

## **Adequate & Affordable Housing for All**

Research, Policy, Practice

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# **International policy and the “Canadian Way” in urban Aboriginal housing**

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Acknowledgements: Many thanks to all of the people who have assisted me in my research on urban Aboriginal housing. A special thanks to my doctoral research advisor Evelyn Peters and my committee members, Betsy Donald, Mark Rosenberg, and Andrejs Skaburskis, for their ongoing support. I wish to recognize the financial support I have received through the Social Sciences and Humanities Research Council of Canada Doctoral Fellowships program, the Ontario Graduate Scholarship program, and the Queen’s University Huntly Macdonald Sinclair Travelling Scholarship.

The number of Aboriginal people living in Canadian cities is increasing, and this trend presents some exciting opportunities for economic and cultural growth and diversification in urban Canada. Compared with the non-Aboriginal population, however, urban Aboriginal people face some very acute cultural, social, and economic challenges. Education levels tend to be lower, unemployment rates higher, and incomes are on average lower than those of non-Aboriginal people (Hanselmann, 2001).

The present affordable housing crisis in urban Canada is very evident within the Aboriginal population (Ark Research Associates, 1996). The majority of Aboriginal households in Canada reside in urban areas (Hanselmann, 2001), and most live in rented accommodation. A significant proportion of this housing is inadequate and not affordable. The number of Aboriginal households living in core housing need is over three times higher than the number of non-Aboriginal households (CMHC, 1998). Aboriginal homelessness in major urban areas ranges from 20 to 50 percent of the total homeless population (Canada, Privy Council Office, 2002 as cited in Graham and Peters, 2002). Aboriginal households may reflect different cultural values that affect the composition of the household (Ark Research Associates, 1996; Peters, 1984) and the design of housing developments (CMHC, 1995). Culturally appropriate housing is seen as being of great importance to the social, cultural, and economic strength of Aboriginal peoples in urban areas (Royal Commission on Aboriginal Peoples, 1996a,b).

Aboriginal peoples comprise one of two national minorities (the other being the descendants of French colonists) that had the Canadian state imposed upon them (Kymlicka, 1998). Unlike other ethnic minority groups in Canadian cities who understood that by moving to Canada they would have to accommodate a certain degree of cultural change, Aboriginal peoples were living here in self-determining societies with distinct societal cultures prior to the Canadian idea (Kymlicka, 1998).

Roger Maaka and Augie Fleras (2000) write about the emergence of “indigeneity” as a discourse that challenges settler post-colonial societies. The discourse of self-determination is central to indigeneity and the project of re-calibrating state-Aboriginal society relations, and is the central tenet of Aboriginal political, cultural, and social rights claims. Self-determination in the sense used here and in international forums (e.g., United Nations Working Group on Indigenous Populations) rarely implies separation or secession. It refers to the inherent (and unextinguished) right of Aboriginal peoples to continue governing their own affairs as original occupants.

It is useful to distinguish self-determination in this sense with self-government, something that nation-states are considerably more at ease with discussing. Self-government typically refers to the delegation or negotiation of administrative authority from the state to Aboriginal institutions (Ekstedt, 1999). I use both of these terms throughout, although I tend towards the use of self-determination in many cases where I am drawing conclusions or making an argument because it subsumes the concept of self-government and is a more basic and fundamental principle than self-government.

When I do discuss self-government, I am referring for the most part to self-governing urban Aboriginal institutions, which constitute a model of self-government that has become popular in the urban context. It is not linked to territory but rather to a self-selecting community of interest (Peters, 1992). This model essentially involves Aboriginal organizations that are run and staffed by Aboriginal people who design and deliver programming to Aboriginal people.

This paper uses changes in international housing and indigenous rights policy represented by the Habitat I (1976) and Habitat II (1996) declarations on human settlements and the United Nations Draft Declaration on the Rights of Indigenous Peoples as basis for comparison with Canadian policy from the 1970s to present. I argue that while Canadian policy addressing the right to Aboriginal self-government has progressed over time, it has not been substantiated in recently initiated affordable housing programming. While considerable progress was made in realising the benefits of self-governed urban Aboriginal housing during the 1970s and 1980s through the institution of the Urban Native Housing Program by the federal government, this progress has not been carried over into new affordable housing programs. This is particularly troublesome given that the Urban Native Housing Program was discontinued in 1993 along with most federal social housing programs. Canadian policy has not been successful in progressively realising the right of urban Aboriginal people to adequate and affordable housing through a framework that recognizes the right to self-determination.

The first section discusses the international rights discourse around housing and indigenous self-determination. In the second section, Canadian policy in these sectors is analysed beginning in the 1970s when Canada began an era of unprecedented development in the non-profit and co-operative housing sector and in the expansion of Aboriginal rights. I then discuss the disconnection that exists between international policy prescriptions and the state of Canadian housing and Aboriginal policy, ending with a fourth section that examines what the future holds for urban Aboriginal housing in Canada.

The empirical work for this paper was drawn from my doctoral dissertation (in progress) and was conducted in 2002-2003. The data used here are from a document analysis using sources from the Canadian Housing Information Centre at the Canada Mortgage and Housing Corporation (CMHC) office in Ottawa. The CMHC is a crown corporation that serves as the federal government's tool for intervening in the housing sector.

