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ABSTRACT

This article analyzes the normative consistency and operationalization of the right to housing, integrating rights theory and the Capability Approach. Methodologically, it takes the form of a qualitative theoretical essay based on bibliographic research and deductive reasoning. The analysis distinguishes between programmatic and legally enforceable rights, as well as between formal protection and substantive effectiveness. It then examines how the right to housing is structured within the legal framework and human rights instruments. The results demonstrate that legal codification does not guarantee effective housing outcomes, as the material availability of a home does not automatically translate into security, autonomy, a sense of belonging, access to services, or social participation. Based on this finding, an analytical assessment matrix is proposed. The study concludes that realizing the right to housing requires integrating enforceable guarantees, programmatic objectives, institutional coordination, and an assessment of the capabilities actually expanded across different territorial contexts.

Keywords: Right to housing. Institutional effectiveness. Social citizenship. Capability Approach. Housing policy.

RESUMO

Este artigo analisa a consistência normativa e a operacionalização do direito à moradia, articulando teoria dos direitos e a Abordagem das Capacidades. Metodologicamente, desenvolve-se um ensaio teórico, de natureza qualitativa, fundamentado em pesquisa bibliográfica e raciocínio dedutivo. A análise distingue direitos programáticos dos juridicamente exigíveis, bem como proteção formal e efetividade substantiva. Em seguida, examina a configuração do direito à moradia no ordenamento e nos instrumentos de direitos humanos. Os resultados demonstram que a positivação jurídica não assegura a efetividade habitacional, pois a disponibilidade material de uma moradia não implica sua conversão em segurança, autonomia, pertencimento, acesso a serviços e participação social. Com base nessa constatação, propõe-se uma matriz analítica de avaliação. Conclui-se que a efetivação do direito à moradia exige a articulação entre garantias exigíveis, objetivos programáticos, coordenação institucional e avaliação das capacidades efetivamente ampliadas em diferentes contextos territoriais.

Palavras-chave: Direito à moradia. Efetividade institucional. Cidadania social. Abordagem das Capacidades. Política habitacional.

INTRODUCTION

Housing occupies a unique position among the goods necessary for social life. It is, simultaneously, a physical shelter, a material basis for daily life, a point of access to services and rights, a space for privacy, a territorial reference point, and a foundation for emotional and community bonds. Therefore, its absence or inadequacy constitutes more than just a deprivation of property. It compromises safety, health, social participation, and the concrete possibilities of leading a life in accordance with valued goals. This multidimensionality explains why housing simultaneously mobilizes arguments regarding dignity, legal categories of fundamental rights, and distributive choices inherent to public policy.

Despite its relevance, the discourse on rights in the field of housing is marked by ambiguities. The expression “right to housing” can refer to a universal moral claim, a constitutional norm, a programmatic objective, an enforceable individual claim, or a guiding principle for administrative decisions. Furthermore, it is important to distinguish it from “housing rights” that protect people who are already housed, such as safeguards against arbitrary evictions, discrimination, harassment, or unlawful dispossession. These meanings are not equivalent and have distinct consequences regarding rights holders, corresponding duties, implementation mechanisms, and resource allocation.

The central question guiding this article can be formulated as follows: under what conditions does a rights-based approach provide a conceptually coherent and institutionally useful foundation for housing policies and efforts to address homelessness? This question requires moving beyond two oversimplified responses. The first assumes that proclaiming housing as a human right is sufficient to define its content and ensure its effectiveness. The second restricts the existence of rights to claims that are immediately enforceable in court, disregarding the normative and political function of programmatic commitments.

The overall objective is to analyze the relationships between the philosophical foundation of rights, their institutional legal recognition, and the substantive content of housing. Specifically, the study seeks to distinguish rights conceived as natural from those that are socially constructed; to examine citizenship as a mediating force between political philosophy and institutions; to differentiate between programmatic and legally enforceable rights; to discuss the shaping of the right to housing within the legal system and in international instruments; and to evaluate the contribution of the Capabilities Approach to specifying what should count as adequate housing protection.



