reduction

⁶ M.A. Neergaard, F. Olesen, R.S. Andersen, et al., 'Qualitative description – the poor cousin of health research?'. *BMC Med Res Methodol*, vol. 9, no. 52 (2009). <<https://doi.org/10.1186/1471-2288-9-52>>; K Hyejin, J. Sefcik, C. Bradway, 'Characteristics of Qualitative Descriptive Studies: A Systematic Review'

housing programmes located from the mapping overview, with 11 surveys received back from service providers. The survey was made up of 13 open-ended questions, the questions in the survey were formulated based on the overview of the human right normative standards of the right to housing found in the Special Rapporteur guidelines and Canada's National Strategy Act. The data collected from the survey will inform the micro-level perspective of the thesis. The respondent's answers from the survey provided a firsthand contextual narrative of service providers experience practising the right to housing at the micro-level with PWUD. A more detail explanation of the method design is provided in Ch. 10 with the results of the qualitative descriptive research.

Following the results of the qualitative descriptive research, there is a discussion and conclusion chapter that ties in together the themes from the surveys with the right to housing guidelines. The discussion addresses the implementation challenges and the gaps between the right to adequate housing and PWUD. The thesis evaluates to what extent international normative standards of the right to housing, and Canadian law are applied in practice.

2 The intersection of people who use drugs and inadequate housing

It is important not to assume that every individual who uses drugs will experience homelessness, and not every individual experiencing homelessness uses drugs. Reason why people may find themselves experiencing homelessness are complex and due to various factors. Although, the use of drugs among people who are experiencing homelessness is prevalent. Point-in-time (PIT) counts of the homeless populations in North America have published statistics that have highlighted this prevalence.⁷

Research in Nursing & Health, vol. 40, no. 1 (February 2017): 23–42, <<https://doi.org/10.1002/nur.21768>>; M. Sandelowski, 'Whatever Happened to Qualitative Description?,' *Research in Nursing & Health*, vol. 23, no. 4 (2000): 334–40, <[https://doi.org/10.1002/1098-240X\(200008\)23:4<334::AID-NUR9>3.0.CO;2-G](https://doi.org/10.1002/1098-240X(200008)23:4<334::AID-NUR9>3.0.CO;2-G)>.

⁷ The following statistics was the research I used in a submission to the special rapporteur of adequate housing regarding recommendations for draft guidelines for the right to adequate housing: Harm

2.1 Prevalence of drug use and experiencing homelessness

Victoria's 2020 PIT count reported 55% of the 229 participants listed addiction and substance use service as a needed service.⁸

The Seattle/King County PIT count documented drug use within their homeless population for several years: 36% in 2017, 35% in 2018 and 32% in 2019.⁹

The Portland/Gresham/Multnomah County 2019 PIT count reported the following: Out of the 2,037 people who reported being unsheltered 929 reported using drugs, out of the 1,459 people sleeping in emergency shelter 256 reported using drugs, and out of the 519 people in transitional housing 310 reported using drugs.¹⁰ Furthermore, people who use drugs within the unsheltered population had the most drastic increase from 626 in 2017 to 929 in 2019.¹¹

Vancouver's 2019 PIT count reported that out of the 2,223 individuals counted there were 1,156 (56%) that stated they used drugs.¹²

2.1.1 Barrier to obtain and maintain housing¹³

Reduction International and International Network of People who Use Drugs, 'Written comments for the Special Rapporteur on the right to adequate housing on the draft Guidelines for the implementation of the right to housing', (18 November 2019), <https://www.hri.global/files/2019/11/26/Written_comments_on_draft_Guidelines_for_the_implementation_of_the_right_to_adequate_housing_HRI_INPUD_2019.pdf>.

⁸ Capital Regional District, Greater Victoria Coalition to End Homelessness, Community Social Planning Council of Greater Victoria, '2020 Greater Victoria Point-in-Time Homeless Count and Needs Survey', (July 2020) <<https://victoriahomelessness.ca/wp-content/uploads/2020/07/crd-pit-count-2020-community-report-2020-07-31.pdf>> accessed 30 July 2020.

⁹ Applied Survey Research, '2019 Seattle/King County Count Us In', (2019) <http://allhomekc.org/wp-content/uploads/2019/05/2019-Report_KingCounty_FINAL.pdf>.

¹⁰ Regional Research Institute Portland State University and Joint Office of Homeless Services, '2019 POINT-IN-TIME: Count of Homelessness in Portland/Gresham/Multnomah County, Oregon', (2019), <https://static1.squarespace.com/static/566631e8c21b864679fff4de/t/5d434f685800cf0001847e20/1564692373569/2019+PIT+Report_FINAL.pdf> accessed January 7, 2020.

¹¹ Regional Research Institute Portland State University and Joint Office of Homeless Services.

¹² City of Vancouver, 'Rapid Response to Homelessness Through Partnerships', (12 June, 2019), <<https://council.vancouver.ca/20190612/documents/pspc1a-Presentation.pdf>>.

¹³ The following statistics was the research I used in a submission to the special rapporteur of adequate housing regarding recommendations for draft guidelines for the right to adequate housing: Harm Reduction International and International Network of People who Use Drugs, 'Written comments for the Special Rapporteur on the right to adequate housing on the draft Guidelines for the implementation of the

Thunder Bay's (Canada) 2018 PIT count reported the following: out of the 474 surveyed, 32.7% said the reason for housing loss was because of drug use, 48.9% reported they had increased drug use since losing housing, and 70.9% stated they are currently using drugs.¹⁴

Canada's 2016 PIT count which included 32 communities across Canada found that substance use was a common factor for housing loss: 18% for youth (14-24), 24% for adults (25-49), 17% for older adults (50-64) and 10% for seniors (65+).¹⁵

San Francisco's 2019 PIT count which counted 8,035 people experiencing homelessness and completed 1,054 surveys reported the following: Out of the 1,054 surveyed 18% reported drug and alcohol use as the primary cause of homelessness, as well as, 11% reported being connected with drugs and alcohol services.¹⁶ Also, 42% reported drug and alcohol abuse as a health condition.¹⁷

Victoria's (Canada) 2018 PIT count documented the following: Out of the 851 participants in the study, 19.9% listed substance use and addiction as the reason for housing loss.¹⁸ Placing substance use and addiction as the top reason for individuals to experience housing loss.¹⁹ When it came to accessing housing, 27.3% of the 864 participants stated addiction as a barrier to accessing housing. Of the indigenous participants in the study, 33.8% listed addiction as a barrier to obtaining housing.²⁰

right to housing', (18 November 2019),

<https://www.hri.global/files/2019/11/26/Written_comments_on_draft_Guidelines_for_the_implementation_of_the_right_to_adequate_housing_HRI_INPUD_2019.pdf>.

¹⁴ The District of Thunder Bay Social Services Administration Board, 'District of Thunder Bay Point-In-Time Count 2018 of People Experiencing Homelessness' (November 2018)

<<https://www.homelesshub.ca/sites/default/files/attachments/Enumeration%20Report%20Final%20-%20print%20-newest.pdf>>.

¹⁵ Employment and Social Development Canada, '2016 coordinated point-in-time count of homelessness in Canadian communities' (2016) <<https://www.canada.ca/content/dam/canada/employment-social-development/programs/communities/homelessness/reports/highlights/PiT-Doc.pdf>>

¹⁶ Applied Survey Research, 'San Francisco homeless count & survey comprehensive report report produced' (2019) <<http://hsh.sfgov.org/wp-content/uploads/FINAL-DRAFT-PIT-Report-2019-San-Francisco.pdf>>.

¹⁷ Applied Survey Research, 2019.

¹⁸ Capital Regional District, Greater Victoria Coalition to End Homelessness, Community Social Planning et al., 'Everyone Counts: 2018 Greater Victoria Point-in-Time Count A Community Survey of People Experiencing Homelessness in Greater Victoria,' (2018) <<https://victoriahomelessness.ca/wp-content/uploads/2018/09/2018-PiT-Count-Community-Report-FINAL.pdf>> accessed April 20, 2020.

¹⁹ Capital Regional District et al., 2018.

²⁰ Capital Regional District et al., 2018.

When asked which service was applicable to their needs, out of 733 surveyed 61.9% listed addiction and substance use.²¹

2.1.2 Adverse impacts drug-related harms and vulnerable to eviction²²

Analysis of 872 illicit drug overdose deaths in British Columbia, Canada, between 2016 and 2017 revealed that 9% of individuals were experiencing homelessness at the time of their death.²³ A 2016 Coroner's report from British Columbia, Canada, reported that of 175 deaths of individuals who were experiencing homelessness, 53% were of a result of accidental drug/alcohol overdose.²⁴

A 2019 study in Canada found that people who use drugs are at risk of unlawful eviction and, when evicted, have little legal recourse to appeal.²⁵ The research followed 56 participants who had recently been evicted from single room occupancy in Vancouver, Canada. Moreover, their housing conditions were wholly inadequate and imposed health and safety risks such as a rodent, bed-bug and cockroach infestations, black mould, leaking pipes and broken locks. One year after the interviews, only 16 of 56 had been able to secure new housing.²⁶

²¹ Capital Regional District et al., 2018.

²² The following statistics was the research I used in a submission to the special rapporteur of adequate housing regarding recommendations for draft guidelines for the right to adequate housing: Harm Reduction International and International Network of People who Use Drugs, 'Written comments for the Special Rapporteur n the right to adequate housing on the draft Guidelines for the implementation of the right to housing', (18 November 2019), <https://www.hri.global/files/2019/11/26/Written_comments_on_draft_Guidelines_for_the_implementation_of_the_right_to_adequate_housing_HRI_INPUD_2019.pdf>.

²³ Ministry of Public Safety and Solicitor General, 'Illicit Drug Overdose Deaths in BC: Findings of Coroners Investigation' (27 September, 2018) <<https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicitdrugoverdosedeadsinbc-findingsofcoronersinvestigations-final.pdf>>.

²⁴ Ministry of Public Safety and Solicitor General: British Columbia Coroner 'Service Reportable Deaths of Homeless Individuals: 2007-2016' (21 March, 2019) <<https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/homeless.pdf>>.

²⁵ T. Fleming, W. Damon, A. Collins et al., 'Housing in Crisis: A Qualitative Study of the Socio-Legal Contexts of Residential Evictions in Vancouver's Downtown Eastside' *International Journal of Drug Policy*, vol. 71, 1 September 2019, pp. 169–77, <<https://doi.org/10.1016/j.drugpo.2018.12.012>>.

²⁶ Fleming et al., 2019;

Aforementioned, it is imperative not to assume that all people who experience homelessness are people who use drugs, but the intersection of homelessness and drug use does exist. Therefore, housing strategies and policies need to provide explicit recommendations and examples of best practice to address PWUD unique challenges they face in housing such as unlawful eviction, discrimination to maintain and obtain housing.

The Special Rapporteur advocates for housing to be seen as a human right, not a commodity and puts forward:

A housing strategy must ensure that no one is left behind. In other words, it must aim to change societies in which significant numbers of people are deprived of the right to adequate housing, into societies in which everyone has access to adequate housing and in which housing is a means to ensure dignity, security and inclusion in sustainable communities.²⁷

To ensure housing is a human right for PWUD, there needs to be a more significant commitment from the international community such as the Special Rapporteur on adequate housing not to exclude the lived experience of PWUD within the right to adequate housing discussion.

2.2 Lack of inclusion of people who use drugs in the Special Rapporteur on Thematic Reports

The UN Special Rapporteur on adequate housing Ms Leilani Farha has drafted a report on the guidelines to implement the right to adequate housing that ‘outline key elements needed for the effective implementation of the right to housing.’²⁸ What was missing from

²⁷ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2018) UN Doc A/HRC/37/53, para. 8.

²⁸ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context - Guidelines for the Implementation of the Right to Adequate

the guidelines was the inclusion of PWUD. This key population are currently overlooked. A clear missed opportunity to include the experience of PWUD that also experience homelessness and right to housing violations such as discrimination and forced eviction. Within the guidelines, the only reference to PWUD is found in paragraph 33 (a) stating:

States should provide access to safe, secure and dignified emergency accommodation, with necessary supports and without discrimination on any grounds, including migration status, nationality, gender, family status, sexual identity, age, ethnic origin, disability, dependence on alcohol or drugs, criminal record, outstanding fines or health.²⁹

Although within the draft guidelines, the reference of addiction was within brackets to the disability category for the basis of discrimination in paragraph 31 (d) and not a stand-alone basis for discrimination as stated in following:³⁰

provide to all persons in situation of homelessness access to emergency accommodation without discrimination on any grounds, including their migration status, nationality, ethnicity, gender, sexual orientation, disability (including mental health and addiction) or other status.³¹

Referring to addiction as a disability perpetuates the stigmatisation of people who use drugs and ignores the unique forms of discrimination, people who use drugs face. Therefore, it was a positive step to see drug use as a standalone basis for discrimination in the final guidelines.

Housing' (2020) UN Doc A/HRC/43/43.

²⁹ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context - Guidelines for the Implementation of the Right to Adequate Housing' (2020) UN Doc A/HRC/43/43.

³⁰ OHCHR, 'Guidelines for the implementation of the right to adequate housing' (2019), The draft guidelines can be accessed on the following webpage <<https://www.ohchr.org/EN/Issues/Housing/Pages/GuidelinesImplementation.aspx>>.

³¹ OHCHR, 'Guidelines for the implementation of the right to adequate housing' (2019), The draft guidelines can be accessed on the following webpage <<https://www.ohchr.org/EN/Issues/Housing/Pages/GuidelinesImplementation.aspx>>.

There was a hope the final report would have taken the opportunity to include PWUD in a meaningful way. The inclusion of PWUD within the final guidelines would have been a step towards encompassing a rights-based approach to housing and upholding the dignity of PWUD. If PWUD were included within the new guidelines, it would have set a precedent that PWUD need to be included in the right to housing discussion and are a key population.

Furthermore, throughout the Special Rapporteur's thematic reports, there is hardly any mention of PWUD. On reviewing the thematic reports what was found in regards to PWUD is in the Homelessness and Human Right report under para. 28 and 43 the following is stated:

Homelessness is caused by the interplay between individual circumstances and broader systemic factors. A human rights response to homelessness addresses both. It understands that homelessness may be linked to individual dynamics such as psychosocial disabilities, unexpected job loss, addictions or complex choices to become street-connected, and that a major cause of homelessness is the failure of governments to respond to unique individual circumstances with compassion and respect for individual dignity.³²

Homelessness among children and young people has reached critical proportions. Factors that push children into leaving home include parents' unemployment and poverty; family disintegration and parental abuse; parental drug and alcohol addictions; and being orphaned owing to HIV/AIDS, Ebola, armed conflict or natural disaster.³³

Also, there is mention of addiction in the thematic report of Right to Housing of Person with Disabilities in para. 77:

³² UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2015) UN Doc A/HRC/31/54, para. 28.

³³ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2015) UN Doc A/HRC/31/54, para. 43.

A number of jurisdictions have adopted a “housing first” model to address homelessness. The model provides chronically homeless persons, in particular those with psychosocial impairments and/or drug or alcohol addictions, with longterm housing and the necessary forms of support.³⁴

Within other Special Rapporteurs thematic reports such as: Human rights-based housing strategies, Access to Justice for the Right to Housing and Forced Eviction it would have been applicable to include PWUD, but there was no mention. All of the stated thematic reports included key populations such as women, indigenous people, children and migrants, but PWUD are overlooked. An example of this can be seen in the Human rights-based housing strategies thematic report in para. 36:

Housing strategies should identify groups that suffer housing disadvantages and should address the particular barriers they face. These groups include: women; persons with disabilities; people living in poverty; migrants; racial and ethnic minorities; indigenous peoples; youth; older persons; lesbian, gay, bisexual, transgender and intersex persons; and people who are homeless or living in informal settlements.³⁵

The next chapter begins Part 1 of the thesis, which will provide an overview of the International Human Rights Law Normative Framework in the right to housing.

³⁴UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2017) UN Doc A/72/128, para. 77.

³⁵UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2018) UN Doc A/HRC/37/53, para. 36.

PART 1 RIGHT TO HOUSING AT THE MACRO LEVEL

3. The Right to Housing under International Human rights law

This chapter will provide a foundation of the right to housing at the international level in human rights law. Showcasing where the right to housing is included in international human right documents, as well as highlighting the characteristics that make up the right to housing. The overview will demonstrate the international normative standard of the right to housing and what the right to housing is or is not within the International Human Rights Law. Which will assist in the understanding of how the right to housing has been interpreted and incorporated in other human right standards. The following chapter will provide an overview of how the right to housing has been interpreted in the Special Rapporteur Guidelines for the Implementation of the Right to Adequate Housing.

The United Nations Office of High Commissioner of Human Rights (OHCHR) defined the right to housing as the:

The human right to adequate housing is more than just four walls and a roof. It is the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity³⁶

Under international human rights law, the right to housing is promoted in the Universal Declaration of Human Rights (UDHR) under Article 25 (1),³⁷ as well as listed in International Covenant on Economic, Social and Cultural Rights (ICESCR) under Article 11.³⁸ Furthermore, the Right to adequate Housing can found in other human rights international treaties for specific groups such as Article 14 and 15 in the Convention on

³⁶ OHCHR, 'The Right to Adequate Housing Toolkit'

<<https://www.ohchr.org/en/issues/housing/toolkit/pages/righttoadequatehousingtoolkit.aspx>> accessed January 7, 2020.

³⁷ J. Hohmann, *The Right to Housing : Law, Concepts, Possibilities*, Human Rights Law in Perspective Oxford, Hart Publishing (2013) p. 16.; Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 25 (1).

³⁸ J. Hohmann, 2013, p. 16.; International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 03 January 1976) 999 UNTS 3 (ICESCR) art 11.

the Elimination of All Forms of Discrimination against Women (CEDAW), Article 9 and 28 in the Convention on the Rights of Persons with Disabilities (CRPD) Article 27 in the Convention on the Rights of the Child (CRC) and Article 43(1) in the Covenant of Migrant Workers (CMW).³⁹

Within international human rights law, the right to housing was first articulated in the 1948 UDHR under article 25 (1). The right to housing is included within a long list of other rights that relate to the right of an adequate standard of living and one's health and well-being.⁴⁰ Article 25 (1) states the following:

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.⁴¹

Although not a standalone right, the article makes an effort of including housing as a piece in a puzzle of what should make up an adequate standard of living. The declaration is non-binding but is a normative international human rights instrument which many State Parties refer to as a starting point of human rights law.⁴² As well it was the starting point for several conventions to follow, such as the ICESCR.⁴³

³⁹ J. Hohmann, 2013, p. 27.

⁴⁰ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 25 (1)

⁴¹ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 25 (1)

⁴² J. Hohmann (2013) p. 16; UN, 'Human Rights Law' (September 2, 2015)

<<https://www.un.org/en/sections/universal-declaration/human-rights-law/index.html>> accessed 28 May 2020.

⁴³ J. Hohmann (2013) p. 16.

3.1 Right to housing in the International Covenant on Economic, Social and Cultural Rights

The right to housing was subsequently put forward in the 1966 ICESCR under Article 11 (1). The right to housing in the ICESCR appears similarly as in the UDHR within a list of item that relates to the right of an adequate standard of living. Article 11 (1) stated the following:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognizing to this effect the essential importance of international co-operation based on free consent.⁴⁴

It is important to highlight ‘Article 11(1) is not absolute’⁴⁵, and that ‘States Parties will take appropriate steps to ensure the realisation of this Right.’⁴⁶ Meaning states have an obligation to take the step to ensure the progressive realisation of the right to housing. The introductory of the notion of progressive realisation is first articulated in Article 2(1) in the ICESCR. The article sets forth the concept of how states have an obligation of progressive realisation to ensure social-economic rights are fulfilled. Article 2 (1) states the following:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant

⁴⁴ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 03 January 1976) 999 UNTS 3 (ICESCR) art 11.

⁴⁵ J. Hohmann (2013) p.17.

