

editorial

When Pope Francis met with a number of survivors of clerical abuse during his visit to Ireland in August 2018, the impact was profound. The expectations of those he met were minimal — that they would sit and listen, and he would leave after 30 minutes. Instead, the meeting went on for an hour-and-a-half and everyone was given an opportunity to speak. Francis listened intently, expressing his anger at the harm caused and his shame at the failure of the Church authorities to tackle clerical abuse in Ireland.

Immediately after meeting the survivors, Francis met with members of the Irish Jesuit community. It was not a coincidence that he spoke about abuse within the Church, making specific reference to Ireland, Chile and the United States. Francis called upon the Irish Jesuits to help, by speaking out. In December the Jesuit Social Justice and Ecology Secretariat in Rome established the Project for the Promotion of a Consistent Culture of Child Protection. This Jesuit project is being administered from Ireland and will identify gaps in existing programmes and make recommendations to promote a culture of protection in the 70+ countries where Jesuits work.

This issue of *Working Notes* explores harm from each of the particular areas of interest of the Jesuit Centre for Faith and Justice: housing, economics, criminal justice, and environment.

As the housing crisis in Ireland continues to worsen, more and more people are unable to afford rent or to buy a home. At the hard end of the crisis is the growing number of people who are homeless, with official figures at just under 10,000. The impact, particularly on families, of having to live precarious lives in hostels, homeless hubs, hotels and bed and breakfasts will be profoundly negative. In the opening article, Dalma Fabian examines the interconnectedness of homelessness and trauma. Not only are people who have suffered trauma in their life more likely to become homeless, being homeless itself causes trauma.

In mid-January over 600 people were on hospital trolleys — the majority in A&E — waiting to be admitted. Waiting is endemic in the Irish health care system and a primary reason why more than 40% of the population pays for private health insurance. In the second article, Sheelah Connolly explores the benefits of universal healthcare, juxtaposing these against the harm caused by long waiting lists and unequal access to care. Describing the Irish healthcare system as being “at a crossroads”, Connolly questions whether or not there is the political will for a more equitable system.

The Irish legal system follows an adversarial model where representatives of each party seek truth through debate and legal argument. The process focuses on the wrongdoer while victims are often re-traumatised and feel

powerless. In the third article Tim Chapman examines restorative justice and how it can be used as an alternative to addressing harm, arguing that there is greater potential for positive outcomes, particularly for victims.

Avoided in Budget 2019, carbon tax was back in political discourse in January, albeit to alleviate fears that people may have about its future tax burden. At a gathering of Fine Gael political representatives, Minister for Communications, Climate Action and Environment, Richard Bruton, said that any future introduction of a carbon tax would be to “nudge people” to change their behaviour and would not be designed to raise revenue.¹ The final article of this issue suggests that a shove, rather than a “nudge” is needed in responding to climate change. Thomas Muinzer highlights that potentially irreversible climate change is being caused by human actions, with a growing volume of greenhouse gases causing the earth’s temperature to rise beyond scientifically proven, safe levels.

When it comes to dealing with harm, it is tempting to fall into thinking in terms of “nudges.” As popularised by the economist Richard Thaler and the legal scholar Cass Sunstein in their 2008 book *Nudge*, the policy response of nudging here and incentivising there represents an attempt to build a “choice architecture” that produces favourable responses among people.² The

profound paternalism embedded in this approach is immediately evident, but its most fundamental problem may be that it drastically underestimates the harms that can be suffered by people. The harms that are detailed in these essays are not the result of individual poor decisions. Construing the homelessness crisis as a failure of private morality, or the hospital waiting lists as a consequence of too much fast-food, or climate breakdown as the end result of kids enjoying bendy plastic straws at birthday parties is bound to deepen the harm that is actually generated at the systemic level.

Considered in this light, initiatives like the establishment of the Project for the Promotion of a Consistent Culture of Child Protection takes on heightened significance. This is an effort to go beyond treating the symptomatic expression of harm through “nudges” towards refined “choice architecture”. In place of policies that are satisfied merely with procedural probity, what is envisioned is the creation of a culture of protection, where care is seen to be integral to the justice initiatives of the Society of Jesus. The difference is seismic, between the negative freedom of “do no harm” and the positive freedom of “intentional and effective care”.