### **International Rights to Housing & Indigenous Self-determination**

The International Covenant on Economic, Social, and Cultural Rights (United Nations, 1976b), contains an article on the universal right to an adequate standard of living, including housing (very similar to that in the Universal Declaration of Human Rights (United Nations, 1948)). Article 11 (1) reads:

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 realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Perhaps the most effective way to examine the change over time in international rights discourse around housing is to compare the Report of the United Nations Habitat I conference held in 1976 (Vancouver) with the Report of the Habitat II conference held in 1996 (Istanbul). In the former, the United Nations notes (1976c):

Adequate shelter and services are a basic human right...through the creation of better balanced communities, which blend different social groups, occupation, housing and amenities.

It goes on to prescribe the contours of national involvement:

National housing policies must aim at providing adequate shelter and services to the lower income groups, distributing available resources on the basis of greatest needs.

The tools to distribute to those with greatest needs include low interest loans, loans guarantees, increased government role in renting, leasing, and home improvement schemes, rent subsidies based on family income and need, improved availability of housing alternatives, aided self-help, and stimulation of housing co-operatives.

The Habitat II report (Agenda) and the Istanbul Declaration re-affirm that a right to adequate housing must be pursued. What is most notable is the inclusion of other “partners” in achieving the goal. The other notable difference is that responsibility is proposed to be localized as much as possible, and as such the central role of the state present in the 1976 Habitat I report is diminished. The following items from the Istanbul Declaration offer some evidence of this change in how housing goals (rights) are pursued:

8. We reaffirm our commitment to the full and progressive realization of the right to adequate housing as provided for in international instruments. To that end, we shall seek the active participation of our public, private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable, adequate housing for all persons and their families.

9. We shall work to expand the supply of affordable housing by enabling markets to perform efficiently and in a socially and environmentally responsible manner, enhancing access to land and credit and assisting those who are unable to participate in housing markets.

12. We adopt the enabling strategy and the principles of partnership and participation as the most democratic and effective approach for the realization of our commitments. Recognizing local authorities as our closest partners, and as essential, in the implementation of the Habitat Agenda, we must, within the legal framework of each country, promote decentralization through democratic local authorities and work to strengthen their financial and institutional capacities in accordance with the conditions of countries...

Habitat II continued to support many of the things mentioned in Habitat I, such as the promotion of self-help housing programs and co-operative housing.

The pursuit of self-determination by indigenous peoples internationally has an early basis in the International Covenant on Civil and Political Rights (United Nations, 1976a) and the International Covenant on Economic, Social and Cultural Rights (United Nations, 1976b). Article 1 (points 1 and 3) in both documents states that:

1. All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

The most influential piece of international legislation in the area of indigenous rights is the Draft Declaration on the Rights of Indigenous Peoples (United Nations, 1994). Completed after 12 years of negotiations between governments and indigenous groups, the United Nations Economic and Social Council passed a resolution in 1995 to establish a working group (which includes Canada) of the UN Human Rights Commission to elaborate the draft document (Wherrett, 1999). Aboriginal organizations have criticized the federal government for trying to

weaken the Aboriginal right to self-determination in the final document. The aim is to have the final document elaborated and adopted by the UN General Assembly by the end of 2004, the end of the International Decade of the World's Indigenous People (Wherrett, 1999). In the broadest sense, the right to self-determination and self-government are asserted throughout the document, ranging from autonomy and control in local affairs and services, to the determination of political status and citizenship. It is difficult to summarize the breadth of the document here, but two articles of particular noteworthiness for this paper are (United Nations, 1994):

Article 3.

Indigenous people have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;

With respect to the international right of indigenous peoples to housing, there are specific articles in the Draft Declaration on the Rights of Indigenous Peoples (United Nations, 1994) that are notable. Two articles in particular speak to the right to improvement in housing conditions and the right to determine their own priorities and programs in housing and other economic and social sectors.

Article 22.

Indigenous people have the right to special measures for immediate effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security.

Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and disabled persons;

Article 23.

Indigenous people have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous people have the right to determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions;

The actual implementation of the right to housing as written in these international covenants and in the following Canadian federal legislation is based on the principle of “progressive realization.” In other words, governments undertake to improve the housing of citizens within available resources to make progress toward the achievement of a full realization of the right to adequate and affordable housing. In this important sense, the enforceability of the right to housing is more tenuous than many other political and civil rights, and relies heavily on moral force, and political (including international) pressure.

## **Canadian Rights to Housing & Aboriginal Self-government**

*The 1970s:*

The federal government adopted a predominantly passive approach to social housing issues until the late 1960s, relying on the “filtering down” of new and expensive housing over

time to the low-income market. During the late 1960s, however, the federal government realized that this model was not delivering sufficient housing to lower income Canadians, and sought to increase its involvement in assisted housing, or social housing as of right. Starting with the report of the Hellyer Task Force on Housing and Urban Development in 1969 and the institution of a Ministry of State for Urban Affairs in 1970, the federal government through the CMHC undertook to better understand and act upon the housing needs of those not being served by the private housing market (Canadian Council on Social Development, 1976; Papove, 1975). The Hellyer Task Force was critical of, among other things, the negative social impacts (and financial costs) of public housing and urban renewal schemes. The Task Force also specifically noted that “Indians and Eskimos” had housing problems in common with other Canadians, but also unique issues of their own to contend with, and that movement should continue away from paternalistic housing programs and “toward schemes designed to permit Indians in particular to help themselves in improving their housing and environment (Hellyer, 1969, 58).” The Task Force specifically recommended that (Hellyer, 1969, 59):

Special housing programs and pilot projects for Canada’s Indian, Eskimo and Metis peoples be carefully evaluated after a fair trial period and, if found successful, be vigorously pursued to meet the special needs of these groups.