⁴⁶ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 03 January 1976) 999 UNTS 3 (ICESCR) art 2(1).

by all appropriate means, including particularly the adoption of legislative measures.⁴⁷

In regards to the right to housing, progressive realisation means states will take the appropriate steps to ensure the right to housing is filled which includes measures such as; developing a national housing strategy, having legal remedy available in cases of unlawful evictions, and include civil society in national housing strategy plans.⁴⁸

To further elaborate on the concept of progressive realisation, it is important to understand that within human rights law State Parties have three obligations to follow: obligation to respect, protect and fulfil.⁴⁹ The Right to Adequate Housing Factsheet (OHCHR) demonstrates how states can fulfil all three obligations in regards to the right to housing.

The obligation to respect

Respect refers to State Parties will not do anything directly or indirectly to interfere in the right to adequate housing which includes measure such as: deny housing tenancy to specific populations of people, enforce forced evictions, have discriminatory policies that deny property or land to specific groups of people and pollute natural resources such as water.⁵⁰

The obligation to protect

Protect means state will have measures in place to ensure third parties do not interfere in the right to adequate housing this includes measure such as: having legislation in place to protect tenants from violations from the private sector and landlords, regulations in housing rentals markets, legislation in place for banks to not have discriminatory policies

⁴⁷ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 03 January 1976) 999 UNTS 3 (ICESCR) art 2(1).

⁴⁸ OHCHR, 'Fact Sheet No. 21/Rev.1 The Human Right to Adequate Housing' (November 2009) p. 31-32.

⁴⁹ OHCHR, 2009, p.33.

⁵⁰ OHCHR, 2009, p.33.

in place regarding mortgage loans or having legislation in place that does not allow for landlords to discriminate on specific populations of people.⁵¹

The obligation to fulfil

Fulfil refers to State Parties will take action such as developing and implementing legislation, administrative and judicial policies to promote and fulfil the right to adequate housing. This includes measure such as: implementing a national housing strategy, allocate monetary resources to housing initiatives, having a housing monitoring committee in place and appropriate judicial retributions in cases of violations.⁵²

3.2 Adequate Housing

The definition of the right to housing is limited within the constraints of ICESCR in Article 11 (1) although, General Comment No. 4 (1991) branches away from the article to provide a more robust overview solely on the right to housing.⁵³

General comment No. 4 (1991) on the right to adequate housing provides a more detail description of what the right to adequate housing entails.⁵⁴ Within human rights law, it is possibly the most referred to the normative framework when referencing and interpreting the right to adequate housing.⁵⁵ General comment No. 4 highlights the effort the Committee on Economic, Social and Cultural Rights (CESCR) ‘has undertaken to expand on the meaning of the vaguely worded requirements of Article 11(1).’⁵⁶ The Right to Adequate Housing Factsheet (OHCHR) expresses that ‘[a]dequate housing must provide more than four walls and a roof’⁵⁷ as it also put forward in General comment No. 4 ‘[housing] should be seen as the right to live somewhere in security, peace and dignity’⁵⁸

⁵¹ OHCHR, 2009, p.33.

⁵² *ibid.*, pp. 33-34

⁵³ J. Hohmann, 2013, pp.17-18.

⁵⁴ UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23).; J. Hohmann (2013) p.17-18; OHCHR, 2009, p.3.

⁵⁵ OHCHR, 2009, p.3; Hohmann, 2013, p.18.

⁵⁶ Hohmann, 2013, p.18.

⁵⁷ OHCHR, 2009, p.3.

⁵⁸ UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23) para.7.

stating that right to housing must ‘integrally linked to other human rights...[and] be read as referring not just to housing but to adequate housing.’⁵⁹ General Comment No. 4 sets out that for housing to be considered ‘adequate’, it must meet seven essential points at minimum.⁶⁰ The criteria for ‘adequate housing’ in General Comment No. 4 are the following seven requirements.⁶¹

1. Security of tenure: housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.
2. Availability of services, materials, facilities and infrastructure: housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal.
3. Affordability: housing is not adequate if its cost threatens or compromises the occupants’ enjoyment of other human rights.
4. Habitability: housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.
5. Accessibility: housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account.
6. Location: housing is not adequate if it is cut off from employment opportunities, health-care services, schools, childcare centres and other social facilities, or if located in polluted or dangerous areas.
7. Cultural adequacy: housing is not adequate if it does not respect and take into account the expression of cultural identity.⁶²

⁵⁹ UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23) para.7.

⁶⁰ UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23) para.8 ; OHCHR, 2009, p.3-4.

⁶¹ UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23) para.8; OHCHR, 2009, p.3-4.

⁶² UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23) para.8; OHCHR, 2009, p.3-4.

3.3 Forced Evictions

Whereas General Comment No 4 elaborated on the criteria of what entails and is the minimum criteria for ‘adequate housing’ General Comment No. 7 (1997) focuses on the single topic of forced evictions.⁶³ General comment No. 7 stems from the adequate housing requirement from General Comment No. 4 stating that ‘all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction⁶⁴ and the State Parties have an obligation to fulfil the right to adequate housing by providing legal protection against forced evictions.⁶⁵ General comment No. 7 defines forced evictions as:

permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection⁶⁶ [as well as] [e]victions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights.⁶⁷

In paragraph 15 of General Comment No. 7, it puts forward eight procedural protections that need to be applied by State Parties in regards to forced evictions.⁶⁸ The eight procedural protection have been set by the CESCR and are as follow:⁶⁹

1. An opportunity for genuine consultation with those affected

⁶³ UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV).

⁶⁴ UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23) para.8 (a); OHCHR, 2009, p.4; UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV) para.1;

⁶⁵ UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV) para.1-2; OHCHR, 2009, p.5.

⁶⁶ UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV) para. 3; OHCHR, 2009, p.4.

⁶⁷ UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV) para.16.

⁶⁸ UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV) para. 15; OHCHR, 2009, p.5-6.

⁶⁹ UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV) para.15; OHCHR, 2009, p. 5-6.

2. Adequate and reasonable notice for all affected persons prior to the scheduled date of eviction
3. Information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected
4. Especially where groups of people are involved, government officials or their representatives to be present during an eviction
5. All persons carrying out the eviction to be properly identified
6. Evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise
7. Provision of legal remedies
8. Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts⁷⁰

3.4 Right to housing in specific group conventions

In addition to UDHR and the ICESCR, the Right to adequate Housing is also explicitly referred to in other human rights international treaties for specific groups such as:

CEDAW Article 14 (2)(h) States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: ... To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.⁷¹

CRPD Article 9 (1) (a) To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with

⁷⁰ UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV) para.15.

⁷¹ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 03 September 1981) 1249 UNTS 1 (CEDAW) art 14.

others, to the physical environment...Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces.⁷²

CRPD Article 28 (1) States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.⁷³

CRC Article 27(3) States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.⁷⁴

CMW Article 43(1) (d) Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to...Access to housing, including social housing schemes, and protection against exploitation in respect of rents⁷⁵

The right to housing in group-specific conventions does still have its limit partly due to being tied to a specific group as it can be seen in the CEDAW Article 14 (2) which only applies to rural women, not to all women. In the CEDAW and CRPD echoes similar statement of the UDHR and ICESCR that right to housing is an extension to the right adequate standard of living. Whereas, the CMW Article 43(1) (d) connects the right to housing to the equality of treatment to provide a form of protection to migrants from exploitation within the housing process. In CRC Article 27(3) reinforces the State Parties

⁷² Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 03 May 2008) 2515 UNTS 3 (CRPD) art 9.

⁷³ Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 03 May 2008) 2515 UNTS 3 (CRPD) art 28.

⁷⁴ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 02 September 1990) 1577 UNTS 3 (CRC) art 27.

⁷⁵ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (adopted 18 December 1990, entered into force 01 July 2003) 2220 UNTS 3 (CMW) art 43.

obligation to provide supports to families to ensure basic needs such as housing and food are fulfilled. Furthermore, having the right to housing articulated in specific group conventions displays how different groups may experience violations of the right to housing differently. As a result, it allows for other avenues to address violations of the right to housing.⁷⁶

The right to housing is presented in international human right conventions and general comments; it is apparent that the right to housing is more than just the right to having a home. As it can be understood in international human right conventions and general comments, the right to housing encompasses the aspect of protection, privacy, equality, and privileges of what should equate to an adequate standard of living.⁷⁷ The Right to Adequate Housing Factsheet (OHCHR) provides an explicit list of how the right to adequate housing contains freedoms and entitlements, which are as followed:⁷⁸

Freedoms

- Protection against forced evictions and the arbitrary destruction and demolition of one's home;
- The right to be free from arbitrary interference with one's home, privacy and family; and
- The right to choose one's residence, to determine where to live and to freedom of movement.⁷⁹

Entitlements

- Security of tenure;
- Housing, land and property restitution;
- Equal and non-discriminatory access to adequate housing;

⁷⁶ J. Hohmann, 2013, p.27.

⁷⁷ OHCHR, 2009, p.3.

⁷⁸ *ibid.*

⁷⁹ *ibid.*

- Participation in housing⁸⁰

Lastly, it is vital to address what the right to housing is not it can often be mistaken as just the goal of providing housing to individuals, whereas, in the international rights law this is not the case. Rather it embodies the notion that State Parties have an obligation to take immediate and long term steps to ensure the progressive realisation that the right of housing is fulfilled. The Right to Adequate Housing Factsheet (OHCHR) provides a list of examples of ‘common misconception about the right to adequate housing.’⁸¹ They are listed as the following:

- The right to adequate housing does NOT require the State to build housing for the entire population.
- The right to adequate housing is NOT only a programmatic goal to be attained in the long term.
- The right to adequate housing does NOT prohibit development projects which could displace people.
- The right to adequate housing is NOT the same as the right to property.
- The right to adequate housing is NOT the same as the right to land.
- The right to adequate housing includes ensuring access to adequate services.⁸²

The following chapter will look at the right to housing further in respect to Special Rapporteurs Report on the Guidelines for the Implementation of the Right to Adequate Housing that builds on the normative legal framework that international human rights conventions have provided.

⁸⁰ OHCHR, 2009, p.3.

⁸¹ *ibid*, pp.6-8.

⁸² *ibid*.

4. Special Rapporteur on the Right to Adequate Housing

A Special Rapporteur on the right to adequate housing was established on April 2000 which was decided by the CESCR and put forward in Resolution 2000/9.⁸³ Paragraph 7(c) in resolution 2000/9 stated:

To appoint, for a period of three years, a special rapporteur whose mandate will focus on adequate housing as a component of the right to an adequate standard of living, as reflected in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, and article 27, paragraph 3, of the Convention on the Rights of the Child, and on the right to non-discrimination as reflected in article 14, paragraph 2 (h) of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination⁸⁴

Resolution 2000/9 put forward a mandate that the high commissioner will provide resources to Special Rapporteur to assist them to undertake the task that they would be responsible for.⁸⁵ The included task in resolution 2000/9 are as followed:

- To report on the status, throughout the world, of the rights that are relevant to the mandate, taking into account information received from Governments, United Nations organizations and bodies, other relevant international organizations and non-governmental organizations;
- To promote cooperation among and assistance to Governments in their efforts to secure these rights;
- To apply a gender perspective in her/his work;

⁸³ OHCHR, 'History of the Mandate - Adequate Housing' <<https://www.ohchr.org/EN/Issues/Housing/Pages/OverviewMandate.aspx>> accessed 20 May 2020; OHCHR, 2009, p.45.

⁸⁴ OHCHR, Resolution 2000/9 (April 17, 2000) para. 7(c).

⁸⁵ OHCHR, Resolution 2000/9 (April 17, 2000) para. 7(c).

- To develop a dialogue with Governments, United Nations organizations and bodies, other relevant international organizations, non-governmental organizations and international financial institutions, and to make recommendations on the realization of the rights relevant to the mandate;
- To submit to the Commission an annual report covering the activities relating to the mandate.⁸⁶

Furthermore, in resolution 6/27, the Human Rights Council reviewed the mandate of the Special Rapporteur on the right to housing and decided to extend the three-year period and added additional task to the mandate⁸⁷ such as:

- To identify best practices as well as challenges and obstacles to the full realization of the right to adequate housing, and identify protection gaps in this regard;
- To give particular emphasis to practical solutions with regard to the implementation of the rights relevant to the mandate;
- To facilitate the provision of technical assistance;
- To submit a report on the implementation of the present resolution to the General Assembly and to the Council⁸⁸

Currently, Ms Leilani Farha from Canada has been appointed The Special Rapporteur of the right to adequate housing from June 2014 – April 2020.⁸⁹

⁸⁶ OHCHR, Resolution 2000/9 (April 17, 2000) para 7(d); OHCHR, 'History of the Mandate - Adequate Housing'.

⁸⁷ UNHCR Resolution 6/27 (December 2017) 'Adequate Housing as a Component of the Right to an Adequate Standard of Living' para 5

⁸⁸ UNHCR, Resolution 6/27 (December 2017) 'Adequate Housing as a Component of the Right to an Adequate Standard of Living' para 5; OHCHR, 'History of the Mandate - Adequate Housing'

⁸⁹ OHCHR, 'Ms. Leilani Farha - Special Rapporteur on Adequate Housing'

<<https://www.ohchr.org/en/issues/housing/pages/leilanifarha.aspx>> accessed May 22, 2020.

4.1 Guidelines for the Implementation of the Right to Adequate Housing

The Guidelines for the Implementation of the Right to Adequate Housing were released in March 2020. The guideline consists of 16 key issues in regards to the right to adequate housing and provides recommendations on implementation measures for each issue.⁹⁰

The Guidelines for the Implementation of the Right to Adequate Housing are not legally binding. Although, the development of the 16 guidelines is a collection of human right normative standards, jurisprudence, the special rapporteur's thematic and country reports as well as input from several international, regional civil society stakeholders.⁹¹ Therefore, providing helpful guidance to States Parties on the right to adequate housing implementation.

4.2 Overview of the Special Rapporteur Guidelines for the Implementation of the Right to Adequate Housing

This section will be an overview of how the right to housing has been interpreted in the Special Rapporteur report on Guidelines for the Implementation of the Right to Adequate Housing. As previously mentioned, the report consists of 16 guidelines based on 16 key issues. Each guideline in the report is set up by providing a brief description of the key issue followed by recommended implementation measures for State Parties to implement to address the issue. To keep within the scope of the thesis, the overview will focus solely on the ten guidelines out of the 16 that are most relatable to PWUD in Victoria and Vancouver. Therefore, assisted in the development of the open-ended questions in the survey in Part 2 of the thesis.

⁹⁰ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, summary.

⁹¹ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43 Introduction (9).

Guideline No. 1. Guarantee the right to housing as a fundamental human right linked to dignity and the right to life

The first guideline addresses the topic that the right to adequate housing is interconnected with other fundamental human right values such as ‘dignity, equality, inclusion, well-being, security.’⁹²The right to housing should not be understood as solely as State Parties commitment to provide shelter but also that the right to housing is tied to the dignity of a person.⁹³

The right to housing can be defined vaguely within international human right conventions; therefore, implementation measure (b) of guideline No.1 addresses this issues. Implementation measure (b) reinforces the importance of defining housing as it is in general comment No. 4 incorporating the eight criteria that make ‘adequate’ housing.⁹⁴ This is a good starting point as there has to be a consensus of the definition of housing to refer to and the general comment No.4 offers the most elaborate definition of housing found in international human rights law.

The other implementation measures focus more on the judicial measures that State Parties should ‘ensure’ and ‘adopt’, such as ensuring ‘the right to adequate housing is recognized and enforceable... adopt interpretations of domestic law that are consistent with the right to housing.’⁹⁵ The implementation measures do make an effort of highlighting the importance of having the right to housing interconnected to other fundamental human rights such as the right to life within national law to provide it with a higher weight to enforce. Although, it does lack what does constitute a violation when housing is

⁹² UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.12.

⁹³ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.15.

⁹⁴ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.16(b).

⁹⁵ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 16(c).

connected to life and dignity. Consequently, the right to housing may be seen as an extension to another right; therefore, seen as a sub-par right in comparison to others.

On a practice level implementation measure (a) of Guideline No.1 does recommend for the training of lawyers and judges.⁹⁶ Training and discussion between judicial staff and government staff can be a starting point, as the vagueness of right to housing within international human rights conventions may need discussion to examine further how to enforce the right to housing at a national level.

Guideline No. 2. Take immediate steps to ensure the progressive realization of the right to adequate housing in compliance with the standard of reasonableness

The following guideline focuses on the obligation for State Parties to ensure the progressive realisation of the right adequate housing is fulfilled. It does mention that many violations of the right housing are due to the inaction from the State and not taking 'positive measures to address the unacceptable housing conditions.'⁹⁷

The implementation measures assert State Parties obligation of progressive realisation. The implementation measures recommend that within national law, the progressive realisation of the right to housing should be recognized. To enforce all reasonable steps to be taken swiftly to ensure the right to housing is fulfilled.⁹⁸ There is mention that State

⁹⁶ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para. 16(a).

⁹⁷ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.17.

⁹⁸ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para. 19(a).

Parties should ‘allocate sufficient resources’⁹⁹ to the marginalized populations and practice transparency and ‘participatory decision-making.’¹⁰⁰

A point missing from the implementation measures was, without a proper complaint and monitoring system in place, State Parties can fall short of progressive realisation of the right to housing. Implementation measure (e) expresses:

States must ensure that all relevant authorities and decision-makers, including the courts, are familiar with the reasonableness standard and can apply it to hold public institutions accountable to the right to housing.¹⁰¹

Although, if State Parties are the perpetrators to the right to housing, there needs to be a third-party independent monitoring system in place to hold State Parties accountable.

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) is mentioned as being a tool to assist with clarification on the compliance of the obligation of taking appropriate steps to ensure the full progressive realization of the economic, social and cultural rights (ESCR).¹⁰² Although in the implementation measures, there is no mention of ratifying the OP-ICESCR. When ratified the OP-ICESCR is an avenue for individuals and groups to make complaints of violations of ESCR at the international level with the UN Committee on ESCR ‘when people cannot access justice in the courts of their country.’¹⁰³ Currently, only 24 countries have ratified the OP-ICESCR with countries such as Canada, Germany and the United Kingdom

⁹⁹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 19(b).

¹⁰⁰ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 19(b).

¹⁰¹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43. 19(e).

¹⁰² UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43 para.18.

¹⁰³ ESCR-Net, ‘What Is the OP-ICESCR?’ <<https://www.escr-net.org/ngo-coalition-op-icescr/what-op-icescr>> accessed May 22, 2020.

having yet to do so.¹⁰⁴ State Parties inaction causes many of the violations as mentioned above, for this reason advising State Parties to ratify the OP-ICESCR would be a good implementation measure. Therefore, it is essential to have an independent complaint and monitoring system in place to hold states accountable.

Guideline No. 3. Ensure meaningful participation in the design, implementation and monitoring of housing policies and decisions

The third guideline is regarding the importance of having meaningful participation with right holders to foster inclusion, ‘agency, autonomy and self-determination.’¹⁰⁵ Highlighting the issues that there is a trend for housing programmes to be developed in a top-down approach.¹⁰⁶ As a top-down approach does not include meaningful participation from right holders, it creates the issue that implemented housing programmes do not meet the needs of the right holders.¹⁰⁷

The implementation measures assert that legislation needs to guarantee that ‘affected individuals’¹⁰⁸ are free to provide input and should be part of the ‘decision-making process.’¹⁰⁹ There appears to be a decent effort to express the importance of including the knowledge of diverse populations within developing housing programmes. Although, a

¹⁰⁴ United Nations Treaty Collection, '3. a) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights'
<<https://treaties.un.org/doc/Publication/MTDGS/Volume%20I/Chapter%20IV/IV-3-a.en.pdf>> accessed May 22, 2020.

¹⁰⁵ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43 para.20.

¹⁰⁶ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43 para.22.

¹⁰⁷ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43 para.22.

¹⁰⁸ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.24(b).

