

SVP support the Home for Good constitutional change

Introduction

SVP volunteers and staff provide vital support to families through our resource centres, 1,000 social homes and by working directly with individuals and families experiencing housing insecurity, inequality, poverty, and marginalisation including the 'hidden homeless'. This experience enables us to have a valuable perspective on the key challenges and opportunities in addressing the housing crisis and homelessness in Ireland. SVP support the Home for Good coalition who believe "*that Constitutional change is an essential underpinning for any successful programme to tackle and develop our housing and homelessness crisis.*"¹

Homelessness isn't a choice for the thousands of children, women and men who are systematically uncorroborated in their housing provision and forced to live in a way which will have a lasting negative impact on their lives. The lack of affordable and secure housing is damaging to our economy and society, continually demonstrating that we are failing those who do not have a place to call home.

SVP engages in advocacy on the issues of housing and homelessness, drawing on the experience of members, policy analysis, research and by working collaboratively with our colleagues across the sector to bring about the necessary policy change. We believe the time is now to make this constitutional change and ask the people of Ireland to have their say on the future infrastructure of housing provision, creating a strong foundation to build upon. By providing housing services that directly delivers adequate housing to the people that need it now and in the future.

We welcome the opportunity to make this submission on the proposal for a referendum on a constitutional right to housing. In this submission, we will outline the impact of the housing crisis on the people SVP supports and why a constitutional right to housing would make a difference to those impacted by the housing crisis and all of society.

The people of Ireland hold the power to change our constitution, without a referendum we are withholding the potential for developing and recognising that the housing crisis, which was declared an emergency 5 years ago. The emergency will continue without any new input or call for new action. Denying the people a right to vote on the right to a home is a declaration that the public's desire to see a change and action in our housing crisis doesn't matter.

¹Home for Good (2022) A Right to a Home. What does it mean and how can you help?
<https://www.simon.ie/a-right-to-home-what-does-it-mean-and-how-can-you-help/>

The Impact of the Housing Crisis as Seen by SVP

We fully concur with the request for a referendum to change our constitution based on the needs of our people and our society, including the right to a home with the inclusion of Article 43A. SVP believes the referendum on the right to housing will bring about the necessary legislative change to uphold and strengthen our political leaders and enable housing right for all people in Ireland.

SVP members are unfortunately all too aware of how the current homeless and housing crisis is bearing upon families, individuals and the negative impact this has on our communities and society. In our 'Stories Of Struggles Report'² there was a strong current throughout the interviews that parents wanted a place to call their "home," so they could create a stable environment and routine for their children. Under the UN Convention on the Rights of the Child, children are a protected entity in their own right, yet one quarter of the country's children are living in homelessness or insecure housing thus creating an adverse childhood experience.

As of June 2022, the "official" count says there are 7,431 adults plus 3,137 children (10,568)³ experiencing homelessness in Ireland. However, this does not include the 20,000 individuals and families on the social housing list doubling up with friends or family⁴ or the 2,805⁵ women and children in domestic violence refuges or the record 11,689⁶ individuals living in direct provision. These individuals are known as the "hidden homelessness". There are also 61,880⁷ households who qualify for housing social housing provision but who's housing needs are not yet met.

² St Vincent de Paul (2018) Stories of Struggle <https://www.svp.ie/social-justice/publications-submissions/publications/stories-of-struggle-2018.aspx>

³ Department of Housing, Local Government and Heritage (2022) Homeless Report <https://www.gov.ie/en/publication/7d630-homeless-report-july-2022/>

⁴ Department of Housing, Local Government and Heritage Summary of Social Housing Assessments 2020-Key Findings - Summary of Social Housing Assessments 2020 – Key Findings Table A1.7 Breakdown of current tenure by Local Authority <https://www.gov.ie/en/publication/970ea-summary-of-social-housing-assessments-2020-key-findings/#:~:text=The%20Summary%20of%20Social%20Housing,is%20not%20currently%20being%20met.>

⁵ Safe Ireland Review (2017-2018) <https://www.safeireland.ie/policy-publications/>

⁶ The Irish Times Sorcha Pollack (2022) <https://www.irishtimes.com/ireland/social-affairs/2022/06/08/more-than-11600-people-in-direct-provision-as-numbers-rise-to-record-levels/>

⁷ Department of Housing, Local Government and Heritage Summary of Social Housing Assessments 2020-Key Findings –(2020) Summary of Social Housing Assessments <https://www.gov.ie/en/publication/970ea-summary-of-social-housing-assessments-2020-key-findings/#:~:text=The%20Summary%20of%20Social%20Housing,is%20not%20currently%20being%20met.>

In August 2022 the Residential Tenancies Board reported a 58% increase in the number of eviction notices compared with the final 6 months of 2021, almost 3,000 notices in total were issued in the first half of 2022. In Dublin City and County there are only 157 properties available for rent (average cost of €2,100 per month as of August 2022) in a capital city with a population of 1.43 million⁸. The imbalance of supply and demand in the rental market contributes greatly to our housing crisis as the housing market is being led and protected by the right to own property and not adequate access to housing.

