

## Access to Housing as an Essential Human Right

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**Abstract** This paper presents a normative case for housing as an indispensable element of human well-being, positing that housing should be regarded as a fundamental freedom, on par with the right to property. The discussion begins with a brief exploration of the significance of rights, establishing a foundation for the paper's scope. It then delves into the concept of housing as a freedom right, drawing on the insights of scholars such as Jeremy Waldron and Martha Nussbaum. The central argument hinges on the premise that basic human functioning is inherently tied to one's living environment; without adequate housing, essential human activities and well-being become unattainable. This perspective emphasizes that housing is not merely a commodity but a critical component of a dignified life. The paper concludes by highlighting the broader implications of this normative stance for housing policy, advocating for a shift in how housing rights are perceived and implemented to better support human flourishing.

**Index Terms** access to housing, human rights, essential needs, housing policy, social justice

### I. Introduction

This paper endeavors to construct a discourse on housing centered around rights. It contends that from a basic understanding of essential human functions, one can extrapolate the right to housing as a fundamental prerequisite for human well-being. Rights, therefore, hold considerable significance [1]–[3].

Although the concept of a right to housing is not novel, it is often invoked in discussions advocating policy reform or change. In these deliberations, a social right to housing is asserted, representing a socioeconomic claim on limited resources [4], [5]. However, framing housing rights in socioeconomic terms poses challenges, as socioeconomic claims are inherently competitive, leading to a zero-sum scenario where gains for some come at the expense of others [6], [7].

While it's acknowledged that competition for scarce resources is inevitable, there's a notable distinction between socioeconomic claims and what are termed as freedom rights. The latter, encompassing rights to life, limb, and property, are deemed non-competitive, safeguarding individual liberty and autonomy. These freedom rights are viewed as universal and independent of specific institutional frameworks, thus holding a superior status compared to socioeconomic claims [8], [9].

This paper challenges the conventional hierarchy of rights by proposing that housing can be construed as a freedom right, analogous to the right to property. This perspective prompts a reevaluation of the notion of non-competitive rights and hierarchical structures. The primary objective is to establish a normative argument positioning housing as indispensable for human flourishing.

The discussion progresses from an overview of the importance of rights to a delineation of housing as a freedom right. While the paper acknowledges the significance of this discourse for housing policy, its primary aim is to lay down a foundational argument that transcends specific circumstances. The goal is to develop an argument with broad applicability, independent of particular contexts [10], [11].

### II. Prioritizing Individual Rights

Before delving into the discourse on housing as a freedom right, it is essential to underscore the significance of rights-based arguments. According to Waldron (1993a), theories of rights illuminate the importance of individual interests, emphasizing that they cannot be disregarded in favor of a purportedly greater social good. Waldron posits that the appeal of individual rights lies in the desire for autonomy in shaping one's life, free from utilitarian considerations. This perspective questions the legitimacy of sacrificing some individuals for the perceived benefit of others, highlighting the intrinsic value of every individual [12].

Waldron further suggests that the contemporary emphasis on self-conscious deliberation echoes Kant's categorical imperative, which emphasizes treating humanity, in oneself and others, as ends in themselves rather than merely as means to an end. Central to this Kantian view is the recognition of human agency guided by practical reason.

Therefore, the crux of a rights-based argument lies in affirming the importance of each individual. Rights are inherent to individuals by virtue of their humanity, including social rights pertaining to socioeconomic claims. By emphasizing the

significance of rights, these arguments prioritize individual well-being and oppose any trade-off between individuals and groups where some interests are sacrificed for the benefit of others. Consequently, rights-based arguments shift the focus from utilitarian or economic considerations to the moral dimension of a situation [13].

As demonstrated below, such arguments enable a discourse that challenges the notion that scarcity alone justifies decision-making in housing policy.

### III. Distinguishing Rights: Statutory vs. Inherent Housing Rights [14]

Before delving deeper, it's crucial to draw a clear line between statutory and philosophical interpretations of rights, particularly in the context of housing. This paper primarily addresses the concept of the 'right to housing,' which pertains to a moral entitlement that may or may not be recognized. This normative framework revolves around the legitimate interests of individuals, distinct from 'housing rights,' which pertain to legally granted conditions.

While references to housing rights are widespread, often articulated by professional bodies like the Chartered Institute of Housing and Shelter, these discussions primarily focus on statutory rights—what individuals are entitled to under the law, aimed at guiding practitioners. However, they often fall short in explaining the foundational importance of rights and why they merit legislative attention [15].

Conversations around statutory rights can be circular, assuming the existence of rights without addressing their rationale or the need for legislative action. Understanding the philosophical underpinnings of rights necessitates an abstract discussion on their nature and categorization before linking them to housing rights in a fundamental manner.

Crucially, while statutory housing rights vary across states and timeframes due to political priorities and resource availability, the right to housing is considered a natural right inherent to all individuals, transcending circumstances and resources.