¹⁰⁹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.24(b).

part that is missing is how can State Parties actively include diverse people in the process of participating in designing and monitoring housing policies. Perhaps creating a national housing committee that includes people with lived experience to assist in the development and housing programmes. As well as create employment within the government sector for marginalised people to occupy a position in a higher government level. Meaningful participation should go beyond basic consultation, and people who have live experience of discrimination or violations on the right to housing should have greater participation within housing policies.

Guideline No. 4. Implement comprehensive strategies for the realization of the right to housing

The following guideline addresses the topic of the state parties' obligation to adopt a national housing strategy¹¹⁰. It is noted that many state parties fall short in this obligation:

[m]ost States have not implemented effective strategies to realize the right to housing. Where timelines and goals for outcomes have been identified, often there has been insufficient commitment to meeting them and no meaningful accountability.'¹¹¹

The implementation measures further emphasize that State Parties have an obligation to ensure the right to housing is progressively realised. Developing a national housing strategy falls under the state's obligation to fulfil¹¹². Although it is essential to highlight a national housing strategy need to be 'comprehensive' which will address general issues

¹¹⁰ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.26.

¹¹¹ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.27.

¹¹² UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.26.

of violations such as discrimination and forced eviction but also address the systemic issues that are country-specific.¹¹³

Implementation measure(d) recommend that State Parties should have an independent monitoring system in place ‘to monitor progress in meeting goals and timelines, establish procedures through which affected communities can identify systemic issues affecting the realization of the right to housing and ensure effective responses.’¹¹⁴ This is a crucial addition to implementing a housing strategy as state parties can draft a national housing strategy. However, without proper monitoring protocol and systems, state parties will not be held accountable to meet goals and address systemic issues specific to their country.

Guideline No. 5. Eliminate homelessness in the shortest possible time and stop the criminalization of persons living in homelessness

Guideline No. 5 acknowledges State Parties have an obligation to take immediate action to respond and eliminate homelessness at the individual and systemic level in the least amount of time.¹¹⁵ Also, articulates people who experience homelessness may often face compounding forms of discrimination and are criminalised because of their social location. The guideline reinforces that State Parties must prohibit this form of discrimination.

The implementation measures demonstrate the importance of providing immediate emergency shelter and long term housing to those who experience homelessness.¹¹⁶ Furthermore, the supports should be provided without ‘discrimination on any grounds,

¹¹³ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.28 (c).

¹¹⁴ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 28 (b).

¹¹⁵ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.32.

¹¹⁶ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 33(a).

including migration status, nationality, gender, family status, sexual identity, age, ethnic origin, disability, dependence on alcohol or drugs.’¹¹⁷ Implementation measure (b) supports the framework of housing first as an approach to house people in permanent housing as quickly as possible.¹¹⁸

The implementation measure does make a serious attempt to articulate how people who experience homelessness are often criminalized for minor offences and that these minor offences create a cycle of criminalization.¹¹⁹ Additionally, people who experience homelessness should not lose privacy rights and have protection from forced eviction in public spaces. Implementation measure (d) ends with the recommendation of having police training in place that promotes and respects the dignity and rights of people who experience homelessness.¹²⁰

Guideline No. 6. Prohibit forced evictions and prevent evictions whenever possible

Guideline No 6 reasserts the issue of forced evictions as brought forth in General Comment No. 7 on the topic. Asserting State Parties have an obligation to ‘prohibit forced evictions and ensure that any evictions under domestic law are fully compliant with

¹¹⁷ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 33(a).

¹¹⁸ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 33(b).

¹¹⁹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 33(d).

¹²⁰ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 33(d).

international law.’¹²¹ It further illustrates that forced evictions are ‘recognized as a gross violation of human rights.’¹²²

The implementation measures echo the main points of general comment No.7 of implementing procedural protections in the cases of evictions and that evictions should not force someone into homelessness.¹²³ Implementation measure (d) highlights that measures need to be in place to manage the rental market, such as implementing the measures of ‘rent stabilization and controls, [and] rental assistance’¹²⁴ programmes. What was missing in the guideline was measures that can hold private actors accountable as many forced evictions violations can be caused by private actors such as landlords and property management companies. Rental markets can be quite volatile in many large cities with issues of gentrification and renovictions. Many populations are pushed out of housing and communities due to profit gain in the market. Therefore, evicted individuals are not able to afford the market value and are vulnerable to homelessness.

Guideline No. 8. Address discrimination and ensure equality

Guideline No. 8 addresses the issue of discrimination. It highlights that many people who experience homelessness may also experience discrimination on other grounds; therefore ‘often experience intersectional discrimination.’¹²⁵ Most violations to the right of housing

¹²¹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 37.

¹²² UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.34.

¹²³ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 38(b).

¹²⁴ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, 38(d).

¹²⁵ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.44.

stem from ‘discrimination, exclusion and inequality.’¹²⁶ The guideline acknowledges that State Parties may have anti-discrimination policies and legislation within national housing strategies, but on the micro-level, they are not adequately enforced, therefore, policy reform is needed.¹²⁷

The implementation measures demonstrate the importance that housing strategies, law and policies ensure the right to equality, especially among populations who face discrimination and marginalization. Implementation measure (d) makes an effort of providing examples of how different populations such as children, Indigenous people, people of colour, people with disabilities and LGBTQ community face intersectional discrimination.¹²⁸ Therefore, state parties should utilise the equality standards present in specific group conventions.¹²⁹

The guideline does touch on the issue that discrimination is systemic, therefore, ‘[c]ourts, tribunals and human rights bodies should provide both individual and programmatic remedies to discrimination, including measures to address the structural causes of inequality in housing.’¹³⁰ In regards to discrimination, if systemic and institutional discrimination is not addressed and just ignore the issue of inequality will be perpetuated. What was missing from the implementation measure is the issue that institutional discrimination can be so ingrained within higher-level government bodies and impunity can be a consequence of that. The ongoing power imbalances between different populations create challenges in ensuring equality in the right to housing.

¹²⁶ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.43.

¹²⁷ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.46.

¹²⁸ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/4, para. 47(d).

¹²⁹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 47(d).

¹³⁰ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 48 (b).

Guideline No. 11. Ensure the capacity and accountability of local and regional governments for the realization of the right to adequate housing

Guideline No. 11 addresses the topic of local and regional government also have the obligation to ensure the progressive realisation of the right to housing. Like most times, the local government is responsible for ‘producing and managing social housing...[t]hey are closest to affected communities and better able to ensure participatory decision-making and to develop innovative solutions adapted to local circumstances.’¹³¹

Many times the local and regional government are the perpetrators of right to housing violations.¹³² Therefore, there need to be accountability measures in place. The guideline also mentions there may be a gap of knowledge from international human right level to the local, regional level as ‘local and regional governments are often inattentive to or unaware of their obligations concerning the right to adequate housing under international human rights law.’¹³³ Therefore, there needs to be greater collaboration and coordination from the federal to the local level.

The implement measures set forth the importance of regional and local housing strategies, policies and legislation to encompass a rights-based approach and there to be greater coordination by the national government to assist with implementation.¹³⁴ Implementation measure (b) states that local and regional government must have an

¹³¹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.59.

¹³² UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 61.

¹³³ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.60.

¹³⁴ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 63 (b).

independent monitoring system in place to ensure accountability.¹³⁵ The guideline does make an effort of showcasing that national, local and regional government may not be on the same page regarding the right to housing. The guideline does mention that national government need to provide capacity building and allocate enough resources to local and regional governments. However, many times the national government will provide monetary resources to local government but in practice may not go to housing programmes or vulnerable populations. Therefore, the implementation measure, (b) addressing the topic of independent monitoring is valuable. Monitoring bodies should not only monitor if housing strategies, policies and law encompass a rights-based approach but also monitor how housing monetary resources are allocated and used at the local level.

Guideline No. 15. Ensure effective monitoring and accountability mechanisms

Guideline No. 15 stresses the topic of State Parties' obligation to have an independent monitoring system implemented to provide an avenue to hold Governments and private actors accountable. Monitoring should go beyond than just 'collecting and disseminating data about housing programs, homelessness, expenditures and aggregate demographics [but also include] qualitative evidence based on experiences of rights holders.'¹³⁶ The guideline reaffirms that monitoring is a crucial factor in ensuring the progressive realisation to the right to housing is fulfilled.

The implementation measures articulate that independent monitor bodies should be provided resource by State Parties, and monitoring should be conducted in a way that is inclusive of transparency and state party participation.¹³⁷ Implementation measure (b)

¹³⁵ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para. 63 (b).

¹³⁶ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43. Para. 77.

¹³⁷ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, 79(a).

does make an effort of acknowledging that standalone statistical data is not enough rather it should be in conjunction with qualitative research that includes the narrative of people with lived experience of homelessness, forced eviction and systemic discrimination.¹³⁸ Therefore, monitoring will provide a more realistic picture of what the systemic challenges are and be able to formulate appropriate policies and programmes that reflect the lived experience of right holders. There is value with this implementation measure and can be seen as an extension of guideline No.3 on the issue of meaningful participation.

Furthermore, implementation measure (d) asserts that monitoring should extend beyond the state and include ‘all sectors of housing systems, including private business enterprises and real estate market.’¹³⁹ Which is also a vital recommendation as aforementioned private actors within the housing system can be the ones behind violations of the right to housing, especially in regards to forced eviction, providing sub-par housing and displacing people. With that said State Parties do then have an obligation to protect and provide legislation and judicial procedures to hold violation of the right to housing accountable.

Guideline No. 16. Ensure access to justice for all aspects of the right to housing

Guideline No. 16 raises the concern that the right to housing violations are from ‘failures in the administration of justice to ensure meaningful accountability and access to effective remedies as they are failures of housing programmes.’¹⁴⁰ The guideline speaks to the issue of State Parties needing to ensure that legal remedies are in place for right holders

¹³⁸ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, 79(b).

¹³⁹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43 para 79(d).

¹⁴⁰ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43. Para.81.

to access justice in cases of violation in regards to the right to housing.¹⁴¹ The guideline reasserts that access to justices is a crucial step of progressive realisation to the right of housing.¹⁴²

Implementation (b) highlights that right to housing is interconnected to ‘other rights, such as the rights to life, health and non-discrimination’¹⁴³ and the indivisibility of the rights can assist with the issue of State Parties that may not have the right to housing ‘enshrined in national or constitutional law, access to effective judicial remedies.’¹⁴⁴ Implementation measure (c) brings attention to the importance of having legal remedies accessible to individuals and the organizations representing right holder ‘to participate in legal process’¹⁴⁵ as well as:

[i]nstitutions, equality promotion bodies and civil society should have legal standing to pursue claims to the right to housing on behalf of individuals and groups. Remedies should address both individual and systemic violations of the right to housing.¹⁴⁶

This is a crucial point put forward as right holders and civil society groups often do not know what avenues they have to dispute the right to housing violations; therefore, transparency and accessibility are needed in the judicial process. The point of micro-level organisations needing to have legal standing is another valuable point as it usually the micro-level organisation who work directly with right holders, therefore, they may have

¹⁴¹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43. Para.80.

¹⁴² UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43. Para.82.

¹⁴³ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 83(b).

¹⁴⁴ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 83(b).

¹⁴⁵ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 83(c).

¹⁴⁶ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 83(c).

a greater awareness of human right violations that happen at the individual and systemic level. Not allowing the micro-level organisation to have legal standing can perpetuate right to housing violations and impunity for state parties. As the guideline states that many rights to housing violations occur not because of actions such as state-led forced evictions but also the inaction by state parties and not taking steps to ensure the progressive realisation of the right to housing is being fulfilled.¹⁴⁷

The following chapter will look at the right to housing at the national level in Canada. The thesis provides an overview of how Canada has adopted the right to housing in national legislation with apparent influence from international human rights standards and the special rapporteur on the right to adequate housing.

5. Right to Housing in Canada

Canada developed a National Housing Strategy in November 2017.¹⁴⁸ Within the national housing strategy, there was a commitment put forward that the Canadian Government would adopt ‘rights-based legislation to implement the government’s commitment to the progressive realisation of the right to housing, as guaranteed in the [ICESCR].’¹⁴⁹ The Canadian Government followed through on the promise of implementing rights-based legislation on 21 June 2019, where the right to housing is enshrined within national legislation in the National Housing Strategy Act.¹⁵⁰

¹⁴⁷ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, 83 (b).

¹⁴⁸ The National Right to Housing Network (NRHN) , ‘Right to Housing Legislation in Canada’ <<http://housingrights.ca/right-to-housing-legislation-in-canada/>> accessed 9 June 2020; The Right to Housing Campaign; ‘Backgrounder and fact sheet the right to housing in Canada and the national housing strategy act’ (May 2019) <<https://nhs.socialrights.ca/wp-content/uploads/2019/05/Right-to-Housing-Backgrounder-FAQ.pdf>> p.1, accessed 1 June 2020.

¹⁴⁹ The Right to Housing Campaign; ‘Backgrounder and fact sheet the right to housing in Canada and the national housing strategy act’ (May 2019) p.1.

¹⁵⁰ NRHN, ‘Right to Housing Legislation in Canada’; National Housing Strategy Act (2019) c. 29, s. 313.

The Canadian Government did receive pressure from stakeholders, civil society housing advocates, and the Special Rapporteur on the right to adequate housing to follow through on the promise. In 2018, an open letter ‘signed by over 1,100 individuals and organisation’¹⁵¹ was sent to Canada’s Prime Minister Justin Trudeau from civil Society advocates that insisted the Canadian Government must make due on the promise and to ‘enshrine the right to housing in’¹⁵² the Right to Housing Act.¹⁵³

The Special Rapporteur on the right to adequate housing echoed the recommendations of the civil society advocates within her Communication on Canada national housing strategy. The Special Rapporteur stated her ‘support for the new National Housing Strategy was premised on [her] understanding that the legislation would recognize the right to housing, and that it would ensure effective remedies and accountability for systemic violations.’¹⁵⁴

The initial National Housing Strategy Act was presented in April 2019 in the Budget Implementation Act, 2019 it articulated the Canadian Government commitment to take steps in ensuring the right to housing is progressively realised.¹⁵⁵ Although various stakeholders and civil society group felt the National Strategy Act needed a ‘stronger commitment to the right to housing and to add appropriate rights-based accountability mechanisms.’¹⁵⁶ Therefore, demanding the Canadian Government to amend the National Housing Act to include these requests.¹⁵⁷

¹⁵¹ The Right to Housing Campaign; 'Backgrounder and fact sheet the right to housing in Canada and the national housing strategy act' (May 2019) p.1.

¹⁵² NRHN, 'Right to Housing Legislation in Canada'.

¹⁵³ NRHN, 'Right to Housing Legislation in Canada'; The Right to Housing Campaign; 'Backgrounder and fact sheet the right to housing in Canada and the national housing strategy act' (May 2019) p.1.

¹⁵⁴ OHCHR, 'Communication on Canada National Housing Strategy: Mandate of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (22 June 2018) , p.2
<<https://www.ohchr.org/Documents/Issues/Housing/OL%20CAN%2022.06.18.pdf> >accessed 1 June 2020.

¹⁵⁵ NRHN, 'Right to Housing Legislation in Canada'; The Right to Housing Campaign; 'Backgrounder and fact sheet the right to housing in Canada and the national housing strategy act' (May 2019) p.2.

¹⁵⁶ NRHN, 'Right to Housing Legislation in Canada'; The Right to Housing Campaign; 'Backgrounder and fact sheet the right to housing in Canada and the national housing strategy act' (May 2019) p.1.

¹⁵⁷ NRHN, 'Right to Housing Legislation in Canada'; The Right to Housing Campaign; 'Backgrounder and fact sheet the right to housing in Canada and the national housing strategy act' (May 2019) p.1.

The amendments to the National Housing Strategy Act were presented in the House of Commons by Minister Maryam Monsef where she articulated the introduce amendments in the National Housing Strategy will now establish a clear role of federal housing advocates in regards to researching, reporting on systemic issues, it creates a national housing council and more robust monitoring and accountability mechanisms.¹⁵⁸

5.1 Interpretation of National Housing Strategy Act

This section will provide an overview of how Canada has interpreted and adopted the right to housing within Canada's National Strategy Act. The National Housing Strategy Act includes six main points which are:

1. Housing Policy Declaration
2. National Housing Strategy
3. National Housing Council
4. Federal Housing Advocate
5. Review Panels
6. Accountability¹⁵⁹

Housing Policy Declaration

The Housing policy declaration expresses that the National Housing Strategy is aligned with International Human right standard. Declaring that the Government of Canada will:

recognize that the right to adequate housing is a fundamental human right affirmed in international law...recognize that housing is essential to the inherent dignity

¹⁵⁸ 'Canadian Minister Introduces Historic Right to Housing Amendments' [online video], 2019 https://www.youtube.com/watch?time_continue=129&v=W3H4mlvd3yA&feature=emb_logo accessed 2 June 2020.

¹⁵⁹ National Housing Strategy Act (2019) c. 29, s. 313.

and well-being of the person and to building sustainable and inclusive communities.¹⁶⁰

Furthermore, Canada's implementation of national housing strategy is a step taken to ensure the progressive realisation of the right to housing is fulfilled, which is aligned with the international human right standard of progressive realisation set in the ICESCR.¹⁶¹

The importance of the housing policy declaration is that the right to housing is now recognized as a fundamental right in Canadian legislation. Therefore, creating the foundation of current and future government to ensure that measures are taken to fulfil the right to housing for the Canadian population. The declaration is also an example of how state parties will utilise international human rights law normative framework within their federal laws.

Before the National Housing Strategy Act, Canada did not enforce the right to housing within domestic law, within the Canadian Charter of Rights and Freedoms, and the Constitution Act of 1982 there is no mention of the right to housing.¹⁶² There is a reference to this in the Special Rapporteur Mission to Canada report:

Canadian domestic law does not include any explicit recognition of the right to adequate housing - as an enforceable right or as a policy commitment. No such recognition is found in the Constitution Act of 1982, including the Canadian Charter of Rights and Freedoms, in provincial or federal human rights legislation, in national, provincial or territorial housing legislation or in federal-provincial agreements.¹⁶³

¹⁶⁰ National Housing Strategy Act (2019) c. 29, s. 313, para.4(a).

¹⁶¹ National Housing Strategy Act (2019) c. 29, s. 313, para.4(d).

¹⁶² Library of Parliament, 'A Primer on Housing Rights in Canada' (21 June 2019) p.6 <https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201916E> accessed May 19; UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2009) UN Doc A/HRC/10/7/Add.3, para.7.

¹⁶³ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2009) UN Doc A/HRC/10/7/Add.3, para.7.

It is essential to note Canada has ratified numerous human right treaties that articulate the right to housing such as the ICESCR (1976), the CEDAW (1981), the CRC (1991), and CRPD (2010).¹⁶⁴ Although, Canada has not ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR)¹⁶⁵. Furthermore, The Special Rapporteur Mission to Canada report highlights:

The rights contained in international human rights treaties ratified by Canada are not directly enforceable by domestic courts unless they have been incorporated into Canadian law by parliament or provincial legislatures. As such, the right to adequate housing as codified in article 11(1) of the ICESCR cannot be claimed on its own. Nevertheless, court decisions indicate that a ratified treaty that has not been incorporated into domestic law can and should be used to interpret domestic law.¹⁶⁶

Therefore, Canada enshrining the right to housing within national law is a step towards ensuring the progressive realisation of the right to housing, as it allows for an avenue for cases of violations of the right to housing to be brought to Canada's justice system. Which is also in connection to the Special Rapporteur guidelines, throughout the guidelines, the recommendation of having in place legislation measure to ensure the right to housing is stated repeatedly.

National Housing Strategy

The National Housing Strategy Act encompasses a right-based approach. The National Housing Strategy will

focus on improving housing outcomes for persons in greatest need...[through setting] out a long-term vision...establish national goals relating to housing and

¹⁶⁴ Department of Justice Government of Canada, 'International Human Rights Treaties to Which Canada Is a Party'(14 November 2016)< <https://www.justice.gc.ca/eng/abt-apd/icg-gci/ihr-didp/tcp.html>> accessed 22 May 2020.

¹⁶⁵ ESCR-Net, 'OP-ICESCR' <<https://www.escr-net.org/op-icescr>> accessed 22 May 2020.