The Minister of Urban Affairs quickly initiated a series of urban task forces, among which was the Dennis/Fish examination of low-income housing, native housing, and urban assistance (Canadian Council on Social Development, 1976). The transition period between the Hellyer Task Force and the 1973 amendments to the National Housing Act (NHA) saw the promotion in federal housing policy of “self-help efforts among low income people to meet their own housing needs (CMHC, 1970, 1).”

...the evidence of the Hellyer Task Force, the briefs presented to the Senate Committee on Poverty, and the increasing activity of citizens’ groups indicates that the issue of self-determination and participation in decisions relevant to the housing environment is of growing importance (CMHC, 1970, 2).

A \$200 M low-cost housing demonstration program was initiated in 1970 by the CMHC which fostered participation by low income groups in the “self-determination” of decisions affecting their housing environments and demonstrated that they were willing to undertake housing ventures on their own behalf. The non-profit groups funded under this demonstration project were largely involved in rehabilitating older homes for rental or ownership (CMHC, 1970). Kinew Housing Inc. in Winnipeg is one program that was able to take advantage of this program and develop housing to serve the needs of urban Aboriginal people. Another was Wigwamen Housing in Toronto.

During the same time period as new developments in social housing were occurring, developments of historic importance were also taking form in the field of Aboriginal rights and status within the Canadian federation. In 1969, a controversial federal government White Paper on Indian Policy proposed the termination of group rights for Indians and the devolution of existing services and programs to the provincial governments. While Aboriginal peoples had asserted inherent rights to self-determination and self-government long before the White Paper, the mobilization across Canada in response to it was the major catalyst to progress since made in the area of self-government and the recognition of Aboriginal group rights. In 1969, Harold Cardinal wrote *The Unjust Society*, which was the foundation of the response by Aboriginal



peoples to the White Paper, particularly First Nations peoples. In response to the goal of the White Paper to bring Aboriginal people into the mainstream of Canadian society as full and equal citizens through the abolition of group rights, Cardinal argued that the opposite would transpire, that Aboriginal people's station in Canadian society would deteriorate under a myth of equal opportunity and charity (Cardinal, 1969, 165):

A man who believes Canadian society will grant equality to the Indian because of its sense of Christian responsibility or its adherence to Christian beliefs or because of its obeisance to any concept of human rights common to all men, believes in myths. The Canadian society, self-righteously proclaiming itself just and civilized, has not extended equality to the Indian over the past century, and there is no reason to believe, expect or hope that it will change its spots over the next century if the Indian stays weak.

Cardinal argued that central to Indian identity was the recognition and realization of Indian rights, rights that were non-negotiable. He argued that most Indians were unable to discover a sense of purpose and place within Canadian society unless they were first able to realize their sense of being Indian, and having control over their lives in that cultural and societal context. He proposed that services and supports be created and delivered by Indians with the support of the federal government in order to strengthen the foundations of Indian society, through community development, appropriate education, welfare services, recreation, law and policing among other things, all within an environment of self-reliance and independence (Cardinal, 1969). Once the foundations of a strong Indian society were firmly in place, argued Cardinal (1969, 169), co-operation between Indian and mainstream society could develop with greater impact:

From that foundation could grow cooperative ventures, both social and economic, which could help bring the races together, eliminating or dissipating to a large degree much existing bigotry. Racial cooperation is a two-way street. So far only the Indian has been expected to come the extra mile.

The federal government recognized the depth of the protest against their White Paper, and abandoned it, choosing instead to go in the opposite direction, toward finding ways to strengthen the group rights of Aboriginal peoples in Canadian society.<sup>1</sup>

The 1973 amendments to the NHA were extensive and led to CMHC lending funds to non-profit and co-operative organizations under Sections 15.1 (Non-Profit) and 34.18 (Co-operative) of the NHA. The loans were for 100 percent of the capital cost of projects and were combined with a federal capital subsidy amounting to 10 percent forgiveness of the loans. Loans were provided at an interest rate of eight percent amortized over 50 years. Over that time period, at a fixed interest rate, rents could be charged that were favourable to a certain proportion of low-income tenants, roughly 25 percent of their income (CMHC, 1980a). The federal rent supplement program was also extended so that units in non-profit and co-operative housing developments would be eligible (Cogan and Darke, 1983). Provinces would cost-share the subsidy to low-income tenants with the federal government so that the subsidy could be provided to a greater number of tenants. The CMHC also provided significant start-up grants to non-profit and co-

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<sup>1</sup> It is important to note that most discussions of Aboriginal rights up until the re-patriation of the Canadian constitution in 1982 that recognized "Aboriginal rights" that include peoples off-reserve as well as First Nations on-reserve, focussed almost exclusively on the rights of First Nations associated with band councils. The Royal Commission on Aboriginal Peoples in the 1990s brought new attention and credibility to the rights claims of Aboriginal peoples living in urban areas.

operative housing organizations so that they could organize and develop the capacity to produce and administer the housing. The relationship during this phase of social housing production was between the federal government (as financier and program architect and central administrator), provincial governments (as secondary financial and administrative partners), and voluntary sector organizations (as sponsors and administrators of specific housing developments).

In establishing priorities for policy development in the mid-1970s, the CMHC (1975, 2-3) notes that the development of housing policy will coincide with the major emphasis by the federal government on “native policies”:

The Government has placed a major priority on native policies; this emphasis coincides with a major set of proposals being developed jointly by Indian Affairs and CMHC for the extension of new housing programs to Indians on reserves. This on-reserve housing program will address some of the worst housing conditions in Canada. The new proposals will combine an increased use of the Corporation’s programs, with supplementary assistance provided by DIAND over the next five years; program administration will be decentralized to Indian Bands. A rural and native housing program off the reserves is now being implemented by the Corporation and the Metis and non-status Indian organizations. Policies are envisaged as well to address the critical needs of native peoples, both status and non-status, in urban (emphasis in original) centres.

