

THE LACK OF A RIGHT TO HOUSING AND ITS IMPLICATIONS IN AUSTRALIA

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Over the second half of the twentieth century, especially in the OECD countries, social rights that historically have been viewed as the preserve of the few have become universal. Although there are dramatic variations in quality and quantity, in the contemporary period almost all advanced economies have an extensive social security system, public health system and free public schooling until year 12. Although the right to aspects of the social security system is increasingly conditional and defined as a privilege rather than a right, in OECD countries it is accepted that citizens who are not in the workforce and do not have a source of income are entitled to income support from government for a period of time or constantly (Castles, 2006; Kemeny, 2001).

These advances in the sphere of social policy and rights do not usually extend to the notion that all citizens should have the right to adequate and affordable housing. The latter is still viewed as an unrealistic demand, particularly in those countries which Esping-Andersen has categorised as 'liberal welfare regimes'. Kemeny (2001) argues that, while health, education and social security are universal and generally paid for by government through taxation, this has never been the case with housing. Torgersen (1987) refers to housing as the 'wobbly pillar' of the welfare state. Hartman (1998: 223) concludes that in the United States, 'Publishing an article advocating a right or entitlement to decent, affordable housing ... could well be regarded as futile, quixotic, even bizarre.'

In Australia, although a substantial amount has been written on the right to housing (HREOC, 2008; McRae and Nicholson, 2004; Otto and Lynch, 2004; Sackville, 2004; Walsh and Klease, 2004), much of this

literature has a narrow definition of the right to housing and focuses mainly on homelessness. What I argue in this article is that the right to housing implies that all households have the right to affordable and adequate housing and firm security of tenure. Using this definition, as will be illustrated, a substantial proportion of Australian households do not have a right to housing. The focus is mainly on housing affordability and security of tenure rather than housing conditions.

The next section of this article outlines the international instruments relating to the right to housing. Housing affordability, security of tenure and adequate housing are then defined. The situation in respect to the right to housing in Australia is then explored by briefly sketching the features of housing policy and housing affordability from the mid-1980s to 2007. The potential health implications of having or not having a right to housing are then briefly examined. This examination involves a review of some of the literature on housing affordability and health and an analysis of in-depth interviews I conducted with older (65 plus) renters in public housing, heavily subsidised housing and the private rental market. All the interviewees were dependent primarily or solely on the age pension for their income. The analysis shows the potential benefits of a right to housing reflected in the provision of affordable and secure public housing and, conversely, the suffering that is often wrought when an older person is reliant on the relatively expensive and insecure private rental market. The article concludes by evaluating whether the shifts in housing policy initiated by the Rudd government represent a significant move towards a right to housing.

Housing as a right in international conventions

Numerous international conventions view affordable, adequate and secure housing as a right. The *Universal Declaration of Human Rights* states, 'Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care.' In 1991, the Committee that has the responsibility of monitoring and implementing the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* elaborated on what defines a right to housing with the passing of *General Comment*

No. 4. The opening paragraph of this Comment declares, ‘The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights’ (United Nations, 1991). A key conclusion is that the right to housing extends beyond ‘merely having a roof over one’s head ... Rather it should be seen as the right to live somewhere in security, peace and dignity ... [and] the right to housing should be ensured to all persons irrespective of income or access to economic resources.’ A primary argument is that housing should be adequate. Adequacy has a number of components: ‘Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost.’ Noteworthy is that affordability is viewed as a fundamental component of adequacy:

Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs (United Nations, 1991).

Security of tenure is also viewed as a central feature of adequate housing:

All persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats (United Nations, 1997).

In Australia, housing affordability and inadequate security of tenure are major issues for low-income households. A complex question is what would a right to housing imply in an advanced economy like Australia? McRae and Nicholson’s (2004) conclusion is useful. Drawing on the comments of the Committee on Economic, Social and Cultural Rights which was set up to monitor whether nation-states were fulfilling their

obligations under the ICESCR, they quote *General Comment 15: para 41*, which states that a ‘State which is unwilling to use the maximum of its available resources for the realisation of the right ... is in violation of its obligations’ (McRae and Nicholson, 2004: 36-37). This implies that the housing policies in Australia should give all citizens the ability to access affordable, secure and adequate accommodation. Achieving this goal would be an expensive and lengthy process, requiring a shift in government and societal priorities.

Defining housing affordability, security of tenure and adequate housing

What defines affordable housing, security of tenure and adequate housing is contestable. In Australia, in the case of low-income households (the bottom two income deciles), there is broad agreement that housing is affordable when it does not consume more than 30 per cent of household income (National Housing Strategy, 1992). When low-income households have to use more than 30 per cent of their income for accommodation they are in what has been called ‘housing stress’ (Yates and Gabriel, 2006). The presumption is that low-income households that have to use more than 30 per cent of their income to pay for accommodation will usually be in a situation where they have to cut back on essential non-housing expenditure.