¹⁶⁶ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2009) UN Doc A/HRC/10/7/Add.3, para.7

homelessness and identify related priorities, initiatives, timelines and desired outcomes.¹⁶⁷

The process will also allow inclusion from ‘civil society, stakeholders, vulnerable groups and persons with lived experience of housing need, as well as those with lived experience of homelessness.’¹⁶⁸Canada’s National Housing Strategy Act conforms to international human rights standard by showcasing that the Canadian Government does have an obligation to ensure long term measures are put in place to ensure the right to housing. The preamble of the legislation declares the:

national housing strategy would contribute to meeting the Sustainable Development Goals of the United Nations...[and] support the progressive realization of the right to adequate housing as recognized in the [ICESCR], to which Canada is a party.¹⁶⁹

Although what was missing from the legislation is that the housing strategy did not provide an explicit reference of the government obligation to ensure immediate steps are taken to address immediate needs and systemic issues. Progressive realisation of the right to housing is not only about state parties meeting long term goals but taking immediate steps to ensure progressive realisation to right to housing is being fulfilled. Noted in the Special Rapporteur guideline that inaction from state parties can also contribute to the right to housing violations. Therefore, further measures would be needed to conform to international human rights standard.

National Housing Council

Within the legislation, it is articulated Canada will create a National Housing council responsible for carrying out duties such as reporting to the minister regarding housing

¹⁶⁷ National Housing Strategy Act (2019) c. 29, s. 313, para. 5(2)(b)-5(2)(c).

¹⁶⁸ National Housing Strategy Act (2019) c. 29, s. 313, para. 5(2)(d).

¹⁶⁹ National Housing Strategy Act (2019) c. 29, s. 313, preamble.

policy and the effectiveness of the implementation of the National Housing Strategy Act.¹⁷⁰

A unique point on the National Housing Council is regarded to the national housing council membership it states that the membership will consist of ‘persons who are members of vulnerable groups...with lived experience of housing need...of homelessness...reflect the diversity of Canadian society; and...persons who have expertise in human rights.’ This point shows Canada’s effort to be inclusive of people with lived experience within policy development and monitoring process. As of 6 April 2020, the Canadian federal government had not sufficiently established a national housing council.¹⁷¹ According to the Government of Canada National Housing strategy web page, there is a goal to have a national housing council within 2020.¹⁷²

In connection to the special rapporteur guidelines the development of a national housing council and for representative membership is aligned with Guideline No. 3 which refers to meaningful participation in the design, implementation and monitoring of housing policies and decisions. This unique aspect of the National Housing Council is aligned with implementation measure (c) of guideline No. 3 stating the ‘[p]articipation in the design, construction and administration of housing should reflect the diversity of communities and ensure that the needs of all residents are represented.’¹⁷³

Federal Housing Advocates

The legislation point of Federal Housing Advocates lists all the duties that Federal Advocates will be responsible for and the crucial role they hold in conducting research, analysing, investigating, reporting and reviewing systemic issues.¹⁷⁴ The federal housing

¹⁷⁰ National Housing Strategy Act (2019) c. 29, s. 313, para. 6.

¹⁷¹ Government of Canada, 'Join the National Housing Council' (6 April 2020) <<https://www.placetocallhome.ca/national-housing-council>> accessed June 17 2020.

¹⁷² Government of Canada, 2020.

¹⁷³ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43.

¹⁷⁴ National Housing Strategy Act (2019) c. 29, s. 313, para. 13.

advocates will play an additional role in holding the Canadian government accountable for implementing housing policies and goals promptly through the ongoing monitoring. The legislation point does make an effort of highlighting the importance of having an additional monitoring body in place that will look specifically at systemic issues and how housing policies affect marginalized populations.

The National Strategy Act has assented for a year, and there has not been any reporting on systemic issues. As of June 2020 Canada is still establishing Federal Housing Advocates, on the Office of the Federal Housing Advocate webpage it states ‘Office cannot engage in any of the Advocate’s powers, duties or functions until the Advocate is appointed. This includes receiving submissions on systemic housing issues.’¹⁷⁵

Review Panels

The legislation point of the review panels is an extension of the duties of National Housing Council and Federal Housing Advocates will partake in. Under the request of the Federal Housing Advocate, the National Housing Council will conduct reviews of systemic housing issues. As stated in the National Housing Council membership point, the review panel should also have the representation of ‘persons who are members of vulnerable groups...with lived experience of housing need...homelessness; and...persons who have expertise in human rights.’¹⁷⁶ The review panel process put forward is an ambitious creative, and holistic as the monitoring process will be inclusive and value the knowledge of people with lived experience. The review panel will also conduct the hearing in an open, inclusive ‘manner that offers the public, particularly members of communities that are affected by the issue and groups that have expertise in human rights and housing, an opportunity to participate.’¹⁷⁷

¹⁷⁵ Canadian Human Rights Commission 'Housing Rights – Office of the Federal Housing Advocate' <<https://www.chrc-ccdp.gc.ca/eng/content/housing-rights-office-federal-housing-advocate>> accessed June 17, 2020.

¹⁷⁶ National Housing Strategy Act (2019) c. 29, s. 313, para. 16.2(2).

¹⁷⁷ National Housing Strategy Act (2019) c. 29, s. 313, para. 16.3(b).

As stated above the National Housing Council and Federal Housing Advocates are still yet to be established; therefore, no review panels have taken place as of yet. With the creation of the National Housing Council and Federal Housing Advocates and the process of the review panel presented in the legislation shows Canada's effort to branch away from the top-down approach.

Accountability

Lastly, the legislation point of accountability highlights the minister's responsibility to respond to the Federal Housing Advocates review panels, thematic reports and annual report within 120 days the reports are received.¹⁷⁸ This a crucial point, because if the government is not held accountable or required to address or act on violations then all the investigation, monitoring and reporting done by the National Housing Council, and Federal Housing Advocates to address systemic issues will not be put to appropriate use at the federal level.

In connection to the special rapporteur guidelines the development of the federal housing advocates, review panel and accountability are all aligned with Guideline No 4. regarding a comprehensive housing strategy and Guideline No. 15 that speaks to ensuring effective monitoring and accountability mechanisms.¹⁷⁹ In implementation measure (d) of Guideline No. 4 states:

States should provide for independent monitoring of progress in meeting goals and timelines, establish procedures through which affected communities can identify systemic issues affecting the realization of the right to housing and ensure effective responses¹⁸⁰

¹⁷⁸ National Housing Strategy Act (2019) c. 29, s. 313, para 17.1.

¹⁷⁹ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43.

¹⁸⁰ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para. 28(d).

Showcasing the development of the Federal Housing Advocate will address this implementation measure as they will be responsible for holding the minister accountable to respond and address on thematic reports and panel reviews in a timely manner (120 days).

In implementation measure (a) of Guideline No 15, it puts forward the following:

Independent monitoring bodies should be mandated and properly resourced to monitor the realization of the right to housing in a transparent and participatory manner. They should have the capacity to hear complaints from concerned people or groups, undertake visits, conduct investigations, commission surveys and convene public hearings to gather information. Public authorities should be required to provide a response to reports from monitoring bodies and to take follow-up action within a reasonable period of time. Parliamentary hearings should be utilized to provide periodic public review of progress and effective government responses.¹⁸¹

Again the development of the Federal Housing Advocates in conjunction with the review panels echoes this implementation measures. The Federal Housing Advocates are funded by the ‘Governor in Council’¹⁸² and play an essential role in monitoring, reporting, and investigating systemic issues and right to housing violations.¹⁸³

Canada’s national strategy act is an example how state parties use international human rights law as a foundation and can adopt international human rights normative frameworks with national legislation but also include aspects and mechanisms that will address systemic issues specific to the country. The next chapter will start section 2 and now look at the right to housing at the micro-level.

¹⁸¹ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para. 79(a).

¹⁸² National Housing Strategy Act (2019) c. 29, s. 313, para. 14(a).

¹⁸³ National Housing Strategy Act (2019) c. 29, s. 313, para. 13.

PART 2. RIGHT TO HOUSING AT THE MICRO LEVEL

6. Housing First and Harm Reduction Framework

Section 2 starts with a chapter on the overview of Harm Reduction and Housing First to demonstrate the overlap between the frameworks, as well as the gaps between the frameworks. The next chapter will build on this understanding and provide a micro perspective of service providers working in Harm Reduction and Housing First programmes with PWUD. To analyse the right to housing at the micro-level through descriptive qualitative research approach.

6.1 Housing First

The housing first model term first appeared in the Beyond Shelter programme in 1988 in Los Angeles developed by Tanja Toll, where the programme would provide rapid rehousing for homeless families.¹⁸⁴ The notion of rapid rehousing is to accommodate families or individuals with low needs with short term (6 months to a year) supports such as rental subsidies to provide stability with the goal of permanent Housing.¹⁸⁵ The concept behind the Beyond Shelter programme is to have families with children rehoused permanently as soon as possible to limit the use of shelters and not to expose parents or children to nights of ‘sleeping rough’¹⁸⁶. The literature also referred to the 1976 Toronto Houselink programme as an example of an early housing first programme, where it would provide rapid rehousing to individuals discharged from mental health services who were experiencing mental health difficulties.¹⁸⁷ The Toronto Houselink programme would work with PWUD or did not, viewed securing housing as a necessity and did not enforce

¹⁸⁴ S. Gaetz, F. Scott, T. Gulliver, *Housing First in Canada: Supporting Communities to End Homelessness* (2013) p. 9 <<https://www.deslibris.ca/ID/10097037>>; J. Waegemakers Schiff, J. Rook, 'Housing First: Where Is the Evidence?' (2012) p.5 <<http://www.deslibris.ca/ID/232743>>; A. Bellis, W. Wilson, 'Housing First: Tackling Homelessness for Those with Complex Needs' (17 July 2018), p.9, <<https://commonslibrary.parliament.uk/research-briefings/cbp-8368/>>.

¹⁸⁵ Gaetz et al., 2013, p. 9 ; Waegemakers et al., 2012, p.5.

¹⁸⁶ Waegemakers et al., 2012, p.6.

¹⁸⁷ Gaetz et al., 2013, p. 9 ; Waegemakers et al., 2012, p.5; Bellis et al., 2018, p.9.

any preconditions to housing such as abstinence from illicit drug use or compliance with treatment.¹⁸⁸

The Beyond Shelter programme may have been the initial programme to incorporate the term Housing First. Still, it is the Pathways Housing First Programme by Dr Sam Tsemberis that is most widely utilised today within housing first programmes. The Pathways Housing First Programme was developed in 1992 in New York.¹⁸⁹ It did not follow the traditional staircase/continuum of care model that was used within housing services to those who experience chronic homelessness.¹⁹⁰ The staircase/continuum care model was used with PWUD and people who were experiencing mental health difficulties the concept was that the individual had to progress through a series of steps to become 'housing ready' to live independently.¹⁹¹ Essentially the process made the individual 'graduate' through steps in the programme to progress; this usually included a form of psychiatric or substance use treatment and having to comply with a treatment plan.¹⁹² If the individual did not comply with the treatment plan, they could not graduate to the next step, meaning individuals often cycled through the process and never became 'housing ready.'¹⁹³ Another component of the staircase/continuum care model was that the individual would have to receive outreach services and live in a transitional housing programme before being eligible for independent housing. The rationale behind this was that the individual would learn the skills of how to live independently.¹⁹⁴ These programmes were not well adapted to the lives of PWUD. If an individual were to consume substances, they could be discharged from the programme as the goal was sustained abstinence for a certain period to reach the final step of permanent housing

¹⁸⁸ Gaetz et al., 2013, p. 9 ; Waegemakers et al., 2012, p.5

¹⁸⁹ Bellis et al., 2018, p.9.

¹⁹⁰ Bellis et al., 2018, p.9.

¹⁹¹ Bellis et al., 2018, p.9.; S. Tsemberis, L. Gulcur, M. Nakae., 'Housing First, Consumer Choice, and Harm Reduction for Homeless Individuals With a Dual Diagnosis' *American Journal of Public Health* vol. 94, no. 4 (April 2004): 651–56, p. 651.

¹⁹² Tsemberis et al., 2004, p. 651-52 ; N. Pleace, 'Housing First Guide Europe' (2016) p.13 <https://housingfirsteurope.eu/assets/files/2017/03/HFG_full_Digital.pdf> accessed 11 May 2020; Housing First Europe Hub '1.1. Introducing Housing First' <<https://housingfirsteurope.eu/guide/what-is-housing-first/introducing-housing-first/>> accessed 11 May 2020.

¹⁹³ Tsemberis et al., 2004 p. 651; Pleace, 2016 p 7.; Housing First Europe Hub '1.1. Introducing Housing First'; Bellis et al., 2018, p.5-8.

¹⁹⁴ Tsemberis et al., 2004 p. 651; Pleace, 2016 p 15; Bellis et al., 2018, p.5-6.

finally.¹⁹⁵ Another condition if the individual did complete all steps and did obtain independent housing and were to use substances again, they could be evicted from the housing unit and not be re-housed.¹⁹⁶ The staircase/continuum of care model perpetuates the view that an individual cannot achieve stability without following a strict treatment plan and maintaining abstinence from illicit drug use.¹⁹⁷

The Pathways Housing First model was developed to address the needs of those who experience chronic homelessness where the staircase/continuum care model could not meet their needs.¹⁹⁸ The Pathways Housing First model foundation rests on the view that housing is a basic right and individuals should have access to housing without any preconditions.¹⁹⁹ The Pathways Housing First model views housing as the precondition for an individual to work on their well-being rather the other way around.²⁰⁰ Within the Pathways Housing First model, the individual does not have to demonstrate they are 'housing ready' meaning they do not need to demonstrate abstinence or engage in treatment before receiving housing.²⁰¹

In the Pathways Housing First model, on entering the programme and individual is connected with Assertive Community Treatment (ACT) case manager and work collaboratively on a care plan. The individual then will be provided with housing.²⁰² The preference is to house the individual in private housing in the community, rather than in

¹⁹⁵ Tsemberis et al., 2004, p. 651; Pleace, 2016 p 12.; Housing First Europe Hub '1.1. Introducing Housing First'.

¹⁹⁶ Tsemberis et al., 2004 p. 651; Pleace, 2016 p 12.; Housing First Europe Hub '1.1. Introducing Housing First'.

¹⁹⁷ Tsemberis et al., 2004, p. 652.

¹⁹⁸ Tsemberis et al., 2004, p. 652.

¹⁹⁹ Pathways Housing First, 'housingfirst' <<https://www.pathwayshousingfirst.org>> accessed 11 May 2020; Gaetz et al., 2013, p. 2.

²⁰⁰ Pathways Housing First, 'housingfirst'; Gaetz et al., 2013, p. 2; Tsemberis et al., 2004, p. 651.

²⁰¹ Pathways Housing First, 'housingfirst'; Gaetz et al., 2013, p. 5; Tsemberis et al., 2004, p. 651-652.

²⁰² Gaetz et al., 2013, p. 8; Tsemberis et al., 2004, p. 651-652; Waegemakers et al., 2012, p.6.; Mental Health Commission of Canada and the Homeless Hub 'Canadian Housing First Toolkit: The At Home/Chez Soi Experience' (2014) p.8 <<http://housingfirsttoolkit.ca/wp-content/uploads/CanadianHousingFirstToolkit.pdf>>; The Homeless Hub 'Housing First'; <<https://www.homelesshub.ca/solutions/housing-accommodation-and-supports/housing-first>> accessed 11 May 2020.

a specific Housing First site.²⁰³ The reason behind this is to uphold consumer choice, inclusion, avoid stigmatisation and ghettoisation.²⁰⁴

6.2 Harm Reduction

Harm Reduction is not a specific housing framework but rather a set of principles used in developing public health measures, policies, and delivering social services which include: ‘respecting the rights of people who use drugs, a commitment to evidence, social justice, and the avoidance of stigma.’²⁰⁵ The Harm Reduction Coalition states harm reduction is a ‘set of practical strategies and ideas aimed at reducing negative consequences associated with drug use. Harm Reduction is also a movement for social justice built on a belief in, and respect for, the rights of people who use drugs.’²⁰⁶ Harm reduction services include a range of programmes and interventions such as:

drug consumption rooms, needle and syringe programmes, non-abstinence-based housing and employment initiatives, drug checking, overdose prevention and reversal, psychosocial support, and the provision of information on safer drug use.²⁰⁷

In British Columbia, Canada, the first example of a harm reduction intervention was in 1959,²⁰⁸ where methadone was used in Vancouver to assist with initial opioid detoxification.²⁰⁹ In 1964, the use of methadone as an opioid antagonist treatment (OAT) became officially implemented throughout Canada.²¹⁰ The first government-funded

²⁰³ Gaetz et al., 2013, p. 10; Tsemberis et al., 2004, p. 651; Waegemakers et al., 2012, p.6.; Mental Health Commission of Canada and the Homeless Hub, 2014, p. 12-14.

²⁰⁴ Gaetz et al., 2013, p. 10; Tsemberis et al., 2004, p. 651; Waegemakers et al., 2012, p.6.; Mental Health Commission of Canada and the Homeless Hub, 2014, p.12-14.

²⁰⁵ Harm Reduction International, ‘What Is Harm Reduction?’ <<https://www.hri.global/what-is-harm-reduction>> accessed 9 January 2020.

²⁰⁶ Harm Reduction Coalition, ‘Principles of Harm Reduction’ <<https://harmreduction.org/about-us/principles-of-harm-reduction/>> accessed 2 August 2020.

²⁰⁷ Harm Reduction International, ‘What Is Harm Reduction?’.

²⁰⁸ Toward the Heart, ‘The History of Harm Reduction International & Provincial (BC) Perspectives, (December 4, 2018)<<https://towardtheheart.com/assets/uploads/1543964080U2ZlytEqTdNhpYTwYuAVivwVEA1gODYD2px5sKs.pdf>> accessed 2 August 2020.

²⁰⁹ Toward the Heart, 2018.

²¹⁰ Toward the Heart, 2018.

needle and syringe programme (NSP) was piloted in the downtown Eastside of Vancouver in 1989.²¹¹ However, informal NSP had already been appearing in 1988 throughout major cities in Canada (Vancouver, Montreal and Toronto) by peer-led organisations.²¹²

Outside of Canada the first NSP was implemented in 1984 in Amsterdam, Netherlands.²¹³ In 1976 Bern, Switzerland implemented the first legal supervised injection site which provided a safe place for people to inject illicit drugs while being supervised by a nurse.²¹⁴ As of 2019, many states have implemented several harm reduction intervention, 87 states have implemented NSP, 86 states have implemented OAT, 23 states deliver Take-Home Naloxone programme and 13 states have a drug consumption room.²¹⁵

Within the last 15-years, harm reduction has been recognised as an evidence-based best practice for delivering services for people who inject drugs (PWID) and people living with HIV. In 2004, the World Health Organisation (WHO) with the United Nations Office of Drug and Crime (UNODC) and UNAIDS released a policy brief advocating the implementation NSP to reduce HIV transmission among PWID.²¹⁶ Within the year WHO followed up with the release of the evidence-based report *Effectiveness of Sterile Needle and Syringe Programming in Reducing HIV/aids among Injecting Drug Users* providing a further endorsement of evidence-based best practice of NSP as an intervention to reduce harms and prevent HIV.²¹⁷ Furthermore, in 2012 the WHO with UNAIDS and UNODC released the technical guide that endorsed the comprehensive package that consists of nine harm reduction intervention ‘for the prevention, treatment and care of HIV among

²¹¹ Toward the Heart, 2018.

²¹² E. Hyshka, J. Anderson-Baron, K. Karekezi, et al., Harm reduction in name, but not substance: a comparative analysis of current Canadian provincial and territorial policy frameworks. *Harm Reduction Journal*, vol. 14, no 50, 2017. p.2 <<https://doi.org/10.1186/s12954-017-0177-7>> accessed 2 August 2020.

²¹³ Toward the Heart, 2018.

