



Mercy Law Resource Centre
Submission to the Oireachtas Committee
on Housing and Homelessness
10 May 2016

Mercy Law Resource Centre

25 Cork Street

Dublin 8

Ireland

Phone: 01 453 7459

Fax: 01 453 7455

www.mercylaw.ie

Mercy Law Resource Centre Limited is a company limited by guarantee and not having a share capital, registered in Dublin, Ireland. Co.Reg No:471072. It is also a registered charity, Chy No:18698. Directors: Anne Doyle, Jo Kennedy, Ciara McGrath, Liam Twohig, Helena O'Donoghue, Patrick Stagg, Gerry Whyte, Deirdre Quigley, Niall Farrell, Margaret Roche.



Mercy Law Resource Centre Submission to the Oireachtas Committee on Housing and Homelessness 10 May 2016

1. Introduction

Thank you for this invitation to address the Oireachtas Committee on Housing and Homelessness. We warmly welcome the establishment of this very important cross-party committee and we are very glad of the opportunity to address the committee.

Mercy Law Resource Centre (MLRC) is an independent law centre, registered charity and company limited by guarantee. MLRC provides free legal advice and representation for people who are homeless or at risk of becoming homeless. It also seeks to advocate change in laws, policies and attitudes which unduly and adversely impact people who are at the margins of our society.

MLRC provides five key services: free legal advice clinics; legal representation in the areas of housing and social welfare law; legal support and training to organisations working in the field of homelessness; policy work; and a befriending service. MLRC's clients are local authority tenants and people who are homeless or at risk of becoming homeless. They include people who are trying to move away from homelessness who may be struggling with issues often linked to homelessness e.g. addiction, leaving prison, mental illness and relationship breakdown.

MLRC has built strong working relationships with organisations working in the field of homelessness, including Focus Ireland, Crosscare, and Dublin Simon. Since our inception in 2009, MLRC has provided advice and/or court representation in public interest litigation to approximately 3900 individuals, families and organisations.

MLRC's ethos recognises the dignity of each person. We seek to ensure that all people are treated with respect and compassion and are enabled to achieve their full potential as human beings. We are committed to the principles of human rights, social justice and equality.

2. The Right to Housing – background and overview of the MLRC Report on the Right to Housing

MLRC launched last Wednesday, 4 May, our Report on the Right to Housing in Ireland. We have sent this report to the Committee along with this submission.

We launched this at this time of desperate crisis in homelessness. We have not seen since such a crisis in homelessness since the foundation of the State. This crisis has been growing every month since at least early 2014. Between December 2014 and December 2015 there was a net increase in the number of people recorded as homeless of 1,700 people, an increase of 43%. According to the most recent figures available, in February 2016 5,811 people were homeless: 3,930 were adults who were homeless; 912 families were homeless and 1,881 children were homeless¹.

¹ These figures are based on the most recent figures on homelessness published by the Department of the Environment, at the time of this submission.



Mercy Law Resource Centre Submission to the Oireachtas Committee on Housing and Homelessness 10 May 2016

President of Ireland Michael D. Higgins in a recent address described this as²:

“The most pressing of all the manifestations of inequality in Ireland...nothing less than a fundamental challenge to the legitimacy of institutions and morality of the State.”

There is no right to housing in Irish law. Our Report on the Right to Housing assesses the protection of the right to housing in Irish law and outlines the impact that a Constitutional right to housing would have.

The crisis we are seeing is due to a failure in policy. The protection of the right to housing would be a positive, strong step for the future to create enduring fundamental protection of home for every adult and every child. We are calling for the protection of the right to housing in the Constitution to be a key priority of next Dáil.

A right to housing in the Constitution would not mean the right to a key to a home for all. A Constitutional right to housing would however put in place a basic floor of protection. It would require the State in its decisions and policies to protect the right to housing in balance with other rights.

3. The Right to Housing – overview of the gap in the law and the impact that a Constitutional right to housing would have

MLRC is an independent law centre providing free legal help for people who are facing homelessness. We have legally advised and represented over 3900 people facing homelessness, since our Centre was established 7 years ago. Over the past two years, every week we meet individuals and families who are homeless and living in their cars or having each day to find accommodation for that night. These include families with infants³.

The families and people who we are helping are in this acutely distressing situation, cast adrift, because the local authority has refused to provide them with emergency accommodation or has told them that there is simply none available. We meet families who are being accommodated for prolonged and indefinite periods in one room in hotels and B&Bs, which is grossly inappropriate for

² Speech at the President of Ireland’s Ethics Initiative National Seminar, Aras an Uachtaráin, 28 March 2015.