The Urban Native Housing Program as such did not come along until 1985, although in practice, it is considered to have begun in three main stages during the 1970s. The first stage was during the 1970 \$200M low-cost housing demonstration program, where, for example, Kinew Housing Inc. got its start in Winnipeg. With the 1973 amendments, urban Aboriginal organizations sponsored non-profit and co-operative housing developments under section 15.1 of the NHA. The third stage in the development of the non-legislated version of the urban native housing program came in 1977, when under pressure from the Native Council of Canada (now the Congress of Aboriginal Peoples) and urban Aboriginal organizations, the CMHC agreed to dedicate 400 units a year – ten percent of the 1978 social housing allocation – to urban Aboriginal housing organizations (National Aboriginal Housing Association, 1999; Lipman, 1986). In 1983, a “deeper subsidy” was begun unilaterally by the federal government for urban native housing units (400 units a year in 1983, increased to 1,000 units in 1984), ushering in the official version of the Urban Native Housing Program.

All of the developments mentioned above in the area of Aboriginal housing owe largely to the efforts of Aboriginal organizations across Canada, as well as leadership from within the CMHC.

Amendments to the NHA in 1973 were monumental in that they placed a new emphasis on social housing, federal leadership in social housing, and to a lesser extent, the social right of Canadians to adequate and affordable housing. There were program shifts as well toward community-sponsored non-profit and co-operative housing, keeping with trends identified earlier, and averting problems associated with public housing (CMHC, 1975). Now, for example, church groups, native organizations, service groups, and local resident groups were playing a greater role in creating non-profit housing. Relating the impact of the 1973 changes to the NHA, the Canadian Council on Social Development (1976, 13) states that:

There can be no doubt that the scope for social housing had been broadened by this package. The Amendments are sometimes seen as a federal acceptance of responsibility for housing and pursuance of an aggressive housing policy. It was at this time that Mr. Basford (Minister of Urban Affairs and responsible for CMHC) made his “social right” declaration:



“It is the fundamental right of every Canadian to have access to good housing at a price he can afford. Housing is not simply an economic commodity that can be bought and sold according to the vagaries of the market, but a social right.”

The view of the federal government in the late-1970s in housing policy development remained that housing was a basic human need and that it would “provide the beginning point for the social and economic viability of Canadian households – or the beginning point for a whole train of problems (CMHC, 1975, 1).” As its contribution to the pursuit of overall federal priorities in social policy, the CMHC committed itself to developing policy changes that would address the “most fundamental housing problem,” “the provision of adequate shelter at an acceptable proportion of income to all Canadians in need (CMHC, 1975, 5).”

In a discussion of the relationship between Canadian social policy and housing policy, the CMHC (1979) argued, very much in line with Marshall’s social citizenship prescriptions, that social policy was aimed at providing a basic minimum threshold of social standards below which no Canadian should fall. The aim is not, however, a more equitable distribution of income per se.

The basic structure of the complex of social programs in Canada indicates that the motivation behind them is not simply a more equitable distribution of income. Those who favour a more equitable distribution of income tend to support it and press for its enrichment, but it is not necessary to support a more equal income distribution to support such programs. It is necessary to believe only that everyone is entitled to the basic necessities of life, without any concern about inequalities above threshold levels... There is implicit acknowledgement of the obligation of governments to look to the threshold needs of its citizens.... (CMHC, 1979, 2)

The approach followed in housing has been that of seeking to provide households with minimum threshold levels of shelter, measured on the basis of affordability, adequacy and space. The social policy concern is to ensure that households in Canada live in uncrowded conditions, in physically sound units, without spending an inordinately large proportion of their income for housing (CMHC, 1979, 46).

In the late-1970s, housing production began to decline and the Minister of Urban Affairs announced a series of changes to federal government housing policies after several months of consultation with provincial housing ministers (CMHC, 1981). Changes to the NHA were introduced in 1978, including extensive modifications to the non-profit and co-operative housing programs. The federal government maintained its priority of producing social housing for those most in need, and increased the projected units of production under the amended social housing programs. The most tangible programmatic change that resulted from the 1978 NHA amendments was the replacement of the Section 15.1 (Non-profit) and 34.18 (Co-operative) housing programs with the Section 56.1 Non-profit and Co-operative Housing Program. In essence, this new program marked an attempt by the federal government to cap its operating subsidies and end its “public sector borrowing requirements” on capital markets (CMHC, 1980b). Following these new policy directions in 1978 the Treasury Board reduced capital commitments to social housing programs in keeping with the policy amendments toward the greater use of private investment. Beginning in 1979, co-operative and non-profit housing corporations were required to obtain loans from private “Approved Lenders” (CMHC, 1980b) at market rates amortized over 35 years.

#### *The 1980s:*

Relating social housing in the 1980s to the general redistribution goals of the federal government, and the link with individual rights, the CMHC writes (1984, 65):

In Canada, income redistribution is widely accepted as a proper function of the state. In effect, society has made an ethical judgement that increased equity in the distribution of income is desirable and it is this concept of equity which provides the primary rationale for government involvement in the provision of housing. It is apparent that this concept of equity is closely related to the notion of individual rights.

The section 56.1 program succeeded in promoting housing delivery by the third/voluntary sector more so than past programs. The entrenchment of funding by the private sector and delivery by the voluntary sector were considered successful programmatic shifts away from the overwhelming federal government responsibility for these things in past programs. Like under the Section 15.1 program in the 1970s, and the preceding non-profit housing demonstration program of the early 1970s, Aboriginal sponsor organizations such as Friendship Centres participated in the general 56.1 program.