²¹⁴ Toward the Heart, 2018.

²¹⁵ Harm Reduction International 'Global State of Harm Reduction: 2019 Updates' <<https://www.hri.global/global-state-of-harm-reduction-2019>> accessed 21 February 2020.

²¹⁶ WHO, 'Policy Brief: Provision of Sterile Injecting Equipment to Reduce HIV Transmission' (Geneva, Switzerland, 2004) < <https://www.unodc.org/documents/hiv-aids/provision%20of%20sterile%20injecting%20equipment.pdf>.> accessed 2 August 2020.

²¹⁷ WHO, 'Effectiveness of Sterile Needle and Syringe Programming in Reducing HIV/AIDS among Injecting Drug Users' (Geneva, Switzerland 2004)<https://www.who.int/hiv/pub/prev_care/effectivenesssterileneedle.pdf.> accessed 2 August 2020.

[PWID].²¹⁸ The comprehensive package includes the following nine harm reduction intervention:

1. Needle and syringe programmes
2. Opioid substitution therapy and other drug dependence treatment
3. HIV testing and counselling
4. Antiretroviral therapy
5. Prevention and treatment of sexually transmitted infections
6. Condom programmes for people who inject drugs and their sexual partners
7. Targeted information, education and communication
8. Prevention, vaccination, diagnosis and treatment for viral hepatitis
9. Prevention, diagnosis and treatment of tuberculosis²¹⁹

Additionally, in 2017, an updated comprehensive package was released in the *Implementing Comprehensive HIV and HCV Programmes with People Who Inject Drugs (IDUIT)* a collaborative report by non-government organisations and international organisations which includes ‘community naloxone distribution’ as number 10 in its comprehensive package of harm reduction interventions.²²⁰

At the international level, harm reduction interventions have predominantly been tied to the right to health in regards to best practice interventions for PWID to reduce HIV transmission and an overdose community response. The concept of using harm reduction as a framework for delivering housing services has not gained as much advocacy at the international level. A harm reduction framework within housing services for PWUD is a useful framework as previously stated, it ‘is based on a strong commitment to public health and human rights...[and] Harm reduction practitioners oppose the deliberate

²¹⁸ WHO, 'WHO, UNODC, UNAIDS Technical Guide for Countries to Set Targets for Universal Access to HIV Prevention, Treatment and Care for Injecting Drug Users – 2012 Revision.' (Geneva, Switzerland, 2012). <https://www.unodc.org/documents/hiv-aids/publications/People_who_use_drugs/Target_setting_guide2012_eng.pdf> accessed 2 August 2020.

²¹⁹ WHO, 2012

²²⁰ INPUD 'Implementing Comprehensive HIV and HCV Programmes with People Who Inject Drugs (IDUIT)' (2017) <<https://www.inpud.net/en/iduit-implementing-comprehensive-hiv-and-hcv-programmes-people-who-inject-drugs>> accessed 2 August 2020.

stigmatisation of people who use drugs.’²²¹ Housing service providers who utilise a harm reduction approach can more effectively meet where the individual is at within their life situation. Harm Reduction International highlight that:

Harm reduction practitioners acknowledge the significance of any positive change that individuals make in their lives. Harm reduction interventions are facilitative rather than coercive and are grounded in the needs of individuals. As such, harm reduction services are designed to meet people’s needs where they currently are in their lives.²²²

A harm reduction approach can assist service providers to take a client-centred approach, which encompasses collaboration, self-determination and client empowerment.²²³ Therefore, assisting service providers to meet better where the individual is at, as a harm reduction approach allows for the individual to self-determine their recovery goals, by not having abstinence as the main goal.²²⁴ A harm reduction approach allows for service providers to further advocate for services that meet the needs and rights of PWUD, and it has the possibility to separate service providers from the debate of viewing substance use as a ‘negative’ action²²⁵. Rather the focus is to promote PWUD ‘human rights and accessibility of resources.’²²⁶

6.3 Overlap of Principles

There is an overlap of principles between housing first and harm reduction. The Pathways Housing First model is based on five principles: Housing, choice, recovery, support and

²²¹ Harm Reduction International (Formally International Harm Reduction Association) 'What Is Harm Reduction? A Position Statement from the International Harm Reduction Association' (April 2010), p.2 <https://www.hri.global/files/2010/08/10/Briefing_What_is_HR_English.pdf> accessed 2 August 2020.

²²² Harm Reduction International (Formally International Harm Reduction Association) 'What Is Harm Reduction? A Position Statement from the International Harm Reduction Association', 2010, p.2.

²²³ S. Moore, M. Mattaini, 'US Social Work Students' Attitudes Shift Favorably Towards a Harm Reduction Approach to Alcohol and Other Drugs Practice: The Effectiveness of Consequence Analysis,' *Social Work Education* vol 33, no. 6 (August 18, 2014): 788–804, p. 791 <<https://doi.org/10.1080/02615479.2014.919106>>.

²²⁴ Moore and Mattaini, 2014, p. 801.

²²⁵ Moore and Mattaini, 2014, p. 791.

²²⁶ Moore and Mattaini, 2014, p. 791.

community.²²⁷ Harm reduction is included in the conceptualisation of recovery. The model states that PWUD can receive recovery services within a harm reduction framework where abstinence is not the focal point.²²⁸ Housing must be appropriate for the individual, rather than the inverse. Where people enrolled in programmes are evicted from private housing based on drug use, Housing First commits to rehouse them.²²⁹ The harm reduction approach also goes in hand with consumer choice where the individual has a choice in their recovery plan, including whether or not to use drugs. If they decide to use drugs, the choice is respected.²³⁰

Building on the Pathways Housing First model, the Housing First Guide Europe has developed eight core principles:

- Housing is a human right
- Choice and control for service users
- Separation of Housing and treatment
- Recovery orientation
- Harm reduction
- Active engagement without coercion
- Person-centred planning
- Flexible support for as long as is required²³¹

Under this model, harm reduction is no longer rolled into ‘recovery’, but is included as a standalone principle in its own right. Within this principle harm reduction can be a tool to assist an individual adapt their substance use, while not pressuring an individual to reduce or eliminate use.²³²

Furthermore, both frameworks encompass a rights-based approach, as mentioned above. Housing first rest on the principle housing should be recognized as a fundamental human

²²⁷ Pathways Housing First, 'housingfirst'; Gaetz et al., 2013, p. 5-6

²²⁸ Gaetz et al., 2013, p. 6

²²⁹ Gaetz et al., 2013, p. 7

²³⁰ Tsemberis et al., 2004, pp. 651-652.

²³¹ Pleace, 2016, p.28.

²³² Mental Health Commission of Canada and the Homeless Hub, 2014, p.15; Pleace, 2016 p 34.; Housing First Europe Hub '1.1. Introducing Housing First'.

right, and individuals should be provided housing without discrimination and preconditions. Whereas harm reduction is grounded on the principle of:

justice and human rights - it focuses on positive change and on working with people without judgement, coercion, discrimination, or requiring that they stop using drugs as a precondition of support.²³³

Therefore, both frameworks, are compatible with the Special Rapporteur Guidelines and Canada's National housing strategy and can assist in filling in the gaps. Aforementioned, both uphold principles such as inclusion and human rights; therefore, such programmes can be used as examples of how to develop and deliver housing programmes to PWUD. Housing first is referred to in The Special Rapporteur Guidelines in Guideline No. 5, stating:

Individuals and families should be provided access to adequate permanent housing so as not to be compelled to rely on emergency accommodation for extended periods. "Housing first" approaches that centre on quickly moving people experiencing homelessness into permanent housing should provide all necessary supports for as long as required for sustaining housing and living in the community.²³⁴

Although, the wording of a housing first approach is water down and does not explicitly highlight that housing first is an approach used to deliver housing services for PWUD. It is worded in a way if someone did not have knowledge of housing first, there would be no connection to PWUD. An explicit reference that housing first is an approach for PWUD was appropriate and needed in this section. Furthermore, there is no mention of harm reduction within the guidelines. The Special Rapporteur Guidelines puts forward great implementation measure for the right to adequate housing such as: ensuring the right to housing is a fundamental right and interconnected to other rights, include meaningful participation, address discrimination and ensure equality, comprehensive strategies and

²³³ Harm Reduction International, 'What Is Harm Reduction?'

²³⁴ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para. 33(b).

eliminate homelessness in the shortest period of time.²³⁵ Which are also similar principles laid out in a housing first and harm reduction approach; therefore, it would have been fitting to include the approaches within the guidelines. Both harm reduction and housing first framework are not new approaches they have been utilised as early as the 1950s.²³⁶ There is extensive evidence-based research supporting both approaches; therefore, it would have been pertinent to see both framework explicitly referred to meaningfully in the guidelines that promoted the rights of PWUD that experience inadequate housing.

6.4 The Gaps Between Housing First models and Harm Reduction Implementation

As there is clear overlap, it is imperative to acknowledge the gaps in the frameworks too. In the literature, there was a trend that housing first programmes many not always encompass harm reduction in a meaningful way. In a fidelity study that tested the Pathways housing first model fidelity interviewed 39 case managers from housing first programmes found that 18 of these programmes were more aligned with an abstinence-based/housing first model.²³⁷ The study highlighted that several programmes claiming to follow a housing first model had a conflicting stance on the harm reduction principles, the programme case managers were asked the following questions:

Does the program explicitly refuse to admit active substance users? Does policy dictate that the program terminates consumers for active substance use? Does your program require drug and/or alcohol abstinence of all consumers? Does your program work with substance abusing consumers using an abstinence-based approach?²³⁸

²³⁵ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43 para 79(d).

²³⁶ Toward the Heart, 2018.

²³⁷ D.P.Watson, J. Orwat, D.E. Wagner, et al., 'The housing first model (HFM) fidelity index: designing and testing a tool for measuring integrity of housing programs that serve active substance users' *Substance Abuse Treatment, Prevention, and Policy*, vol.8, no. 16, p. 11 (2013). <<https://doi.org/10.1186/1747-597X-8-16>>

²³⁸ Watson et al., 2013, p.11.

If the programme case manager answered yes to one of the above questions, the programme was moved from the housing first category to the housing first/abstinence-based category. Furthermore, when conducting phone interviews with 19 service users from Housing first programmes, 5 of the interviews had to be omitted from the research as it became clear the programmes were subscribing to an abstinence-based model. The study noted that a discrepancy of implementation of the harm reduction principle might be due to the lack of understanding of the housing first model, therefore, creating room to implement abstinence-based policies within the housing first programme.²³⁹

A Norwegian housing first study that focused on how housing first service providers utilised a harm reduction approach highlighted three themes: letting the service user sit in the driver's seat; we do not follow service provision contracts, we do everything, and collaborating with the local community.²⁴⁰ The study included five housing first providers who facilitated multistage focus groups with team members. The research did not include narratives of service users.²⁴¹ The research articulated for harm reduction to work there needs to be a collaborative relationship with the service users and flexibility in service provision contract to meet where the person is at.²⁴² The researchers noted that the lack of service user perspective was a limitation in the study, and future research should have a focus on the service user experience with harm reduction and Housing first.²⁴³

In a study addressing the role of harm reduction and homelessness, it was articulated that harm reduction is a basis to Housing first and addressing homelessness.²⁴⁴ Although, within housing programmes, a harm reduction approach has not been as welcomed or explicitly stated as much as a housing first approach.²⁴⁵ The study stated the tension of incorporating harm reduction 'in policy and practice, explicit attention to integration of

²³⁹ Watson et al., 2013, p.14.

²⁴⁰ E. Andvig, K. Sælør, E. Ogundipe, 'Harm Reduction in a Norwegian Housing First Project: A Qualitative Study of the Treatment Providers' Practice' *Advances in Dual Diagnosis* vol. 11, no. 1 (January 1, 2018) pp. 4–15, <https://doi.org/10.1108/ADD-08-2017-0015>.

²⁴¹ Andvig et al., 2018, pp. 6-7.

²⁴² Andvig et., 2018 pp.7-10.

²⁴³ Andvig, et., 2018 p. 13.

²⁴⁴ B. Pauly, D. Reist, L. Belle-Isle et al., 'Housing and Harm Reduction: What Is the Role of Harm Reduction in Addressing Homelessness?,' *International Journal of Drug Policy* vol. 24, no. 4 (July 1, 2013) 284–90, <<https://doi.org/10.1016/j.drugpo.2013.03.008>>.

²⁴⁵ Pauly et al., 2013, p. 284.

harm reduction principles and practices into systemic responses to end homelessness often goes unaddressed and is sometimes met with resistance.²⁴⁶ Therefore, for harm reduction to be implemented in a meaningful manner, housing interventions need to be centred around developing a secure space. The research proposes four dimensions to consider within harm reduction and housing policy interventions: 1) developing policies of social inclusion; 2) ensuring an adequate supply of Housing; 3) providing on-demand harm reduction services, and 4) systemic and organisational infrastructure.²⁴⁷

What was lacking in the research was concrete examples of how harm reduction is implemented, several studies referred to harm reduction when describing drug treatment. They frequently state that a harm reduction approach in Housing first is related to limiting a person's substance use. This implies abstinence as the end goal. Where the focus is consistently on how harm reduction reduces consumption, it gives the impression that the abstinence-model remains in place. As noted above, there may be a lack of understanding of harm reduction, therefore creating space for programmes to lean towards an abstinence-based model. Another gap is that there is a lack of research that focuses on the service provider narrative. The above study expresses for harm reduction to be implemented in a meaningful way what should be considered is social inclusion within policy development which refers to engaging with service users throughout programme development.²⁴⁸

7. Mapping of Housing First and Harm Reduction Housing Programmes

As presented in the previous chapter, harm reduction and housing first frameworks have been frameworks that have been utilised when working with PWUD. Not only do both frameworks make explicit reference in their principles to work with PWUD, but they both as well encompass a rights-based approach. For these reasons, the next chapter will

²⁴⁶ Pauly et al., 2013, p. 284.

²⁴⁷ Pauly et al., 2013, p. 286.

²⁴⁸ Pauly et al., 2013, p. 286.

focus on mapping of harm reduction and housing first programmes in Victoria and Vancouver.

7.1 Mapping of Housing First and Harm Reduction Housing Programmes

A mapping of housing first and harm reduction programmes in Victoria and Vancouver was conducted. Programmes were found by at-desk research using a google search engine. The number of programmes located was 4 in Victoria and 8 Vancouver. The organisations were chosen if there was an explicit reference providing housing services to PWUD in conjunction with housing first or harm reduction reference.

7.1.1 Victoria Housing First and Harm Reduction Housing Programmes

In Victoria, the housing first and harm reduction programmes working with PWUD in regards to housing are Our Place Society (OPS), Victoria Cool Aid Society, Pacifica Housing and Portland Hotel Society.

Our Place Society

Our Place Society (OPS) is a non-profit organisation that provides shelter to almost 200 individuals.²⁴⁹ OPS provides forty-five transitional units connected to their inner-city drop-in centre.²⁵⁰ Two out of the forty-five units are short term rentals for individuals waiting to start detox or rehabilitation.²⁵¹ The other forty-three units are transitional units for individuals with mental health struggles and PWUD to provide them with a space to work on their independence while working in consultation with a support worker.²⁵² OPS

²⁴⁹ Our Place Society, 'Housing' < <https://www.ourplacesociety.com/how-we-help/housing>> accessed 22 June 2020.

²⁵⁰ Our Place Society, 'Housing'.

²⁵¹ Our Place Society, 'Housing'.

²⁵² Our Place Society, 'Housing'.

will house people directly who have been living on the streets stating the transitional units are allocated for ‘hardest to house in [the] region.’²⁵³ OPS also has another facility that provides an additional 50 transitional units plus a seasonal overnight shelter that provides emergency shelter for 60 individuals.²⁵⁴

Victoria Cool Aid Society

Victoria Cool Aid Society (VCAS), is a non-profit organisation that has 14 properties ‘[w]ith over 550 apartments for people who were previously homeless.’²⁵⁵ Providing supportive housing to individuals who have experienced homelessness in a housing first manner.²⁵⁶ In addition to the supportive housing unit, VCAS has an emergency shelter that provides shelter for 84 individuals with 24 transitional units attached to the emergency shelter.²⁵⁷ Plus, an offsite transitional house, a shelter for only women with 25 beds and a seasonal emergency shelter that provides 40 overnight mats.²⁵⁸ The emergency shelters encompass a harm reduction framework and staff work with individuals to secure long term housing.²⁵⁹ The 84-bed emergency shelter has an ‘overdose prevention unit and inhalation tents’²⁶⁰ on-site to ‘provide safe spaces for people to use illicit substances.’²⁶¹

Pacifica Housing

Pacifica Housing is a non-profit organisation that provides housing first programmes named Streets to Homes. The Street to Homes programmes works by moving individuals

²⁵³ Our Place Society, 'How We Help' <<https://www.ourplacesociety.com/how-we-help>> accessed 22 June 2020.

²⁵⁴ Our Place Society, 'How We Help'.

²⁵⁵ Victoria Cool Aid Society, 'Housing & Shelters' <<https://coolaid.org/how-we-help/housing/>> accessed 22 June 2020.

²⁵⁶ Victoria Cool Aid Society, 'Housing & Shelters'

²⁵⁷ Victoria Cool Aid Society, 'Emergency Shelters and Transitional Housing' <<https://coolaid.org/how-we-help/housing/emergency-shelters-and-transitional-housing/>> accessed 22 June 2020.

²⁵⁸ Victoria Cool Aid Society, 'Emergency Shelters and Transitional Housing'.

²⁵⁹ Victoria Cool Aid Society, 'Emergency Shelters and Transitional Housing'.

²⁶⁰ Victoria Cool Aid Society, 'Emergency Shelters and Transitional Housing'.

²⁶¹ Victoria Cool Aid Society, 'Emergency Shelters and Transitional Housing'.

who are experiencing homelessness into market housing and providing rentals subsidy and outreach services.²⁶²

Portland Hotel Society

Portland Hotel Society (PHS) is a non-profit organisation based in Victoria and Vancouver, providing supported housing in a harm reduction manor.²⁶³ PHS has two housing buildings in Victoria one is a multi-purpose building that has 24 transitional units and 22 beds for a 90-day treatment programme as well as 50 emergency shelter beds.²⁶⁴ PHS second housing building has 147 residential suites.²⁶⁵ A unique aspect to this building was it was the first residential building in Victoria to have an overdose prevention unit for tenants use, from 2017 the overdose prevention unit has been 'converted into a supervised consumption service...for residents and registered guests...help prevent and reverse overdoses.'²⁶⁶

7.1.2 Vancouver Housing First and Harm Reduction Housing Programmes

In Vancouver, the housing first and harm reduction programmes working with PWUD in regards to housing are Portland Hotel Society, Raincity Housing, The Bloom Group, Atira Women's Society, Downtown Eastside Women's Centre, and Lookout Housing and Health Society.

Portland Hotel Society

²⁶² Pacifica Housing, 'Streets to Homes - Pacifica Housing Advisory Association' <<https://pacificahousing.ca/streets-to-homes/>> accessed 22 June 2020.

²⁶³ Portland Society (PHS), 'PHS Community Services Society' <<https://www.phs.ca/>> accessed 22 June 2020.

²⁶⁴ PHS, 'Douglas Street Community | PHS Community Services Society' <<https://www.phs.ca/project/douglas-street-community/>> accessed 22 June 2020.

²⁶⁵ PHS, 'Johnson Street Community | PHS Community Services Society' <<https://www.phs.ca/project/johnson-street-community/>> accessed 22 June 2020.

