

Editorial

The *Housing Policy Statement*, issued by the Department of the Environment, Community and Local Government in June 2011, declared that the ‘overall strategic objective’ of the Coalition Government’s housing policy would be ‘to enable all households access good quality housing appropriate to household circumstances and in their particular community of choice’. In reality, this is a re-statement, an updated wording, of the long-standing official aim of Irish housing policy; its most immediate predecessor was worded thus: ‘to enable every household to have available an affordable dwelling of good quality, suited to its needs, in a good environment and as far as possible at the tenure of its choice’.

We are now all too aware of how readily the core objective of official housing policy was lost sight of during the housing boom, and of how the interests of investors, developers and land-owners, and the concern to maximise returns from housing-related taxes and charges, took priority over protecting and promoting the right of all citizens to have access to adequate housing.

The critical issue now is whether the newly restated ‘overall objective’ of housing policy will actually be implemented. Will it be allowed to influence and shape all Government actions which impact on housing, including planning laws and regulations; taxation policies affecting investors, developers and home owners; the operation of NAMA; the State’s own role in providing or subsidising social housing? In the face of the demands of vested interests, will those responsible for implementing the housing policy be able to fulfil the promise contained in the Statement that, in the future, policy ‘will neither force nor entice people through fiscal or other stimuli to treat housing as a commodity and a means of wealth creation’?

Three of the articles in this issue of *Working Notes* highlight some of the consequences of failures of past, and current, housing policy in Ireland.

In the opening article, Michael Punch considers the ‘housing vulnerability’ that is now the experience

of tens of thousands of households in Ireland, instancing the mortgage debt crisis, the dramatic rise in the number of households on the waiting lists for social housing, and the precarious situation of the many households on low incomes in poor-quality private rented accommodation.

Peter McVerry SJ writes about the increase in the overall number of people becoming homeless and the rise in the number unable to access even emergency accommodation. He points out that the 2008 Homeless Strategy promised a new era for services for homeless people, with 2010 set as the target date for achieving two key objectives, namely, an end to the need for any person to sleep rough or to remain in emergency shelter for longer than six months. He attributes the failure to achieve these targets to the decision to rely on the private sector to provide accommodation for people moving out of homelessness, rather than the direct provision of social housing through local authorities and voluntary housing bodies.

Patrick Hume SJ draws attention to the very limited consumer protection offered to house buyers in Ireland, and argues that in many respects the classic defence of ‘let the buyer beware’ continues to prevail in the property market. He notes the extremely inadequate enforcement system in regard to the State’s own building regulations, and urges action to strengthen this system and address the many other deficits in protection for home buyers.

In the final article in this issue, Eugene Quinn reminds us that 2011 marks the sixtieth anniversary of the UN Convention Relating to the Status of Refugees. He notes that critics of the Convention claim that it fails to meet many of the demands now being placed on it as a result of the changing and increasingly complex nature of displacement, but he argues that its deficiencies do not mean it is irrelevant or unworkable, though it does require constant review. The Convention, he says, has enabled millions to find refuge over the past sixty years, and it provides a solid foundation on which to build supplementary systems of protection for those who fall outside its remit.

The Refugee Convention Sixty Years On: Relevant or Redundant?

Eugene Quinn

Introduction

Sixty years ago the international community agreed a framework for the protection of refugees, when a diplomatic conference in Geneva adopted the *1951 Convention Relating to the Status of Refugees*. Today, the protection of those compelled to leave their own state, and seek asylum in another, continues to present formidable challenges. The scale of those challenges, and the perceived inadequacies of the Refugee Convention's response to them, have led some critics to argue that the Convention is now outdated, unworkable and irrelevant.¹

At the end of 2010, there were 16.2 million people throughout the world seeking refuge from conflict and persecution who had been forced to flee their homes and homeland.² The nature and complexity of displacement is continually changing, with new forms of conflict and the enforced movement of people as a result of extreme weather events, natural disasters, and environmental degradation. International crises increasingly result in the mass movement of peoples across borders – most recently seen in response to the Arab Spring uprisings.

A growing business in human trafficking has also contributed to an increase in the number of irregular immigrants. Modern migratory patterns are extremely complex and contain a mixture of economic migrants, refugees and others. Consequently, distinguishing those who have a valid claim to protection from those who do not, through the implementation of fair asylum procedures in accordance with the 1951 Convention, places an exacting demand on governments.

This article looks at the achievements of the Convention over the past sixty years, outlines the contemporary challenges facing it, and considers the capacity of the Convention to meet these challenges and to continue to have an enduring and effective role in the protection of refugees.

Need for Refugee Convention

Why does a person seek the international protection

of another state? A properly functioning state recognises the civil, political, economic, social and cultural rights of its citizens, and respects and protects these rights through appropriate legislation, policies and services. If that system of 'national protection' breaks down – either because the country is at war or is suffering from serious unrest, or because the government itself is persecuting certain categories of citizens – then people may flee to another state.³

In recent decades, we have been confronted by stark and shocking images of refugees in many different parts of the world: in Africa, as a result of the bloody genocide in Rwanda and the 'blood diamond' conflicts in Sierra Leone and the Democratic Republic of Congo; in the heart of Europe, following the violent disintegration of Yugoslavia, and the subsequent war in Kosovo; and more recently, in the wars in Afghanistan and Iraq. Relayed across the world are vivid images of people fleeing terror, persecution and conflict – men, women and children, carrying whatever possessions they can, and using whatever transport is available, seeking safety in neighbouring countries.

Sixty years ago, the international community faced similar wanton destruction and human tragedy in the period leading up to, during, and after the Second World War, when millions of peoples were uprooted and forced to flee their homeland in fear of their lives. This was the context in which the Convention was framed:

*In a spirit of empathy and humanitarianism, and with a hope that such widespread suffering might be averted in the future, nations came together in the stately Swiss city of Geneva and codified binding, international standards for the treatment of refugees and the obligations of countries towards them.*⁴

Initially, just 26 states were signatories to the 1951 Refugee Convention; now, over 140 have ratified both the Convention and the *1967 Protocol Relating to the Status of Refugees* (which extended the scope of protection afforded by the Convention

by removing geographic and time limits). Three states have ratified the 1951 Convention only and three (Cape Verde, USA, and Venezuela) have ratified the Protocol only.

UNHCR (United Nations High Commissioner for Refugees) argues that, although the nature of conflict and patterns of migration have changed over the last sixty years, the Convention has proved remarkably effective in helping to protect more than 50 million people in a wide variety of situations.⁵

Challenges to the Convention

Scope and Definition

One of the major criticisms of the 1951 Convention relates to its definition of who is a refugee. Under the Convention, a refugee is a person who is unable or unwilling to return to his or her country of nationality, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.

The Convention's definition reflected the experience of the preceding thirty years and especially the Second World War. Despite improvements represented by the 1967 Protocol, the definition remains relatively narrow.

Other refugee definitions have since emerged – for example, those incorporated within the *Convention Governing the Specific Aspects of Refugee Problems in Africa*, adopted by the Organisation of African Unity (1969) and the *Cartagena Declaration on Refugees* (1984). These are wider in scope and reflect the more complex reality of the conditions that force people to flee their homes than was captured by the Refugee Convention.

The Commission of the European Community, noting that in EU Member States an increasing percentage of applicants for refugee status are given instead some other form of protection, suggests: 'This is probably due to the fact that an increasing share of today's conflicts and persecutions are not covered by the Convention'.⁶

In addition, in recent years, more and more people are displaced, and forced to move either within or outside their country, because of drought or other extreme weather conditions; land degradation, and natural disasters. Such persons fall outside the scope of the Refugee Convention.

Amaya Valcarel of Jesuit Refugee Service (JRS) International has highlighted a broader category of forcibly displaced people, which he terms 'survival migrants': people fleeing an existential threat to which they have no domestic remedy. The exodus of around two million Zimbabweans to countries in the Southern African region between 2005 and 2009 exemplified this concept; they fled for a combination of interrelated reasons – mass livelihood collapse, state failure, repression and environmental catastrophe.⁷

In its 1992 document, *Refugees: A Challenge to Solidarity*, the Pontifical Council for the Pastoral Care of Migrants and Itinerant People called for asylum systems to take account of the needs of people who fall outside the strict definition of 'refugee' under the 1951 Convention but whose circumstances are such that they are *de facto* refugees. The Pontifical Council mentioned specifically those who are the victims of armed conflict, natural disasters, and 'economic conditions that threaten [people's] lives and physical safety'.⁸ This is the definition adopted by JRS in its work of 'accompanying, advocating and serving' refugees and forcibly displaced persons.⁹

Mass Movements

Mass movements of people across borders as a result of wars and conflicts present particular challenges to the Convention. Where there is a large-scale influx, the individual determination of claims places a significant burden and pressure on receiving states' asylum determination systems.

In a refugee camp environment, the situation can become acute. In the face of the sheer weight of numbers arriving, the individualised identification of refugee status and attendant Convention rights may be impractical. Human and physical security in the camp environs will, of necessity, become the over-riding protection objective. The Convention does not exclude *prima facie* or group determination in the case of large numbers of applicants but this is not without its problems:

*As an approach, it has its limits, particularly when it comes to ensuring the civilian character of camps or when complicated issues of status come to the fore, like exclusion or cessation. A bridge certainly needs to be built between prima facie recognition of refugee status and the Convention regime.*¹⁰

Three quarters of the world's refugees reside in countries neighbouring their country of origin. The

countries receiving asylum seekers are themselves often very poor, with inadequate infrastructure and underlying political and social tensions. Erika Feller, UNHCR Assistant High Commissioner for Protection, has noted: ‘The Convention’s absence of burden-sharing provisions is a clear liability when it comes to mass influx’.¹¹

Mixed Migration Flows

While refugees and asylum seekers account for a relatively small proportion of the estimated 214 million people living outside their country of origin, they increasingly move from one country to another alongside people whose reasons for moving are different and are not protection-related.