What constitutes an adequate security of tenure varies substantially, depending on context. The United Nations definition which emphasises protection against forced eviction is limited as it does not take account of the more subtle pressures which may be placed on tenants. The components of security of tenure developed by Minnery, *et al* (2003) for the private rental market, are a useful starting point for evaluating security of tenure in Australia. There are five components:

- legal security of tenure, associated with the existence of a tenancy agreement (or ‘lease’), the length of that agreement and its conditions;

- whether or not the tenant feels they have a choice of whether they can stay in the rented dwelling and for how long;
- security of tenure as the feeling of control the tenant has over their tenancy arrangements;
- security of tenure related to the costs of the tenancy and whether or not the tenant feels confident in being able to meet likely future costs; and
- security of tenure related to certainty by the tenant that the dwelling and locality are appropriate (and by the landlord that the tenant is satisfactory).

A key question, as will be discussed in a later section, is what happens when the legal security of tenure comes to an end: are tenants protected from untenable rent increases and other pressures once the written agreement (lease) ends?

For low-income homeowners security of tenure can also be precarious. The high price of housing means that many such households have to spend a large proportion of their income as mortgage debt repayments on housing. Interest rate rises and other unforeseen expenses can result in them being forced to sell.

The United Nations Convention outlining what constitutes adequate housing is a useful guide. Adequacy requires that all dwellings should have electricity and proper sanitation. There should also be adequate space, lighting, ventilation and dwellings should be in reasonable condition and free of vermin. Of course, what is perceived as adequate is fluid and context-bound. For example, there are shifting notions of the amount of space that is considered adequate: Australian houses have grown considerably in terms of floor space over the last three decades and are now the largest in the world (Gittins, 2009).

Housing in the Hawke/Keating era, 1983-1996

A primary measure of a government's commitment to a right to housing is the degree to which it creates conditions that enable low-income households to have access to affordable and adequate housing. Subsidies for first-time home-buyers, low interest rates, rent control, subsidisation of rents and the provision of social housing are the most common methods used.

In Australia from 1945 to the late 1980s, the Commonwealth State Housing Agreement (CSHA) was the primary plank of government housing policy for low-income households who had not been able to enter or hold on to homeownership. The CSHA's main role was to provide funding to the state governments so as to allow them to build and maintain public housing. In the decade after 1945 the 'provision of adequate and affordable housing was a high priority' and between 1945 and 1956 about 120,000 public housing dwellings were built (Beer, 1993: 153). The expansion of public housing slowed down in the mid-1950s, due mainly to a perception within the federal and state governments that it was too expensive and that homeownership and the private rental market were better options. Full employment, high wages, tax concessions, easy access to loans and low interest rates greatly facilitated entry into homeownership and, by 1966, 71 per cent of Australian households were homeowners (Beer, 1993). Other than during 1972-1975, when the Whitlam government increased state intervention and funding for housing, the period up until the election of the Hawke government in 1983 was characterised by a 'laissez-faire philosophy which believed in leaving the fate of the cities to the free play of market forces ... especially in the housing and property markets' (Sandercock and Berry, 1983: 61).

There was a substantial shift in government housing policy in the early 1980s. The newly elected Australian Labor Party (ALP) government led by Bob Hawke recognised that the rise in inflation and unemployment meant that an increasing proportion of the population were not able to purchase their own home and were suffering from serious housing stress. By 1983, 125,570 people were on the public housing waiting list; and a

substantial expansion of this housing tenure was viewed as a way of dissipating the shortage of affordable housing for low-income households (Wilkinson, 2005). Within three years the CSHA budget more than doubled – from \$557.6 million in 1982-83 to \$1284.7 in 1986-87 (Industry Commission, 1993:108). The increased budgetary allocation allowed for a substantial increase in the public housing stock: between 1985 and 1995 the number of public housing dwellings increased by about 115,000, from approximately 273,000 dwellings to 388,600 (McIntosh, 1997). Despite this, public housing as a proportion of the total housing stock remained minimal, increasing from about 6 to just under 7 per cent of the total (Paris, 1993: 61).

The budget for Commonwealth Rent Assistance (CRA) was negligible in the initial stages of the ALP's tenure in government.¹ Thus in 1984-85, while \$234 million was budgeted for CRA, over a billion dollars was allocated to the CSHA. By the early 1990s, there had been a dramatic policy turnaround. Expenditure on CRA 'increased from approximately one quarter of CSHA expenditure in 1984-85 to approximately one and a half times the expenditure on CSHA by 1994-95' (McIntosh and Phillips, 2001). The number of CRA recipients nearly doubled - increasing from 491,000 in 1984-85 to 931,500 in 1994-95 – and the average amount of CRA allocated to individual recipients increased dramatically (Wulff, 2000; Yates, 1997). One estimate is that the average CRA payment went from \$200 per recipient per year in 1985 to \$1600 a year by 1997 (Yates 1997: 269).