The thesis put forward is that the right to housing cannot be understood through a single dimension. A universal moral horizon may justify priorities and criticism, but it depends on institutions to become effective. Legal recognition, in turn, expands protection and accountability, but does not on its own resolve distributive conflicts nor ensure that the good provided produces well-being. Programmatic rights guide collective policies, while enforceable guarantees limit arbitrariness and protect individuals in serious situations. The Capabilities Approach completes this picture by shifting the focus from the mere availability of a physical unit to the opportunities that housing enables individuals to exercise.

The study's original contribution lies in organizing these dimensions into an integrated matrix of rights and capabilities applied to housing. The matrix distinguishes between normative basis, legal status, institutional scale, unit of protection, and substantive evaluation criteria. In doing so, it makes explicit that housing policy must be simultaneously legitimate, institutionally defined, collectively sustainable, and sensitive to differences in the conversion between resources and human capabilities.

The text is organized into seven sections, in addition to this introduction. Following the presentation of the methodological procedures, the philosophical foundations of rights and capabilities are discussed. Next, social citizenship is employed as a bridging concept to distinguish between different forms of housing protection. The following two sections examine, respectively, the Brazilian legal framework and the international context. The discussion systematizes the proposed analytical framework, and the concluding remarks summarize the study's findings, implications, and limitations.

METHODOLOGY

This study is characterized as a qualitative theoretical essay, supported by bibliographic and documentary research. Its purpose is not to measure the housing deficit, evaluate a specific program, or draw causal inferences. It seeks to reconstruct concepts, clarify normative assumptions, and examine the coherence of the relationships established between rights, citizenship, capabilities, and housing policy. The predominant line of reasoning is deductive, drawing on general categories from moral philosophy, citizenship theory, and legal theory to analyze their implications in the realm of housing.

The literature review was organized into four main areas: a) theories on natural rights, positivism, and human rights; b) social citizenship and welfare rights; c) the Capabilities Approach; and d) studies on housing rights, homelessness, and public policies. The documentary research focused on the Constitution of the Federative Republic of Brazil, Constitutional Amendments No. 26/2000 and No. 45/2004, the Universal Declaration of Human Rights, and the International Covenant on Economic, Social, and Cultural Rights. These documents were considered not as empirical evidence of effectiveness, but as formal expressions of the normative commitments under examination.

The analytical process comprised four steps. First, the categories of natural rights, socially constructed rights, capability, social citizenship, programmatic rights, and legally enforceable rights were reconstructed. Second, their functionings, assumptions, and limitations were compared. Third, these categories were applied to the national and international levels, examining the relationship between normative proclamations and implementation mechanisms. Fourth, the identified dimensions were synthesized into an integrated matrix designed to highlight the article's originality and analytical utility.

Since this is a theoretical study, the conclusions are of an analytical nature. The proposed matrix should be understood as a tool for formulating questions, comparing arrangements, and guiding future evaluations. Its validation requires additional research on programs, judicial decisions, beneficiaries' trajectories, and territorial variations.

FROM FOUNDATIONS TO RIGHTS: HOUSING AND HOME

A persistent controversy in the discourse on rights concerns their origin. In the natural rights tradition, certain rights belong to people by virtue of their very human condition and precede state recognition. From constructivist or positivist perspectives, rights depend on social practices, political decisions, and norms valid within a community. The difference is not merely terminological. If a right is understood as inherent and universal, its normative authority is independent of existing legislation; if it is conceived as an institutional construct, its existence and scope are linked to processes of recognition, the definition of duties, and the creation of enforcement mechanisms.



Positivism offers an important objection to claims of universality grounded in a supposed natural order. By separating the validity of norms from moral judgments about them, this school of thought warns against the ideological use of foundations presented as self-evident or immutable. As Ross (1974) warns, “natural rights is available to everyone. There is no ideology that cannot be defended by an appeal to natural rights” (Ross, 1974, p. 261).