1 Micheál Lehane, “Aim of Carbon Tax is not to Raise Revenue, Bruton says,” *RTE*, January 14, 2018, <https://www.rte.ie/news/ireland/2019/0114/1023014-fine-gael-thinkin-parliamentary-party/>.

2 Richard H. Thaler and Cass Sunstein, *Nudge* (New Haven, CT: Yale University Press, 2008). See especially pages 65-69.

A More Humane Approach to Addressing Harm

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INTRODUCTION

The core value of the common good, which sustains community and justice, is being eroded in modern society.¹ Globalisation has provided many material comforts, but resulted in an underlying sense of insecurity and risk.² Many people have lost the experience of solidarity with others that community and religion offered in the past. They feel threatened by other groups, often blaming them for their lack of access to employment, housing and public services.

In this paper, which is based upon research commissioned by a Catholic philanthropic organisation, an alternative, and more humane approach to addressing harm is presented – one that has a greater potential for positive outcomes. In our original research, we were interested specifically in the values of human dignity, active participation in society, the common good, social justice, and solidarity. These are concepts that also serve as core components of Catholic social teaching. Our goal was to explore if these values could transform the way society responds to crime.

SHATTERING ASSUMPTIONS: THE HARM OF CRIMINAL BEHAVIOUR

When a crime is committed, criminal justice agencies focus on the perpetrator. Addressing the harm of criminal behaviour, rather than the perpetrator alters the orientation of approaches to crime. Michael White's maxim is illuminating: the person is not the problem; the problem is the problem.³ And the problem is harm.

We need to distinguish the materiality of harm, financial cost and physical injury, from the experience of suffering which may be emotional, psychological, physical or relational. Suffering is contextual, experienced subjectively and specific to each individual.

The meaning of the harm caused by criminal behaviour is also mediated by its wrongfulness. That it has no justification in law matters. For Shklar, injustice is often experienced through powerful, often distressing, emotions.⁴ It interrupts and disrupts lives, causing "shattered assumptions"⁵ about living in a world which can undermine the capacity to participate in society. The effects of experiencing injustice will often continue to dominate an individual's life long after physical wounds have healed, punishment has been inflicted, or compensation received.

The criminal justice system as a bureaucratic, professional structure strives to engage with crime in an impersonal and rational manner. Victims' experience of harm, on the other hand, is personal and emotional. Consequently, many victims experience *secondary victimisation* by the criminal justice system.⁶

What professionals consider to be risk factors associated with offending,⁷ can be viewed from a humane perspective as harmful events or conditions which perpetrators of crime have experienced.⁸ A humane approach is also based upon the understanding that the reactions of society, the media, and the criminal justice system to crime play a significant part in adding to the harm endured by both victims and perpetrators.⁹ Social and criminal justice reactions often exclude victims and perpetrators from necessary resources, weaken

1 Roberto Esposito, *Terms of the Political: Community, Immunity, Biopolitics* (Fordham: Fordham University Press, 2013).

2 Zygmunt Bauman, *Modernity and the Holocaust* (Cambridge: Polity, 1989); Ulrich Beck, *Risk Society* (London: Sage, 1992); Guy Standing, *The Precariat: The New Dangerous Class* (London: Bloomsbury, 2011).

3 Michael White, *Maps of Narrative Practice* (New York: Norton, 2007).

4 Judith Shklar, *The Faces of Injustice* (Yale: Yale University Press, 1990).

5 Ronnie Janoff-Bulman, *Shattered Assumptions: Towards a new Psychology of Trauma* (New York: Free Press, 1992).

6 Maarten Kunst, Lieke Popelier, and Ellen Varekamp, "Victim Satisfaction with the Criminal Justice System and Emotional Recovery: A Systematic and Critical Review of the Literature," *Trauma, Violence and Abuse* 16, no. 3 (2014): 336–358; Malini Laxminarayan, Mark, Bosmans, Robert, Porter, and Lorena Sosa, "Victim Satisfaction with Criminal Justice: A Systematic Review," *Victims & Offenders*, 8, no. 2 (2013): 119–147.