The dramatic increase in CRA from the early 1990s appeared to be partially driven by the size of the public housing waiting list in the 1980s, which expanded by about 10,000 applicants annually despite the substantial increase in the public housing stock. In 1991 there were 202,349 people on the waiting list for public housing (ACOSS, 2002). Increasingly, there was a perception within government that giving

¹ Commonwealth Rent Assistance (CRA) is federally funded. Individuals who are dependent on government benefits for all or most of their income and renting in the private rental market are eligible for CRA. The amount of assistance given depends on the rent being paid. In September 2009 a single person was entitled to a maximum CRA of \$55.60 a week; a couple with no dependent children to a maximum of \$52.70 a week and a couple with one or two children to \$65.65 a week.

assistance directly to low-income households so that they could access the private rental market was a more effective policy option (Industry Commission, 1993; Wilkinson, 2005). Paul Keating signalled this view when he stated in 1995 that the way to 'reduce the public housing waiting lists [is] by improving the scope for people to choose private rental accommodation' (in Wilkinson, 2005: 25). There was also a realization that something had to be done to assist the ever-increasing number of private renters on low-income who were in housing stress (Chapman, 2006; Howe, 2009). When the Coalition regained control of the federal government in 1996, the perception within government that low-income non-homeowners should preferably find their accommodation in the private rental market rather than public housing was well-established. From a right to housing perspective, the key problem was that the increased emphasis on CRA did not mean that low-income households could comfortably enter the private rental market. A substantial proportion found that, in spite of CRA, being dependent on the private rental market was an enormous financial burden. Housing stress in the private rental market was substantial, as further discussed below.

The Hawke government also sought to facilitate entry into homeownership through the introduction of a First Home Owners Scheme (FHOS). From October 1983, all first time buyers (without being subject to a means test) were able to obtain a grant of between \$2000 and \$5000. Between 1983/84 and 1988/89, 333,361 households took advantage of the FHOS (Wilkinson, 2005: 19). It is unclear what proportion were low-income households. The FHOS certainly allowed some low-income families to enter the housing market who otherwise may not have, but it is probable that the grant was usually not enough to prevent housing stress for these low-income households.

Housing in the Coalition government era, 1996-2007

The Liberal-National Coalition government led by John Howard was unambiguously in favour of increasing the role of the private market and cutting government spending on public housing. The right to housing came under increasing attack during this period. The budget for the

CSHA plummeted – falling, in 2000-1 dollar values, from \$1643.5 million in 1995-96 to \$1229.6 million in 2002-03 (ACOSS, 2002). The total public housing stock decreased from about 388,000 dwellings in 1995 to 335,000 in June 2005 (AIHW, 2005). Public housing was sold off to tenants or developers and, in some cases, demolished (Arthurson, 2004). The reduction in the public housing stock was partially offset by an increase in community housing. This housing sector's impact has, however, been minimal. In June 2007, nationwide, there were only 33,557 households living in community housing (AIHW, 2008).

The decline in the public housing stock precipitated a change in the way it is allocated. Low-income ceased to be a sufficient criterion to be eligible for public housing: in all states and territories applicants with complex needs are prioritised. In 2006, nation-wide, sixty per cent of new public housing tenants had special needs (AIHW, 2007: 3). In New South Wales an older people whose only source of income is the age pension 'may be approved for housing assistance as an elderly client if they are: Aged 80 years and over, or [c]onfirmed to be an Aboriginal person or Torres Strait Islander and aged 55 years and over' (NSW Government, 2006). The implication is that a healthy, older non-indigenous person who is not a homeowner and who is dependent on the age pension for their income will, in most cases, be forced to depend on the private rental market until they turn 80.

The attack on public housing was accompanied by an increasing emphasis on CRA. In the ten years to 2003-04, federal government spending on CRA increased by seven percent in real terms (based on 2003 dollar) – from \$1.793 billion in 1993-94 to \$1.922 billion in 2003-4. Over the same decade, base grant funding to the CSHA agreement decreased by 54 percent in real terms – from \$2.797 billion in 1993-94 to \$1.284 billion in 2003-4 (ACOSS & National Shelter, 2003: 8). In 2006-07, the amount set aside by government for CRA – about two billion dollars – was almost double the budget for public housing.

A major limitation of CRA is that there is no geographical variation in the way it is calculated. Thus, despite Sydney having the highest average residential rents in Australia, private renters in Sydney are eligible for the same maximum CRA as are renters in areas where the average rent is far

lower. While CRA can make a crucial contribution to the ability of tenants to sustain themselves, it is invariably inadequate in locations where rents are high.

From the 1 July 2000, the government offered a \$7000 grant to first time home buyers and, by mid-2004, about 550,000 households had taken advantage of the grant, at a cost of \$4.3 billion to government (Wilkinson, 2005). However, between 1997 and 2003 the median house price in Australia rose from \$191,100 to \$367,000. This substantial increase in housing prices meant that, for low-income households, the FHOS grant invariably did not alleviate housing stress. From a right to housing perspective the question that needs to be asked is would the money not have been better spent on public housing and on increasing rent assistance for low-income households.

The impact of a limited right to housing

Homelessness, a spiralling housing affordability crisis and limited security of tenure are three evident impacts of the limited right to housing in Australia over the last two decades. A less obvious impact is the effect of housing stress on the physical and mental health and everyday life of low-income households. The four impacts are discussed in turn.