This critique, however, does not eliminate the need to evaluate institutions morally. Human rights have become the modern heirs to part of the function once performed by natural rights: they articulate claims about what is due to all people and offer a language for questioning states and social practices. In Rawls (1999), they function as normative limits on political conduct; in Turner (1993), their justification may rest on the shared vulnerability of human beings. Still, the question remains of how to move from general values, such as dignity and integrity, to defined substantive rights, such as access to adequate housing.

The reference to human needs contributes to this transition but does not automatically resolve it. McLachlin (1998) warns that need and right are not interchangeable categories. There are essential needs (affection, recognition, belonging, and respect) whose fulfillment cannot be directly guaranteed by legal mandates. Ignatieff (1984) similarly observes that the language of rights does not replace all the social relationships indispensable to a dignified life. The consequence is twofold: the identification of a need may justify collective action, but it is still necessary to define who should act, by what means, for whose benefit, and under what criteria.

The Capabilities Approach, developed by Amartya Sen and Martha Nussbaum, offers a way to specify the substantive content of these claims without reducing them to the possession of goods. Its focus is on substantive freedoms—that is, the real opportunities to be and do what one has reason to value. Functionings correspond to states and activities that are actually realized; capabilities denote the set of combinations of functionings that are within a person’s reach. The assessment, therefore, moves beyond simply asking which resources have been distributed and begins to investigate what different people are actually able to achieve with them.

Sen rejects a universal and fixed list of capabilities, as he believes that the selection and weighting of relevant elements must remain open to public judgment. His objection does not imply

an absence of criteria, but rather resistance to a theoretical determination immune to democratic deliberation. For Sen (2005), “pure theory cannot ‘freeze’ a list of capabilities for all societies for all time to come, regardless of what citizens may come to understand and value” (Sen, 2005, p. 158).

Nussbaum (1992, 2000, 2011b), in contrast, proposes a list of core capabilities associated with human dignity, including life, bodily health, physical integrity, senses and thought, emotions, practical reason, affiliation, and control over one’s environment. The author conceives of these capabilities as a minimum standard of justice, but leaves room for contextual specification and individual choice. In her formulation, universality does not derive from a rigid metaphysics, but rather from a moderate humanistic essentialism, open to public and intercultural interpretation (Nussbaum, 1992; Sayer, 1997).

In the field of housing, this approach highlights that a home is a resource, not an end in itself. People of different ages, health conditions, family structures, incomes, social networks, and geographic locations utilize the same resource in different ways. A housing unit located far from services, jobs, and transportation may formally reduce the housing deficit while simultaneously restricting mobility, care, education, and participation. A building that lacks accessibility may exist as an asset but fail to provide autonomy for a person with a disability. Security of tenure, environmental quality, maintenance costs, and exposure to violence also influence the transformation of the physical asset into valuable outcomes.

The transition from housing-as-a-resource to housing-as-a-capability thus requires an assessment of whether the provided housing can be converted into security, access to services, work, social interaction, and social participation (Lutzer, 2025). This framework brings housing policy closer to regional development, because the factors involved in this conversion depend on the specific characteristics of each territory: availability of infrastructure, the labor market, mobility, environmental risks, care networks, and power relations. The uniform distribution of housing units does not produce uniform results when personal and territorial conditions are heterogeneous.

Conversion also has an experiential dimension. Housing quality depends on the space’s capability to foster a sense of belonging, identity, and meaning, and not merely on its material functionality (Lutzer; Mueller, 2026). The experience of dwelling brings together corporeality,



memory, intersubjective relationships, and a sense of place. This does not mean that the state can legally guarantee all the emotional ties associated with housing; it means that the design, location, and management of policies can either foster or undermine the conditions necessary for residents to make the space their own.

McNaughton Nicholls (2010) demonstrates the value of the Capabilities Approach for analyzing housing and homelessness precisely because it brings together resources, context, and freedom. A person experiencing homelessness does not merely lack a roof over their head; they face combined restrictions on safety, health, privacy, participation, and control over their own life. Correspondingly, overcoming homelessness requires more than simply providing a physical structure; it requires creating conditions that allow it to become a stable foundation for functioning and making choices.