The children, families and individuals in the figures above are those currently living in inadequate or emergency accommodation and are the hidden homeless. However, as the cost of living continues to rise including rental costs and with the lowest supply of rentals available in Ireland at 12.6% August 2022 SVP to believe that if there is inaction at this time, those at risk will soon join the official count of homeless. Creating a right to a home would prevent the difficulties and suffering of those at risk of homelessness and support them into adequate housing provision sooner. We are in serious jeopardy of seeing the homeless numbers continuing to rise and we need to prevent those people from staying in homelessness long-term. Changing the constitution will enable this to happen as it will underpin new policies and strategies for supporting those at risk of homelessness and who are homeless.

A constitutional right to housing would make a difference to those we support throughout Ireland as it would provide a floor of protection for citizens and make Government the duty holder to ensure people have access to adequate housing. Those experiencing housing exclusion and homelessness, and for those living in inadequate, unsafe, insecure or overcrowded accommodation who need adequate housing would finally gain access to that right.

Why we need a Referendum on a Constitutional Right to Housing

Currently our constitution and inaction to fully address the housing crisis is aligned with protecting the rights to own property. This right has repeatedly been used as a barrier to progressive and much needed policy changes to address the housing crisis. Three such examples of this are:

1. Family Home Mortgage Settlement Arrangement Bill (2014)⁹
2. Mortgage Arrears Resolution (Family Home) Bill (2017)¹⁰

⁸Dublin Chamber of Commerce (2022) <https://www.dublinchamber.ie/About-Us/Economic-Profile-of-Dublin>

⁹ Minister of State at the Department of Rural and Community Development (Deputy Seán Canney) (2014) Family Home Mortgage Settlement Arrangement Bill 2014: Second Stage <https://www.oireachtas.ie/en/debates/debate/dail/2015-03-03/30/>

¹⁰Deputy Jim O'Callaghan (2017) Mortgage Arrears Resolution (Family Home) Bill 2017: Second Stage <https://www.oireachtas.ie/en/debates/debate/dail/2017-07-12/39/>

3. No Consent, No Sale Bill (2019) ¹¹

Each of these proposed bills were not passed and, in each example, they were cited by ministers as unconstitutional. This demonstrates an imbalance of access and rights between those with a right to own property and those who just wish to be given access to a home within the government's available resources.

The dignity and privacy housing provides to people should not be used as a political conversation, people need homes, and creating a space and wording in our Constitution removes that unnecessary conversation and brings to the forefront the individuals right whilst creating no interference with the right to own a property.

SVP recognises that a right to housing would not alone solve the housing crisis, but it would place a strong obligation on Government to vindicate the right to a home through its laws, policies, resources and budgets. We note that many countries have a right to housing and serve reaffirm social rights in law and act as a tool for holding Governments to account on upholding those rights. ¹² The right to a home includes the length and breadth of tenures available and possible within the government's resources.

Many legal experts have shown that strong ownership of property rights in the Irish constitution have exacerbated issues such as vacancy, land hoarding and by limiting tenant protections, ¹³ with bills on vacant sit levies, rent freezes and restrictions on grounds for eviction not progressing due to Constitutional blockages. ¹⁴

The right to housing will put an onus on the government to provide the development and provision of private housing for those who can purchase their own home. This constitutional change would not only support those in homelessness and those at risk of homelessness, but it would also further protect those owner-occupiers, to a right to source, own and retain their property.

Housing policy is too changeable and considered to be usable by the principles of the governments of the day. Hosting a referendum that is all encompassing for all types of housing provision and needs protects everyone to the right to a home not just those

¹¹ Minister of State at the Department of Rural and Community Development (Deputy Seán Canney) (2019) No Consent, No Sale Bill 2019: Second Stage <https://www.oireachtas.ie/en/debates/debate/dail/2019-01-29/31/>

¹² Cinnéide (2022) The Right to Housing: Briefing Document and Opening Statement https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_housing_local_government_and_heritage/submissions/2022/2022-07-05_opening-statement-prof-colm-o-cinneide-professor-of-law-university-college-london-faculty-of-laws_en.pdf

¹³ Walsh, R (2022) Constitutional Property Rights – Setting Parameters for Responses to the Housing Crisis <https://www.gov.ie/en/publication/127ea-conference-on-a-referendum-on-housing-in-ireland/>

¹⁴ Hogan and Keyes (2022) The Housing Crisis and the Constitution (2021) 65 Irish Jurist 87, 117 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3731506

experiencing homelessness or housing exclusion and stops housing being used as a political tool.