‘Mixed movements’, in which persons with different objectives move alongside each other using the same routes and means of transport, or engaging the services of the same smugglers, may create particular challenges for states. Moreover, there are considerable risks involved for the individuals travelling as part of such movements. Women and unaccompanied children may be especially vulnerable to exploitation en-route and at their place of destination.

The identification of people requiring protection within mixed irregular migrant flows is a significant challenge. Once identified, those in need of protection need both the safeguard of the Convention’s principle of *non-refoulement* (that is, that they will not be returned, directly, or indirectly, to a place where they would face serious harm for a Convention reason), and access to durable solutions.¹²

Credibility

Guy Goodwin Gill argues that the drafters of the 1951 Convention did not anticipate that the process of refugee determination would become institutional. It was not foreseen that there would be a requirement of due process by virtue of which the claimant would have a right to advice and legal representation. Furthermore, it was not anticipated that it would be required of decision-makers to understand the situation in the claimant’s country of origin and make a reasoned and fair determination on the credibility of an individual’s claim.¹³

Determining credibility is extremely complex and places a huge burden of responsibility on decision-makers: getting it wrong may result in returning an individual applicant to a situation of persecution or worse. For example, there are asylum seekers

without documents who are refugees, and there are asylum seekers with valid travel documents who are definitely not. There are people who tell a false story well, and people who tell a true story badly.

There is a grey zone: people who are leaving a country where persecution and discrimination are unquestionably occurring, and the economy is also dire. Are people leaving such countries for refugee reasons, or economic ones – or do both sets of reasons fuse into one that is, in many cases, almost impossible to unravel? And what about the people who leave their country for refugee reasons, and then keep on moving for economic ones (so-called ‘secondary movers’)?¹⁴

Where there is no possibility to legally migrate to a country, then economic migrants, either forced or voluntary, may resort to submitting a Convention claim for asylum ‘in the hope of gaining the privileges associated with refugee status’.¹⁵ It is the job of asylum decision-makers to distinguish those who have a credible claim for protection from those who do not.

Access in Order to Claim Protection

Article 14.1 of the Universal Declaration of Human Rights proclaims: ‘Everyone has the right to seek and enjoy asylum from persecution in other countries’. Access to the territory is essential for persons seeking the protection of a state in order to vindicate this right.

In recent years, across the world, states have been putting in place increasingly restrictive measures to prevent people gaining access to their territory in order to lodge a claim for asylum. Restrictions in access are being initiated in many instances in response to heightened concerns about national security, especially in relation to terrorism. Such restrictions are intended to be balanced against refugee rights – but, in reality, they often outweigh these rights.

In the EU, over the past decade, there have been increasing border controls (visas, interceptions on the high seas, carrier sanctions, pre-embarkation controls and specialist liaison officers abroad carriers), harsher detention policies and efforts to outsource asylum determination to states outside the Union. The net result of these policies is that entry is being denied to not only those who are not entitled to enter, but to many who *would* be entitled to asylum.

Within the context of stricter controls, migrants are using increasingly irregular and extremely dangerous routes to get to countries and regions of destination. The operation of border controls without complementary measures for identifying persons in need of protection creates the danger of turning away people fleeing persecution and victims of human rights violations.

For example, a Colonel Ghadaffi-led Libya did not have any asylum system or offer any sort of protection, having never signed the 1951 Convention. On 6 May 2009, three boats carrying 227 migrants were rescued by a merchant vessel; the migrants were transferred onto Italian coastguard boats in waters belonging to the Maltese Search and Rescue Region. These migrants did not have an opportunity to make a claim for asylum. Within twenty-four hours, a decision to remove them to Libya was taken by the Italian Government. This case is currently under review by the European Court of Human Rights.¹⁶



Spanish coastguards intercept fishing boat carrying migrants
© UNHCR/A. Rodríguez

Return

While few of the significant numbers of asylum seekers who arrive in industrialised countries are given refugee status, fewer still are forced to leave.¹⁷ Deportation remains a relatively rare occurrence. The Annual Report for 2010 of the Department of Justice and Law Reform shows that, in the five-year period 2006 to 2010, the number of deportation orders issued in Ireland was 4,859 and the number of deportation orders effected was 1,235.

Enforcing return is expensive. Tracking down individuals who may have gone underground is time-consuming and resource-intensive. Normal airline carriers will often not take deportees, so additional chartered flights have to be arranged. Special teams of security guards have to be drafted

in to pick up and accompany the deportee to the country of origin.

A further constraint on return is the need to have the agreement and co-operation of the country of origin. Many countries are unwilling to accept the return of their nationals and do not readily issue the required travel documents.

Finally, while the public may support removal conceptually, it tends to be ambivalent in practice in relation to individual cases where there are no concerns about public safety and the only issue is a violation of immigration laws.

What are the implications of non-return for the system? 'If rejections have little impact on whether or not asylum seekers remain in the country, then there is a serious question about the point of it all.'¹⁸ In effect, if it is perceived that people will not be removed despite the failure of their claim, then public support for the institution of asylum may be undermined.

The response of states has been to try to speed up the determination process for claims which appear to be without foundation and to implement tighter border controls to restrict or deny access to the territory.

Continuing Relevance of the Convention?

The fact that the Refugee Convention faces significant challenges does not mean it is irrelevant or unworkable. Even the strongest advocates for the Convention would not argue that it is, or was ever intended to be, a panacea for the complex reality and constantly evolving protection needs arising from forced displacement.

The enduring value and relevance of the 1951 Refugee Convention is, first and foremost, that it is there. It is the foundation for refugee protection. Notwithstanding any actual or perceived limitations in the scope of the Convention, crucially for the first time it provided a formal legal framework and recognition that, where states are unable or unwilling to provide *de jure* or *de facto* protection for their citizens, the international community has an obligation to offer protection.

The Convention tells us who is a refugee. It also states who is *not* a refugee: its provisions do not apply to people who have committed war crimes or crimes against humanity, serious non-political crimes, or who are guilty of acts contrary to the purposes and principles of the United Nations.

The Convention articulates a number of fundamental principles underpinning refugee protection, namely, non-discrimination, non-penalisation and *non-refoulement*.

Article 3 states that the Convention provisions are to be applied without discrimination as to race, religion or country of origin.

Article 31 stipulates that refugees should not be penalised for their illegal entry or stay. This recognises that those trying to escape persecution cannot be expected to leave their country or enter another state in a regular manner, and, accordingly, should not be penalised or arbitrarily detained purely on the basis of having resorted to such means in order to apply for asylum.

Article 33 requires that refugees should not be returned to face persecution or the threat of persecution. The principle of *non-refoulement* is so fundamental that no reservations or derogations in relation to it may be sought by a state wishing to sign up to the Convention.

Since the Convention is a rights-based instrument, it also lays down basic minimum standards for the treatment of refugees. Such rights include access to the courts, to primary education, to work, and the provision of documentation, including a refugee travel document. Erika Feller expresses well this fundamental feature of the Convention:

*The 1951 Convention was drafted to confer a right to protection on persons made otherwise exceptionally vulnerable through being temporarily outside the normal framework of national state protection. Its object and purpose was to give voice and force to rights for refugees, and to responsibilities for their surrogate protection.*¹⁹

It remains a significant achievement that the Convention is so widely endorsed and adhered to, even though there is not yet universal sign-up to it.

Addressing the Challenges

UNHCR contends that the Convention remains the cornerstone for the protection of individual refugees from persecution and targeted violence, even if the language of certain provisions has allowed for overly-restricted and narrow interpretation.

In our assessment, there would be too much to lose in trying to amend the core of the Convention to address this problem [narrow interpretation].

*Attention could more constructively turn to better methods of implementing the Convention ...*²⁰

The 1951 Convention was designed to protect refugees from persecution. The emergence of complementary and subsidiary forms of protection in response to the evolving needs of people who are displaced is a welcome development. The international protection framework needs to adapt to the dynamic and complex reality of global movements of people, the changing nature of conflict and causal factors of forced displacement.

Asylum systems now are required to take account of multiple protection considerations in assessing claims for protection: whether someone is entitled to protection on the grounds that they are eligible for refugee status; whether they are eligible for subsidiary protection; whether the principle of *non-refoulement* requires that they should not be returned; and whether there are other compelling or humanitarian reasons for which they should be granted protection.

The practical difficulties of applying the Convention to a mass influx of people have been noted. In these situations, the Convention serves more as an ‘aspirational basis for extending protection’ than a blueprint for what is needed.²¹ Guy Goodwin Gill has highlighted that states complain about the burden of individual case-by-case determination but would not consider alternatives for fear they would be perceived as a ‘soft touch’.²²

Furthermore, the Convention provides a model for the development of supplementary protection mechanisms to address the needs of the increasing numbers of people who are being forcibly displaced, both within their own countries and across borders, for reasons other than persecution and violence, and in particular for environmental reasons. These displaced people are likely to share many of the protection needs of Convention refugees but will also have different needs.