This approach, therefore, does not eliminate the discourse on rights. It qualifies it. Capabilities can provide substance to claims of rights, while rights can offer institutional means of protecting capabilities. Nussbaum (2011a) explicitly brings the two vocabularies together by considering core capabilities as fundamental rights linked to minimal social justice.

Sen (2005), although less committed to a fixed list, argues that human rights and capabilities can reinforce one another through public discourse. The next question is how this normative justification connects to the political institutions in which rights take shape and become effective.

FORMS OF HOUSING PROTECTION

The concept of social citizenship allows us to move from the philosophical to the institutional level. In Marshall's (1964) classic formulation, modern citizenship encompasses civil, political, and social rights. Civil rights protect individual freedoms and access to justice; political rights ensure participation in the formation of power; and social rights guarantee access to a standard of well-being compatible with full membership in the community. Although constructed from a specific historical trajectory, this typology has analytical utility for understanding housing as a component of social belonging.



Housing highlights an internal tension within citizenship. On the one hand, civil rights protect property, contracts, possession, and due process, offering individualized claims. On the other hand, housing as a social right depends on collective decisions regarding planning, financing, location, infrastructure, and distribution. Marshall (1964) observes that policies on urbanization, the removal of informal settlements, and the construction of new residential areas produce effects that extend beyond individual beneficiaries. The urban configuration and the general pattern of provision affect the entire community.

This tension can be clarified by distinguishing between programmatic rights and legally enforceable rights. Programmatic rights express public objectives and priorities that should guide legislation, budgeting, and administration, even though they do not automatically confer a specific individual benefit. They function as institutional commitments subject to progressive realization, goal-setting, and political oversight. According to Mabbett (2005), this type of language links social policy to recognized objectives; according to Bengtsson (2001), it indicates that certain goods should take priority in government action.

Enforceable rights, by contrast, grant the holder a claim that can be brought before a decision-making authority, particularly the judiciary. Their advantage lies in reducing dependence on administrative discretion, requiring justifications, and protecting individuals against omissions or arbitrary treatment. In the area of housing, they can provide protection against eviction without due process, against discrimination, and ensure access to legally provided benefits or emergency assistance in defined situations. By converting a recognized need into a legal status, they can also reduce the stigmatizing nature of assistance and reaffirm one's status as a citizen (Kenna, 2005; Fitzpatrick & Stephens, 2007).

Enforceability, however, is not a complete solution. Dean (2002) draws attention to the risk of the judicialization of welfare: disputes over priorities, program design, and scarce resources may be shifted to institutions with limited planning capability. Individualized judicial decisions may also favor those with greater access to information and legal representation, without necessarily improving the system for less organized groups. Furthermore, orders focused on isolated cases can fragment policies that require territorial coordination and budgetary continuity.

These limitations do not justify pitting the two approaches against each other as mutually exclusive alternatives. Programmatic rights are necessary to guide collective provision, set goals, and organize state capacities; enforceable rights are indispensable for establishing limits, ensuring procedures, and providing remedies in the face of serious violations. The appropriate institutional design depends on the issue at hand. The more clearly defined the obligation, the more clearly identified the responsible party, and the more verifiable the violation, the greater the possibility of justiciable rights. The more the objective depends on broad distributive choices, long-term planning, and coordination among levels of government, the greater the importance of programmatic instruments—without prejudice to oversight regarding reasonableness, non-discrimination, transparency, and regression.

Citizenship thus functions as a bridging concept in two ways. First, it translates universal values into recognized positions within a political community. Second, it links individual rights to collective responsibilities. In the realm of housing, being a citizen does not merely mean being able to file a claim against the state; it also means participating in defining the standard of housing that society considers compatible with human dignity and overseeing the policies designed to achieve it.

RIGHT TO HOUSING

In Brazil, the Constitution addresses the right to housing through provisions on fundamental rights, federal powers, and urban policy. Article 6 includes housing among social rights. The wording stems from Constitutional Amendment No. 26/2000, but it is part of the 1988 Constitution and must be cited by its year of enactment. Article 23, clause IX, assigns joint jurisdiction to the Union, the states, the Federal District, and the municipalities to promote housing construction programs and improve housing conditions and basic sanitation. Article 21, clause XX, grants the Union the authority to establish guidelines for urban development, including housing, sanitation, and urban transportation.