Homelessness

The most dramatic consequence of not having a right to housing is homelessness. On Census night in 2006, 104,667 Australians were homeless; 16,375 were categorised as victims of ‘primary homelessness’ (having no access to conventional accommodation), 66,714 were experiencing ‘secondary homelessness’ (defined as being dependent on temporary accommodation) and 21,596 were experiencing ‘tertiary homelessness’ (having been resident in a boarding house for longer than 13 weeks) (Chamberlain and Mackenzie, 2008). There is consensus that homelessness is deleterious to an individual’s health; and the life expectancy of people suffering from primary homelessness is estimated to be 15-20 years less than the mainstream population (Quine *et al*, 2004;

Schwanzer *et al*, 2007). While some homelessness is due to domestic violence and mental health issues, it is increasingly due to households not being able to find affordable accommodation (Morris *et al*, 2005).

A spiralling housing affordability crisis

During the Coalition's term in office, housing stress reached record levels (Yates and Milligan 2007; Yates 2007, 2008; Burke and Pinnegar, 2007). One estimate is that about 28 per cent of all low-income Australian households were in housing stress in 2002-03, up from 24 per cent a decade earlier (Yates and Milligan, 2007). In 1995-96 about one million Australian households had housing costs that exceeded 30 per cent of their income, while about 300,000 were using more than 50 per cent of their income for housing. In 2002-03, 1.2 million households were using more than 30 per cent of their income for housing and about 400,000 more than 50 per cent (Yates and Gabriel, 2006). By 2005-06, 23 per cent of all Australian households were in housing stress, up from 19 per cent in 1995-96 (Tanton, Nepal and Harding, 2008).

A key contributor to the increased incidence of housing stress has been increases in the cost of housing have outstripped increases in household income. In the 1960 to 2006 period, average household real income increased by 1.9 per cent annually, whereas house prices increased by an average of 2.6 per cent annually (Yates and Milligan, 2007). The gap between household income and housing costs increased markedly at the turn of the millennium; between 2001 and 2006, gross income grew by 31.2 per cent, whereas housing costs grew by 62 per cent (Ngu *et al*, 2008). The household income required to buy a median priced first home more than doubled between 1984 and 2006 (Yates and Milligan, 2007).

Not surprisingly, the increasing cost of housing has resulted in a decline in the proportion of the population that are homeowners. This is despite the widespread recognition that the rental market is fraught with uncertainty and that homeownership is often critical for security in retirement (Kemeny, 2005). Between 1976 and 2001, the proportion of homeowners among persons aged 25 to 29 dropped by 11 per cent; for the 30 to 34 year-old age group it dropped by 10 per cent and for the 35-

39 year-old age group it dropped by six per cent (Yates, 2007). The affordability crisis was also reflected in the drop in the proportion of households that own their home outright. The 2006 Census found that fewer homes were owned outright in 2006 (2,478,267) than had been owned outright in 1996 (2,657,971) (ABS, 2007). In percentage terms, 41 per cent of homes were owned outright in 1996 and 33 per cent in 2006. The proportion of homes that were in the process of being purchased increased from 26 per cent to 32 per cent (ABS, 2007).

Although the majority of purchasers are able to service their mortgages, Burke and Pinnenger (2007) found that about ten per cent of their sample had missed at least one mortgage payment in the past year. The advent of the global financial crisis and increasing unemployment and part-time employment has evidently increased the precarious situation of many purchasers and forced some to sell. A nation-wide survey of house sellers in 2009, conducted by the Real Estate Institute, found that 28 per cent gave the global financial crisis as their main reason for selling (*Herald Sun*, 2009).

The increase in the cost of housing, combined with the decline in the availability of public housing, has meant that an increasing proportion of low-income households are being forced to depend on the private rental market, often for extended periods or permanently. Renters in the private rental market are in a particularly vulnerable position; 27 per cent of all occupied private dwellings in 2006 were rented. The 2006 Census found that 36.7 per cent of these private rental households (comprising 519,764 households) were spending more than 30 per cent or more of their income on accommodation (and therefore classified as suffering housing stress). The comparative figures for 2001 were 31.9 per cent (446,000 households) (HIA, 2007).

A major concern is that CRA is not keeping up with rent increases. Thus, between 2000 and 2005 (the most recent comparative data available) rents in the private rental market rose by an average of \$64 per fortnight, whereas CRA in this period increased by an average of \$18 (AIHW, 2007: 190). CRA, whilst lessening the impact of having to rent in the private rental market, does not resolve the affordability crisis that many private renters face. This is especially true for the metropolitan areas.

Thus, in the Sydney statistical district, in September 2009, the median rent for a one-bedroomed apartment in Sydney was \$360; in Sydney's inner-ring it was \$400; in the middle ring it was \$350 and in the outer ring it was \$240 (NSW DoH, 2009). An age pensioner dependent solely on the age pension (\$336 a week) and rent assistance (\$56 a week), living in a one-bedroomed apartment in outer Sydney and paying the median rent of \$240 a week, would have to use about sixty per cent of their income for accommodation. A single person dependent on Newstart for their income (\$228 a week) would have \$34 left after paying the median rent for a one-bedroomed apartment in Sydney's outer suburbs and would be using 85 per cent of their income for rent.