Burden-sharing is needed but is absent from the Convention. Currently, developing nations host around 80 per cent of the world’s refugees. There is need for a ‘new deal’, geared towards ensuring that countries in the frontline of providing asylum are not left alone in dealing with displacement from neighbouring states.²³

Clearly, it is not the fault of the Convention that

economic and other migrants seek to regularise their status through the asylum system. A significant factor in the phenomenon of ‘mixed flows’ is the reality that a legal immigration route into industrialised countries does not exist for the majority of people who wish to become economic migrants. Consequently, some will seek access via the asylum process – and, inevitably, states will seek to implement policies to prevent this. Perversely, one of the reasons that economic migrants may choose to apply for asylum is ‘the potential to exploit high standards which have been established to ensure the determination system is fair’.²⁴



A refugee camp scene in Byumba, Rwanda © JRS/M. Raper

Appeal and procedural safeguards of due process ensure that status determination is a lengthy process, often lasting several years. The fact that very few unsuccessful claimants are returned at the end of the process undoubtedly encourages some people who do not have protection needs to apply for asylum. However, it should be noted that the Convention itself is not a barrier to the return of non-refugees.

Credibility is at the heart of any asylum determination procedure. The presence of significant numbers of economic migrants who make an unfounded asylum claim undermines the credibility of the process for all. The low recognition rates in many states cannot be attributed solely to the reality that some applications come from economic migrants – but such applications are nevertheless a significant factor. Ultimately, low recognition rates may serve to undermine public confidence in the system and create a more hostile environment for asylum seekers.

I believe these issues have given rise to a more fundamental threat to refugee protection. The

response of governments, especially in more industrialised countries, has been to institute increasingly tough and restrictive border controls and immigration practices, which make it harder for asylum seekers to reach these states. The move towards a more restrictive response finds expression also in the conditions imposed while asylum claims are being processed (through, for example, harsher reception conditions, increased recourse to detention and fewer economic and social rights during status determination). The closing of borders undoubtedly denies access not only to those who are not entitled to enter, but to many who have a genuine right to protection.

UNHCR believes that it is imperative for the international community to address the ‘mixed migration’ phenomenon in a more coherent and comprehensive manner. It has developed a 10-Point Plan as a tool to assist governments and other stakeholders to incorporate refugee protection considerations into migration policies. The focus of this Plan is on activities in countries of transit and destination, incorporating both traditional protection activities as well as specific proposals to protect refugees and asylum-seekers travelling as part of mixed movements.

*In particular, the 10-Point Plan recommends establishing entry systems that contain mechanisms to identify new arrivals with protection needs and to meet the needs of other categories of persons involved in mixed movements.*²⁵

Conclusion

The 1951 Convention has a continuing relevance in protecting refugees. Nevertheless, its role needs to be subject to regular review, ‘to recognise and reaffirm its enduring strengths but also to buttress it when it comes to the ‘refugee problem’ in all its dimensions, where these are understood to include asylum/migration nexus issues and new drivers of displacement’.²⁶

António Guterres, United Nations High Commissioner for Refugees, has prioritised addressing ‘protection gaps’ in the international system and balancing the disproportionate burden of responsibility for refugees which falls on poor countries. The High Commissioner has also highlighted the need for action on an expanding list of displacement problems for which no agreed international solutions currently exist, including natural disasters, climate change, economic and other man-made calamities, gang violence, and

vulnerability arising from the uncertainty of post-conflict situations.²⁷

The 1951 Convention was never intended to address migration issues. Its sole aim was, and is, to protect refugees. The challenge is to find other efficient mechanisms to manage economic migration and maintain border security. These are legitimate concerns but they need to be carefully balanced with the responsibility of states to protect people fleeing persecution.

After sixty years, and in the face of all the modern challenges of forced displacement, the 1951 Convention remains the cornerstone of refugee protection. It provides a sound foundation on which to build supplementary systems of protection for those in need who fall outside its remit.

The Convention has enabled millions of people fleeing persecution to find safety and refuge over the last six decades. It is 'the wall behind which refugees can shelter ... the best we have, at the international level, to temper the behavior of states.'²⁸

Notes

1. Ed West, 'It's not the Home Office's fault – the UN Convention on Refugees is not fit for purpose', *The Telegraph*, Tuesday, 11 January 2011.
2. At the end of 2010, there were, in total, 43.7 million forcibly displaced persons throughout the world, including 15.4 million refugees; 27.5 million internally displaced persons, and more than 840,000 individuals whose application for asylum had not yet been adjudicated. See UNHCR, *60 Years and Still Counting: UNHCR Global Trends 2010*, Geneva: UNHCR, 2011, p. 5.
3. UNHCR, *1951 Refugee Convention: Questions and Answers*, Geneva: UNHCR, 2007, p. 8.
4. Marilyn Achiron, 'A Timeless Treaty under Attack' in *Refugees*, Vol. 2, No. 123, 2001, p. 6.
5. *1951 Refugee Convention: Questions and Answers*, op. cit., p. 9.
6. Commission of the European Communities, *Policy Plan on Asylum: An Integrated Approach to Protection across the EU*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, Brussels: Commission of the European Communities, 17 June 2008, n. 1.3, p. 3 (COM (2008) 360 final).
7. Amaya Valcarel, 'The UN Refugee Convention: Still Valid?', Rome: Jesuit Refugee Service, 5 May 2011.
8. Pontifical Council for the Pastoral Care of Migrants and Itinerant People, *Refugees: A Challenge to Solidarity*, 1992, n. 4. (http://www.vatican.va/roman_curia/pontifical_councils/corunum/documents/rc_pc_corunum_doc_25061992_refugees_en.html)
9. The Jesuit Refugee Service (JRS) is present in more than fifty countries worldwide, providing assistance to refugees in camps, to people displaced within their own country, to asylum seekers in reception centres and those held in detention.
10. Erika Feller, 'The Refugee Convention at 60: Still Fit

for its Purpose?', Statement delivered at Workshop, 'Refugees and the Refugee Convention 60 Years On: Protection and Identity', Prato, 2 May 2011. (<http://www.unhcr.org/cgi-bin/texis/vtx/home/opensslPDFViewer.html?docid=4ddb679b9&query=The+Refugee+Convention+at+60>)

11. *Ibid.*, p. 7.
12. UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in Action*, UNHCR: Geneva, 2010, p. 8.
13. Chatham House, 'The Refugee Convention: Why Not Scrap It?', A summary of discussion at the International Law Programme Discussion Group at Chatham House on 20 October 2005; participants included lawyers, academics and representatives from governments and NGOs. (<http://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/ilp201005.pdf>)
14. Rupert Colville, 'Refugee or Migrant?' ('The Editor's Desk') in *Refugees*, No. 148, Issue 4, 2007, p. 2.
15. Global Commission on International Migration, *Migration in an Interconnected World: New Directions for Action*, Geneva: Global Commission on International Migration, 2005, p. 7.
16. *Hirsi and Others vs Italy*, application no. 27765/09.
17. Matthew Gibney and Randall Hansen, *Deportation and the Liberal State: The Forcible Return of Asylum Seekers and Unlawful Migrants in Canada, Germany and the United Kingdom*, New Issues in Refugee Research, Working Paper No. 77, Geneva: UNHCR, February 2003, p. 4.
18. *Ibid.*, p. 7.
19. Erika Feller, op. cit., p. 4.
20. *Ibid.*, p. 6.
21. *Ibid.*, p. 7.
22. Chatham House, op. cit.
23. Luise Druke, *Mobilizing for Refugee Protection: Reflections on the 60th Anniversary of UNHCR and the 1951 Refugee Convention*, New Issues in Refugee Research, Working Paper No. 226, Geneva: UNHCR, November 2011, p. 4.
24. Gerry Van Kessel, 'Global Migration and Asylum', *Forced Migration Review*, Issue 10, April 2001, p. 11.
25. UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in Action*, op. cit., p. 8.
26. Erika Feller, op. cit., pp. 12–13.
27. Luise Druke, op. cit., p. 4.
28. Marilyn Achiron, op. cit., p. 6.

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Buying a House – Is the Buyer Protected? Some Reflections from a Legal Perspective

Patrick Hume SJ

Introduction

Consumer law covers most of the products we buy today. We presume that what we buy is regulated by certain minimum standards. Furniture must meet some minimum health and safety requirements. Electrical goods must work, must not be a danger to the consumer, and must last a minimum period. Cars must meet mechanical, electrical, design and other minimum standards. Several laws and regulations govern the manufacture, transport and sale of goods. Most of the time, the goods we purchase ‘work’: the chair does not collapse, the kettle boils, and the car stays on the road. However, if faults are discovered, purchasers can, and do, return to the shop with the defective goods and so it is not unusual for kettles, shoes, and even cars to be exchanged.

The purchase of most goods can be done without any legal advice. It would seem reasonable to presume that if goods and services purchased without the aid of a lawyer are protected by consumer legislation then what we buy with the aid of a lawyer would be protected to an even higher standard.

Yet the reality is that buying a house – a purchase which, for most people, will be the most significant one they will ever make and which invariably involves obtaining legal advice – comes without the kind of consumer protection routinely provided in the purchase of other goods. In effect, buying a house appears to fall outside the remit of legislation covering the sale of goods and services.

Concerns about the inadequacies of the protection offered to purchasers of housing have been thrown into sharp relief by the enforced vacating, on safety grounds, of the Priory Hall apartments in Dublin in October 2011, and the legal action initiated to require that the serious defects in the building be rectified. There is now widespread concern not only about the quality of construction of many of the houses and apartments built during Ireland’s building boom but about the exposure to prohibitively expensive repairs of those who have had the misfortune to become the owners of houses or apartments that are fundamentally defective.

What Protection Can the Lawyer Offer the Buyer?

Lawyers are hired to give the potential house buyer a sense of security concerning their purchase, but the reality is that, in effect, there is very inadequate protection in house buying, and the classic defence of *caveat emptor* (‘let the buyer beware’) continues to rule supreme in the property market.