The combination of these provisions highlights the dual nature of this right. As a fundamental social right, the right to housing guides the interpretation of the legal system, binds state action, and prohibits discriminatory treatment. As a matter of shared jurisdiction and urban policy, its implementation depends on legislation, funding, territorial planning, and federal cooperation. This does not automatically imply a universal entitlement to immediately receive a specific housing unit. This does not render the provision ineffective: it establishes duties of protection, requires public policies, conditions administrative decisions,



and can support judicial protection in cases involving sufficiently defined circumstances or situations incompatible with a minimum standard of dignity.

Constitutional Amendment No. 45/2004 added paragraph 3 of article 5, according to which international treaties and conventions on human rights approved in each Chamber of the National Congress, in two rounds of voting, by three-fifths of the votes of their respective members, are equivalent to constitutional amendments. This rule did not automatically confer constitutional status on all previously ratified treaties, but rather established a specific procedure for achieving such equivalence. This distinction is important because the domestic effectiveness of international norms depends on the manner of their incorporation and the interpretation given to them by national bodies.

The constitutional framework also encompasses dimensions of equality and territory. The protection of tenure for housing purposes, the social function of property, and the territorial rights of indigenous peoples and Quilombola communities demonstrate that housing cannot be reduced to an individual purchase contract. It involves land use, recognition of collective forms of occupation, legal certainty, and the protection of ways of life. The assessment compiled by IPEA (2009) also shows that the realization of this right requires coordinating housing, sanitation, land regularization, planning, and the reduction of inequalities.

In this context, a policy focused exclusively on homeownership is based on a narrow set of data. Homeownership may be appropriate for certain groups, but it does not equally address the needs of families on the move, young people with unstable employment, people experiencing homelessness, residents who need to renovate existing units, or populations threatened by evictions. A coherent system must combine the construction of new housing units, urbanization and the regularization of settlements, social rental housing, support for renovations, transitional housing, and the prevention of homelessness, in accordance with local needs and relevant conversion factors.

The Capabilities Approach shifts the criteria for these measures. The number of housing units delivered is insufficient, making it imperative to examine whether the location provides access to work, schools, healthcare, transportation, and care networks; whether maintenance costs are affordable; whether the unit offers accessibility and privacy; whether tenure is secure; and whether residents have a say in decisions that affect the territory. Housing is now assessed as the foundation for interdependent

capabilities, rather than as an isolated product.

Sensitivity to differences also requires recognizing that urban space is not neutral. In Afro-diasporic experiences, living involves creating a sense of place, preserving memory, affirming collective identities, and fighting for visibility in territories marked by racial exclusion (Lutzer; Mueller; Benso, 2025). This contribution broadens the analysis of urban conversion, as the same physical solution can foster a sense of belonging in one context and cause uprooting in another. Evictions, resettlements, and standardized projects can destroy networks, cultural practices, and collective forms of protection even when they improve construction metrics.

This dimension does not transform every identity-based expectation into a specific judicial remedy. It does, however, impose duties of participation, non-discrimination, and assessment of the social effects of policies. Equality requires considering how race, gender, disability, age, family composition, and geographic location influence access to and use of housing. A one-size-fits-all policy can exacerbate inequalities if it ignores the fact that different groups require different resources and arrangements to achieve equivalent outcomes.

The relationship between programmatic and enforceable rights can be operationalized in the Brazilian legal system through distinct layers. In the first layer, negative and procedural guarantees (due process, non-discrimination, protection against arbitrary evictions, and access to information) must be enforceable. In the second layer, benefits defined by rights or regulation may give rise to corresponding claims, subject to public eligibility criteria. In the third tier, systemic objectives (reduction of the deficit, diversification of service provision, appropriate location, and urban integration) require targets, indicators, a budget, and democratic oversight. In the fourth tier, evaluation must verify that capacities have been effectively expanded, ensuring that formal compliance does not mask new deprivations.