The 2006 Census indicated that 50.1 per cent of older (aged 65 plus) private renters were paying more than 30 per cent of their income for accommodation, and 22.9 per cent were paying more than 50 per cent. Among older private renters who were living by themselves and solely dependent on the age pension for their income, having an income of less than \$350 a week, housing costs exceeded 30 per cent of their income in about 80 percent of cases: 53 per cent were paying more than 50 per cent of their income for accommodation (ABS, 2008).

Minimal security of tenure

Renters in the private rental market have inadequate security of tenure. In Australia private renters usually have a six-month or, at most, a twelve-month written agreement. When the lease ends the landlord is entitled to increase the rent by whatever margin s/he feels is reasonable. A tenant can appeal to the Consumer, Trader & Tenancy Tribunal if he or she feels that the increase is not justified. In order for their appeal to succeed, the tenant has to prove that the rent increase is excessive. Appeals are rarely successful as tenants are seldom able to show this (Personal communication from Tenants Union of NSW). If the landlord wants the tenant to vacate, the only requirement is that they must give the tenant two months' written notice once the fixed-term lease has ended.

In contrast to the private rental market, rents in the public housing sector are controlled and affordable. In New South Wales, public housing rents

are set at market rates. However, if the household income is less than the 'moderate income level' (which would include all households dependent mainly on government benefits for their income), the household can apply for a rent subsidy and the rent would then be set at a maximum of 25 per cent of household income (NSW Government, 2008). Almost all public housing tenants are now in this situation.

Public housing tenants also have much greater security of tenure than their counterparts in the private rental market. In New South Wales, post-October 2006, new tenants are given two, five or ten-year leases depending on their situation. Thus, new tenants who are 65 and over are given a ten-year lease which is extended as long as the tenancy agreement is adhered to (NSW Government, 2008). In almost all cases, as long as the tenant does not transgress the tenancy agreement and their income remains low, their lease will be renewed.

What is evident is that, in contrast to renters in the private rental market, public housing tenants have clear and strong rights. The rents they have to pay are predictable and manageable and they have security of tenure as long as they pay their rent and do not engage in activities that transgress their lease agreement.

Housing stress, insecurity and health

The relationship between poor housing conditions and health has been well documented. The impact of damp, mould, cold, overcrowding and general disrepair has been noted in numerous studies (Best, 1999; Hopton & Hunt, 1996; Hyndman, 1998). However, the impact of housing stress and minimal security of tenure is less direct and explicit and has not received the same level of attention. Burrows and Nettleton (1998), in their study of marginal homeowners in the United Kingdom, argue that the financial stress associated with marginal homeownership is a serious health issue. Drawing on data from the British Household Panel Survey they conclude, 'the experience of the onset of mortgage indebtedness is associated with changes in the subjective wellbeing of men and women, and that it increases the likelihood that men in particular will visit their GPs' (Burrows and Nettleton, 1998: 743).

A major difficulty when examining the links between housing and health is establishing whether it is an individual's housing situation or their personal histories and/or work situations which are the primary contributors to their mental and physical health status. In one of the few Australian studies that has endeavoured to explore housing insecurity and wellbeing, Hulse and Saugeres (2008: 2) concluded that 'The most striking finding was the incidence of mental health problems experienced by those interviewed ... with many respondents suffering from anxiety disorders and depression ...' The interviewees were public and private renters who were not working at all or working only a few hours a week. The researchers found that 'housing insecurity affected social participation. In particular, mobility, housing instability and a lack of belonging provided obstacles to social connectedness' (Hulse and Saugeres, 2008: 3).

The association between housing tenure and health status in Australia is also of interest. Drawing on the Australian Bureau of Statistics 1995 National Health Survey, Waters (2001) found that 'renters were significantly more likely than outright owners to report that their health status was poor or fair' and were also significantly more likely to have visited a doctor in the last two weeks and in the last year. They were also more likely to have reported a higher number of serious health conditions than owners. Purchasers (households with a mortgage) were also likely to have had a significantly higher average number of serious health conditions than outright owners. Although this study by Waters does not provide a clear notion of why housing tenure contributes to differential health outcomes, it would appear that the security of tenure and financial security are important factors.

In my own research, comparing older renters (aged 65 plus) in public housing to those in the private rental market in Sydney, substantial differences in the perceived health status, general disposition and opportunities of the two groupings have been revealed. Although the study was based on less than 40 interviews, strong trends emerged. Almost all of the older public housing tenants had a positive disposition, had strong social networks, felt settled, in control of their situation and were positive about the future. In contrast, the majority of older private

renters found everyday living extremely difficult. Most were beset with anxiety about their financial situation, were constantly preoccupied with what they would do if their rent increased, they were forced to move or they had a large unexpected expense. They were extremely constrained in their capacity to do what they desired, whereas most of the older public housing tenants were engaged in a range of activities and felt in control. Some examples illustrate the respective circumstances and attitudes of the two groups.²