The job of the lawyer in the sale or purchase of a house or flat can be summed up as: ‘Title, title, and title’! Does the seller have title or ownership? Does the seller hold a title to sell? Can the title be transferred to the buyer?

But can a solicitor be responsible for issues regarding the plumbing, wiring, energy consumption, building standards, and materials used in construction? The blunt answer is: ‘No’. Lawyers have no building skills, no knowledge of wiring, plumbing, brick-laying, or insulation. Comments on building regulations, planning regulations, fire regulations, energy ratings are all done by the relevant experts – for example, an engineer, architect, or quantity surveyor – on whom the buyer and his or her solicitor depend. These matters are relevant to the lawyer only in so far as they apply to title.

The main role of the solicitor for the buyer is to check that the seller owns the house, that the seller can sell the house, that the buyer is credit-worthy and will, on completion of the purchase, own the house – or at least own it with the ordinary restrictions which apply when a mortgage is used to purchase a house.

Of course, the lawyer will recommend that the buyer gets independent expert reports as a check for possible building faults in the house. Reports produced by the seller may be useful but the buyer must be warned that these reports cannot be relied on as a guarantee or warranty as to materials used or the soundness of structure of the building.

It might be assumed that since a series of building regulations have been put in place, following on from the *Building Control Act, 1990*, the

consumer would at least have the protection of these minimum standards. However, the reality is that the mechanisms to ensure compliance with the standards are extraordinarily weak. Under the legislation, 'Building Control Authorities' (that is, the country's County and City Councils), are empowered to carry out inspections of new buildings. However, in the early 1990s the Department of the Environment set a guideline target for inspections levels of just 12 to 15 per cent of new developments; this was later amended to the even lower rate of 12 to 15 per cent of new buildings.

In the absence of 100 per cent inspections (as is the case in Northern Ireland), other systems, such as the 'opinions of compliance' issued by professionals, and reports of inspections carried out on behalf of some financial institutions, are often relied on by consumers. However, the National Consumer Agency, in a report in 2008, concluded: 'none of the systems outlined provide the consumer with a substantive assurance that their new dwelling is constructed in compliance with the building regulations'.¹

What tests are applied by lawyers to the certificates or expert opinions provided by sellers in regard to, for example, compliance with building regulations, fire regulations and building energy requirements? Basically three tests are applied:

- Are they in keeping with good conveyancing practice?
- Are they in line with the rules or guidelines of banks or other lending institutions?
- Would they be acceptable to most other solicitors?²

The solicitor does not second-guess the relevant experts, and the experts do not second-guess the various sub-contractors.

Language of Reports

A close look at the language commonly used and accepted in the reports of experts may shed some light on the poor protection offered to house buyers. A buyer's expert may see beyond the basic language used in the reports supplied by sellers to satisfy title. This expert may warn the buyer but can in no way guarantee the safety or the suitability of the residence for purpose, into the future.

The reports or opinions produced by the relevant

experts for the builder/seller will typically include a statement along the following lines:

*This opinion is issued solely for the purposes of providing evidence **for title purposes** of the compliance of the Relevant Building or Works with the requirement of the Building Control Act. Except insofar as it relates to such **it does not include any opinion on the condition or structure of the Relevant Building** compliance, or Works.* (Emphasis added).

In other words, this is not a guarantee or warranty of materials used, of the construction methods employed or the end structure. All further statements issued are conditioned by this fundamental limitation of the opinion.

The opinions are quite explicit and leave little doubt as to what is entailed in the 'visual inspections' carried out on buildings. For example:

... the **Inspection** of the completed **relevant building or works** as existed on the Inspection date which inspection was **limited to**:

- *Visual inspection of the **House/Apartment***
- *Visual inspection ... of the **common and amenity areas** ...*
- *Visual inspection of **external areas**.*

*For the purposes of the Inspection **no opening up was carried out**. The inspection was therefore **superficial only and took no account of works covered up, inaccessible or otherwise obscured from view**.*

Imagine buying a second-hand car, on the basis of a mechanical report carried out on behalf of the seller which depended on a visual inspection, where no opening of the bonnet was carried out, there was no checking of tyre pressure or oil or odometer and no checking of electrics, but instead just a superficial visual examination and written report that confirmed the examination had been carried out – and where the report also explicitly stated that this examination was superficial. Could a buyer of a second-hand car depend on such a report? *Would a buyer depend on such a report?*

This is why lawyers for purchasers of houses would request that buyers commission their own experts' opinions before purchase.

The opinions produced by the sellers' architects and/or engineers will typically state:

*... a site inspection service was not provided nor have I administered the Building Contract. I am therefore **unable to comment on, methods of construction, materials used, and elements of the Relevant Building or Works not evident by Visual Inspection.***

*I am of the opinion, based solely on the service described at 'architectural services' [as limited to 'visual inspection'] that such construction of the Relevant Building or Works is in substantial compliance with the Building Regulations. In preparing this Opinion on Compliance I have **relied on such Visual Inspection and Confirmations** from the contractors ...*

The value of such opinions are at best limited and at worst useless except that they meet a minimal legal requirement with respect to title and the ability of the seller to transfer title to the buyer. Any reliance on these documents with respect to materials used or structure is misplaced.

National Consumer Agency Report

The National Consumer Agency Report, *The Home Construction Industry and the Consumer in Ireland*, set out to provide an overview and 'in-depth assessment' of the home construction sector in Ireland from a consumer perspective.³

The study extended to several volumes, covering a wide range of issues, including consumer information; legal aspects of the relationships between consumers and the construction industry; and the State's building regulations and their enforcement.

The report found serious shortfalls in the provision of consumer information – pointing, for example, to 'a lack of information that is readily understandable to the average consumer about the more technical matters of the construction sector' and the limited information available to consumers about their rights and how they might seek redress. It called for measures to ensure that information would be readily accessible and presented in a consumer-friendly manner, and made recommendations regarding action on these issues which should be taken by the Department of the Environment, the various bodies within the construction industry, and the National Consumer Agency itself.⁴

In relation to legal issues, the report considered there was need for education and information for consumers in regard to the contracts entered into with trades people and professionals in the construction industry, and a need to address 'unfair terms and conditions' in some contracts which gave the seller/builder advantages to the detriment of the consumer. It drew attention to the reality that, where problems arise, consumers may be deterred from attempting to obtain redress, since many such problems would lead to claims that exceed the limits for redress provided through the Small Claims Court and therefore necessitate an application to a higher court. The potential costs involved would, for many people, represent an insurmountable obstacle to taking any action. Furthermore, the application of the Statute of Limitations works to the advantage of builders. The report urged changes that would allow for less expensive and more consumer-friendly ways to resolve disputes, as well as amendments to the limitation periods under the Statute of Limitations.⁵



Priory Hall residents demand action

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The report outlined some of the areas where it was felt there was need to update building regulations, and then focused in particular detail on the inadequacies of the current mechanisms for the enforcement of the regulations. It argued that the national system for building control enforcement 'should be substantially improved', and outlined two possible approaches. One was a system of self-certification 'wherein every contractor and sub-contractor would provide certificates that their work was completed in conformance with current regulations, and providing the basis for the issuance of a Certificate of Compliance for every new dwelling.' This system of self-certification would be accompanied by an audit process carried out by 'Building Control Authorities'. The other option was a system of '100 per cent inspection of

new dwellings by the relevant Building Control Authorities, who would have powers to withhold certificates in cases of non-compliance’.⁶

No doubt there is much debate to be had about the specific recommendations put forward in the National Consumer Agency report. However, the need for action in response to the many gaps and inadequacies in protection for the consumer which it identified is even more clear now than it was when the report was compiled. *The Programme for Government 2011–2016* included a commitment to introduce legislation to ensure ‘tougher and clearer rules relating to fire safety in apartment buildings’ and to ‘introduce a new fire safety inspection and certification’. It also included a commitment to ‘improve the quality of information available on the Irish housing market by requiring that the selling price of all dwellings is recorded in a publicly available, national housing price database’.⁷ However, in relation to the many other areas of concern regarding protection for the house buyer, the Programme is silent.

Conclusion

It appears that the situation with respect to buying a house in Ireland is more akin to that pertaining to the purchase of an investment product than to the purchase of goods and services; the classic defence of *caveat emptor* (‘let the buyer beware’) still prevails in the property market.

Priory Hall has shone a light on the dark side of consumer protection for house buyers. Experts offering opinions on housing meet a minimal requirement of ‘visual inspection’ to confirm that the house for sale complies with regulations. House buyers enter a market exposed as a result of inadequate regulatory protection.

While any change in law will not be retroactive and cannot address the problems created over the building boom, there is still a need to close the gaps in consumer protection afforded to house buyers. Lawyers, architects, engineers, quantity surveyors, builders and representatives of consumers need to work together to identify how regulations and standards can be strengthened. Minimum cost and maximum profit cannot be allowed to be the only ‘building requirement’ that has to be obeyed. When building or selling there is no way to reach perfection but a commitment to best practice, when properly regulated by law, protects all involved – the builder/seller and the buyer, the experts and all future interests in the house or apartment.

With so little building currently in progress, this is an opportune time to seek to implement changes – changes that protect builders and buyers, changes that foster trust between builder and buyer, changes that will result in buyers have the assurance that the home they are purchasing comes with the protection of meeting building standards that are adequate in scope and effectively enforced. It is time for action, time to protect house buyers as consumers.