This arrangement preserves space for policy without undermining the normative force of the rights. The judiciary does not replace the executive branch in policy design, but it can demand justifications, curb discrimination, protect minimum standards, and monitor compliance with the normative choices made. The executive and legislative branches retain responsibility for the allocation of resources, but must formulate verifiable, transparent, and participatory plans. Citizenship results from the interaction between these forms of accountability.

THE HUMAN RIGHT TO HOUSING

At the international level, the right to housing is part of a normative framework that combines declarations, treaties, monitoring, and domestic implementation. Article 25 of the Universal Declaration of Human Rights recognizes the right of everyone to a standard of living adequate for health and well-being, including food, clothing, housing, medical care, and social services (United Nations, 1948). Article 11 of the International Covenant on Economic, Social, and Cultural Rights recognizes the right to an adequate standard of living, including adequate food, clothing, and housing, as well as the continuous improvement of living conditions (United Nations, 1966).

These instruments lend visibility and a common language to housing deprivation. They also enable civil society organizations, monitoring bodies, and national institutions to assess states' conduct in light of their publicly assumed commitments. However, the gap between recognition and implementation remains significant. The international order lacks an authority comparable to that of the nation-state to define policies, raise resources, and uniformly enforce decisions. Effectiveness depends on ratification, domestic incorporation, administrative capacities, and accountability mechanisms that vary from country to country (Alston, 2005).

The first objection to housing rights concerns normative legitimacy. If these rights are presented as universal truths independent of deliberation, they may obscure controversies regarding content, priorities, and forms of provision. Sen (2005) acknowledges the appeal of the idea of human rights but notes that it is often accused of intellectual fragility. His response is to subject it to public debate and treat it as a claim open to criticism.

The second objection concerns conflicts between rights and values. Scarce resources require decisions regarding need, urgency, location, autonomy, merit, territorial ties, and community composition. The more absolute and comprehensive the formulated right, the greater the possibility of conflict with other legitimate claims (Waldron, 1993). Berlin (1969) demonstrates that fundamental human values can be plural and incompatible in concrete situations. Recognizing the conflict does not authorize arbitrary decisions; it requires transparent procedures, public justification, and criteria that protect a minimum standard without pretending that all claims can be satisfied at the same time.



The third objection concerns applicability. From a strictly positivist perspective, a norm without a defined remedy would have limited legal scope. Arendt (2012) shows that rights proclaimed in the abstract become fragile when people do not belong to a political community capable of guaranteeing them. This lesson is particularly relevant for refugees, migrants, and people without stable ties to national institutions. International formulations must therefore be translated into domestic competencies, procedures, policies, and safeguards.

This does not mean that international rights are merely rhetorical. They can serve as public justifications for evaluating institutions, guiding legislation, establishing interpretive frameworks, and mobilizing collective action. The 2000 Human Development Report argues that rights also give rise to imperfect duties directed at society and the international community, even though they do not identify a single fully defined obligation (United Nations Development Program, 2000). Kenna (2005) notes that bridging the gap between rhetoric and reality requires enforcing internationally accepted obligations at the national, regional, and local levels.

The fourth difficulty stems from abstraction. “Adequate housing” is an indispensable normative concept, but it must be specified in concrete contexts. Security of tenure, availability of services, affordability, habitability, accessibility, location, and cultural adequacy are not realized in the same way across all territories. The Capabilities Approach offers a complementary criterion: rather than defining adequacy solely by the characteristics of the property, it examines whether diverse people are able to transform their housing and its surroundings into functionings related to security, health, affiliation, environmental control, and participation.

The strength of the human right to housing lies, therefore, less in the promise of a selfenforcing international rule and more in its ability to establish a framework for justification, prohibit exclusions incompatible with dignity, and guide the development of national institutions. From a broader consequentialist perspective, the language of rights can be defended on the basis of the effects it produces in terms of the visibility of vulnerable groups, the accountability of actors, and the mobilization of reforms (Fortman, 2006; Sen, 1982). These effects, however, depend on coordination with legal instruments, state capacities, and democratic participation.