Robert³ (75), who had been living in his public housing unit for about 20 years, told of how his strong security of tenure and ability to afford the rent, influenced his general disposition:

There is a certain feeling of security when you've got the Department of Housing [as a landlord] ... [Private] landlords can always put up their rent and I found that the government is the best landlord that I've ever had. They're very responsive. They leave you alone and as long as you pay the rent, they don't interfere ... I do feel that there is a terrific lot of security here. It makes for a far more peaceful life especially when you get older. When people get older, as you know, they sort of become easily stressed and the accommodation is probably at the top of the list where you live and so on ... When you know your accommodation is right, this is especially when you're older you

² I conducted in-depth, semi-structured interviews with 19 older private renters, 17 older public housing tenants and one older person living in subsidised accommodation. Most of the interviews were conducted in mid-2005 and in the second part of 2006. A primary aim of the interviews was to explore the life circumstances of older public and private renters and the impact of their housing tenure on their everyday lives. Interviewees were recruited through advertisements in seniors' publications, appropriate notice-boards and through word of mouth. All of the private renters were aged between 65 and 72. Ten were female and nine were male. Six were renting in Sydney's inner-city suburbs, seven were in middle suburbs, two in Sydney's outer suburbs and four were in regional New South Wales. Of the 17 public housing tenants interviewed, 13 were female and four were male. Six were aged between 65 and 69, eight were between 70 and 75 and three were over 80. In sharp contrast to the private renters, 15 of the 17 public housing tenants had been resident in their accommodation for at least ten years when they were interviewed. All of the interviewees were living by themselves. The person interviewed who was living in heavily subsidised accommodation was a 70-year-old female.

³ All the names used are pseudonyms.

can pursue other interests. You're more relaxed and I do feel, I really feel you're in for a longer life you know. [It's a] ... nerve-wracking thing, especially if ... you don't own your own home and especially if you're in the rental market when you get older. It's a very dodgy situation.

He was adamant that having secure and affordable housing had allowed him to lead a life he valued, despite the age pension being his main source of income.

Vera (70), who was in subsidised accommodation at the time of the interview but who had previously been in the private rental market, described how her wellbeing had been transformed once her rent dropped from \$250 to \$100 a week and she had adequate security of tenure:

I was a nervous wreck before I moved. Absolute nutter. You don't sleep. Every time you wake up you start worrying again ... I only pay \$100 a week and that stress is gone, I feel a different person I really do. ... I am so happy here ... I look upon myself as very lucky.

Similarly, Marge (75), a public housing tenant, when asked if she was pleased to be in public housing, responded, 'I was never one to have that much, but I've always enjoyed what I've got. It's been wonderful ... The more I live here the more content I feel. Yes, I do'. Steve (75), an interviewee who had experienced intermittent homelessness prior to becoming a public housing tenant, described his housing in the following way: 'When I first came here 21 years ago I thought it was a little bit of heaven and that's probably an over exaggeration but I still don't have any complaints ...'. He is active in the Tenant's Association and is constantly being called upon to resolve tenants' concerns.

The primary problem faced by the older public housing tenants interviewed was living with difficult neighbouring tenants. They coped by making sure that they were home before dusk. Some spent little time in their homes, preferring to spend their days at community centres. Despite this concern, none would contemplate renting in the private

rental market: 'I thought of it once or twice, but no, it's far too expensive. Far too expensive ... I'll stay where I am' (Paula, 72).

The interviews exposed the desperation of older private renters in Sydney. Many of the interviewees in private rental accommodation felt trapped in their precarious situations and their lack of a right to housing meant that they had no means of resolving their dilemma. The stress experienced by many of the older private renters was evidently often intense and relentless. Valerie (70), who was paying \$150 a week, was battling on every level:

Things have got harder lately ... They're squeezing us. They're absolutely squeezing us. I have never felt this squeeze like this. So desperate ... And I don't know if you know, but in older people that suicide is almost as much as it is with young people. And there have been times when I've thought what is the point to life. I really have thought this can't go on.

Margaret (70) had a similar perspective. At the time of the interview she was paying \$240 a week for her cottage and was extremely concerned about her dwindling savings and the possibility of being evicted:

It's a battle that can get you down. I think I'm quite a strong reasonably intelligent woman and I do reason quite well. I think I'm fairly grounded, but it's [being a private renter] still getting the better of me ... And I don't want that to happen. I don't want to fall down in a screaming heap, for want of a better way to put it.

She was on anti-depressants, feeling terribly stressed and adamant that her poor mental health was mainly due to her being a renter in the private rental market. She felt that she had no control over her present or future situation and was constantly preoccupied with what might happen to her.

Another private renter interviewed, Victoria (72), was paying \$320 a week. This represented about 90 per cent of her income. She was only able to keep going because her daughter filled her fridge every couple of weeks.

At the time of the interview Victoria was not sleeping and extremely anxious about the future:

I usually ring Life Line when I feel that I want to commit suicide ... I don't sleep at all at night now, I'm so worried about it all ... I go up and down like a yo-yo. I wish I could take something to die you know what I mean ...I don't see any future. I hope I die quick but if I don't I'm sure I'm going to take something. God knows what. I don't know but I can't live like this much longer ...