Notes

1. National Consumer Agency, *The Home Construction Industry and the Consumer in Ireland*, Dublin: National Consumer Agency, 2008.
2. Gabriel Brennan and Nuala Casey (eds.), *Conveyancing*, Vol. 1, Oxford: Oxford University Press, 2003, p. 327.
3. Access to each volume is at National Consumer Agency, Research Zone – Home Construction site. (http://www.nca.ie/eng/Research_Zone/sectoralresearch/Home_Construction/introduction.html)
4. National Consumer Agency, *The Home Construction Industry and the Consumer in Ireland*, Volume 1, *Consumer Information, Marketing and Communication Review*, November 2008.
5. Volume 3, *Review of Legal Issues*.
6. Volume 5, *Building Regulations and their Enforcement*.
7. *Programme for National Recovery 2011 –2016*, Dublin, March 2011, p. 46. (Available from: www.taoiseach.gov.ie/eng/Publications/Publications_2011)

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Still Homeless

Peter McVerry SJ

Introduction

It was to have been the year of hope for homeless people. By the beginning of 2011, we *should* have been entering a new phase in the provision of services for those who are, for whatever reason, out of home. This was to have been the case, because the end of 2010 had been set as the target date for achieving two highly significant developments in relation to services for homeless people – one was the elimination of the need for any person to sleep rough, and the other was the elimination of the need for any person to remain long-term (that is, for more than six months) in an emergency homeless facility. Both these developments had been set out as key objectives in *The Way Home*, the five-year official strategy on homelessness, published by the Department of the Environment, Heritage and Local Government in 2008.¹

Thus it was to be that, by the beginning of 2011, two of the most damaging aspects of being without a home would be finally consigned to history. Instead of an endless, repetitive cycle, with homeless people going from hostel to hostel, often for years on end, the 2008 strategy held out to homeless people the promise of having the key to their own door within the foreseeable future.

But it was not to be. Instead, more people became homeless and stayed homeless, and more people were forced to sleep on the streets. In Dublin, where there is the greatest number of homeless people in the country, organisations responding to homelessness have reported a significant increase in demand for their services over the past year. Preliminary results from a ‘count’ in early November 2011 to establish the number of people sleeping rough in Dublin city centre indicate a figure of 87 – as against 60 in April 2011, and 70 in November 2010.²

What went wrong? The central objectives of the 2008 strategy were widely welcomed by those working with homeless people. Its approach was modelled on similar, successful, strategies in New York and Toronto. But, as events were to show, it had one fatal flaw.

The Approach of the 2008 Strategy

The 2008 strategy marked a significant departure from the approach implicit in earlier homeless strategies. The assumption previously was that, in cases where homeless people had addiction problems, mental health difficulties or behaviour problems, they would be unlikely to cope in independent accommodation. It was believed to be almost inevitable that, within a short period of time, they would leave their accommodation, or be evicted.

The focus, therefore, was on encouraging homeless people to get treatment, so that they could be then considered suitable for housing in independent accommodation. The task of project workers was seen as assisting homeless people to progress through various stages of treatment, leading eventually to long-term housing. Housing thus became a goal to be achieved, and was dependent on homeless people successfully addressing their personal issues. This approach could be called ‘treatment first, accommodation second’ in a ‘continuum of care’ model.

The problem with this approach is that it is almost impossible for someone to deal with addiction, mental health or other issues while remaining homeless. Hostels are often full of drugs; walking the streets all day long is hardly conducive to dealing with depression or other mental health problems. This approach is also very expensive: if it is to have any chance of being effective, hostels have to be well staffed with project workers. In reality, the end result was that many homeless people remained for years just going from one hostel to another, never moving out of homelessness to a place of their own.

‘Housing First’

The 2008 homeless strategy marked the clear adoption of a new approach, which could be termed the ‘housing first’ model. In this, the objective is to give homeless people their own accommodation, and *then* offer them whatever support services or help they required. This approach involves a considerable number of support workers being available to them, as appropriate to their needs. But

it is cheaper to provide support services to people in their own homes than to provide never-ending, supervised, hostel accommodation.

In New York and Toronto, where this approach has been operating and evaluated, it was found that, two years after being given independent accommodation, 80 to 90 per cent of previously homeless people had successfully maintained their accommodation. These people were not 'cherry-picked' on the basis of being ready for housing, but rather were chosen randomly from a list of those who had repeatedly failed to work through the 'continuum of care' strategy and had given up on – and been given up by – mainstream homeless services. They were, therefore, people with multiple needs.

It was also found that as a result of the approach adopted there were significant benefits to the health and well-being of those who had been accommodated, with reduced drug use, fewer hospital admissions, fewer arrests and fewer psychiatric admissions. This is hardly surprising – most homeless people dream of having the key to their own front door, so when they do, they are more motivated to deal with their personal issues, and they have the stability which is required for the sometimes very difficult task of changing their lives.

Implementation of the Strategy

The key to the success of the 2008 strategy, and its objectives of eliminating rough sleeping and long-term hostel use, was to be the securing of 1,200 units of accommodation by the target date of 2010. Most of the emergency homeless shelters were then to be closed. However, by the end of 2010, only 300 units of accommodation had become available – but the process of closing the emergency shelters had begun. The result was the large increase in the number of homeless people living on the street which occurred for much of 2011. And, instead of moving towards closing emergency shelters, new shelters had to be opened later in the year to cope with the increased demand. With the failure to achieve these two objectives of the strategy, there was an inevitable failure to achieve its third key objective – 'preventing the occurrence of homelessness as far as possible'.

Why did the strategy fail? It was always doomed to fail because those who had responsibility for implementing it, and achieving its goals, had no control over the supply of long-term

accommodation – they were almost totally dependent on the private sector to lease such accommodation to them.

Why the private sector? Given the economic crisis and the pressure on public finances, the Government has stopped providing capital funding for the building or purchase of social housing; instead, the emphasis is to be on using private sector housing, and in particular leasing arrangements. But the private sector has not been forthcoming to the extent that is needed. And there is no plan B! A strategy which is dependent on the goodwill of others to succeed is not a proper strategy.

Over one-third of homeless people (37 per cent) have been homeless for more than five years; 74 per cent have been homeless for more than one year. For many, instead of finding themselves in a place they could call home in 2011, they found that their homeless shelter was closed and they were being offered sleeping bags to keep them warm during a night on the street. Some homeless people could have opened a little shop with all the sleeping bags they accumulated!

Dependence on the Private Sector

The same flawed approach behind the dependence on the private sector to meet the basic need for shelter is operating for the provision of social housing for all those on the housing waiting lists. During the Celtic Tiger years from 1996 to 2008, the number of social housing units being built or purchased dropped to its lowest level ever in the history of the State – an average of 1,790 net additional units per year, compared to 8,800 units provided in 1975 and 6,500 in 1985. Occurring alongside a dramatic rise in house prices, this low level of provision meant that the number of households on the waiting list for social housing more than doubled during the Celtic Tiger years, from 27,400 in 1996 to over 56,000 in 2008. By 2011, the number had soared again to over 98,000.

This attempt to transfer responsibility for the provision of social housing to the private sector occurred in several different ways.

Part V of the *Planning and Development Act 2000* required developers to sell to the local authority 20 per cent of residential housing output for use as social and affordable housing. In reality, provision of social and affordable housing under this Act averaged 2.8 per cent, over the period 2002 to 2008.

The Act was amended in 2002 to allow developers and builders to transfer parcels of land (often where nobody wanted to live!) or pay cash up-front (which local authorities, desiring to balance their books, found very attractive) in lieu of handing over houses and apartments for social housing. The amendment was to the undisguised satisfaction of the construction sector, which had viewed the original provisions as potentially leading to a reduction in the desirability, and hence the price, of the other houses and apartments in a development.

In the absence of sufficient social housing provision, the private rented sector became the dominant form of housing for many poorer households. It now costs the Government over 500 million euro per year to subsidise this accommodation through rent supplements paid under the Supplementary Welfare Allowance scheme. A significant proportion of this money is being paid to landlords who are providing accommodation that does not comply with minimum standards, and some who are not even registered as landlords (often to evade tax on the rental income).



Still no end to sleeping rough

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The Rental Accommodation Scheme (RAS) also provides accommodation for those in need of social housing. It differs from the rent supplement scheme in that local authorities reach long-term agreements with a private landlord, thereby providing greater security for the tenant. But it also involves transferring significant amounts of taxpayers' money to private landlords, with no prospect of any capital benefit ever accruing to the State.

The private sector is primarily motivated by profit. It is the responsibility of the State to address basic social needs. The ideological dependence on the private sector to meet social needs has proved to be

both expensive and unsatisfactory.

A particularly stark example of this phenomenon was the failed attempt to regenerate local authority estates through the use of Public Private Partnerships (PPP). Had such regeneration been undertaken with local authorities as the drivers of the process, and with a clear commitment to the provision of social housing as the priority, several large estates which had long experienced serious physical and social deterioration could have been regenerated while the economy was still growing. Instead, a central Government directive required that all regeneration projects be provided through a PPP. Existing plans, which had been negotiated with local communities, were shelved and new plans, costing millions more, was drawn up without the involvement of local communities, leaving them angry, frustrated and feeling disempowered. With the downturn in the economy, and the severe contraction of the construction sector, the private sector partners pulled out and the regeneration plans shelved indefinitely. Communities were left in estates that were now often in a markedly poorer condition than they had been before the whole process began.

Quality of Emergency Accommodation

While there is little prospect of many homeless people getting the key to their own door while the homeless strategy continues to depend on the private sector to provide long-term accommodation, the new emergency shelters will, it is to be hoped, provide all homeless people with a bed for the night. However, the *quality* of the accommodation on offer is a critical issue.

Most of the complaints about hostels I hear from homeless people relate to having to share a room with one, two or three strangers – or even as many as fourteen in dormitory-style accommodation. Homeless people regularly report that they wake up in the morning to find that the person or persons with whom they had shared a hostel room overnight will have already departed – having stolen their money, their trainers, and sometimes their medication. Others, who had never taken drugs, report sharing a room with active drug users, who inject heroin in front of them during the night and, in a spirit of friendship, offer to share their drugs with them. Some people, fed up, depressed, and seeing no future for themselves, succumb and accept the offer.