The current right to own property creates an imbalance as it is continually cited as a reason not to respond to the current housing crisis. The state must protect those with a private interest in their right to own property, but it does not give a counterbalance in protecting individuals and their right to access housing.

Currently within our constitution housing is seen as a commodity or serves a purpose to only capitalise on not as a basic human right. Currently our right to own property has led to social housing policy that subsidises the private market. The Housing Assistance Payment policy as the main form of social housing currently does not provide the right to secure, affordable social housing.

Within our housing legislation we have the right to apply for social housing assistance; the right to be assessed for social housing assistance; and the right to an independent proportionality assessment, notwithstanding our substantive rights such as the right to fair procedures: proportionality where rights are infringed, the right of appeal, the right to transparency, the right to privacy, the right to life and bodily integrity, to dignity and to person.¹⁵ However, these rights only remain on the fringe of the right to a home and without the right to a home these other rights are not fully achievable because the right to a home affects and impacts all of our rights. Housing is the most fundamental need, and it creates the pathway for all other rights.

Recommendations

SVP recommend that a referendum is held on the insertion of a new Article 43A on Housing in the Constitution, based on the recommendation of the Home for Good Coalition, as follows:

1. The State recognises, and shall vindicate, the right of all persons to have access to adequate housing.
2. The State shall, through legislative and other measures, provide for the realisation of this right within its available resources.

Holding a referendum and seeking a change to the constitution would entail that access to adequate, secure and affordable housing is an essential part of the 'common good'. It would seek to rebalance private property rights in the constitution with a right to housing.

The proposed Home for Good wording would make it a directly enforceable right and place a positive duty on the State to vindicate that right through its resources. It would also create a stand-alone right in the Constitution.

¹⁵ Mercy Law Resource Centre (2018) The Right To Housing In Ireland <https://mercyllaw.ie/wp-content/uploads/2019/06/MLRC-Report-on-Right-to-Housing-in-Ireland-May-2016.pdf>

We also support the definition of adequate housing as outlined by United Nations Committee on Economic, Social and Cultural Rights¹⁶ set out the key characteristics of adequate housing.

They are:

- Legal security of tenure
- Availability of services, materials, facilities and infrastructure,
- Affordability
- Habitability
- Accessibility
- Location – in a location which allows access to employment options, healthcare services, schools, childcare centres and other social facilities
- Cultural adequacy. It is for these reasons that the amendment to introduce a right to housing must include the term “adequate housing”.

A right to housing in the Constitution would not mean the right to a key to a home for all but it would put in place a foundation of protection. It would require the State, in its decisions and policies, to reasonably protect the right. It would recognise that a home is central to the dignity and possibility of every person.¹⁷

Conclusion

Homelessness, being at risk of homelessness and housing exclusion has a lifelong impact and makes achieving one’s potential a long-lasting and difficult obstacle to overcome. Our experience of working in collaboration with people in our communities and our peers in the voluntary and community sector leads us to support the Home for Good campaign for a Right to Housing. We believe this constitutional change would give the people of Ireland the right to hold the current and subsequent governments accountable when faced with addressing the housing crisis and create an impetus for action.

By delivering a referendum to change the constitution, we are putting into writing in the country’s guiding principles a clear dedication that a right to housing is a right for all. A change to our constitution would give all people of Ireland the right to live with the sense of security and safety that comes from the dignity and security of having a place to call home, this will begin with the provision of adequate housing within the government’s available resources. Those available resources include the years of experience and expertise that exists within the government and charity and voluntary sector and not forgetting the massive 166,752¹⁸ vacant properties in Ireland.

¹⁶ The Office of the High Commissioner for Human Rights (2022) The Right To Adequate Housing <https://www.ohchr.org/en/housing#:~:text=The%20UN%20Committee%20on%20Economic,people%20are%20not%20adequately%20housed>

¹⁷ Mercy Law Resource Centre (2018) The Right To Housing In Ireland <https://mercylaw.ie/wp-content/uploads/2019/06/MLRC-Report-on-Right-to-Housing-in-Ireland-May-2016.pdf>

¹⁸ Central Statistics Office Ireland (2022) Census 2022 and Vacant Dwellings FAQ <https://www.cso.ie/en/census/census2022/census2022andvacantdwellingsfaq/>

Constitutional change is needed because we must do all that we can to initiate change in our country's housing story and provide a right to housing for all, particularly for those living in housing insecurity, inadequate housing and homelessness.

That effort begins with asking the people of Ireland if they want to give themselves and those in society who need it most a right to housing, that question begins with a referendum. We must ensure more people are not affected by the housing crisis and our legislation directs us to delivering secure, affordable and suitable homes as a right to housing for all.