All of the private renters appeared to be living in adequate accommodation. Mark (65) was the exception. Because he smoked heavily his disposable income was limited and he was forced to depend on boarding houses for his accommodation. His accommodation at the time of the interview was abysmal:

Well it's an old house that's been converted. Downstairs, what would have been four rooms is eight bedrooms. Upstairs, I'm not really sure of, but I'd say that that's probably ten rooms, maybe more and it's only partitioned ... The furniture is substandard. There's gaps in the floorboards. There's gaps in the walls ... It's exceedingly miserable and bloody cold, especially now that winter is coming on. But that seems to be the standard.

One of the saddest interviews was with Bill (70) who had been forced to leave Sydney's inner-west suburbs where he had lived for almost 40 years with his partner. After his partner died, his de facto step-daughter demanded a market rent and he was forced to look for alternative accommodation. After searching for close on three months he realised that he would not be able to rent in the private rental market in Sydney. The Department of Housing was not able to offer him anything. The only way he could find affordable accommodation was to move to public housing in a village three hours from Sydney.

Do the Rudd government's initiatives represent a fundamental shift in the right to housing?

Since forming the federal government in November 2007, Labor has made housing policy and the expansion of affordable housing a priority. The Green and White papers on homelessness released in 2008 indicate that there is a commitment to improving the situation of homeless and marginally housed Australians (Australian Government, 2008a, 2008b).⁴ This has been reinforced by the National Affordable Housing Agreement (NAHA) which has replaced the CSHA. The NAHA intergovernmental agreement commits to a number of measures 'including social housing; assistance to people in the private rental market; support and accommodation for people who are homeless or at risk of homelessness; and home purchase assistance ...' (COAG, 2008).

The initiatives will certainly benefit a large number of households, but the extent and depth of the housing crisis means that a considerable number of households who at present are in housing stress or crisis will not be able to escape their situation. Thus, although \$6.1 billion has been allocated for public housing and it is envisaged that 19,300 homes will be built, this latter figure represents less than half of the public housing stock that has been lost in the last 15 years and less than 10 per cent of the number of households on waiting lists for public housing.⁵ The commitment to halve the number of homeless people by 2020 is also certainly a progressive step, but the achievement of that goal would mean that in ten years time over 50,000 people will still be homeless on any given night.

Although the government's commitment to bolster the public housing sector, halve the number of homeless people and allocate more funding for legal assistance for homeless people represents the beginnings of a

⁴ Marginally housed would be low-income households who are struggling to retain their accommodation due to their rent or mortgage consuming a large part of their household income. It also refers to households who are living in overcrowded and / or substandard accommodation.

⁵ At the beginning of 2009, over 200,000 people were on waiting lists for public housing nation-wide (ABC, 2009).

human rights approach, there is no explicit incorporation of a human rights framework (PILCH HPLC, 2008). Homeless people will remain subject to harassment and discrimination and the federal and state governments are under no obligation to provide affordable, adequate housing for low-income households. The global financial crisis and the slowness of concrete actions stemming from the 2008 policy announcements resulted in the number of homeless people increasing in 2008 and 2009 (Denholm, 2010).

The remaining policy initiatives (summarised below) are orientated towards ‘working households’ and few households mainly dependent on government benefits for their income, or households living on low-incomes, especially those in the bottom income decile, are likely to benefit. A surprising policy omission is that there has been no endeavour to restructure the CRA policy. There has not been a substantial increase in CRA benefits and there has been no account taken of the substantial differences in the rental market across Australia. There has been no consideration of strengthening the power of tenants by extending the length of leases or increasing the power of tenants to resist rent increases or other pressures leading to eviction after the lease ends. There has also been no mention of rent control. The balance of power remains firmly with landlords.

First Home Owners Boost (FHOB)

A substantial part of the stimulus package for housing, following the onset of the global financial crisis, went towards facilitating entry into homeownership for first time buyers. From 14 October 2008 to 30 September 2009, first time buyers of an existing dwelling were given an additional \$7000, bringing the first home owners grant to \$14,000. Those households who constructed or built a new house were given an extra \$14,000, *i.e.* a total subsidy of \$21,000. Between 1 October and 31 December 2009, the boost was cut to \$3500 for purchasers of existing homes, and to \$7000 for those households who constructed or purchased a new home. By the end of September 2009, 190,000 buyers had taken advantage of the grant. The federal government’s subsidy was scrapped at the end of 2009.

Was the FHOB effective? Its critics argue that it created a housing bubble for lower priced houses, while many of the households who took advantage of the boost could be in a precarious situation if interest rates continue to increase (Dart, 2009; Genworth Report, 2009). A recent survey of 26,000 households who took advantage of the FHOB found that 45 per cent were experiencing mortgage stress or severe mortgage stress (Gardner, 2010). Those households experiencing severe mortgage stress would be missing mortgage repayments.