In the realm of Aboriginal rights, progress was continuing to be made during the 1980s. Advocacy by Aboriginal organizations during the 1970s led to the recognition and affirmation of existing Aboriginal and treaty rights in Section 35 of the 1982 Constitution Act (Wherrett, 1999). Between 1983 and 1987, four constitutional conferences and one special committee on Indian self-government (chaired by Keith Penner) attempted to define in more explicit terms what these rights entailed. The Special Committee (of the House of Commons) on Indian Self-Government struck in 1982 produced a final report in 1983 known as the Penner Report after the Committee chair. It advocated for major change in federal Indian legislation, focussing primarily on self-government for Indian bands, rather than more general work on self-government for Aboriginal peoples (i.e., including Métis, off-reserve Indians, and Inuit). The Committee recommended that the federal government recognize First Nation governments as a distinct order of government in the Canadian federation (Penner, 1983).

Interesting in the context of the rights of Indian people living off-reserve, however, the Penner Report notes that the federal government has responsibility for off-reserve Indians as well. It goes further, noting that the problems faced by off-reserve Indian people are a shared federal-provincial responsibility, with legislative responsibility actually resting with the federal government. The report notes that they should have access to special federal programs (Penner, 1983, 67):

...not all Indians will become members of Indian First Nations. These non-members are and will remain "Indians"; they too suffer appalling social conditions and discrimination, whether they live in cities – Regina, Winnipeg, Prince George – or in remote regions of Canada. Their situation cannot be ignored. These people should have rights to special federal programs. By virtue of the *Constitution Act, 1867*, the federal government has jurisdiction for Indians, although federal laws and policies have consistently been designed to deny this constitutional responsibility insofar as Indians living off reserves are concerned.

Wherrett notes (1999, 4) that amendments to the 1982 Constitution were agreed to at the 1983 constitutional conference that included the "recognition of rights arising from land claims agreements and a commitment to include Aboriginal peoples in constitutional conferences dealing with their rights." From that point on, however, until the Royal Commission on Aboriginal Peoples and the federal government's response to it, the absence of a clear understanding of what a right to self-government entailed confounded specific attempts to expand its meaning in Constitutional and policy terms. After the failure of the Charlottetown Accord in 1992 that would have amended the Constitution to recognize the inherent right of self-

government for Aboriginal peoples, the federal government's attention shifted away from constitutional change toward legislation and policy work.

In 1985 a cabinet minister was designated Interlocutor for Non-status Indians and Métis, to oversee negotiations around Aboriginal issues that were not tied to Status under the Indian Act. This was a significant expansion of federal activity and involved much more negotiation with provincial governments than did the work overseen by the Minister of Indian Affairs.

Aboriginal rights as they relate to urban housing policy were being debated in the 1980s, as they are today. The conflict over pursuing "equal rights" versus "special status" was ongoing in the 1980s, and specifically in the housing policy sector as well (Antony, 1981). As a means of breaking the cycle of dependency upon mainstream charity and recognising a distinctive "native identity" and the importance of this to wellbeing, a specific urban native housing policy was advocated for (Antony, 1981). The idea of "self-help" seemed to hold currency in pursuing better program outcomes for Aboriginal people in urban housing developments. Further, it was argued by Antony (1981, 90) that:

The potential for native control is of primary importance. Native run organization is the surest means of allowing natives to define and maintain a distinct native identity in the late 20<sup>th</sup> century.

The Urban Native Housing Program was officially enacted in 1985, although as described in this section, it had evolved in practice beginning in 1970 when the Winnipeg Indian and Métis Friendship Centre took advantage of the CMHC's \$200 million demonstration program to create the country's first Aboriginal-run urban low-cost housing corporation. Later developments included the setting aside of at least 400 units a year (10 percent of total social housing units allocated in 1978) for urban native corporations. It was not until 1983 that funding was provided on a unilateral federal basis to provide "deeper subsidies" on 400 units of urban native housing annually. This was the beginning of the "official" Urban Native Housing Program. It was the only social housing program with this level of unilateral federal subsidy (Lipman, 1986). In 1984, the deeper subsidy was applied to 600 additional units annually.

In an evaluation of its urban social housing programs (CMHC, 1999), the CMHC found that the Urban Native Housing Program out-performed the other programs (i.e., non-profit and rent supplement) on several indicators of emotional wellbeing. Compared with Aboriginal tenants in non-profit and rent supplement units (i.e., Aboriginal people not resident in Urban Native Housing Program units), since moving into their current housing a significantly higher proportion of households in Urban Native Housing Program units had increased their use of social services, made more friends, felt more secure, more settled, and more independent (CMHC, 1999).<sup>2</sup>

The Royal Commission on Aboriginal Peoples (1996a,b) provides testimony to some of the strengths of the Urban Native Housing Program, that include family stability, access to education and employment, preservation of cultural identity, and better relations between Aboriginal and non-Aboriginal people. Counselling services associated with the Urban Native Housing Program organizations were noted as an importance resource for increasing self-reliance.

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<sup>2</sup> These conclusions were drawn from statistical relationships derived using ordinary least squares regression analyses (CMHC, 1999).

The accommodation provided through these housing corporations, as revealed in tenant interviews, has had considerable benefits, including family stability, access to education opportunities, the preservation and reinforcement of cultural identity and, for the most part, a positive impact on relations between Aboriginal and non-Aboriginal people. In addition, the stable environment provided by these corporations has enabled tenants to take advantage of employment opportunities, to further their education and, in some instances, to buy their own homes. Through counselling services, the corporations have also helped tenants gain access to government and other resources to increase their chances for self-reliance (RCAP, 1996b, n.p.).

