

Press Release – embargoed to 6am Wednesday 28 March 2018

**Launch of the Mercy Law Resource Centre
Second Right to Housing Report: The Right to Housing in Comparative Perspective
Venue: Georgian Sweet, Buswells Hotel, Molesworth Street, Dublin 2
Date: Wednesday 28 March 2018, 2pm**

We call for protection of the right to housing in the Constitution to be a key priority of this Dail. In the face of the deepening crisis in homelessness, the likes of which we have not seen since the foundation of the State, the right to housing in the Constitution would be a positive, strong step for the future to create enduring fundamental protection of home for every adult and every child.

Mercy Law Resource Centre, an independent law centre, which provides free legal assistance to those who are facing homelessness, today launched a Second Right to Housing Report: The Right to Housing in Comparative Perspective. The report was formally launched by Dr Carol Coulter.

There is no right to housing in Irish law. Mercy Law Resource Centre (MLRC) calls for the protection of the right to housing in the Constitution to be a key priority of this Dail. Speaking at the launch, MLRC's Acting Managing Solicitor, Sinead Kerin said:

"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." The number of families becoming homeless has increased by over 17% since December 2016. More than one in three of those in emergency accommodation is now a child.

Mercy Law Resource Centre's Acting Managing Solicitor said:

"In 2017, Mercy Law carried out over 2,240 pieces of legal work for people experiencing a housing emergency and this involved a spectrum of legal work from legal advice on the phone to organizations and individuals, meeting clients in our weekly clinics, to legal representation in RTB tribunals, Circuit Court, High Court appeals, Judicial Reviews and a Supreme Court appeal.

Every week we meet individuals and families who are homeless and living in their cars or having each day to source and find accommodation for that night. These include families with small children and babies. Some of these families that we are legally assisting are in an acutely distressing situation because the local authority has refused to provide them with emergency accommodation or they have told them that there is simply no emergency accommodation available. We meet families who are regularly being accommodated for prolonged periods of time in one room in hotels and B&Bs for up to two and half years.

This is grossly inappropriate for 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. The 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.

In 2017, Mercy Law was involved in three high court cases namely *Middleton v Carlow County Council*, *Tee v Wicklow County Council* and *C v Galway County Council*. These cases involved 3 single mothers and their young children, some of the children had special needs and these families were refused access to emergency accommodation by the local County Councils. In these cases, the Courts refused to grant an order to the Council to provide emergency housing to these women and their children, and refused to order that they be prioritized in the allocation of accommodation as there is no right to shelter and there is no right to housing in Irish law. The fundamental failure by

the State to provide shelter and adequate emergency accommodation to a family with young children cannot be challenged directly in the Courts. The gap in the law is clear and established.”

In 2014, the Constitutional Convention was set up by the Government and made up of citizens from across the country to consider changes to our Constitution. 82% of the Constitutional Convention voted in favour of the protection of the right to housing in the Constitution. The Government has not taken any further substantive action on this.

Speaking at the launch, MLRC’s Acting Managing Solicitor said:

“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, where the Court would have the power to compel the State to provide shelter and emergency accommodation to families and individuals who are at risk of being roofless. It would require the State in its decisions and policies to protect the right to housing *in balance* with other rights and would mean that the courts could look at the State decision or policy as to whether it was ‘proportionate’ by reference to the right.

Other practical examples on how the Right to Housing would assist us would be:

- If the State decided to cut funding for hostels for people who are homeless, this could be challenged as a breach of the right to housing. It means that the policies in relation to housing and homelessness would not be on a political whim. It would be an enduring protection.
- The failure of the rent supplement or the housing assistance payment (HAP) scheme 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 potentially 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.”

This report offers a comparative perspective on the right to housing through consideration of the legal systems of (i) Finland (ii) Scotland (iii) France and (iv) South Africa. There are a wide variety of structural and institutional means by which the right can be guaranteed – there is no one size fits all model. The right to housing does not necessarily equate to a significantly increased constitutional role for the judiciary. A legally enforceable right to housing – while not a panacea – provides a valuable floor of protection. The jurisdictions highlighted in this report show that the effectiveness of the right to housing is heavily contingent on the existence of sufficient and enduring political will and the allocation of resources.

ENDS.

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Notes to editor:

1. 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 has built strong working relationships with organisations working in the field of homelessness, including Focus Ireland, Crosscare, and Dublin Simon. For more about our work, please see www.mercylaw.ie

2. Dr Carol Coulter formally launched MLRC’s Second Right to Housing Report: The Right to Housing in Comparative Perspective. Professor Paddy Gray of Ulster University also presented at the launch on best

practice in the provision of emergency accommodation in the UK. The launch took place at 2pm on Wednesday 28 March 2018, in the Georgian Suite, Buswells Hotel, Molesworth Street, Dublin 2.

3. It is noted that that the right to housing is included in eighty-one Constitutions around the world. 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.