From a right to housing perspective, the FHOB was orientated towards households who are in the work-force and earning a reasonable income. It is unlikely that many households in the bottom income deciles would have been able to take advantage of the FHOB. Those that did, especially those residing in metropolitan areas, would probably be suffering from serious housing stress despite the FHOB. First-time homebuyers situated in regional areas where housing prices are relatively low certainly benefited far more than did their counterparts in the metropolitan areas.

‘First Home Saver Accounts’

The federal government’s ‘First Home Saver Accounts’ became available in October 2008, orientated towards young couples saving for their first home. The policy provides for the creation of low tax savings accounts for young people who open special accounts geared towards purchasing their first homes (Australian Government, 2008c). For every dollar put into an account, the government contributes 17 cents. A couple who save \$5000 annually will receive a top up of \$850 (the maximum amount) from government and the interest they receive is taxed only at 15 per cent.

Thus far the take up rate of FHSAs has been limited. Potential users appear to have been put off by the stringent conditions attached to setting up the account. Accounts have to be maintained for at least four years and the interest rates being offered by financial institutions on the accounts are not encouraging (Dart 2008). It is probable that only a small proportion of low-income households have been able to participate in this policy initiative.

‘The Housing Affordability Fund’

The Housing Affordability Fund’ is directed towards increasing the supply of private housing by partially funding the building of infrastructure in newly released areas and giving ‘local government incentives to lower development charges’ (Australian Government, 2008c). The initiative is aimed at hastening new housing starts and making development projects financially viable by lowering the cost of homes in new developments. When established, the fund had \$512 million to invest over five years. By the beginning of 2009, 37 projects had been allocated about \$120 million. The funding will cover about 5000 new homes (Department of Families, Housing, Community Services and Indigenous Affairs, 2010). This policy is unlikely to have a substantial impact on the ability of low-income families to access affordable and adequate housing.

The National Rental Affordability Scheme

The ‘National Rental Affordability Scheme’ has been presented as a key part of the government’s endeavour to increase the supply of affordable rental housing in the private rental market. The scheme involves the federal government providing \$622.6 million over four years in order to provide 50,000 ‘affordable’ rental properties across Australia by 2012 and ‘if market demand remains strong the Government will deliver a further 50,000 from 2012 onwards’ (Australian Government, 2008c). The properties are rented out at 20 per cent below market value. Developers are given an incentive (set at \$8672 in 2009) per dwelling per year for 10 years. The amount dispensed is indexed to inflation. It is a scheme that can be expected to benefit some low-income households. The problem is that, even at 20 per cent below the market rent, these apartments will be unaffordable for many households primarily or solely dependent on income support. The Australian Council on the Ageing (COTA), in its assessment of the policy, concluded, ‘While the goal is admirable, there is a serious risk that, even at that reduced rental threshold, many Australians – and notably older Australians, particularly age pensioners – will still not be able to afford the rent’ (COTA, 2008).

It appears that the response of potential investors to the NRAS has been mixed. Due to the costs associated with building new accommodation (the Housing Industries Association has estimated that local, state and federal taxes account for 30 per cent of new housing costs) there is scepticism about the government's estimate that the NRAS will realise a 9.9 per cent return for investors. The Chairperson of Australia's largest superannuation fund commented, 'If everyone was convinced that they could get a 9.9 per cent return there would be no problem at all. People don't think that's what they can get...the actual returns look pretty thin' (Joyce, 2009).

Land Release

Another component of the affordable housing policy is land release – the freeing up of Commonwealth owned land 'for housing development or community infrastructure'. At the moment it appears that most of this land will be allocated for private developments. Government owned land would be sensible spaces on which to build public housing, but there is no indication at this stage of how much of this land will be used for this purpose. Data on the amount of land that has been released is not yet available.

Conclusion

This article has shown that, historically, the commitment of Australian federal governments to the right to housing has not been adequate; and that housing policy over the last two decades has contributed to a housing affordability crisis and a situation where a large proportion of low-income households have inadequate security of tenure. So, if we view housing affordability and adequate security of tenure as key features of a right to housing, a substantial proportion of Australian households do not have a right to housing. This lack of a right to housing has serious implications, adversely affecting the health of many households and diminishing their possibility of living a reasonable life.

Kemeny (1986, p. 276) noted that ‘Once the far-reaching ramifications of housing for the whole of social structure are understood, it becomes possible to appreciate how crucial housing policy is to the viability of a welfare state’. Perhaps the housing affordability crisis is reaching a point where the government may recognise that it is in everybody’s interests to move towards a right to housing. The implementation of this right will be a costly and complex exercise, requiring a considerable increase in government funding to augment the supply and accessibility of affordable housing, along with a rethink of how low-income households in the private rental market are supported, particularly in expensive rental markets like Sydney where the CRA currently paid to households is not adequate. Most fundamentally, what is required is a clear commitment by government to fulfilling the general right to housing. As Sen states:

The understanding that some rights are not fully realized, and may not even be fully realizable under present circumstances, does not, in itself, entail anything like the conclusion that these are, therefore, not rights at all. Rather, that understanding suggests the need to work towards changing the prevailing circumstances to make the unrealized rights realizable, and ultimately, realized (Sen, 2004: 348).

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