²⁶⁶ PHS, 'Johnson Street Community | PHS Community Services Society'

As previously mentioned, PHS is non-profit based in Victoria and Vancouver between both cities PHS has ‘14 housing projects and over 1500 rental housing.’²⁶⁷ On top of the 12 residential housing projects in Vancouver, PHS also has a detox transitional housing programme named Onsite that has 12 detox beds and 18 transitional beds.²⁶⁸ Onsite is located directly above Insite (Vancouver’s first supervised injection site).²⁶⁹ PHS was the pioneers in implementing safe injecting sites in North America, Insite opened in 2003 providing a safe place for people who inject drugs to obtain harm reduction supplies such as clean needle and syringes and to inject safely in one of the 12 supervised injection rooms.²⁷⁰

Raincity Housing

RainCity Housing is a non-profit organisation that has over 20 housing programmes that provide a wide range of housing services with a housing first and harm reduction framework stating they are ‘one of the leaders offering a Housing First approach in Vancouver's Downtown Eastside and has provided thousands of people an opportunity to live in supported housing’.²⁷¹ Raincity Housing has a peer witnessing programme within 10 of their housing sites and shelter.²⁷² Peer witnessing is honorarium peer-based programme ‘to provide peer-based support and witnessing of use in the places drug users live in order to increase safety...[the] program has a positive impact on the well-being of housing support staff and empowerment of tenants and peers, and is ultimately saving lives.’²⁷³

The Bloom Group

²⁶⁷ PHS, 'Housing | PHS Community Services Society' <<https://www.phs.ca/housing/>> accessed 22 June 2020.

²⁶⁸ PHS ‘Onsite | PHS Community Services Society’<<https://www.phs.ca/project/onsite/>> accessed 22 June 2020.

²⁶⁹ PHS 'Insite Supervised Injection Facility | PHS Community Services Society' <<https://www.phs.ca/project/insite-supervised-injection-facility/>> accessed 22 June 2020.

²⁷⁰ PHS 'Insite Supervised Injection Facility | PHS Community Services Society'.

²⁷¹ RainCity Housing, 'Programs' <<https://www.raincityhousing.org/about/programs/>> accessed 22 June 2020.; Raincity Housing, 'Innovations' <<https://www.raincityhousing.org/social-impact/innovations/>> accessed 22 June 2020.

²⁷² Raincity Housing, 'Innovations'.

²⁷³ Raincity Housing, 'Innovations'.

The Bloom Group is a low-barrier organisation providing housing services in a harm reduction manner.²⁷⁴ The Bloom Group has a women emergency shelter that provides 52 overnight beds.²⁷⁵ As well as an additional 32-bed emergency shelter with additional ten transitional family units, this shelter houses women and their children.²⁷⁶ Both shelters state they are inclusive, support women through addiction and provide harm reduction supplies.²⁷⁷ On top of the women shelter Bloom Group has supported housing sites which provides 66 suites for people over 45 providing supports in ‘home care nursing, mental health care, addictions recovery.’²⁷⁸

Atira Women’s Society

Atira Women’s Society is women-centred, and harm reduction organisation has over 20 housing facilities in the Vancouver region for women and their children.²⁷⁹ In addition to the full range of housing facilities, Atira has a homeless prevention and housing outreach programme that provides housing subsidies and ongoing outreach supports.²⁸⁰

Downtown Eastside Women's Centre

Downtown Eastside Women's Centre is a women-led organisation for women in the downtown Eastside Vancouver providing shelter services within harm reduction and housing framework.²⁸¹ The organisation provides nightly emergency shelter for up to 150 women allocating 57 beds for women who may have been rejected by other shelters as

²⁷⁴ The Bloom Group, 'An Overview of the Work of The Bloom Group Charity Vancouver' <<https://www.thebloomgroup.org/about/overview/>> accessed 22 June 2020; The Bloom Group, 'Vancouver Womens Shelter | Emergency Shelter' <<https://www.thebloomgroup.org/our-work/women-children/>> accessed 22 June 2020.

²⁷⁵ The Bloom Group, 'Vancouver Womens Shelter | Emergency Shelter

²⁷⁶ The Bloom Group, 'Vancouver Womens Shelter | Emergency Shelter

²⁷⁷ The Bloom Group, 'Vancouver Womens Shelter | Emergency Shelter

²⁷⁸ The Bloom Group, 'Supportive Housing in the Downtown Eastside by The Bloom Group' <<https://www.thebloomgroup.org/our-work/supportive-housing/>> accessed 22 June 2020.

²⁷⁹ Atira Women’s Society 'Our Mission' <<https://atira.bc.ca/who-we-are/mission-vision-values/>> accessed 22 June 2020; Atira Women’s Society 'Housing' <<https://atira.bc.ca/what-we-do/housing/>> accessed 22 June 2020.

²⁸⁰ Atira Women’s Society, 'Homelessness Prevention & Housing Outreach - Vancouver' <<https://atira.bc.ca/what-we-do/program/homelessness-prevention-housing-outreach/>> accessed 22 June 2020.

²⁸¹ Downtown Eastside Women’s Centre 'Emergency Shelter' <<https://dewc.ca/emergency-shelter>> accessed 22 June 2020; Downtown Eastside Women’s Centre, 'Downtown Eastside Women’s Centre Housing Outreach' <<https://dewc.ca/programs/housing-outreach>> accessed 22 June 2020.

the ‘focus is harm-reduction, women will not be turned away.’²⁸² The Downtown Eastside Women's Centre has a housing outreach programmes that provide outreach supports to women living in single room occupancy rooms and assist with a monetary fund for utility bills.²⁸³

Lookout Housing and Health Society

Lookout Housing and Health Society is a non-profit organisation providing housing services in low-barrier harm reduction manner.²⁸⁴ Lookout Society has 42 housing facilities from supported, transitional and affordable housing.²⁸⁵ The transitional and permanent supportive housing facilities have support workers on-site to provide supports for ‘tenant needs that may include: anxiety, trauma, mental health, addictions, and chronic illnesses.’²⁸⁶ In addition to housing facilities, Lookout Society provides ‘341 beds in nine shelters that serve the Vancouver’ region.²⁸⁷ Between housing sites and emergency shelters ‘Lookout houses more than 1,400 people each night.’²⁸⁸ On top of housing sites and emergency shelters, Lookout Society provides housing first outreach services to assist individuals to access long term housing in market rent.²⁸⁹

8. Service Provider’s Perspective on the Right to Housing

²⁸² Downtown Eastside Women’s Centre 'Emergency Shelter'.

²⁸³ Downtown Eastside Women’s Centre, 'Downtown Eastside Women’s Centre Housing Outreach'

²⁸⁴ Lookout Housing + Health Society 'About Us' <<https://lookoutsociety.ca/about-us/>> accessed 22 June 2020.

²⁸⁵ Lookout Housing + Health Society, 'Housing' <<https://lookoutsociety.ca/what-we-do/housing/>> accessed 22 June 2020.

²⁸⁶ Lookout Housing + Health Society, 'Transitional Housing' <<https://lookoutsociety.ca/project/transitional-housing/>> accessed 22 June 2020; Lookout Housing + Health Society, 'Permanent Supportive' <<https://lookoutsociety.ca/project/permanent-supportive-housing/>> accessed 22 June 2020.

²⁸⁷ Lookout Housing + Health Society, 'Shelters' <<https://lookoutsociety.ca/what-we-do/shelters/>> accessed 22 June 2020.

²⁸⁸ Lookout Housing + Health Society, 'About Us'.

²⁸⁹ Lookout Housing + Health Society Housing, 'First Outreach'

<<https://lookoutsociety.ca/project/housing-first-outreach/>> accessed June 22, 2020.

The following chapter is the results of the qualitative descriptive research study. The thesis analysed 11 surveys from service providers to examine the research question. The narrative of service provider shared in the surveys provides a contextual perspective on how the right to housing is practised at the micro-level by service providers who work alongside PWUD.

8.1 Aim

The aim of the thesis is to investigate if the right to adequate housing is fulfilled at the micro level for PWUD in British Columbia. The aim is to examine the lived experiences of service providers in housing first and harm reduction housing programmes to better address the research question: Are international, and national human rights normative standards on the right to adequate housing fulfilled at the micro-level in the context people who use drugs in British Columbia, Canada?

8.2 Method Design

The thesis will utilise a qualitative descriptive approach, which is a qualitative research method that it is useful to gain more insight on under-researched topics or ‘a poorly understood phenomenon’²⁹⁰ and ‘to gain firsthand knowledge of patients', relatives' or professionals' experiences with a particular topic.’²⁹¹ For these reasons, a qualitative descriptive approach is appropriate for the thesis, as the topic of the right to the housing among PWUD has not been extensively researched. Also, the thesis aims to gain more of an understanding of how the right to housing is practised at the micro-level by gaining firsthand knowledge from service providers.²⁹²

Furthermore, ‘qualitative descriptive studies stay closer to their data and the surface of words and events than researchers conducting grounded theory, phenomenologic,

²⁹⁰ Kim et al., 2017, p.2; Neergaard et al., 2009, p.2.

²⁹¹ Neergaard et al., 2009, p.5.

²⁹² Neergaard et al., 2009, p.5.

ethnographic, or narrative studies.’²⁹³ Therefore, appropriate for the thesis as the research question is examining the micro-level experience of the service providers who work in housing first and harm reduction programmes. When analysing the data and presenting the results, it will stay close to the narrative of the service providers and be a representation and description of the service providers experience. Moreover, direct quotes from the respondents will be shared in the results as a qualitative descriptive approach present the ‘study findings...straightforward, including comprehensive descriptive summaries and accurate details of the data collected, and presented in a way that makes sense to the reader.’²⁹⁴

8.2.2 Sampling

A qualitative descriptive approach utilises purposeful sampling which strives ‘to obtain cases deemed information-rich for the purposes of study. The obligation of researchers is to defend their sampling strategies as reasonable for their purposes.’²⁹⁵ Therefore, the 12 housing first/harm reduction programmes that were located in mapping overview were chosen for the distribution of the surveys to collect data from key informants. The survey participants are all service providers that work in harm reduction or housing first programmes that work directly with PWUD providing front line services to PWUD to maintain and obtain housing. This keeps in line with purposeful sampling as the population sample is chosen in the research design was deemed of providing rich knowledge base on their firsthand experience working with PWUD in housing services. Eleven service providers returned the survey, out of the eleven surveys, nine are from Victoria, and two are from Vancouver.

8.2.3 Data Collection

²⁹³ Sandelowski, 2000, p.336.

²⁹⁴ Kim et al., 2017, p.2; Neergaard et al., 2009, p.3; Sandelowski, 2000, p.338.

²⁹⁵ Sandelowski, 2000, p.338; Kim et al., 2017, p.6; Neergaard et al., 2009, p.2.

Qualitative descriptive research studies often utilise ‘semi-structured interviews with open-ended questions’²⁹⁶; therefore, a survey of 13 open-ended questions was used for data collection to allow space for respondents to share their firsthand experience. The housing first and harm reduction programmes that were located from the mapping overview were emailed a survey and a write up of the research programmes (Appendix 2 and 3). The questions in the survey emerge from the interpretation overview of the right to housing in Part 1 from the Special Rapporteurs report on the right to adequate housing guideline and Canada’s National Strategy Act. Below are a few examples of the development process of the open-ended questions and how they were formulated:

Question No. 1 asked the following:

Are you aware of any barriers or challenges people who use drugs face when obtaining housing? The open-ended question is used to highlight how PWUD may face unique experiences when accessing housing. The question was derived from the different topics addressed in the Special Rapporteur such as Guideline No.8 ensuring equality, and Guideline No.1 right to housing connected to dignity. As well as the topic of researching and addressing systemic and individuals issues in the right to housing that is put forward in the guidelines and Canada’s National Housing Strategy. The question was used to investigate what are the unique barriers and challenges PWUD face within the housing process. Also, to examine if the service provider’s answers would present any similarities to General Comment No. 4, especially on the 7 needed criteria that make up ‘adequate housing’.

Question No.2 asked the following:

Have you witnessed people who use drugs experience criminalisation because of their drug use and experiencing homelessness? The question was derived from The Special Rapporteur Guideline No. 5 advocates to stop criminalizing people who experience homelessness; therefore, it was important to investigate if PWUD are criminalised. Also, to investigate if there is an overlap of criminalisation between PWUD and experiencing

²⁹⁶ Neergaard et al., 2009, p.2.

homelessness. The hope of the question was that service providers could share insights and experiences of witnessing the phenomena of criminalisation of PWUD.

Question No. 12 asked the following:

Are people who use drugs included meaningfully in the design, implementation and monitoring of housing policies? At government or civil society level? The question was derived from the Special Rapporteur Guideline No. 3 on the topic of ensuring meaningful participation in the design, implementation and monitoring of housing policies and decisions. The guideline advocated for State Parties to include right holder's development of housing policies and programmes. The question was used to investigate if and how are PWUD included meaningfully within the process. The hope was that service providers would provide descriptive examples on ways PWUD have been included meaningfully but also in ways they have not been.

All the open-ended question in the survey were developed in the format presented above by connecting the questions back to the main issues and topics that were presented in the right to housing overview in part one of the thesis. The questions were developed in a way that service providers could answer the questions based on their own experience working with PWUD to provide insight if the right to housing standards are fulfilled for PWUD. When developing the questions, there was the attention to having the questions worded in clear, accessible language; therefore, respondents would not get stuck on the wording of the questions allowing time to answer the questions in detail and elaborate on lived experiences.

8.2.4 Data Analysis

For the data analysis of the surveys, a thematic analysis inductive approach is used. The open-ended questions were designed to 'describe the informant's perception'²⁹⁷ on the

²⁹⁷ Neergaard et al., 2009, p.2.

phenomena; therefore, data were first collected and then analysed for patterns and similarities to reduce data to common themes and sub-themes.

The content in the survey was first familiarized by all surveys being read over twice. After the familiarization of the content in the surveys, a mapping task was completed to assist with coding (Appendix 4). The codes were then formulated to reoccurring themes in the data and were categorised in themes and sub-themes (Appendix 5). The results will be presented as close to the respondents own language and experience to stay close to the data to keep in line with the qualitative descriptive approach.²⁹⁸

8.2.5 Ethics

The respondent's names are kept confidential; in the thesis, they have been identified as Respondent 1, Respondent 2 up to Respondent 11. The key informants were sent an email with the survey to provide the details of the thesis research project and confidentiality measures (Appendix 2). The data collected in the survey was recorded and analysed, but the participant's confidentiality is kept. Participants will not be named in the thesis; the only identification that will be used is which region the survey comes from, such as Victoria or Vancouver. The data from the survey are permanently saved electronically in anonymised form. The data are saved in a form that is only accessible to the thesis management and are secured according to current standards.

8.3 Results

From the thematic analysis, I found eight themes and four sub-themes. The themes are as followed:

1. Affordability and cost
2. Compounding forms of discrimination and stigma

²⁹⁸ Neergaard et al., 2009, p.2.

3. Criminalisation with the sub-themes of over-policing, police stop and minor offences
4. Inaccessibility to legal remedies
5. Advocacy groups at the civil society level
6. Lack of Awareness of government policies, programmes and monitoring systems
7. The Need for Meaningful engagement
8. Wide range of service in place with the sub-theme of needed services

8.3.1 Affordability and Cost

The first theme refers to affordability, and the cost of rent is a barrier to obtaining and maintain housing. Out of the 11 surveys, nine respondents reported that the cost of housing in Victoria and Vancouver region was one of the challenges PWUD face. As many stated:

“The cost of real estate in Victoria...Financial barriers-rents costs are unaffordable, especially if someone is on a disability pension due to their addiction...The financial barrier to housing in Victoria is likely the biggest factor in people who use being homeless here.” (Respondent 8)

“My clients cannot afford market rent and those that come up with money does not have the credit score or references that are needed.” (Respondent 2)

“lack of money to afford housing (our province is very expensive), drug addiction tends to affect credit as well...they are very reliant on government wage which isn't enough for housing...I generally see evictions because they were unable to pay rent.” (Respondent 6)

Not only are market rental prices not affordable, but there is also mention that there is not enough subsidised housing in place as not noted by three respondents:

“Lack of subsidized and supportive housing” (Respondent 8) and “long waiting list for affordable and supportive housing.” (Respondent 10)

“There needs to be a lot more affordable housing made available for people who use drugs as they need to get off the streets and have the opportunity to take care of themselves, however that looks.” (Respondent 9)

Respondents highlight that market rent in the BC region is expensive, and many cannot afford rent on disability benefits. As well as a lack of subsidized and affordable housing leaves someone vulnerable to eviction and homelessness.

8.3.2 Compounding Forms of Discrimination and Stigma

The second theme refers to PWUD face compounding forms of discrimination. The replies from the respondent’s highlight how PWUD face intersectional discrimination based on their social-economic status, mental health and appearance. There was a consensus regarding PWUD face discrimination with nine out of 11 respondents referring to discrimination as a barrier PWUD face with housing landlords:

“co-morbidities with substance dependencies create far more issues in initially obtaining housing. The most common that come to mind are poverty, mental health challenges, physical health or disability, and racism and other forms of discrimination. These co-morbidities commonly combine to ensure that an individual will not present ‘well’ to a market housing landlord.” (Respondent 1)

“There are places that will not allow access to housing if you use drugs and will not support people who use drugs...There is a lot of stigma around people who use drugs. They are not treated fairly or taken seriously in a lot of cases. People need to be looked at for other reasons than drug use. They need to be seen as

actual people who deserve a home and support. People are very quick to write these people off and blame them for where they are. When in actuality, they need so much support and help. When they are looking for housing, if they admit to using drugs, then they are turned away most times.” (Respondent 9)

“I hear of many people being denied housing because they are government assistance, stigma against those on a disability income...Stigma: people don’t want to rent to someone who looks like a drug addict.” (Respondent 6)

Not only do PWUD face discrimination by housing landlords, but there was mention that even with housing services that specifically work PWUD, discrimination still exists. As stated by one respondent repeatedly:

“The largest barrier to equality here is that the power imbalance between housing provider and client is immense...When it comes to acquiring supported or subsidized housing, similar judgments are often made regarding an individual’s overall ‘capacity’, ‘independence’, and perceived level of need.” (Respondent 1)

“However, even within housing programs like ours that have a mandate to house individuals who use substances it is difficult to eradicate traces of discrimination. Due to how frustrating and sometimes violent it can be at these housing sites, staff and tenants can become jaded and cynical very quickly. This can greatly reduce empathy.” (Respondent 1)

However, certain landlords, housing co-ops and agencies may have negative experiences with people and potentially even hold on to those things for years and that person may be barred, therefore cannot get housing through their services.” (Respondent 7)

The respondent's responses do provide a sobering picture of how PWUD are discriminated when trying to access and maintain housing. On top of the affordability barrier, it leaves PWUD in a cycle of inadequate housing and homelessness.

8.3.3 Criminalisation with the sub-themes of over-policing, police stop and minor offences

The third theme found was that the issue of PWUD are often criminalized. As the previous theme highlighted that PWUD often face compounding forms of discrimination, this theme also plays a part in how police perceive PWUD and act on negative assumptions. Out of the 11 respondents, nine expressed PWUD do experience criminalization:

There is often an assumption by people that because someone is using and homeless that they are stealing or dealing to support their habit. (Respondent 8)

Over-policing

A sub-theme of criminalisation was the issues of over-policing among PWUD. As when populations are criminalised, this then creates the issue of over-policing as stated by the following respondents:

“Individuals dealing with homelessness also struggle to find places where they can peacefully use substances without being arrested or targeted for criminal activity. This is in contrast to individuals who possess private housing who can generally use substances with relative impunity.” (Respondent 1)

“There tends to be an overlap between homelessness and drug use when it comes to criminalization as the two populations are regularly over-policed...eviction

would be justified under criminal activity associated with drug use (i.e. buying drugs/selling drugs...regular police visits.” (Respondent 1)

“There is an increase in security around public spaces which provides an uncomfortable space for homeless or people who use drugs, people are asked to move along and they feel they aren’t accepted in the community.” (Respondent 10)

Police Stops

The second sub-theme to criminalisation is the topic of police stops. On top of the over-policing, it was stated that there was also the concern that PWUD often encounters police stops more often with respondents shared the following:

“Police stop my clients for what appears stop be no reason to run their names. Police looking for a suspect in the area some of my clients are walking and they get stopped and questioned even though they do not match descriptions. A crime happens in the area of a shelter police show up and ask staff about it.” (Respondent 2)

“Police have conducted unwarranted body searches of people who use drugs.” (Respondent 10)

“Less likely to seek police assistance due to repeated negative or traumatic interactions with the police department in the past.” (Respondent 1)

Minor Offences

The third theme addresses the issue that PWUD are charged for minor offences this can be a bi-product of criminalisation as aforementioned PWUD are over-policed population and may be subject to higher police stops.