Homeless people, like the rest of us, have a right to

feel safe. A single room, with a door which can be locked, where a person can sleep safely and where his or her belongings are secure, is a minimum requirement, which all of us would want for ourselves.

It is not sufficient just to provide a roof over someone's head; we have to do so in a way that respects the dignity of the person. To respect someone's dignity is, in the first place, to ensure that they feel safe. However, in the current economic climate, securing funding for single room accommodation in hostels will be very difficult. There is pressure on all agencies to accommodate as many homeless people as possible – under the guise of value for money. Some homeless people actually feel safer sleeping on the streets, which is a stark indication of the insecurity which people feel in shared emergency accommodation – and a terrible indictment of our society. Others feel forced, against their will, to share a room with strangers because they may be refused welfare payments unless they do so.

*To respect someone's dignity is,
in the first place, to ensure that
they feel safe.*

It is time for all the voluntary agencies involved in the provision of homeless services to agree a protocol whereby they will provide only single room accommodation. Homeless people are, by definition, in a position of extreme vulnerability. Our society should not add to the vulnerability and hardship of their situation by a failure to ensure a minimum level of safety and security in the temporary accommodation they must use.

The Bureaucracy

Homeless people are often caught in a bureaucracy, which has been designed for the benefit of the bureaucracy.

John had gone to England when he was fifteen years of age. He ended up in prison there. On completion of his sentence, he was deported back to Ireland. He arrived in the country with no money and no arrangements for accommodation. He tried to get a welfare payment, but he was refused because he had no address. He went to get emergency accommodation so that he would have an address. He couldn't be given accommodation

until he was registered as homeless with Dublin City Council. Dublin City Council couldn't register him as homeless because he had no PPS number in Ireland. He went to an office of the Revenue Commissioners to get a PPS number, but was told he couldn't be given one until he had an address. Two days walking around Dublin, going from one service to another, resulted only in John arriving back where he had started.

Of course, without a PPS number, John *could* be fiddling the system, claiming welfare under several different names from several different addresses. Each service had its own boxes to tick; John's difficulties were not their problem.

Jim was living in a private rented flat in a provincial town. The house went on fire and his flat was destroyed. He tried to get a bed in the local emergency homeless hostel, but there was no place available. His welfare payments were stopped because he no longer had an address. Jim came to Dublin to seek homeless accommodation. He found he could not be offered such accommodation unless he was registered with Dublin City Council as homeless. He went to register with the Council but officials there refused to register him as homeless, since he was considered to be the responsibility of the local authority in his home area. He was then unable to get welfare payments in Dublin as he had no address in the city. He returned to his home town but the hostel there was still full. The social welfare office there still refused him a payment as he was not living in the hostel. He came back to Dublin, slept rough and begged for his food. He got arrested for begging.

Of course, it is understandable that the authorities do not want people registering as homeless with different local authorities. It adds to their waiting lists, imposes extra costs on their services and makes social housing planning more difficult. But the result is that, effectively, homeless people are trapped in the area from which they come; they cannot move to another area to look for employment or to seek treatment for an addiction or for mental health problems. In other words, homeless people end up bearing the real cost of systems that often seem to be designed for administrative convenience.

Joe went to the Post Office to collect his welfare payment. He was asked to provide photo identification to prove that he was indeed the person to whom the payment was due. The usual

photo identification required is either a passport or full driving licence. But most homeless people do not have either document. An alternative form of identification is a Garda Age Card. But the Garda Age Card costs 10 euro and Joe had no money. Joe borrowed the money to pay for an Age Card. He went to the Garda station to get it signed. The Garda would not sign it unless he could produce photo identification to prove that he was the person named on the Age Card. He also needed a birth certificate. However, although he had lived all his life in Ireland, he had been born in England. It costs 24 euro to obtain a birth certificate from England. Joe cannot get his documentation without money, but he cannot get money without documentation.

The requirement to show photo identification in order to collect a welfare payment is a reasonable one, as there have been numerous reports of strangers finding – or robbing – a person's PPS card, which does not have a photograph attached, and collecting their money by forging the person's signature. But no-one could tell Joe how he was supposed to get a birth certificate and photo identification without any money. The Post Office said it was not their problem, the welfare office said it was not their problem, the Gardaí said it was not their problem – different agencies with different boxes to tick, but no-one responsible for sorting out Joe's dilemma.

Life is very frustrating for homeless people at the best of times. But a bureaucracy that doesn't work, and a strategy that does not deliver, make life much more frustrating. Homeless people need, and deserve, better.

Notes

1. Department of the Environment, Heritage and Local Government, *The Way Home: A Strategy to Address Adult Homelessness in Ireland 2008–2013*, Dublin, 2008 (www.environ.ie).
2. See Carl O'Brien, 'Sleeping rough in capital rises 45%', *The Irish Times*, Monday, 21 November 2011; Kitty Holland, 'Internet cafes prove an unlikely refuge for city's homeless', *The Irish Times*, Friday, 2 December 2011.

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Social Vulnerability in a Divided Housing System

Michael Punch

Introduction

Ireland's economic crisis and the central problems in the housing system that played a large part in precipitating that crisis should make it clear that there is an urgent need for new ways of thinking about housing. The model that became dominant during the economic boom was one of market idolatry and the relentless commodification of housing, such that it became primarily an investment vehicle for realising exchange values, often from no productive activity whatsoever.

This value system meant that the more meaningful use value of housing as a home, a response to a basic human need, and a central element in community and societal development was typically secondary, if not lost altogether. Concern about housing commodification has been voiced by commentators for many years, but it is perhaps only with the current crisis that it has gained wide recognition, and indeed the Irish Government has also come at last to this conclusion in its *Housing Policy Statement*, issued in June 2011.¹

This article first analyses the most recent evidence regarding housing needs and vulnerability. It then examines the process of realignment of social housing towards greater dependence on market mechanisms, a central policy trend of recent years that may deepen rather than lessen the divisions in Irish housing.

Housing Vulnerability Now

Household Indebtedness

Within the model adopted in Ireland over the boom–bust years, the disconnection between the housing market and the real world is immediately evident from the trend in house prices over the long run, when compared to the trend in actual building costs. In the period 1975 to 1995, the price of newly-built housing and the costs of house production (in terms of materials and labour) ran in parallel. But from 1995 onwards there was a sudden rise in house prices, which was unrelated to real building costs. This divergence between costs and selling price continued and indeed escalated sharply right until the end of the housing boom. Overall, between 1994 and 2007, 'while building costs rose

by 82 per cent, the price of new housing rose by more than four times as much'.²

In some respects, the current downturn suggests a correction that, perhaps, still has a way to go. More importantly, the reality that the over-valuation of Irish housing was financed via irresponsible lending on both supply and demand sides (the act of financial institutions which, motivated by greed, betrayed the common good) has left many households in a position of vulnerability.

The core issue here is not so much negative equity (a psychological shock for some, but arguably not a problem in the long term) but unsustainable mortgages in the face of job losses, the politics of austerity and uncertain interest rates. Indebtedness is a large burden for many households – nationally, household debt was €128 billion in September 2011 or about 82 per cent of GDP. Most of this was mortgage debt – €98 billion. At the end of the third quarter of 2011, 16,599 households were in mortgage arrears for 91–180 days, while 46,371 were in arrears for more than 180 days. At this time, 884 properties were being repossessed.³

Housing Need

Recent trends in unmet housing need reveal something of the struggles and crises facing the most vulnerable households in Irish society on a daily basis. The official assessment of housing need in March 2011 revealed 98,318 households in need of social housing (the figure excludes those now accommodated under the Rental Accommodation Scheme (RAS)).⁴ This is an overall increase of 71 per cent since the economic downturn (56,249 households were assessed as being in need in 2008). However, the reality is that, for the most part, the boom period also was a time of rising numbers in housing need, with a 105 per cent increase between 1996 and 2008 (the only period where the numbers declined was 2002–2005).

By far the most prevalent cause of assessed housing need in 2011 is the unaffordability of current accommodation (accounting for 67 per cent of households on the waiting lists). In addition, a significant number of people are in

Table 1: Housing Need, 31 March 2011

	No. Households	%
Homeless	2,348	2.4
Traveller	1,824	1.9
Unfit Accommodation	1,708	1.7
Overcrowding	4,594	4.7
Involuntary sharing	8,534	8.7
Youth leaving institutional care	538	0.5
Medical/compassionate reasons	9,548	9.7
Elderly	2,266	2.3
People with a disability	1,315	1.3
Unable to meet cost of accommodation	65,643	66.8
TOTAL	98,318	100.0

Source: *Housing Needs Assessment 2011*

need due to unsatisfactory housing conditions – in all, 15 per cent of the total households in need are included because of ‘unfit accommodation’, ‘overcrowding’ or ‘involuntary sharing’. Medical and compassionate reasons are the basis for housing need in almost 10 per cent of cases, while people who are homeless, Travellers, young people leaving institutions, people with disabilities, and elderly people make up the other categories of need (see Table 1).⁵

Single-person households make up half of the households registered as being in need, while families with children account for just over 44 per cent. Most are under 40 years of age (69 per cent). The needs figure includes 9,162 non-EU households (9.3 per cent of the total); these are people with refugee status, or who have been granted permission to remain in the State or given subsidiary protection status.

Incomes of households registered as in need of housing are very low – 27.5 per cent have an income less than €10,000, while 51 per cent are in the €10,000–€15,000 income bracket. Importantly, many of the households have spent considerable time on waiting lists – over one-third have been in need of social housing for over three years (see Table 2).