The notion of natural rights is subject to debate, with some arguing for housing as a social right established to correct market failures. However, reducing the right to housing to a mere policy tool overlooks individual interests, prioritizing policy agendas over citizen welfare.

In contrast, the stance advocated here posits that policy stems from the recognition of inherent rights, emphasizing the primacy of rights over policy imperatives.

### IV. Unpacking Rights: Definitions and Implications [16]

Before delving further into the argument, it's imperative to establish a clear understanding of what rights entail. Typically expressed as formulas like 'A has a right to do B,' such statements imply that others hold a duty not to obstruct A's action B, aiming to safeguard or promote A's interests. In essence, a right constitutes a legitimate claim an individual can make against others.

Rights serve as the foundation for establishing rules governing social interactions, representing moral constructs within society. They pertain to the relationships between individuals, often intertwined with concepts such as liberty, equality, and individuality. Additionally, rights are inherently linked to something deemed significant to the individual and society at large, as they prioritize certain attributes essential for human functioning.

Further delineates the conditions underpinning rights, highlighting the rational basis for justified demands, the actual enjoyment of certain attributes, and the necessity for social guarantees against standard threats. Hence, rights necessitate good reasons for demanding something, the existence of that something to enjoy, and the implementation of social arrangements to protect those possessions.

Three crucial aspects of rights-based theories warrant elucidation. Firstly, rights are correlative to duties, implying that discussing rights inherently involves discussing individuals' responsibilities. Secondly, rights are reciprocal and universal, with every individual's right corresponding to a duty on others, thereby moderating the limitless nature of rights and necessitating negotiation when rights clash. Finally, rights entail a respect for individual interests, underscoring the intrinsic worth of individuals and the autonomy to determine their interests.

While individuals' self-described interests should be respected, their validity may be subject to scrutiny and significance tests, ensuring that interests do not infringe upon the rights of others. Ultimately, interests are best self-determined, emphasizing the importance of respecting individuals' autonomy in defining their interests.

### V. Framing Housing as a Freedom Right [17]

Now that we've established a foundational understanding of rights, let's explore how they can be leveraged to advocate for housing as a fundamental necessity. Specifically, we'll delve into the concept of housing as a freedom right rather than merely a socio-economic claim.

Freedom rights, often framed as negative rights, serve to prevent coercion and interference in the interests of others. For libertarian thinkers, negative rights hold paramount importance as they avoid conflicting demands. Unlike socio-economic claims, which entail distributing scarce resources and thus involve adjudicating between competing claims, negative rights such as liberty and property rights are deemed indivisible.

However, criticism arises regarding the adequacy of negative rights in allowing individuals to pursue their ends regardless of consequences. Extending this argument to housing highlights instances where individuals are deprived of shelter due to disparities in property ownership, suggesting a clash between positive and negative rights.

An intriguing perspective on reconciling freedom rights with socio-economic claims is offered. It argues that the right to housing is indispensable for fulfilling basic human functions like sleeping and washing. Despite property rules dictating where individuals can be, certain fundamental functions necessitate freedom of access to specific places. However, this freedom often conflicts with property rights, leading to challenges for the homeless.

This argument underscores the significance of a place to be, essential for human survival. While the discussion primarily focuses on elemental functions, a more comprehensive understanding of human capabilities identifies an extensive list of central human functional capabilities essential for flourishing, including bodily health, personal autonomy, and control over one's environment [5], [7], [12].

Housing emerges as a means of guaranteeing bodily health and integrity, aligning with the emphasis on universal human capabilities. By fulfilling these capabilities, housing becomes a legitimate claim against others, grounded in the situated nature of necessary human functioning.

This framework provides a robust ethical foundation for justifying the right to housing, extending beyond mere shelter to encompass broader notions of human well-being. While cultural diversity may influence housing standards, the core justification remains rooted in the situated nature of human functioning [18].

## VI. Conclusion

The discourse on housing rights as a freedom right unveils profound insights into the intersection of individual liberties and socio-economic claims. By framing housing as a fundamental necessity for fulfilling basic human functions, this perspective challenges traditional notions of property rights and underscores the importance of ensuring universal access to adequate housing. Through a synthesis of libertarian ideals and the recognition of universal human capabilities, we arrive at a compelling justification for housing rights that transcends mere shelter provision.

Moreover, this approach emphasizes the interconnectedness of rights and responsibilities, highlighting the imperative of balancing individual freedoms with societal obligations. As we navigate the complexities of housing policy and practice, it becomes evident that the right to housing is not merely a matter of socio-economic entitlement but a fundamental aspect of human dignity and well-being. By embracing a rights-based framework that prioritizes the fulfillment of essential human functions, we pave the way for more inclusive and equitable housing systems that uphold the inherent worth and agency of every individual.

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