“Over-enforcing trespassing/loitering laws to displace” (Respondent 3)

“Yes. All the time. Personal drug use is not often prosecuted anymore on the street, but it still happens.” (Respondent 4)

People who use drugs or are homeless may be given more by-law infraction tickets for loitering...there are very few safe places for people to use drugs in the community. People are often afraid of negative police interaction and or penalties due to drug use. (Respondent 10)

The respondent’s responses for the theme of criminalisation with the sub-themes of over-policing, police stop and minor offences provides a frontline perspective on how PWUD are often seen and treated differently from the police authority. As one respondent stated that most activities surrounding drug use are criminalised; therefore, PWUD can be subject to discriminatory treatments such as stop and search. As well noting that PWUD can face minor offences more often than the general public, therefore, creating a cycle of criminalisation.

8.3.4 Inaccessibility to Legal Remedies

The fourth theme that appeared throughout the surveys was the issue of inaccessibility to legal recourse. This speaks to the issue of PWUD not being able to fully access legal remedies when they face unlawful evictions or discrimination through the housing rental process. Out of the 11 respondent 9 voiced some type of challenge regarding accessing legal remedies for PWUD, as stated in the following responses:

“Tenants rarely possess the information or the capacity to contest evictions within the necessary time frame, or understand their tenancy rights in detail. The amount of oversight on some programs is also extremely low, which means that some

housing providers can operate with near impunity and rarely lose their tenancy arbitrations.” (Respondent 1)

“This is pretty common to see amongst folks who come to our shelters or support services sites. I've heard innumerable stories of folks struggling to get housing from market rent landlords. It is extremely difficult to submit a discrimination dispute...Even if they do submit a dispute, it's fairly easy for landlords to indicate that they simply got a more attractive submission from another prospective tenant at the same time...I have not come across any specific legal recourse individuals can use to address this issue.” (Respondent 1)

“When our clients are evicted by supportive housing that is harder to fight as they put it down as property damage and safety to building and residents.” (Respondent 2)

“Landlords often won't outright say that's why they're discriminating/denying/evicting someone. I don't think there's language in our Residential Tenancy Act that addresses this specific type of discrimination, it's often due to guests, complaints from neighbours over noise or traffic in and out of someone's suite.” (Respondent 8)

“There are, but usually the time limits to submit and paperwork is a deterrent for many people.” (Respondent 10)

The theme of inaccessibility to legal remedies highlights that PWUD may not have access to submit a legal dispute readily accessible to them. This could be due to language in the Residential Tenancy Act does not provide explicit protection for PWUD. Therefore, frontline workers or PWUD do not know what their rights are or how to file a dispute. Also, the process of submitting a dispute can be lengthy and not straightforward. This theme highlights that avenues for legal aid and dispute need to be accessible to right holders, especially for populations who face systemic and intersectional discrimination. Without an accessible avenue for legal remedies, it leaves PWUD vulnerable to unlawful

evictions and homelessness without any avenue to hold private or public actors accountable for violations.

8.3.5 Advocacy Groups at the Civil Society level

The fifth theme found was in regards to advocacy groups at the civil society level refers to there seem to be more of connection to PWUD and civil society organisations. The respondents did not mention any government advocacy groups for PWUD. The organisations listed were all non-profits and with some being peer-led organisations. The respondents listed the following advocacy groups:

“A lot of our organization has advocacy groups that can assist those in need. This includes our Client Service Workers, Client Engagement Facilitator, and Downtown Outreach Program...there is also PEERS and SOILD that help support the tenant.” (Respondent 11)

“There are a number in Victoria; Together Against Poverty Society (TAPS) is the most notable if you are not including housing providers themselves in this category” (Respondent 1)

“SOLID, Committee to End Homelessness, Coalition to End Homelessness.” (Respondent 4)

This theme highlights that civil society groups are the organisations which are most present within the community working with frontline workers and PWUD. The importance of this theme is that it may support the argument that there is a disconnect from higher-level government organisations to community-level organisations. Since these organisations work at the micro-level providing legal and housing supports to PWUD, they have a wealth of knowledge of challenges and barrier right holders may face and of human right violations. In the advocacy list, many respondents mentioned SOLID and PEERS, which are peer-led group meaning people with lived experience developed and run the organisations. Peer-led groups bring a tremendous amount of knowledge into

advocacy and support to PWUD because of their lived experience. In the respondent's replies, there did not seem to be a hierarchy between non-peer led organisation to peer-led organisations showcasing the importance and value they bring to the community.

8.3.6 Lack of Awareness of Government Policies Programmes and Monitoring Systems

The sixth theme lack of awareness of government policies, programmes and monitoring systems addresses the issues of service providers not having an awareness of government policies or programmes that have a focus on the right to housing and PWUD as well as a monitoring system to address systemic issues. There were two questions in the survey regarding the topic of awareness of government policies programmes and monitoring systems for PWUD on reviewing the surveys there appeared a consensus of not knowing. Many respondents answered with just 'no' or stating they had no awareness as the following respondents articulated:

“BC Housing does collect a large amount of data, but it tends to abstract the issue and rarely focuses specifically on substance use.” (Respondent 1)

“No. The key word here for me is AWARE. There may be some.” (Respondent 4)

The theme of service providers having a lack of awareness of government policies, programmes and monitoring systems for PWUD and the right to housing is a contrast to theme No. 7 regarding the respondent's awareness of civil society advocacy. It showcases the respondents to have greater knowledge and experience working with civil society and peer-led organisation than with government organisations. There seems to be a gap of knowledge between policy and what is practised on the frontlines. In regards to the question of if there was the awareness of monitoring bodies, it is essential to point most respondents had little to no knowledge of any monitoring bodies looking into systemic

issues for PWUD and housing. There can be national and regional monitoring and policies in place, but if they are not accessible or inclusive of frontline workers and right holders, they are not much help. As one service provider stated, she has been in the field for 16 years and did not know of any government housing monitoring systems that look specifically at the context of PWUD and housing to address systemic issues. (Respondent 2)

8.3.7 The Need for Meaningful engagement

The seventh theme The Need for Meaningful engagement refers to PWUD are not included meaningfully in the design, implementation and monitoring of housing policies. Many of respondents answered simply ‘no’ to the question if PWUD are included meaningfully. Although several others elaborated on how this is a challenge and would be something that would be needed to ensure a housing strategy was inclusive of PWUD as can be seen in the following statements:

“Meaningful involvement is something different than simply consultation or focus groups...In order for PWLE to be meaningfully included, it would mean that if they objected to a particular change or initiative they would have the power to change or prevent it. Currently, they lack that power...most policy development does not focus on the quality of life for individuals who whose drugs, but on ease of providing housing for them.” (Respondent 1)

“What often happens at these focus groups is that clients provide a large amount of valuable feedback, which is promptly analyzed by a group of policymakers and tends to be cherry-picked to find feedback that supports their policy goals. I have yet to see an observation from a PWLE at a public feedback event that runs counter to the established narrative actually be taken seriously and cause a major change in how the policy is implemented.” (Respondent 1)

“I think we all have different options on what is needed. There have been focus groups put together where information has been gathered from the clients but I have not seen it put to use. Plus, the focus groups fades out fast.” (Respondent 2)

“What is missing is meaningful consultation with illicit drug users which also presents some major difficulties in itself, as many, though not all, have difficulty in participating in discussions due to impairment, the amount of time needed to obtain illicit drugs and distrust of authority. What is needed is a well-designed process and people who are able to build trust with illicit drug users and the organizations that already work with them.” (Respondent 4)

“I think when implementing housing strategies with housing, we should be including those who have lived experiences or are currently in active usage. We cannot predict what they need so having more conversations and inclusions with those individuals will benefit in the long term.” (Respondent 11)

The theme of the need for meaningful engagement demonstrates there are challenges when it comes to including PWUD meaningfully in the design, implementation and monitoring of housing policies. This may be due to the power imbalance, the lack of trust or policymakers not adapting their practice to meet where PWUD are at. Without meaningful participation of PWUD in all stages of housing policies, there will be a continual disconnect of having housing strategies in place that do not reflect the lived experience of PWUD. There appears to be a top-down approach within policy implementation in regards to PWUD and housing.

8.3.8 Wide range of services with the sub-themes of available services available and needed services

The eighth theme of Wide range of services with the sub-themes of needed services refers to the diverse amount of services housing programmes provide. This was a common theme throughout all surveys the explicit reference of all other services the housing

programmes provide on top of housing. The respondents expressed the interconnection of providing health and other social services with housing:

“The Cool Aid Clinic is part of a network of community health centres in BC that aim to reduce the amount of travel that clients have to do in order to receive assistance. Therefore, we centralize as many medical services as we can on-site.”

(Respondent 1)

“We also have addictions and mental health practitioners in each of our housing/shelter sites each resident has a worker who is aware of their needs and can support access to treatment, care or safe supplies and consumption sites.”

(Respondent 4)

“We offer supportive housing with harm reduction supplies easily available and safe places to use where there are people trained in overdose response. We encourage the buddy system when using and provide take-home naloxone kits...Support staff on site who build relationships and trust and can support people find medical and drug treatment. Outreach workers who can refer to treatment programs, financial benefits, health care. Safe injection site and ventilation tent. nurses, doctors and pharmacy delivery, meals, harm reduction supplies, interest groups: art, gardening, book club. peer support, problem solving support.” *(Respondent 10)*

Services Needed

The previous theme showcases that housing frontline services in Victoria and Vancouver offer a wide range of services, providing an understanding that housing services are interconnected with other social services such as health and education. With that said, the respondents did also highlight that more is needed. Therefore, the sub-theme to the wide range of services with the sub-themes of available services available and needed services is more services needed, as stated by the following respondents:

“Drug decriminalization/safe supply access, public prejudice, cost, variety of different programs/housing for individual’s needs.” (Respondent 3)

“What is needed even more is de-criminalization (which occurs in practice already) a supply of clean drugs prescribed and monitored, speedy access to treatment, much more mental health and trauma informed support, higher assistance rates, support for families” (Respondent 4)

“Putting in place maintenance programs where the goal is to support people until they are ready to stop using, by addressing the trauma, abuse and other issues that led to problematic use in the first place...early intervention, treatment in the way of recovery and rehabilitation and things such as restorative justice for the Prevention/Enforcement.” (Respondent 8)

As previously mentioned the theme of a wide range of services exhibits that housing services are not provided in silo, preferably they are interconnected to other services to better work alongside with PWUD and meet them where they are at. The respondents did also disclose that more is needed, especially in the case of drug policy reform specifically in the topic of decriminalization, access to safer supply and for communities to have various forms of housing programmes. PWUD are not a homogeneous population; therefore, accessibility and availability to various services are essential.

9. Discussion

For the discussion portion it will connect Part 1 of the thesis that focused on the right to housing at the macro level with Part 2 which focused on the right to housing at the micro level to examine the thesis research question: Are international, and national human rights

normative standards on the right to adequate housing fulfilled at the micro-level in the context people who use drugs in British Columbia, Canada?

9.1 Unaffordable Rental Market

In the first theme of Affordability and Cost, many service providers expressed that PWUD finds the cost of housing as a barrier in Victoria and Vancouver. Homeless Hub states that the average monthly rent in 2018 for Vancouver was \$1,150 for a bachelor and \$1,307 for a one-bedroom.²⁹⁹ The average monthly rent in 2018 for Victoria was \$926 for a bachelor and \$1076 for a one-bedroom.³⁰⁰ The monthly financial benefit for basic social assistance is \$760³⁰¹ and \$1,183.42³⁰² disability assistance in British Columbia. When looking at these numbers, it can be seen why affordability and cost is a recurring theme throughout the respondent's replies. This theme can be tied to General Comment No.4 where it lists 'affordability' as one the criteria that need to be met to constitute housing as 'adequate housing.'³⁰³ Respondents also mentioned that not only is market rent not affordable, but there is a lack of available subsidised housing. In General Comment No. 4, it articulates that 'States parties should establish housing subsidies for those unable to obtain affordable housing...tenants should be protected by appropriate means against unreasonable rent levels or rent increases.'³⁰⁴

When looking at this measure, it can be said that Provincial and Federal Government are not putting enough measure in place to ensure people on government benefits can afford

²⁹⁹ The Homeless Hub, 'Vancouver' <<https://www.homelesshub.ca/community-profile/vancouver>> accessed 28 July, 2020.

³⁰⁰ The Homeless Hub, 'Victoria' accessed July 28, 2020,< <https://www.homelesshub.ca/community-profile/victoria> accessed> 28 July, 2020.

³⁰¹ Ministry of Social Development and Social Innovation (Province of British Columbia), 'On Assistance - Province of British Columbia', <<https://www2.gov.bc.ca/gov/content/family-social-supports/income-assistance/on-assistance>> accessed 28 July, 2020.

³⁰² Ministry of Social Development and Social Innovation, (Province of British Columbia), 'On Disability Assistance - Province of British Columbia'< <https://www2.gov.bc.ca/gov/content/family-social-supports/services-for-people-with-disabilities/disability-assistance/on-disability-assistance>> accessed 28 July, 2020.

³⁰³ UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23), para. 8.

³⁰⁴ UN Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23), para 8(c).

market rent. Therefore, they do not have access to ‘adequate housing.’ It is essential not to assume all PWUD are on government benefits, but as a population who may be on benefits, they may find themselves in the cycle of homelessness because the State does not regulate rental market prices and do not provide enough subsidize housing. Measures such as these are recommended in Guideline No. 6 and general comment No.7 of implementing procedural protections in the cases of evictions and that evictions should not force someone into homelessness.³⁰⁵ Implementation measure (d) highlights that measures need to be in place to manage the rental market, such as implementing the measures of ‘rent stabilization and controls, [and] rental assistance’³⁰⁶ programmes. With that said, all respondents did express the organisations they worked for did receive funding from the provincial or federal government. However, many of these housing programmes in Victoria and Vancouver have long waiting list.

9.2 Intersectionality and People Who Use Drugs

In the second theme Compounding forms of Discrimination and Stigma, the majority of respondents expressed that PWUD face compounding forms of discrimination when trying to access or maintain housing. Discrimination was a leading barrier in the housing process respondents shared they had witnessed PWUD denied housing by landlords based on their social-economic status, disability status, physical and assumption based on physical appearance. This theme can be tied to the Special Rapporteurs Guideline No. 8 regarding discrimination as well as the principle of non-discrimination, specifically on the topic of state obligation to provide non-discrimination legislation that will protect from private actors such as landlords. Implementation measure (a) in Guideline No. 8 asserts ‘States must prohibit all forms of discrimination in housing by public or private actors and guarantee not only formal but also substantive equality, which requires taking

³⁰⁵ UN Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV; UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.34.

³⁰⁶ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.38(d).

positive measures.³⁰⁷ In the implementation measure (d) v of Guideline No. 8, it provides an example of how the LGBTQ community can face:

stigmatization, discrimination and criminalization with respect to housing and experience widespread homelessness. They must be included in legal protections from discrimination in housing and protected from being forcibly evicted from their homes.³⁰⁸

This example shares many similarities to the respondent's examples of discrimination PWUD face, therefore, what is needed is more significant positive state action of providing PWUD legal protection from discrimination to ensure they are not vulnerable to denial of housing, unlawful eviction and homelessness.

9.3 The Criminalisation of People Who Use Drugs

In the third theme Criminalisation with the sub-themes of over-policing, police stop and minor offences, the respondents provided with examples on how PWUD can face a cycle of criminalisation. The theme of criminalisation can be connected to the Special Rapporteurs Guideline No. 5. that bring to light how people who experience homeless can experience 'criminalization, harassment and discriminatory treatment because of their housing status'³⁰⁹ then compare to those who have adequate housing. As well the issue that people who experience homelessness are often criminalized for occupying public spaces and are penalized for minor offences more often. Within the respondent's answers, there was numerous example depicting the relevance of this issue with PWUD and who also experience homelessness or inadequate housing as they are criminalized on multiple factors. Implementation (d) puts forward having alternative judicial processes for people

³⁰⁷ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para. 48(a).

³⁰⁸ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para. 48 (d)(v).

³⁰⁹ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.31.

who experience homelessness and anti-discrimination training in place for police staff to break the cycle of criminalisation these implementation measures resonate with PWUD.³¹⁰ In most states, drug use and activities surrounding drug use are often criminalised. Therefore, police can justify discriminatory actions such as frequent police stop and unwarranted body checks. An incident of the criminalisation of PWUD made headlines news on 7th August 2020 in a local Victoria news outlet, stating a woman who was experiencing homelessness was given a sentence of ‘18 months in jail for selling \$20 worth of drugs to a Victoria police officer.’³¹¹ A sentenced of ‘18 months of incarceration for a single count of drug trafficking’³¹² is outlandish and disproportionate for the ‘criminal activity’ committed this is an example of how PWUD face compounding forms of criminalisation and can find themselves trapped in the cycle of criminalisation for minor offences. What would be needed from State Parties to stop the criminalisation of PWUD who experience homelessness or inadequate housing would be a step towards decriminalization of drug use and to also provide further safe places for PWUD to use such as safe consumption rooms and harm reduction centres.

9.4 Inaccessibility to Legal Remedies

In the fourth theme inaccessibility to legal remedies, the majority of respondents shared challenges PWUD face when trying to access legal remedies for discrimination dispute. The challenges can be that PWUD are not explicitly protected in the Residential Tenancy Act or may not have an awareness of their rights or what avenue to start a discrimination dispute. This theme is connected with Special Rapporteurs Guideline No. 16 regarding justice and ensuring access to legal remedy is a ‘core component of States’

³¹⁰ UNHCR ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context’ (2020) UN Doc A/HRC/43/43, para.33(d).

³¹¹ Victoria News, ‘Homeless Woman Sentenced to 18 Months in Jail for Selling Drugs to Victoria Police Officer’ (7 August 2020) <<https://www.vicnews.com/news/homeless-woman-sentenced-to-18-months-in-jail-for-selling-drugs-to-victoria-police-officer/>> accessed 8 August 2020.

³¹² Victoria News, 2020.

obligation to ensure the realization of this right'³¹³ in conjunction that 'States have an immediate obligation to ensure access to justice.'³¹⁴ In regards to PWUD not having accessible legal remedy available can be seen as a violation to the right of housing because of state inaction to provide legal measures in place to provide protection to PWUD from discrimination, eviction and displacement.

Implementation measure (c) brought forward the recommendation of allowing civil society advocacy organisation who work with the right to have legal aid, resources and avenues to participate in the legal process with also stating these organisations should have legal standing to be able to put forward an individual or group dispute.³¹⁵ This recommendation could be of use among PWUD who experience homelessness and inadequate housing as PWUD may have faced institutional discrimination and criminalisation; therefore, legal avenues may not be as welcoming to PWUD. Allowing for civil society advocates to participate in the process could assist with PWUD to access legal remedies in cases of the right to housing violations.

9.5 Advocacy groups at the civil society level and lack of awareness of government programmes

The fifth theme Advocacy groups at the civil Society level and sixth theme Lack of Awareness of government policies, programmes and monitoring systems will be addressed together. Both these themes can be connected with Canada National Housing Strategy concerning the legislations points of National Housing Council, Federal Housing Advocate and Review Panels. As what was expressed by a majority of the respondents that there is little awareness of government policies, programmes and monitoring

³¹³ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.80.

³¹⁴ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.12 & 82.