7 David Farrington, "Childhood Risk Factors and Risk-Focused Prevention," in *The Oxford Handbook of Criminology*, ed. Mike Maguire, Rod Morgan, and Robert Reiner (4th ed. Oxford: Oxford University Press, 2007).

8 Vittoria Ardino, "Post-Traumatic Stress in Antisocial Youth: A Multifaceted Reality," In *Post-traumatic syndromes in children and adolescents*, ed. Vittoria Ardino (Chichester: Wiley/Blackwell Publishers, 2011); Robin Weeks and Cathy Widom, "Self-Reports of Early Childhood Victimization among Incarcerated Adult Male Felons," *Journal of Interpersonal Violence* 13, no. 3 (1998): 346–361.

9 Howard Becker, *Outsiders: Studies in the Sociology of Deviance* (New York: The Free Press, 1963); Stanley Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* (London: Paladin, 1973); Edwin Lemert, *Human Deviance, Social Problems and Social Control* (Englewood Cliffs: Prentice-Hall, 1951).



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significant relationships, and reduce personal responsibility, thus obstructing both recovery and reintegration. The families of both parties also suffer from these effects.¹⁰

The harm of criminal behaviour extends beyond those immediately affected, to society at large, causing fear of crime,¹¹ reducing social cohesion, exacerbating intergroup prejudice and conflict, and demoralising whole communities. People can lose a common belief in a just, stable and moral society. People's sense of control over their lives and self-efficacy are diminished by the harm of criminal behaviour.

The 20th century philosopher, Hannah Arendt understood the nature of the irreversibility of a harmful act. Both victims and perpetrators of harm can be trapped in the consequences of what they have done and experienced. In such a scenario, Arendt writes:

our capacity to act would, as it were, be confined to one single deed from which we could never recover; we would remain the victims of its consequences forever.¹²

Shattered assumptions lead to a sense of unpredictability about future events, which disrupts the individual's self-understanding. Both perpetrator and victim can find themselves trapped in a narrative of harm, which inhibits each party from fully engaging in activities that are important to them.

Nancy Fraser and Axel Honneth discuss the concept of injustice from two perspectives: the distribution of resources, and the recognition of the value of people. Whereby exclusion from resources and lack of recognition of one's identity impact on an individual's ability to participate fully in society. Violating the principle of *parity of participation*.¹³ The harm of criminal behaviour can be experienced as the loss or damage of resources, and the violation of values, which enable people to participate actively in society.

WHAT IS DISTINCTIVE ABOUT MORE HUMANE APPROACHES TO HARM?

Humane approaches to addressing the harm of

10 Jeremy Travs and Michelle Waul, *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities* (Washington: The Urban Institute Press, 2003).

11 Chris Hale, "Fear of Crime: A review of the Literature," *International Review of Victimology* 4, no. 2 (1996): 79–150.

12 Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), 237.

13 Nancy Fraser and Axel Honneth, *Redistribution or Recognition: A Political-Philosophical Exchange* (London: Verso, 2003).

criminal behaviour aim to restore the internal and external resources required to participate actively in society to people responsible for harm, people who have been harmed, and others who have been affected. In such an approach, all actions would be designed and delivered with the purpose of preventing or undoing injustices, and restoring the individual, relational and social harms that have caused and been caused by criminal behaviour.

