

FOR THE COMMON GOOD

THE HOUSING CRISIS
& A PROPOSAL TO AMEND
THE IRISH CONSTITUTION

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ABOUT HOME FOR GOOD

Home For Good is a broad coalition of organisations and individuals who believe that constitutional change is an essential underpinning for any successful programme to tackle our housing and homelessness crisis.

The membership comprises organisations dedicated to tackling homelessness and providing secure homes, including the Simon Communities of Ireland, Focus Ireland, Respond and Threshold. Members also include lawyers and academic experts, such as the Mercy Law Centre, Ann FitzGerald BL and Dr Rory Hearne, NUI Maynooth, and people with deep experience of public affairs, such as Fergus Finlay and Senator Collette Kelleher. Support has also come from Fórsa trade union.

Home for Good is a member of Raise the Roof, the housing-focused coalition consisting of the Irish Congress of Trade Unions, all the main homeless charities, the Union of Students in Ireland and a broad range of political activists. Raise the Roof is represented on the Steering Group of Home for Good. We welcome the support of all organisations and individuals who believe that the time has come to rebalance the Constitution in order to protect the right to decent, affordable and secure housing for all.

OUR PROPOSAL

The Constitution of Ireland exists to protect the rights of all our people and yet it does not mention a right to housing. Instead it contains substantial and powerful protections for private property rights. Those property rights in Article 43 should be balanced by a careful consideration of the 'common good', but the Constitution is silent on what the 'common good' means in practice. The Constitution does not provide any express right to a home or adequate housing, despite a home being fundamental to the dignity of each of us and an essential foundation to participation in society.

Home for Good believe the time has come to rebalance the Constitution in order to protect the right to decent, affordable and secure housing for all.

OUR REASONING

THE HOUSING CRISIS

There is a housing crisis in Ireland. Everyone knows it – every politician, every policy-maker, every citizen.

It's an economic, social, and human crisis. The lack of decent, affordable and secure housing is hampering economic growth and development. It's damaging communities, forcing thousands of men, women and children into homelessness, often leaving young people with little choice but to emigrate or to remain living in cramped conditions with relatives.

Above all, it's destroying families. It's hurting the development of children, leaving scars that will last for years.

It's a crisis at every level. The lack of supply of houses for sale is forcing prices beyond the reach of most. Ever-increasing rents are creating a situation where many young people will never be able to afford a home of their own. 'Generation rent' is a new buzz word reflecting a new reality. Such is the high level of rent, that even rural towns are being called rent pressure zones and people working in our cities cannot afford to live there. Those renting have inadequate security of tenure and worry that they will be asked to leave.

Homelessness is almost a normal feature of daily life in Ireland, driving individuals and families into poverty and despair. Hidden homelessness – families living in desperately over-crowded situations with little or no hope of relief – is compounding the human problem. Local authority housing lists are almost beyond the point where they have capacity to cope.

Everyone knows that this is not a crisis that can be fixed overnight. We need to build. We need to release land for building homes and communities. We need to end legal and bureaucratic rows that are in the way of decent planning and proper provision.

Government tells us there is no shortage of money to solve the problem. Endless schemes and plans have been put in place. The community and voluntary sector has put its shoulder to the wheel. Yet only temporary solutions have been advanced. And all the time the end to the crisis seems as far away as ever.

If we are to prevent the crisis affecting thousands more Irish families, we need to remove obstacles in the way of radical solutions and minor, practical steps alike.

ONE OBSTACLE IS OUR OWN CONSTITUTION.

Our Constitution contains an overt protection of the right to private property, while making no mention of a right to housing.

In our Constitution, Article 43 protects private property and prevents the State from abolishing the right to private ownership or the right to transfer property. Article 43 recognises that the right to private property must be regulated in the interests of social justice and permits limits on the right in the interests of the common good.

A right to housing is not mentioned anywhere nor is there any guidance in the text of the Constitution on how to balance the right to private property with the requirements of the common good.

This is not good enough in 21st century Ireland where we have been in the midst of a housing crisis for ten years and more.

Many of our neighbouring jurisdictions enshrine a right to housing in their laws or in their Constitutions. Ireland is an outlier amongst well-functioning democracies in not providing legal protection of the right to housing.

Inserting a right to housing in our Constitution will eliminate any doubt that property rights can be appropriately restricted to allow access to decent, affordable, and secure housing for all.

We propose that the Constitution be amended to make it clear that access to adequate, secure and affordable housing is an essential part of the common good.

LEGISLATION DEFEATED

Time after time, legislative measures have been brought to the Oireachtas to alleviate the housing crisis, only to be dismissed as 'contrary to the Constitution'.

An 'Oireachtas Research Paper' published in September 2019 exposes a very worrying pattern.

It shows that on twelve separate occasions over recent years, pending legislation in the Dáil has not progressed due to the spectre of Article 43 being raised as a barrier. This cannot be allowed to continue in face of the plight of those on the sharp edge of the housing shortage.

Many of these measures are part of the law in other jurisdictions. But none of them has made headway in Ireland due, in part, to the influence of property rights in Article 43, and especially by the way in which the Constitution has been interpreted within Government and by our politicians.

Legal experts have argued, in fact, that the problem is not so much the likely judicial interpretation of the Constitutional provision, but rather the fact that the Constitution is used as an excuse to avoid necessary legislative changes. Legal experts agree that there is no protection of a specific right to housing in the Constitution. Whatever the reason, 4,000 children without a home demand change now. We must make sure that private property rights are properly balanced with a right to decent, affordable and secure housing.

Successive Governments have far too often relied on Article 43 as a means of preventing the passage of much needed reforms – we want to see that stumbling block removed. There is a need for a political and cultural shift in how we view housing, moving from a commodity to it being seen as a fundamental requirement for participation in society.

WHAT WE PROPOSE

The fundamental problem is not that our Constitution sets out strong property rights. The fundamental problem is that the Constitution fails to set out what is meant by the 'common good' against which those rights are intended to be balanced and does not expressly protect the right to housing. Those in need of housing reform are left to rely on something that has been given no place, no words in the Constitution. It allows our legislators to shy away from doing what is right.

This is not good enough. This is not what the people of Ireland want. We seek that the necessary words are spelt out clearly and unambiguously.

We propose that the Constitution be amended to make it clear that access to adequate, secure and affordable housing is an essential part of the common good. Any amendment can preserve the right to private property, while also offering the counterbalance of a right to housing. It will unlock the barrier to essential reforming legislation and be a vital part of ending the current housing crisis.

The time to make this change is now.

The purpose of our campaign is not to propose a precise wording or formulation for the constitutional change. That comes later. Our mission now is to convince our political parties and the people of Ireland of the need to make that change. It is to accelerate a national conversation on how we best ensure a home for everyone. We seek a commitment from all political parties to holding a referendum and the inclusion of such a referendum in their programme for Government.

To find out more about Home for Good, visit homeforgood.ie, or email us at contact@homeforgood.ie