Housing Conditions

It should be noted that not everyone who currently has a social housing tenancy is adequately housed – many are enduring particularly harsh conditions. Notably, a number of estates targeted for regeneration (progress on which has been slow or non-existent) have been blighted by such plans.

The long-term process is one of initial neglect of an estate leading to problems of run-down, which is made worse through increasing vacancies as some residents understandably get out if they can. This dynamic of blight and decline becomes even more entrenched once local authorities ‘redline’ estates for regeneration and start to prioritise re-housing of tenants. In this manner, plans for regeneration by demolition instigate a very intense and rapid deterioration in conditions. There is little expenditure on maintenance; as residents move out, units become boarded up, causing further rundown. Tenants’ representatives have described the lived experience of planned obsolescence of this kind in terms of the degeneration of communities with costly long-term social consequences.⁶

Tenants have organised to document these experiences and to fight for basic housing rights. Powerful evidence has been collated by Community Action Network, Tenants First and the Rialto Rights in Action group, notably in its submission to the United Nations Independent Expert on Human Rights and Extreme Poverty, Magdalena Sepúlveda, in relation to her mission to Ireland in January 2011. This submission reported on the issues affecting residents of Dolphin House, such as ‘extremely poor and health hazardous conditions ... including waste water invasions and damp’. More specifically, evidence from a door-to-door survey and scientific testing confirmed that everyday living conditions included ‘highly polluted waste water invasion through toilets, baths, sinks and washing machines, corrosive damp in bedrooms, kitchens and bathrooms, and mould containing pathogenic spores’. Other charges include the failure of the State to provide adequate opportunities for

Table 2: Time on Waiting List, 2011

Length of Time	No Households	%
Less than 1 year	22,157	22.5
1–2 years	20,737	21.1
2–3 years	19,147	19.5
3–4 years	12,139	12.3
4+ years	24,138	24.6
TOTAL	98,318	100.0

Source: *Housing Needs Assessment 2011*

the participation of tenants in planning for regeneration. These living conditions and the general disempowerment of tenants violate the right to adequate housing as expressed in the United Nations' *International Covenant on Economic, Social and Cultural Rights*.⁷

Homelessness

The most vulnerable population is surely those out of home. Evidence from those directly involved in homeless services suggests that the situation has worsened greatly.

More people are sleeping on the streets than at any time in the past decade, and typically people in need of emergency accommodation face long, wearying waits, often to be told there is nothing for them but a handout of a sleeping bag from the Council.⁸ In the experience of the voluntary group, Trust, which has been working with homeless people since 1975, the situation now is the worst it has ever seen.⁹ The current crisis should raise grave moral concerns in a society that holds to even a rudimentary sense of social justice and the right of people to live their lives with dignity and hope.

Margins of the Private Rental System

Many people in the private rental system are vulnerable to poor conditions and often unaffordable rents (notwithstanding some reduction in rental levels since the economic downturn). Those affected include people in low-income employment and a range of groups with social needs who are housed in this sector with State supports.

In 2010, there were 97,260 recipients of the Supplementary Welfare Allowance (SWA) rent supplement, an increase of 128 per cent over a decade in the numbers dependent on this scheme (Table 3).¹⁰ Over the same period, public expenditure on rent supplement increased 243 per cent to €517 million (Table 3).

People in their twenties and thirties made up the most prevalent age groups among those receiving rent supplement in 2010, representing almost half the total number of recipients. However, nearly 3 per cent were over 65, a significant minority. Almost half of all households receiving rent supplement in 2010 were long-term recipients (that is, longer than eighteen months); in other words, they fall into the target group for accommodation under the Rental Accommodation Scheme. In terms of economic status, the single largest category of people receiving rent supplement is made up of people dependent on Jobseeker's Allowance: 39 per cent of short-term recipients and one third of long-term recipients were in this category. Lone parent families were another significant group, representing almost 12 per cent of short-term, and 21 per cent of long-term, recipients.

Table 3: Rent Supplement Recipients and Expenditure, 2001–2010

Year	Recipients	€000
2000	42,683	150,741
2001	45,028	179,438
2002	54,213	252,203
2003	59,976	331,471
2004	57,874	353,762
2005	60,176	368,705
2006	59,861	388,339
2007	59,726	391,466
2008	74,038	440,548
2009	93,030	510,751
2010	97,260	516,861
% change 2000–10	127.9	242.9

Source: Department of Social Protection, 2011

Although the SWA scheme provides an important, flexible, short-term solution to housing need or emergency (for example, for someone already in private rental accommodation who has just become unemployed), long-term dependency on this sector is a vulnerable place in which to find oneself. While the *Residential Tenancies Act 2004* provided increased security of tenure, grounds are still available for landlords to evict (for example, where it is intended to use the property for family members' needs or where refurbishment is planned). It may also be difficult to find a landlord willing to accept SWA tenants, or the available options may not match specific needs.

More importantly, the quality of accommodation is variable and in many instances below minimum standards (in other words, illegal).

The scale of the problem of poor quality accommodation in the private rented sector is indicated in the findings of official inspections of such accommodation. In 2009, 18,000 private-rented dwellings were inspected nationally, of which 24 per cent were sub-standard, while 12.6 per cent had no rent book (also illegal). In Dublin City, 41 per cent of inspected properties were sub-standard, while in Limerick City the figure was 73 per cent.¹¹

Low standards are a persistent feature of Ireland's highly uneven private rented system, which is polarised between good-quality, higher-cost properties and marginal, low-quality flats and bedsits. For poorer households (for example, people out of work, in minimum-wage or low-wage jobs, or dependent on income supports) accepting such conditions or resorting to overcrowding are often their only options.

Low standards are a persistent feature of Ireland's highly uneven private rented system ...

The problem of substandard accommodation is likely to be most pronounced in properties accessed by people dependent on rent supplements. Research by The Centre for Housing Research (2006) showed that, in eight case study areas, local authority inspections had found that 50 per cent of properties were below minimum standards. In Dublin City, 78 per cent were below the legal minimum, while almost no properties met the higher standards set by the RAS Unit.¹² As well as the immediate justice issues involved, this is of wider concern since it means that public money is subventing illegal, unfit accommodation.

Part of the difficulty is that maximum rental limits imposed under the rent supplement scheme circumscribe choices in urban areas where need is greatest, leaving many people with no option but to seek low-quality accommodation. The single-person rent supplement cap in Dublin is €529 per month; however, in the second quarter of 2011, the average one-bed rents in the main rental areas

ranged from €718 (Dublin 7) to €940 (Dublin 4).¹³ The cap for a family with one child is €930 per month. This would make an average one-bed apartment affordable, but the family would have to look at the lower end of the market for anything slightly larger (average two-bed rents in the main rental areas ranged from €943 to €1,259).

Housing Need ... and Empty Houses?

It is worth noting one final stark contradiction in the state of the Irish housing system at this point in history. These various experiences of housing need and vulnerability are even more shocking when viewed against the opposite problem of vacant dwellings. The 2011 Census recorded 294,202 empty housing units nationally (almost 15 per cent of the total housing stock). By county, the lowest vacancy rate was in Kildare (8 per cent) while the highest was in Leitrim (30 per cent).

This is, of course, an astonishing picture of economic inefficiency and social and ecological injustice, not to mention a near total absence of spatial planning. While many of these empty houses are in rural locations (having been built around the Shannon and on the coasts, for example, as a result of tax breaks) and may not be suitable for the specific needs that exist, there are also large numbers of empty units in the cities. For instance, the 2011 Census showed that in the Dublin City Council area there were 26,000 empty housing units (10 per cent of the total housing stock).¹⁴ Meanwhile, 8,091 households in the city were experiencing unmet housing need.¹⁵

Deepening the Divide?

There is an important wider context that underpins at least some of the vulnerabilities apparent at the margins of the Irish housing system. The place and meaning of social housing has been substantially realigned over several decades and with considerable intensity in recent years. Historically, a range of voluntary organisations, philanthropic groups and the State provided housing for a significant proportion of Irish people. From the 1930s to the 1950s – times of great economic crisis for the State – the majority of new housing was provided by local authorities. The strong role of this sector continued to the 1970s.

Since then, its role has been reduced significantly, with greater emphasis on market provision and considerable energy given to the promotion of private ownership as an end in itself. Although social housing output as a proportion of all new

housing has increased in recent years, this is partly a result of the calamitous fall in private output with the ending of the property bubble.

The overall stock of social housing is also affected by acquisitions (housing units purchased in the market for social use) and by sales to tenants at a discounted price. Allowing for these factors, the net annual addition to social housing averaged 3,440 units in the period 2000 to 2007. However, a further complicating factor of importance over the past decade or more was the de-tenanting and demolition of older units under various regeneration schemes. It is difficult to put a figure on the denuding of social housing through these processes of run-down but, as already noted, the human experience and social costs are considerable. The economic cost of the whole process – from the long run-down of such areas through to the direct costs of demolition and replacement – are also considerable. Funding announced in the public expenditure estimates for 2011 earmarked almost €205 million for regeneration.¹⁶

Market Mechanisms for Social Provision

While social provision dwindled, policy-makers turned more and more to market tools to respond to housing need, a preference confirmed in the official *Housing Policy Statement*, in June 2011. Dependence on the SWA rent supplement is a long-standing example of using the private rental sector as a way of meeting the State's obligations in relation to social housing, while the RAS and long-term leasing solutions are more recent examples. There has also been a general shift in thinking on the part of many local authority members and officials, who in recent years have downplayed their responsibility as social landlords and promoted privatised solutions of this kind.