Crime harms individuals, relationships, and society in general. The values that shape more humane approaches relate to these: the value we place on the individual, the value we place on how individuals relate to each other, and the quality of the society we aspire to create. The concepts of the *common good*, *dignity of the individual*, *solidarity*, and *social justice* can frame what a human response to crime looks like;¹⁴ a response that respects, restores and sustains these values, as opposed to one that disregards, damages or violates these values. The concept of the *common good* can be traced from ancient Greek philosophy through Catholic social teaching, to modern philosophy. It aims to motivate people beyond the mere primarily by the pursuit of personal interest. From this viewpoint, a just society provides people with the opportunities and capacities to participate in society for the common good in a way that they choose.¹⁵

The *dignity of human beings* is derived from the value of human life and the potential of people's capacity to choose their actions and to be responsible for them. To be a victim of a crime is to be treated as a means to another's end or to be objectified. This is dehumanising and humiliating. Respect requires a refusal to stereotype, stigmatise, objectify or idealise individuals.

Solidarity is derived from mutual responsibility and reciprocal support. Human beings can only live in relation to others.¹⁶ Both actions for the common good and harmful behaviour have a 'ripple effect' beyond those directly responsible and those directly affected by them. Families, friends, neighbours and communities have a stake in repairing harm and alleviating suffering. While other people may be a potential threat, they are also essential to our wellbeing.

Social justice refers to fair and right relations, to the redistribution of resources and to the removal of obstacles to equality of opportunity and full participation in society. This is the foundation of human rights and many international statements on crime and criminal justice. More recently it focused on the value of diversity. Social justice can also be applied to the neglect of victims and to the discrimination against offenders.

Humane approaches place the value of social justice at the core of criminal justice. In contrast, it is inequality in society which separates people, leading to the neutralisation of moral responsibility for others.¹⁷ Within the traditional criminal justice system the problem of addressing harm becomes a technical problem whose solution is often to separate or exclude further, rather than a more humane approach, which would create opportunities for people to re-connect.

These values of *human dignity*, *solidarity* and *social justice* inform key principles of humane practice. Rather than seeing individuals as simply products of their genes, their upbringing or their environment, a humane approach recognises their capacity to make meaning out of situations and events, to choose actions,

14 The use of these concepts self-consciously overlaps with the rich moral tradition of Catholic Social Teaching. In that tradition, *common good* is defined as "the sum total of conditions of social living, whereby persons are enabled more fully and readily to achieve their own perfection." John XXIII, *Mater et Magistra*, §65. For a recent discussion on the topic, consider David Cloutier, "What can social science teach Catholic Social Thought about the Common Good?" in *Empirical Foundations of the Common Good*, ed. Daniel K. Finn (Oxford: Oxford University Press, 2017), 170–207. In Catholic Social Teaching, *human dignity* can be understood as a "sublime" quality which entails that "rights and duties are universal and inviolable." Dignity demands that all humans ought "to have ready access to all that is necessary for living a genuinely human life." Paul VI, *Gaudium et Spes*, §26. In this tradition, *solidarity* "is not a feeling of vague compassion or shallow distress at the misfortunes of so many people, both near and far. On the contrary, it is a firm and preserving determination to commit oneself to the common good; that is to say, to the good of all of each individual, because we are all really responsible for all." John Paul II, *Sollicitudo Rei Socialis*, §193. An accessible introduction to the idea is found in: Cathy Molloy, "Solidarity in Catholic Social Teaching," in *Catholic Social Teaching in Action* (Dublin: Columba, 2005), 128–139. Social justice has perhaps been most fully developed within the Catholic Social Tradition among the Society of Jesus (Jesuits). Their declaration from the thirty-second General Congregation is taken as a landmark moment in Catholic social faith: "The mission of the Society of Jesus today is the service of faith, of which the promotion of justice is an absolute requirement. For reconciliation with God demands the reconciliation of people with one another." (Society of Jesus, *Documents of the 31st and 32nd General Congregations of the Society of Jesus* (Saint Louis: The Institute of Jesuit Sources, 1977), 411.

15 For a recent discussion see Michael Sandel, *Justice: What's the Right Thing to Do?* (New York: Farrar, Straus, and Giroux, 2009).