*The 1990s and Beyond:*

Documents from the 1990s show a remarkable change in focus within the federal government and the CMHC with respect to social housing and its relationship with to the Canadian social safety net. In *Social Housing and the Social Safety Net: Directions for the 1990's and Beyond* (CMHC, 1991), there is a general stock-taking and conceptual evaluation of where the corporation and federal government see themselves targeting housing energies. Identifying the two broad objectives that underlie the federal social safety net as “the sharing of resources so as to ensure each citizen can adequately meet basic needs, and second the maintenance of an appropriate degree of income security and stability,” the CMHC inquired into how it could contribute to these objectives by helping house low-income Canadians (CMHC, 1991, 8). With more than 600,000 units under several social housing programs and administrative arrangements and less than 20,000 new social housing units being added per year, and present budget constraints, the CMHC proposes that emphasis must be placed on the management of the existing resource base.

Given the current budget constraints and the capital already invested in the existing stock (i.e. the value of the public housing stock alone has been estimated at \$13 billion), it is not surprising that the preservation of the national asset of the existing social housing stock is receiving increasing attention.

While new social housing units and possibly programs will be part of the future, an examination of the future of social housing within the social safety net should therefore also recognize the role which existing social housing projects and communities will necessarily be called to play (CMHC, 1991, 100).

By 1991, the evolution of housing policy had led to an apparent re-shuffling of objectives from those of earlier periods (i.e., 1970s and 1980s). Housing information production and dissemination had become a central priority and the assistance of those in need of low-cost housing was given third billing and a slightly more muted tone. The three major roles of the federal government in housing in 1991 were (CMHC, 1991, 12):

To support the private housing market (e.g., through the provision of mortgage insurance and financial instruments such as mortgage-backed securities);

To assist in the development and dissemination of information about housing; and

To assist those who are still unable to access adequate housing in the private market.

Trying further to fit the role of social housing within the broader contours of a changing federal social agenda, the CMHC began to tackle some fundamental questions such as (CMHC, 1991, 43):

Given the increasing percentage of social assistance recipients living in social housing, should the push toward self-sufficiency and an active society applied in recent reforms of social assistance also apply to or affect social housing programs?

Are there disincentives to rejoining or staying in the workforce for those living in social housing?

If the new social assistance philosophy is to promote the reintegration of single-parents and others into the labour force, what services could/should be added to help promote this transition?

What other services could/should be added for the well-being of children?

In 1991, the CMHC and federal government created the Canadian Centre for Public/Private Partnership Housing. Recognising that government subsidies for continuing social housing were not forthcoming and given the on-going need for low-cost housing production in Canada, the Centre was set up to identify, initiate, advise, and facilitate public-private partnerships for low-cost housing (CMHC, 1996). In addition to providing leadership in this domain, it was also intended to act as a contact point for people to access CMHC products and services. In 1995, the Centre assisted with 39 projects, resulting in 2,143 units of housing sponsored by community-based non-profit groups. The majority of these were targeted to seniors. Others targeted people with disabilities, troubled youth, non-elderly single people, and families. None of the projects targeted Aboriginal people. Despite the successes of the Centre, the CMHC (1991, 91) notes that, "housing is such a large and expensive commodity that it does not lend itself to unilateral voluntary sector support, perhaps with the exception of homeless shelters." This point was confirmed by Kraus, Eberle, and Pomerleau (1998) in their work for the CMHC that documented case studies of non-profit affordable housing initiatives. The tremendous contributions by the voluntary sector to create a small number of units has made "many people question if the enormous work involved will limit the ability of the sector to meet national housing needs (Kraus, Eberle, and Pomerleau, 1998, 20)."

The federal government discontinued its social housing programs in 1993, with the exception of housing on First Nations reserves and programming aimed at housing rehabilitation through its contributions to the Residential Rehabilitation Assistance Program. The administration of the existing stock of social housing, generated over past decades, was transferred to most provincial governments through bi-lateral agreements beginning in 1996. With this, the portfolio developed under the Urban Native Housing Program was transferred to provincial governments. Despite the historic (fiduciary) relationship that Aboriginal peoples have had with the federal government (and directly with the British Crown), and the risk that provincial governments would simply blend the Urban Native Housing Program portfolio into the general portfolio of social housing, the transfer occurred anyway to considerable protest from the Aboriginal community. The federal Minister Responsible for the Canada Mortgage and Housing Corporation at that time chose to exclude the co-operative housing portfolio from the transfer to the provinces, keeping it under federal administration. He noted that the co-ops represented a "special clientele," something that presumably in his view urban native housing did not.

While the federal government's involvement in social housing was retrenching during the 1990s, work on Aboriginal rights, particularly to self-government, was expanding considerably. In 1993, the newly elected Liberal government committed itself to recognising the inherent right of self-government without re-engaging in constitutional debates (Wherrett, 1999). The 1995 inherent right policy, passed by the federal government, asserts that self-government rights can be provided for under section 35 of the Constitution Act 1982 in new treaties, as part of



comprehensive land claim agreements or as additions to existing treaties. And, “[f]or groups without a land base, the government is prepared to consider forms of public government, the devolution of programs and services, the development of institutions providing services, and arrangements in those subject matters where it is feasible to exercise authority in the absence of a land base (Wherrett, 1999, 8).”