³¹⁵ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para. 33(c).

systems, hopefully, this will differ in the future with the establishment of National Housing Council, Federal Housing Advocate and review panel. When established, it would be beneficial for the National Housing Council to have a representative of some with lived experience of homelessness or PWUD. The Federal Housing Advocates are not established as yet; therefore, there has not been any monitoring or reporting in place. Although it is stated on the Office of the Federal Housing Advocate webpage that:

The Advocate will put particular focus on those with the greatest housing need, such as women and children fleeing domestic violence, seniors, Indigenous people, the homeless, people with disabilities, those dealing with mental health and addiction issues, veterans, young adults, racialized groups and newcomers to Canada.³¹⁶

With this in place, there is hope once established more research, monitoring and investigation will include the lived experience PWUD and the systemic housing challenges they face. The federal advocate can request for review panel by the National Housing Council. The review panel process will make an effort to include people with lived experience and will be conducted as an open hearing to allow for ‘members of communities that are affected by the issue and groups that have expertise in human rights and housing, an opportunity to participate.’³¹⁷ This process can be beneficial for PWUD if put in place correctly. As what appears in Victoria and Vancouver that PWUD and service providers do work collectively and many civil society groups who work with PWUD have a wealth of input and knowledge. Therefore, it would be beneficial to include them in the review panel process if topics of right to housing and PWUD are brought in front of the National Housing Council. From the respondent's answers, there currently appears to be a top-down approach and a gap between policymakers from service providers and right holders. Also, not enough reported investigation or monitoring of systemic issues that PWUD face within the housing process.

³¹⁶ Canadian Human Rights Commission 'Housing Rights – Office of the Federal Housing Advocate' <<https://www.chrc-ccdp.gc.ca/eng/content/housing-rights-office-federal-housing-advocate>> accessed June 17, 2020.

³¹⁷ National Housing Strategy Act (2019) c. 29, s. 313, para 16.3(b).

9.6 Meaningful Engagement Goes Beyond Initial Consultation

In the Seventh theme, the need for meaningful engagement, the majority of respondents expressed that PWUD need to be included more within the development of housing strategies, policies and programmes. This theme connects with Special Rapporteur Guideline No. 3 regarding meaningful participation in the design, implementation and monitoring of housing policies and decisions the issues presented in the guideline bear similarity to the issues the respondents expressed such as decision and design process often takes a top-down approach. Implementation measure(b) states people with lived experience:

must be able to influence the outcome of decision-making processes based on knowledge of their rights and have access to relevant information and sufficient time to consult; socioeconomic, linguistic, literacy and other barriers to participation must be addressed.³¹⁸

This implementation measure could be beneficial in the case of creating greater inclusion with PWUD in the housing design and implementation process as policymakers need to meet where PWUD are at and remove barriers that could detour PWUD from participating. This would take a more collaborative approach to adjust policy meetings and planning that take into account the lived experience of PWUD. This includes steps such as conducting meetings in the community, providing transportation subsidies but also for policymakers to build trust with PWUD and include them in the whole process. Rather than just doing consultation and focus groups at the beginning with no follow-up,

³¹⁸ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para 24(b).

follow-through or further collaboration. Meaningful participation would have to address the power imbalances between policymakers and PWUD.

9.7 Housing Alone is Not Enough

In the eighth theme wide range of service in place with the sub-theme of needed services respondents showcased that housing services were not provided in silo rather they are interconnected with several other services such as access to harm reduction supplies, counselling, outreach supports, medical services, safe supply and access to overdose prevention sites. Providing a safe place to use and access to harm reduction supplies within housing programmes is an example that programmes are meeting PWUD where they are at as they are providing the services to meet their needs. Overdose prevention sites have been shown to save lives as people can respond to overdose right away. In a BC Coroners Report published July 2020 reported that there were 175 overdose deaths in June 2020 and 171 in May 2020.³¹⁹ With Vancouver and Victoria being in the top three where overdose deaths have occurred in 2020.³²⁰ The Coroner's Report also highlighted that '[n]o deaths have been reported at supervised consumption or drug overdose prevention sites.'³²¹ Therefore it is crucial when Government design housing programmes for PWUD they take into account the other services that go with housing to provide an adequate standard of living. This highlights that the right to housing is interdependent to other rights that make an adequate standard of living, such as the right to health and life.

This theme is connected with Guideline No.1 that speaks the topic that the right to adequate housing is interconnected with other fundamental human right values such as 'dignity, equality, inclusion, well-being, security.'³²² Furthermore, the right to housing

³¹⁹ Ministry of Public Safety and Solicitor General, 'Illicit Drug Toxicity Deaths in BC January 1, 2010 – June 30, 2020' (16 July 2020) <<https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf>> accessed 30 July 2020.

³²⁰ Ministry of Public Safety and Solicitor General, 2020.

³²¹ Ministry of Public Safety and Solicitor General, 2020.

³²² UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.12.

should not be understood as solely as a commitment to provide shelter but also that the right to housing is tied to the dignity of a person.³²³ It is reinforcing the importance to have housing services connected to other services, especially lifesaving services such as harm reduction supplies, safe supply, and access to overdose prevention sites.

9.8 Strengths and Limitations

A limitation of the thesis is the sample size. This could be partly due to COVID 19. Frontline workers in low barriers housing programmes were experiencing a more substantial caseload. For this reason, surveys were chosen for data collection rather than in-person interviews, specifically, with service providers rather than the service users. Therefore, the research provides a micro perspective of service providers rather than service users. The service providers do add a robust perspective on the topic many of the respondents have been working in the field for several years.

There is a level of generalisation in the research. First, the participants of the survey are all from one region in British Columbia Victoria and Vancouver. Therefore, it cannot represent the whole of Canada. Furthermore, for the scope of the thesis, the focus was on PWUD accessing harm reduction and housing programmes. The thesis does not differentiate PWUD into subgroups, such as women who use drugs or person of colour who use drugs. Recognising that PWUD are not homogenous population and different populations who use drugs will have unique experiences based on their social location.

9.9 Future Discussion

The research in the thesis solely included qualitative research from services providers. Therefore, further research should include the narrative of the right holders PWUD.

³²³ UNHCR 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context' (2020) UN Doc A/HRC/43/43, para.15.

The thesis looked at PWUD as one single group. Further research should do more in-depth research on sub-groups within PWUD to research the unique challenges, needs and experiences they face, such as women, children, people of colour and migrants.

Specific thematic topics on PWUD and the right to housing such as thematic issues like unlawful evictions, criminalization, discrimination, experiences accessing legal remedies and meaningful participation.

The thesis looked at housing first and harm reduction housing programmes from the analysis several different types of housing frameworks came up; therefore, further research in supportive and transitional housing.

The thesis focused specifically in one region of British Columbia; therefore, further research should be done in other regions of Canada as well as other regions globally. A qualitative case study research to compare and contrast different regional housing programmes that work with PWUD.

Lastly, further research can look into how government policymakers interpret the issue of the right to housing and PWUD. To gain further understanding of how policymakers see an issue and why certain implementation measure are chosen over others.

10. Conclusion

Returning to the research question: Are international, and national human rights normative standards on the right to adequate housing fulfilled at the micro-level in the context people who use drugs in British Columbia, Canada?

From the results of the service providers' responses and when examining them against the right to housing normative standards, it is apparent that many rights to housing violations do occur with PWUD. To answer the research question, it would be 'no' the right to adequate housing is not fulfilled at the micro level for PWUD in Victoria and Vancouver. There appears to be a challenge from the Provincial and Federal Government in ensuring the right to housing is progressively fulfilled with PWUD. Until the

Government take the appropriate steps towards progressive realisation to ensure the right to housing is fulfilled for PWUD the right to housing does not seem achievable or realistic in the lives of PWUD in British Columbia.

From the results, the measure that would be needed to ensure the progressive realisation of the right to housing is fulfilled for PWUD would include the following measures: anti-discrimination legislation within housing residential tenancy act, rental market price regulations, more subsidized housing or benefits available, training for police regarding PWUD, ban discriminatory actions such as stop and search, the decriminalization of drug use, have implemented accessible legal remedies to dispute discrimination cases and unlawful evictions, have effective monitoring bodies in place that address systemic challenges PWUD face, include PWUD and service providers within the development of housing strategies, policies and programmes, and have housing services to be interconnected with other rights such as the right to health and privacy (include access to harm reduction services and overdose prevention units within housing).

Lastly to bridge the gap between PWUD and the right to housing in human rights law a starting point at the international level could be during the Special Rapporteurs country visits the special rapporteur can connect with PWUD and service providers. It would be a step towards inclusion if the Special Rapporteur were to conduct research and a thematic report on the PWUD and right to housing. From Canada's examples of implementing a National Housing Strategy Act showcases that national human right legislation is built on international human rights normative frameworks. Therefore, the international community can set an example of including the lived experience of PWUD in the right to housing discussion. As presented in the thesis, there are already existing frameworks that are used when working with PWUD. Existing frameworks such as Housing First and harm reduction principles can be used more explicitly in the right to housing thematic reports to provide examples of best practice to ensure the right to housing is fulfilled amongst PWUD.

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Appendix 1 Abstract

It is essential not to assume that all people who experience homelessness are people who use drugs. Although the prevalence of drug use and homelessness is prevalent. In a homeless Count in Victoria BC, Canada, it was reported that, out of the 851 participants in the study, 19.9% listed substance use and addiction as the reason for housing loss. When it came to accessing housing, 27.3% of the 864 participants stated addiction as a barrier to accessing housing, when asked which service applied to their needs, out of 733 surveyed 61.9% listed addiction and substance use.

People who use drugs are overlooked in the right to housing discussion. The Special Rapporteur of the right to adequate housing thematic reports and guidelines have not included a specific focus on people who use drugs. The thesis investigates if the right to housing is fulfilled at the micro level for people who use drugs in British Columbia, Canada. By first providing a critical overview of how the right to housing has been interpreted within international and national human rights law. Followed by a qualitative descriptive study, that provides a contextual micro-level narrative of housing service providers. The thesis showcases the implementation challenges when it comes to ensuring the right to housing at the micro level for people who use drugs. The thesis provides a discussion on what is needed by State Parties to ensure housing strategies are inclusive of people who use drugs and ensure the right to housing is fulfilled at the micro-level.

Abstrakt

Es ist wichtig nicht anzunehmen, dass alle Menschen, die unter unzureichendem Wohnraum leiden, Menschen sind, die Drogen konsumieren. Obwohl die Prävalenz des

Drogenkonsums Obdachlosigkeit ist weit verbreitet. In einer Obdachlosenzählung in Victoria BC, Kanada, wurde berichtet, dass 19,9% der 851 Studienteilnehmer Substanzkonsum und Sucht als Grund für den Verlust von Wohnraum nannten. In Bezug auf den Zugang zu Wohnraum gaben 27,3% der 864 Teilnehmer an, Sucht als Hindernis für den Zugang zu Wohnraum zu betrachten, als sie gefragt wurden, welche Dienstleistung für ihre Bedürfnisse gilt. Von 733 Befragten gaben 61,9% Sucht und Substanzkonsum an.

Menschen, die Drogen konsumieren, werden im Recht auf Wohnungsdiskussion übersehen. Der Sonderberichtersteller für das Recht auf angemessene thematische Berichte und Leitlinien für die Unterbringung hat keinen besonderen Schwerpunkt auf Menschen gelegt, die Drogen konsumieren. Die Arbeit untersucht, ob das Recht auf Wohnraum auf Mikroebene für Menschen, die in British Columbia, Kanada, Drogen konsumieren, erfüllt ist. Zunächst wird ein kritischer Überblick darüber gegeben, wie das Recht auf Wohnraum im internationalen und nationalen Menschenrechtsrecht ausgelegt wurde. Gefolgt von einer qualitativen deskriptiven Studie, die eine kontextbezogene Darstellung der Wohnungsdienstleister auf Mikroebene liefert. Die Arbeit zeigt die Herausforderungen bei der Umsetzung auf, wenn es darum geht, Menschen, die Drogen konsumieren, das Recht auf Wohnen auf Mikroebene zu gewährleisten. Die Arbeit bietet eine Diskussion darüber, was die Vertragsstaaten benötigen, um sicherzustellen, dass die Wohnstrategien Menschen einschließen, die Drogen konsumieren, und um sicherzustellen, dass das Recht auf Wohnraum auf Mikroebene erfüllt wird

Appendix 2 Email to Key Informants

Dear Housing Service Provider,

My name is Tamara Chavez, a master student of human rights from the University of Vienna. I am currently writing a thesis that focuses on how international and national (Canadian) human rights law is applied in practice at the micro-level. In the context people who use drugs in regards to the right to housing

I am writing to you to formally invite you to participate in the right to housing and survey to provide your input. Your help with the survey is invaluable and will form part of my

thesis. The survey will be used for the case study chapter. The case studies will demonstrate the contextual reality of the intersection of the right to housing and people who use drugs.

I am collecting information from service providers working in housing programmes with people who use drugs. Your input will fill in vital gaps and provide an important context of the right to housing at the micro-level.

The data collected in the survey are recorded and analysed, but the participant's confidentiality is kept. Participants will not be named in the thesis; the only identification that will be used is which region the survey comes from, such as Victoria, Vancouver or Prince George. The data from the survey are permanently saved electronically in anonymised form. The data are saved in a form that is only accessible to the thesis management and are secured according to current standards.

I would greatly appreciate it if you could forward the survey to service providers in your organisation to fill out and return to me.

Please do not hesitate to get in touch if I can provide any additional information. I look forward to hearing from you soon.

Best wishes,

Tamara Chavez

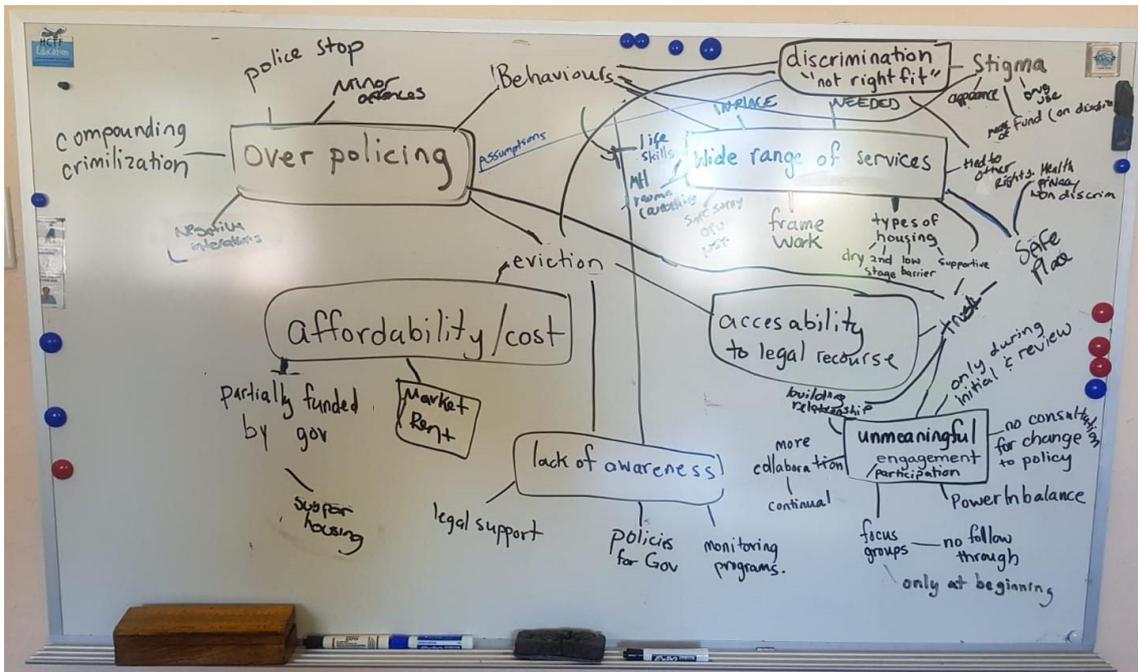
Appendix 3 Survey Open-ended Questions

The right to housing and people who use drugs Survey Questions to Data Gatherers

1. Are you aware of any barriers or challenges people who use drugs face when obtaining housing?
2. Have you witnessed people who use drugs experience criminalisation because of their drug use and experiencing homelessness?
3. What are your organisation's views on people who use drugs in obtaining and to maintain housing?

4. What are the ways your organisation will assist people who use drug use in obtaining and to maintain housing? Please list different services or programmes.
5. Are there housing programmes that are non-discriminatory to people who use drugs to ensure equality and social inclusion? If so, please list different services or programmes.
6. Have you witnessed anyone being discriminated, denied or evicted from housing because of drug use? If so are you aware of any legal recourse individuals can apply to submit a discrimination dispute?
7. Are there any legal measures or policies in place to prevent eviction for people who use drugs?
8. Are your organisation's housing services for people who use drugs funded by the government?
9. Are you aware of any government or civil society housing advocacy groups for people who use drugs?
10. Are you aware of any policies or programmes your current local or federal government has in place to assist people who use drugs in achieving the right to adequate housing?
11. Are you aware of any government housing monitoring systems that look specifically at the context of people who use drugs and housing to address systemic issues?
12. Are people who use drugs included meaningfully in the design, implementation and monitoring of housing policies? At government or civil society level?
13. What do you think is missing or is a challenge in implementing a housing strategy that represents the lived experience of people who use drugs? What would be beneficial and useful in the development and implementation process of a housing strategy for people who use drugs?

Appendix 4 Mapping of codes and themes



Appendix 5 Example of formulating themes from codes

| Survey Extract | Code | Theme | Sub-theme | Sub-Theme | Sub-theme |
|--|----------------------------------|-----------------|---------------|---------------|-------------|
| <p>criminalization as the two populations are regularly over-policed.</p> <p>likely to seek police assistance due to repeated negative or traumatic interactions with the police department in the past.</p> <p>Individuals dealing with homelessness also struggle to find places where they can peacefully use substances without being arrested or targeted for criminal activity. This is in contrast to</p> | Negative interaction with police | Criminalisation | Over-policing | Minor offence | Police Stop |

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| <p>individuals who possess private housing who can generally use substances with relative impunity.</p> | | | | | |
| <p>Tenants rarely possess the information or the capacity to contest evictions within the necessary time frame, or understand their tenancy rights in detail</p> <p>Even if they do submit a dispute, it's fairly easy for landlords to indicate that they simply got a more attractive submission from another prospective tenant at the same time.</p> <p>I have not come across any specific legal recourse individuals can use to address this issue.</p> <p>So, under the RTA folks cannot usually be evicted for simply using substances, but generally the eviction would be justified under criminal activity associated with drug use (i.e. buying drugs/selling drugs</p> <p>This is pretty common to see amongst folks who come to our shelters or support services sites. I've heard innumerable stories of folks struggling to get housing from market rent landlords. It is extremely difficult to submit a discrimination dispute</p> | <p>Accessibility to legal recourse</p> | <p>Inaccessibility to legal remedies</p> | | | |
| <p>co-morbidities with substance dependencies create far more issues in initially obtaining housing. The most common that come to mind are poverty, mental</p> | <p>Discrimination</p> | <p>Compounding forms of discrimination and stigma</p> | | | |

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| <p>health challenges, physical health or disability, and racism and other forms of discrimination. These co-morbidities commonly combine to ensure that an individual will not present 'well' to a market housing landlord.</p> <p>When it comes to acquiring supported or subsidized housing, similar judgments are often made regarding an individual's overall 'capacity', 'independence', and perceived level of need.</p> <p>However, even within housing programs like ours that have a mandate to house individuals who use substances it is difficult to eradicate traces of discrimination. Due to how frustrating and sometimes violent it can be at these housing sites, staff and tenants can become jaded and cynical very quickly. This can greatly reduce empathy.</p> <p>The largest barrier to equality here is that the power imbalance between housing provider and client is immense.</p> <p>In the vast majority of the cases, clients will be denied for a variety of reasons that don't mention drug use (i.e. finances, appearance, lack of suitability, lack of references, etc).</p> <p>Non-discrimination would also imply that the standard of living is equivalent to market rent housing, which would also be inaccurate for practically every housing program targeted at individuals</p> | | | | | |
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| who use drugs that I have ever encountered. Generally, the government underfunds these sites, they are placed in older or condemned buildings, and tenants struggle to get the management to enforce tenancy rights (especially peace and quiet enjoyment). | | | | | |
|---|--|--|--|--|--|