³ MLRC recently represented a young mother of two very young children who was refused emergency accommodation by Kildare County Council when she presented as homeless with her children. MLRC’s legal submissions could not rely on a right to housing, rather on European Convention on Human rights argument, and rights relating to the manner in which the decision was reached by the Council, based on constitutional fair procedures. The case was reported on by the Irish Times: <http://www.irishtimes.com/news/crime-and-law/homeless-mother-and-children-at-crisis-point-court-hears-1.2514192>. MLRC is working to help several families in this situation - who are homeless and face serious difficulties in accessing emergency homeless accommodation, where the Councils are refusing to provide emergency accommodation and are not providing any assistance in obtaining alternative private rented accommodation.



Mercy Law Resource Centre Submission to the Oireachtas Committee on Housing and Homelessness 10 May 2016

their needs, for their health and for their dignity. In this accommodation they are, for example, unable to cook for their family. They often have to travel great distances to bring children to school, a journey which may simply not be possible. We are seeing parents and children now, after enduring these conditions for months, with no end in sight, suffering very severely in their physical health and their mental health.

There is no right to housing in Irish law. The real effect of the absence of the right to housing is that in these situations there is no clear right to rely on. The rights around the edges are all that can be invoked. Action in law requires the most severe and extreme cases and innovative use of the law, relying for example on the right to bodily integrity. The fundamental failure to, for example, provide adequate emergency accommodation to a family with young children cannot be challenged directly. The gap in the law is clear.

A right to housing in the Constitution would mean that the courts could look at the State decision or policy as to whether it was 'proportionate' by reference to the right. It would mean that Government and State policies and actions would have to respect the right.

For example, if the State decided to cut funding to homeless accommodation, the courts could review this in a case. The failure of rent supplement to meet market rent could be challenged as a breach of the right to housing. The fact that there is no legal aid for evictions could be challenged as a breach of the right to housing. Legislation and policy would have to be "proofed" to ensure they reasonably protect the right to housing, in the same way as this must be done for any substantive right.

It would mean that the policies in relation to housing and homelessness could not be on a political whim but would have this grounding, this obligation to respect the right to housing. It would be an enduring protection.

4. The Right to housing – protection in other countries

The right to housing is recognised in Europe in the Constitutions of Belgium, Finland, Greece, the Netherlands, Portugal, Spain and Sweden and in the legislation of Austria, France, Germany, Luxembourg, and the United Kingdom. Around the world, the right to housing is included in eighty-one Constitutions. The right to adequate housing is provided for in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the European Social Charter.

5. The right to housing – Constitutional Convention vote – 82% in favour of protecting the right to housing in the Constitution.

In 2014, the Constitutional Convention, set up by the Government and made up of citizens from across the country to consider changes to our Constitution, voted overwhelmingly, 82%, in favour of



Mercy Law Resource Centre Submission to the Oireachtas Committee on Housing and Homelessness 10 May 2016

protecting the right to housing in the Constitution⁴. The Government has not taken any further substantive action on this.

6. Conclusion

We are calling for protection of right to housing in the Constitution to be a key priority of next Dáil. This call forms part of our broader policy work including calling for legal aid for evictions and a rise in rent supplement levels to meet market rent.

The right to housing would help those who are facing homelessness now and would be a fundamental safeguard against the recurrence of this gravely unacceptable crisis. It would recognise that a home is central to the dignity and possibility of every person.

This crisis is a call to us to ask ourselves what we consider that an evolved, decent and humane society protects for every person. The right to housing in our Constitution would put in place a basic protection in recognition that a home is central to the dignity of each and every person and a foundation of every person's life. It would be a positive, strong step for the future to create enduring fundamental protection of home for every adult and every child

Thank you for inviting us to address the committee. We welcome a discussion of this call to protect the right to housing in the Constitution and our other policy issues. We very much welcome now any questions you may have and thank you for your time and consideration.

Mercy Law Resource Centre
25 Cork Street
Dublin 8
www.mercylaw.ie
Phone: 01 4537459

Contact:
Maeve Regan, Managing Solicitor, Mercy Law Resource Centre
Phone: 01 4537459

⁴ Convention on the Constitution, *Ninth Report of the Convention on the Constitution: Conclusions and Final Recommendations* (2014) Appendix D.