The Royal Commission on Aboriginal Peoples finished its work in 1996, advancing the discourse on the special place and circumstances of Aboriginal peoples in the Canadian federation. The Urban Perspectives chapter in the Royal Commission outlines the Commission’s view that both the provincial and federal governments have specific responsibilities to provide culturally appropriate services to off-reserve (urban) Aboriginal people, to the extent required in order for them to achieve a standard of living that approximates that enjoyed by the average Canadian. The Commission also advocated for the design and delivery of programs and services by Aboriginal institutions in urban areas where the population was large enough to support such institutions. As such, Aboriginal service institutions would also be manifestations of the “community of interest model” of self-government in urban areas (RCAP, 1996a). Aboriginal housing corporations are one example of urban self-government by community of interest. Other examples include Aboriginal schools or school boards, health and wellness organizations, economic development enterprises. The Commission noted that Aboriginal institutions not only provide much needed services with improved outcomes, but also act as vehicles supporting Aboriginal identity. They also provide employment opportunities and the possibility of incubating new enterprises.

*Gathering Strength: Canada’s Aboriginal Action Plan* (Government of Canada, 1997) was the official policy response to the Royal Commission on Aboriginal Peoples. It expands on the federal inherent right policy passed in 1995 to include a specific reference to urban Aboriginal self-government taking into account the Royal Commission’s discussion of appropriate models in urban areas. With respect to the inherent right to self-government in general, *Gathering Strength* reads (Government of Canada, 1997, 13):

The Government of Canada recognizes that Aboriginal people maintained self-sufficient governments with sustainable economies, distinctive languages, powerful spirituality, and rich, diverse cultures on this continent for thousands of years. Consistent with recommendations of the Royal Commission on Aboriginal Peoples, the federal government has recognized the inherent right of self-government for Aboriginal people as an existing Aboriginal right within section 35 of the *Constitution Act, 1982*.

With respect to self-government off-reserve, and specifically in urban areas, the policy notes (Government of Canada, 1997, 14):

Self-government processes for Métis and off-reserve Aboriginal groups exist in most provinces. In these processes, the federal government is prepared to consider a variety of approaches to self-government, including self-government institutions, devolution of programs and services, and public government. All of these initiatives provide opportunities for significant Aboriginal input into program design and delivery, and should ultimately lead to direct control of programming by Aboriginal governments and institutions. New approaches to negotiations in the recent past have led to agreements on processes being reached with the land-based Métis Settlements General Council in Alberta and with the urban-based Aboriginal Council of Winnipeg.

Back now to the social housing sector, new commitments for social housing were not forthcoming from the federal government until 2001, when the federal and provincial governments agreed to a framework for a new Affordable Housing Program. By 2002, the



CMHC had finalized bilateral agreements with most of the provinces and territories, committing almost \$680 million in federal funding (to be matched by the provincial/territorial governments) for affordable housing. In this program, provinces and territories interested in entering into a bilateral agreement to access a portion of the federal funding would have to themselves contribute an equal amount of funding to the Program. In the 2003 budget, an additional \$320 million was allocated to bring the total federal investment in the Program to \$1 billion over a five-year period.

In the bi-lateral negotiation processes with provinces and territories (and a separate negotiation process occurred with each jurisdiction), the federal government did not, in any instance, display leadership in securing a stream of targeted funding for urban Aboriginal housing.

### **A Discussion of the Disconnection between International and Canadian Policies on Housing and Aboriginal Self-determination**

How does the “Canadian way” in urban Aboriginal housing compare with what international covenants suggest should transpire in this sector? The changes over time in Canadian housing policy have kept with the international trend, evident in a comparison between Habitat I (1976) and Habitat II (1996), toward pursuing a partnership model (between public, private, and voluntary sectors) for the design and delivery of human services such as housing, and shifting responsibility toward more localized levels of government (e.g., provincial in Canada). The progressive realization of a social right to adequate and affordable housing for all Canadians has regressed, particularly since 1993 when the federal government discontinued its social housing programs. The need for adequate and affordable housing for Canadians of lower socio-economic status has become more acute since 1993, as revealed partially through the growing crisis of homelessness in Canadian cities (e.g., [Toronto] Mayor’s Homelessness Action Task Force, 1999). As mentioned in the introduction to this paper, the largest single group among the homeless population in Canadian cities is often Aboriginal people.

Changes in Aboriginal rights policy in Canada have not brought forth a recognition of the inherent right to self-determination, such as that defended in the Draft Declaration on the Rights of Indigenous Peoples (1994). A right to self-government has been recognized in federal policy, however, after several decades of pronounced political (and legal) advocacy by Aboriginal organizations.

It would seem, however surprisingly, that in the social housing sector much progress was made during the 1970s and 1980s to substantiate a significant degree of Aboriginal self-government through the instituting of the Urban Native Housing Program. This was during a time when the position of the federal government toward the self-government of urban institutions by Aboriginal organizations was not nearly as advanced or clearly pronounced as it is today. In the era where it did become pronounced – notably with the recommendations contained in the “Urban Perspectives” of the Royal Commission on Aboriginal Peoples (1996) and the federal response to the Royal Commission (*Gathering Strength: Canada’s Aboriginal Action Plan*, 1997) where support for measures of urban self-government through institutions was confirmed – gains made through the Urban Native Housing Program were lost. For example, in the year that the Royal Commission published its report (i.e., 1996), the administration of the Urban Native Housing Program was transferred from the federal to the provincial governments, where provincial governments will be able to pool this special portfolio in with the other

mainstream social housing programs (if they so choose) once present operating agreements passed down from the federal government expire. Further, this represented a shift in future responsibility for non-reserve Aboriginal housing from the federal to provincial/territorial governments (Hill, 2003). This action did not take into account the fiduciary relationship between the federal government and Aboriginal peoples, and the responsibility of the federal government to consult with Aboriginal peoples when they exercise legislative powers in a way that may affect their wellbeing (Royal Commission on Aboriginal Peoples, 1996, as cited in Hill, 2003).