DISCUSSION: AN INTEGRATED FRAMEWORK OF RIGHTS AND CAPACITIES

The analysis presented here reveals a recurring problem: debates on the right to housing often treat questions belonging to different levels as equivalent. Asking why housing should be protected is not the same as defining how that protection is incorporated into the legal system; recognizing a constitutional norm does not, in and of itself, determine what benefits can be demanded; providing a housing unit does not prove that the person has acquired real freedoms. The lack of distinction between these levels fosters both declaratory idealism and legal or material reductionism.

The analytical contribution of this article consists of proposing a matrix that organizes five complementary dimensions. It does not represent a universal list of content nor a closed model of public policy. It is a tool for testing the coherence among justifications, institutions, measures, and outcomes.

Table 1 | Integrated matrix of rights and capabilities applied to housing

Dimension	Analytical question	Function in housing protection	Analytical risk
Normative foundation	Why does housing deserve priority protection?	It links housing, dignity, vulnerability, and substantive freedom.	Abstract universalism without defined duties or institutions.
Legal status	What type of legal norm recognizes this protection?	It distinguishes between a principle, a programmatic objective, a procedural guarantee, and an enforceable claim.	Legalism that confuses legal recognition with social effectiveness.
Institutional level	Who should legislate, fund, implement, oversee, and cooperate?	It distributes responsibilities among levels of government, the judiciary, oversight bodies, and society.	Fragmentation, shifting of responsibility, and lack of coordination.
Unit of protection	Does the policy protect individuals, families, groups, communities, or territories?	It articulates individual remedies and the collective effects of provision and planning.	Fragmentation of demands or the sacrifice of individuals in the name of aggregate objectives.
Substantive criterion	What does housing actually allow people to be and do?	It assesses resources, conversion factors, functionings, capacities, belonging, and participation.	Counting units or making formal declarations without examining actual opportunities.

Source: author's own work



The first dimension prevents the right from being reduced to the contingent existence of a legal norm. Dignity, vulnerability, and capabilities provide grounds for criticizing legal systems that tolerate homelessness, discrimination, or conditions incompatible with human integrity. However, this foundation does not determine all aspects of the right. Its specification depends on deliberation, contextual knowledge, and institutional choices.

The second dimension prevents the opposite tendency: assuming that every morally desirable content must be converted into an individual legal claim. The legal status must be differentiated. Safeguards against arbitrary evictions and discrimination entail more clearly defined duties; the universal provision of adequate housing requires production, regulation, financing, and coordination. Between these two poles lie specific legal entitlements and duties regarding planning, transparency, progressivity, and justification.

The third dimension highlights that the right to housing is multiscalar. In Brazil, shared jurisdiction can foster cooperation but also diffuse responsibilities. National guidelines without local capability for implementation are insufficient; municipal initiatives without funding and regional coordination may displace, rather than resolve, deprivations. The framework requires identifying, for each objective, the responsible entity, the available resources, the coordination tools, and the oversight mechanisms.

The fourth dimension addresses the tension between the individual and the collective. The unit of protection cannot be exclusively individual, because infrastructure, location, urbanization, and environmental quality are territorial assets. Nor can it be solely collective, as collective policies may impose evictions, the loss of social ties, and disproportionate sacrifices on specific individuals. The solution lies in combining individualized guarantees with an assessment of distributive, cultural, and territorial effects.

The fifth dimension incorporates the Capabilities Approach as a verification criterion. A right is not realized merely when a resource is provided or a norm is formally complied with. It is necessary to examine the range of expanded opportunities. This involves personal factors, such as disability, age, and family composition; social factors, such as discrimination, safety, and support networks; and environmental and territorial factors, such as mobility, services, risk, and location. A sense of belonging, memory, and the possibility of claiming a place are integral to the assessment when they affect the

ability to live and participate on an equal footing (Lutzer; Mueller, 2026; Lutzer; Mueller; Benso, 2025).

The matrix reveals a dual complementarity. The first occurs between programmatic and justiciability. The former organize collective goals and implementation pathways; the latter offer concrete protection, limit arbitrariness, and make certain violations contestable. The second occurs between resources and capabilities. Without resources, freedoms remain merely formal; without examining capabilities, the provision of resources may mask segregation or the inability to use them.