A number of regeneration policies also enshrined these principles, including Public Private Partnership proposals (most of which collapsed with the economic downturn) to demolish existing local authority flats complexes and replace them with denser developments of predominantly private housing (for investment or home ownership). Such privatisation plans have often been championed under the guise of 'social mix', when what is really being pursued is 'tenure mix' – two completely different concepts.¹⁷ The use of Part V of the Planning and Development Act as a means of leveraging social and affordable units from private property development projects was also market-driven.

The first transfers into the RAS from SWA rent allowance commenced at the end of 2005; by December 2010, 17,658 households had been housed directly under this scheme. RAS occupies an increasingly central place in central government policy. One of the 'headline outputs' in the Annual Report for 2010 of the Department of the Environment, Community and Local Government is a major restructuring of social housing investment away from construction/acquisition and towards 'more flexible options, including RAS and the long term leasing initiative'.¹⁸ The budget for RAS in 2011 is €125 million, while €25 million was made available for long-term leasing.¹⁹ The total budget for social housing provision and support for 2011 is just short of €530 million.²⁰ So the combined funding for RAS and leasing was 28 per cent of the overall budget for social housing provision.

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How does leasing work? Dún Laoghaire-Rathdown County Council, for example, placed public advertisements inviting applications from property-owners interested in becoming leasehold landlords. Under the long-term lease agreement, the property owner signs up to a 10 to 20 year term during which rent is guaranteed, calculated at approximately 80 per cent of the open market rent, with four-year rent reviews as a norm. The property owner is responsible for the structural maintenance of the building but little else. The local authority is responsible for tenant management and rent collection. It is also responsible for maintenance. It is interesting that the local authority is willing to take on this responsibility, given that the cost of maintenance has often been cited as one of the reasons local authorities should move towards reducing their role in providing social housing. The leasing arrangement provides several sources of cost-savings for the property owner in comparison to the market system: no rent loss during vacant periods, no letting fees, no rent arrears, no Non Principal Private Residency (NPPR) Charge or Private Rental Tenancy Board registration charge.

In the case of the RAS scheme, the term of the

agreement is flexible and negotiated between the landlord and local authority. The rent is guaranteed at about 92 per cent of the open market rent with periodic rent reviews. Similarly, the landlord does not have to collect rent and does not lose out due to vacancy, rent arrears, letting fees, advertising or NPPR charges. However, the private landlord in this case is engaged in tenant management and property maintenance; in addition, the residence must be furnished.

The Voluntary and Co-operative Role

Government is also targeting the voluntary and co-operative sector to play a more central role in providing social housing. However, this is to occur not through direct funding under the Capital Loan and Subsidy Scheme, which has up to now enabled the sector to provide new housing, but via a revenue-funded option. This means that the voluntary organisations which are ‘Approved Housing Bodies’ must seek direct finance (Direct Lending Scheme) for developments from the Housing Finance Agency (or other financial institutions). Voluntary housing bodies are also expected to rely more on long-term leasing in the private market in order to increase their stock of housing.

These changes present a considerable challenge, and risk, in the medium term. If the social housing sector in general were to be encouraged to develop its capacity through a radical enlargement (as argued below) it could indeed become more economically viable as well as less segregated.

However, there are concerns about short- and medium-term financial pressures, given the current scale of activity and the realities of the tenant rental base. For example, if a voluntary housing agency is in difficulty meeting payments on a loan, does this have as one possible consequence the abandonment or dilution of its social and moral aims – that is, the non-market reasons for existing in the first place? Could this mean, for example, that such agencies in the future may find themselves backed into a corner where the only available solution might be to sell assets or evict very vulnerable tenants in order to become more economic?

Ways Forward: A Unified Housing System?

The considerable social vulnerabilities in housing highlighted in this article derive in part from wider problems in the structure of the Irish housing system. In particular, it has developed over recent decades a very entrenched divided or ‘dualist’ rental

system.²¹ This tendency is arguably reinforced by the realignment in social housing in Ireland which has now been taking place for well over a decade.

A ‘dualist’ or divided housing system means there is a sharp disjuncture between the market and non-market elements, with the latter being maintained only for the most marginalised households.

In a unitary housing system, by contrast, a ‘social market’ is encouraged, wherein both profit and non-profit provision meets general needs. The social housing sectors within such a system are allowed to develop greater capacity and become more economic by developing a larger tenant base and by having the benefit of rent pooling across a mature stock. While initial investment outlays are large, the rental returns and capital gains on a mature, well-maintained stock over its lifetime help to make it economic in the long run. This also has the benefit of reducing stigmatisation of particular tenures (and the unjust privileging of others) and achieving social integration *within* tenures as a social housing community can more easily include a mix of people – for example, in work, retired, out of work, in school or college.

In Ireland, from the 1970s onwards, and in particular during the boom years, there was a pronounced tendency towards a dualist system. In the aftermath of the boom, we see a continuation of the trend towards more and more public resources being diverted to quite costly market mechanisms to meet social need, while non-market investment and experimentation is reduced. In the current climate, it seems even less likely that a radical realignment towards a unified model can occur.

At the very least, a number of issues explored in this article suggest we should give serious consideration to alternatives to the current trends in Irish housing. The limits of commodification are immediately evident from the experiences of the boom–bust years. The vulnerabilities that many people experience today highlight the continuing failures of the system, particularly at the margins represented by homelessness, unmet housing need and poor housing conditions. The consequences for large numbers of individuals and families and for society as a whole of the ‘divided’ approach – which privileges private ownership and commodity investment, marginalises social provision and ignores the central values of housing as a home – highlight why this needs to be replaced by a more ‘unified’ philosophy and model.

Notes

1. Department of the Environment, Community and Local Government, *Housing Policy Statement*, Dublin, 16 June 2011. (Available from: www.environ.ie)
2. Jesuit Centre for Faith and Justice, *The Irish Housing System: Vision, Values, Reality*, Dublin: Jesuit Centre for Faith and Justice, 2009, p. 9.
3. Central Bank, *Money and Banking Statistics: September 2011*, Table A.1, Information Release, 28 October 2011; *Residential Mortgage Arrears, Restructures and Repossessions Statistics*, 18 November 2011. (Available from: www.centralbank.ie)
4. The RAS scheme is targeted at people who have been receiving Supplementary Welfare Allowance (SWA) rent supplements for more than eighteen months. The fact that households in the RAS scheme are no longer considered to be in 'housing need' is important insofar as one apparent consequence is that people who are moved into this system may never qualify for housing provided by a local authority or a voluntary housing organisation, which for many would be the preferred long-term solution to their housing requirements.
5. Housing Agency, *Housing Needs Assessment 2011*, Dublin: Housing Agency, 2011. (Available from www.environ.ie)
6. Tenants First, *The Real Guide to Regeneration for Communities*, Dublin: Tenants First and Public Communications Company, 2006.
7. Article 11 (1) of the Covenant speaks of 'the right of everyone to an adequate standard of living ... including adequate food, clothing and housing ...'. The UN Committee on Economic, Social and Cultural Rights has elaborated on the implications of Article 11 (1) in its General Comment, No. 4, *The Right to Adequate Housing* (1991).
8. Fr Peter McVerry, Letter to Editor, *The Irish Times*, Tuesday, 6 September 2011; see also: Kitty Holland, 'Council providing sleeping bags for homeless as crisis service "disrupted"', *The Irish Times*, Wednesday, 7 September 2011.
9. Alice Leahy, Letter to Editor, *The Irish Times*, Saturday, 10 September 2011; see also: Carl O'Brien, 'Trust us – this is our reality', *The Irish Times*, Tuesday, 13 September 2011.
10. Data on SWA from: Department of Social Protection, *Statistical Information on Social Welfare Services 2010*, Dublin, 2011. (Available from: www.welfare.ie)
11. Department of Environment, Community and Local Government, 'Latest House Building and Private Rented Statistics'. (Available from: www.environ.ie)
12. Centre for Housing Research, *Promoting Improved Standards in the Private Rented Sector: Review of Policy and Practice*, Dublin: CHR, 2007, p. 64.
13. Daft.ie, *The Daft.ie Rental Report*, Q3, 2011. (Available from: www.daft.ie/report/)
14. Central Statistics Office, *Census of Population 2011: Preliminary Results*, p. 18 and Table 7, p. 33. (Available from: www.cso.ie/en/census)
15. Housing Agency, *Housing Needs Assessment 2011*, Table A1, p. 4.
16. Government of Ireland, *2011 Estimates for Public Services and Summary Public Capital Programme*, Vote No. 25: Environment, Heritage and Local Government.
17. Mixing tenures is no guarantee of achieving social mix. There is now considerable tenure mix in the inner city of Dublin, but does it amount to social mix or integration in any positive or meaningful sense? On the other hand, many single-tenure housing developments may, in fact, achieve very complex and stable patterns of social variation organically. Some mature local authority developments have attained just this, as have some owner-occupied areas. Of course, the commitment to tenure mix would be more convincing if it were pursued with as much enthusiasm in the vast single-tenure, middle-class housing estates of all the main cities and towns.
18. Department of the Environment, Community and Local Government, *Annual Report and Annual Output Statement, 2010*, Dublin: Department of Environment, Community and Local Government, 2011, p. 57 (Available from: www.environ.ie)
19. *Social Housing: Newsletter of the Irish Council for Social Housing*, Spring 2011.
20. *2011 Estimates for Public Services and Summary Public Capital Programme*, op.cit.
21. The distinction between 'dualist' and 'unitary' housing system was originally identified in: Jim Kemeny, *From Public Housing to the Social Market: Rental Policy Strategies in a Comparative Perspective*, London: Routledge, 1995.

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