Most notably, when the federal government did launch its new Affordable Housing Program in 2001, it did not dedicate a program stream to urban Aboriginal housing despite the fact that Aboriginal peoples are the worst housed social group in Canadian cities, and the fact that programs administered by Aboriginal organizations for Aboriginal peoples have better program outcomes than mainstream programs. And finally, despite the fact that the right to self-government has been firmly entrenched in federal government policy since 1995.

So if the Canadian way of pursuing both the progressive realization of a right to housing for all Canadians and the entrenchment of the political right of self-determination for Aboriginal peoples has been taking us backwards in the low-cost housing sector during the 1990s and early years of this century, what does the immediate future hold?

### **Future for Urban Aboriginal Housing?**

The future is unclear with respect to urban Aboriginal housing. The operating agreements governing the organizations and units developed during the Urban Native Housing Program are beginning to expire, and this will continue in the coming years (operating agreements were typically for 35 years, and so the expiration depends on the year in which the units were developed). Once they expire and without new commitments to sustain these units as dedicated low-cost housing for Aboriginal households, they may simply be sold on the private market.

The Prime Minister's Caucus Task Force on Urban Issues (Government of Canada, 2002) specifically recommended that the Government of Canada "strengthen the mandate of Canada Mortgage and Housing Corporation to develop a National Affordable Housing Program in collaboration with all orders of government and housing providers." The Task Force also added a level of refinement to its housing recommendations, urging targeted initiatives for urban areas that include, among other things, "giving special consideration to the critical need for housing among the urban aboriginal community... (Government of Canada, 2002, 13)."

In succeeding Speeches from the Throne and Federal Budgets, no new commitments to urban Aboriginal housing have come forth, despite the recommendations of the Task Force. Further, the Task Force does not address the issue of whether or not the "critical need for housing among the urban aboriginal community" should be addressed through a program(s) designed and delivered with Aboriginal housing organizations.

A federal election campaign is now underway, and the Liberal and NDP candidates are both making commitments to re-engage the federal government in affordable housing activity at a scale beyond the Affordable Housing Program initiated in 2001. There has not been any mention of a specific urban Aboriginal housing stream, however, although perhaps there would be one. To conclude this paper, I will shift my examination to the type of interventions Aboriginal organizations have been calling for in the urban (or non-reserve) low-cost housing

sector during the 1990s. If the federal government is unclear about what should be done to address the housing needs of urban Aboriginal people, Aboriginal organizations are not.

While the recommendations made by different Aboriginal bodies concerned with housing differ in some ways from one another, there is consistency in the call for self-determination/self-government in the low-cost housing sector and the need to build on the successes of corporations developed during the Urban Native Housing Program. The Royal Commission on Aboriginal Peoples (1996b) recommended that the federal government make available resources to meet the housing needs of Aboriginal people on-reserve over a ten-year period, and partner with the provincial and territorial governments to reach the same goal in rural and northern communities and in urban areas. Building on the successes of urban Aboriginal housing corporations developed during the Urban Native Housing Program, the Commission recommended that the mandates of these corporations be expanded to increase self-reliance among households through home-ownership schemes. These could include lease-to-purchase options with tenants and direct housing sales to tenants, for example; this in addition to providing subsidized rental housing (RCAP, 1996b). The Commission also recommended increasing the provision of rent subsidies either attached to particular units or to individual households that displayed need. Citing continuing discrimination in the private rental market, however, the Commission felt that there would remain a need for Aboriginal social housing corporations.

Both the Métis National Council (MNC) and the Congress of Aboriginal Peoples (CAP) were invited by the CMHC to submit housing reports in recognition of the start of the International Decade of the World's Indigenous Peoples (1994). Both reports focussed centrally on the importance of a new non-reserve Aboriginal housing policy and the importance of placing responsibility for its design and delivery with Aboriginal authorities (MNC, 1993; CAP, 1995).

The National Aboriginal Housing Association (NAHA), which is the national organization that represents off-reserve Aboriginal housing corporations, offers the following statement in the first of its key objectives for a new national urban Aboriginal housing strategy (NAHA, 1999, 8):

The strategy has to be premised upon the principle of self-determination. The Aboriginal community must be responsible for the delivery and management of its housing services. In some cases, this will require assistance in developing appropriate infrastructure supports. In other cases, it will require recognition of the delivery and management capabilities of existing housing providers.

In the recently released document, *A New Beginning: The National Non-Reserve Aboriginal Housing Strategy* (NAHA, 2004), the National Aboriginal Housing Association expands the guiding principles for a new national non-reserve housing strategy. They note specifically that three principles must guide a new national housing strategy for non-reserve Aboriginal people (NAHA, 2004): 1) (federal) fiduciary responsibility, self-determination, and the need to consult; 2) cultural sensitivity and well-being; and 3) access to adequate resources. They go on to provide a concrete model for implementation and an agenda for action.

While the federal government has not made a clear commitment to instituting a new urban Aboriginal housing program, Aboriginal organizations are prepared to engage in a process of program design and delivery in partnership with the federal (and provincial) governments. The Canadian way forward in urban Aboriginal housing is unclear, but Aboriginal organizations – particularly the National Aboriginal Housing Association that represents non-reserve (largely

though not exclusively urban) Aboriginal housing organizations – are prepared to cut a new path if the federal government will commit to making up lost ground in this sector.

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