From this synthesis emerge four parameters for the formulation and evaluation of policies. The first is a core of enforceable protections, comprising non-discrimination, due process, protection against arbitrary evictions, access to information, and expressly defined benefits. The second is verifiable public planning, with responsibilities, targets, deadlines, a budget, and territorial indicators. The third is a capability-oriented assessment, which combines housing characteristics with access to services, security, autonomy, a sense of belonging, and participation. The fourth is inclusive deliberation, necessary for selecting priorities, interpreting adequacy, and recognizing transformative factors that are not visible in standardized metrics.

These parameters also clarify the relationship between rights and regional development. Housing policies alter mobility, access to opportunities, care networks, the distribution of infrastructure, and patterns of land use. The “capability-based housing” described by Lutzer (2025) is not merely an extension of individual well-being; it is a prerequisite for people to participate in regional economic, social, and political life. Consequently, housing planning must be integrated with transportation, sanitation, health, education, employment, and risk management.

This proposal steers clear of both absolutism and skepticism. Rights may conflict and require careful consideration, but this does not reduce them to mere administrative preferences. Resources are limited, but scarcity does not negate the need for transparency, equality, and priority for the most vulnerable. Courts have institutional limits, but their role remains crucial in protecting guarantees and demanding justifications. International discourse lacks centralized enforcement, but it provides parameters for mobilization. Consistency lies in recognizing the specific function of each dimension and ensuring their coordination.

FINAL CONSIDERATIONS

This article analyzed the conditions under which a rights-based approach can underpin and guide housing policies. The conclusion reached is that this approach becomes coherent when it distinguishes, without completely separating, the moral foundation, legal status, institutional scale, unit of protection, and substantive content of housing. None of these dimensions is sufficient on its own.

On the philosophical level, the opposition between natural and socially constructed rights proved to be rigid. The Capabilities Approach offers a middle ground by linking dignity and freedom to concrete human opportunities, while preserving space for public deliberation and contextual specification. It allows us to justify the relevance of housing without assuming that an abstract list alone determines all institutional obligations.

On the political-legal level, social citizenship has revealed the complementarity between programmatic and legally enforceable rights. Programmatic norms guide collective provision and planning; enforceable guarantees protect individuals, limit discretion, and provide a response to defined violations. The appropriate approach is not to choose one modality and reject the other, but to allocate responsibilities according to the degree of specificity of the obligation, institutional capability, and the distributive effects involved.

The analysis of the Brazilian case revised the constitutional framework established in 1988 and demonstrated that the right to housing intertwines social rights, federal powers, and urban policy. Its realization requires more than a constitutional proclamation or the delivery of housing units: it demands cooperation, a diverse range of instruments, participation, oversight, and territorial integration. At the international level, it was found that declarations and treaties possess normative and political force but depend on domestic incorporation and implementation to bridge the gap between commitment and reality.

The result is an integrated framework of rights and capabilities. It articulates the study's central thesis and provides a roadmap for examining policies, justifying the priority of housing; identifying the nature of obligations; assigning responsibilities; balancing individual protection and collective effects; and verifying whether resources are converted into capabilities. From this perspective, adequate housing encompasses security, access to services, autonomy, a sense of belonging, participation, and the ability to lead one's life in accordance with valued goals.



The practical implications are clear. Assessments should not be limited to the number of units produced. They must take into account location, cost, accessibility, security of tenure, environmental quality, continuity of social ties, and differing outcomes across groups and territories. Universal policies must allow for diverse responses when varying conversion factors prevent equal resources from producing equivalent freedoms.

The study has the limitations inherent in a theoretical essay. It does not systematically compare judicial decisions, housing programs, or outcomes, nor does it empirically test the proposed framework. Future research could apply this framework to policies on housing provision, social rental housing, land regularization, eviction prevention, and services for the homeless, combining documentary analysis, territorial indicators, and residents' experiences. This research agenda will make it possible to assess the extent to which formally recognized rights and effectively distributed resources enhance capabilities and housing citizenship.

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