16 Emmanuel Lévinas, *Totality and Infinity: An Essay on Exteriority* (Pittsburgh: Duquesne University Press, 1969).

17 Zygmunt Bauman, *Modernity and the Holocaust* (Cambridge: Polity, 1989).



"I want to show who I am, that I am so much more than an offender. I am not bad, it was just a stupid moment, a phase in my life where I was lost. I hope that they want to listen to my story." (Offender)

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to reflect upon those actions, to learn and to generate new understandings. More humane approaches offer opportunities for all parties to take active responsibility for the process of addressing the harm so that they may put it behind them.

A harmful act creates an obligation to make things right with the individual who has been harmed and with society. By fulfilling such an obligation, the individual earns the support of society with all its benefits and responsibilities. In this way, the offender is redeemed and forgiven, what Gordon Bazemore refers to as "earned redemption."¹⁸ More humane approaches should offer individuals the opportunity and support to "signal" that they have transformed themselves or are in the process of transforming themselves.¹⁹

Any humane approach should be designed to enable perpetrators to desist from crime or avoid harming other people, and should support victims to recover from the harm and suffering caused by crime. The processes of

desistance (moving away from committing crime)²⁰ and of recovery from trauma²¹ are relational. Victims and perpetrators require support to repair broken relationships, maintain and strengthen important relationships, or to build new relationships.

Restorative justice: A framework for humane approaches in criminal justice

Restorative justice as a framework for addressing the harm of crime espouses the values and principles outlined in this paper. It is an inclusive approach to addressing harm, or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired, relationships strengthened, and justice achieved.²²

Restorative justice places harm at the core of the justice process and engages all those who have been affected by the act of harm including the perpetrator. The harm creates a real stake among those directly affected in undoing the injustice, in repairing the

18 Gordon Bazemore, "Restorative Justice and Earned Redemption: Communities, Victims, and Offender Reintegration, *American Behavioral Scientist* 41, no. 6 (1998): 768–813.

19 Shawn Bushway and Robert Apel, "A Perspective on Employment-Based Re-Entry Programming: Training Completion as a Desistance Signal," *Criminology and Public Policy* 11, no. 1 (2012): 73–86.

20 Beth Weaver, *Offending and Desistance: The Importance of Social Relations* (Abingdon: Routledge, 2016).

21 Christine Courtois and Julian Ford, *Treatment of Complex Trauma A Sequenced, Relationship-Based Approach* (New York: Guildford Press, 2012).

22 European Forum for Restorative Justice, "Forum 15 Strategy Paper" (Leuven: European Forum for Restorative Justice, 2016).

harm, and in strengthening relationships. The counter-intuitive aspect of the restorative process is that each party needs the other to have what has been lost or violated restored. Victims usually want those responsible for the harm to make themselves accountable in a direct and practical way. By doing so, perpetrators can earn respect by taking responsibility and making amends. Through such a process both parties may move on in their lives.

Personal narrative, dialogue and the possibility for forgiveness

While it is not the primary purpose of restorative justice, forgiveness can emerge from the experience of telling and listening to stories and of entering into a dialogue with the aim of arriving at a mutual understanding of what has happened and its consequences, and of agreeing commitments that address the suffering caused taking steps to avoiding harming another person in the future.

Storytelling and dialogue drive the restorative process. Arendt wrote of the ability of stories to “reclaim our human dignity.”²³ Stories represent human beings as actors rather than passive victims or objects of others’ narrative or theories. They can restore dignity and often facilitate emotional and relational connections.²⁴ Minow has observed that a victim telling their story transforms the narrative from one of “shame and humiliation to a portrayal of dignity and virtue.”²⁵

Dialogue is a conversation with a centre not sides.²⁶ In a restorative process it has the capacity to:

... humanise what is going on in the world and in ourselves only by speaking of it [the harm], and in the course of speaking of it we learn to be human.²⁷

CONCLUSIONS

Foregrounding values such as the common good, human dignity, solidarity, and social justice can reorientate our criminal

justice system in transformative ways. These concepts, resting on more explicitly theological categories such as redemption, and forgiveness, have a clear relevance and application to addressing the harm of criminal behaviour in modern society through a secular system of justice. Creating a more humane criminal justice system benefits everyone, in particular the person harmed and the person who has caused the harm. In these turbulent times, material self-interest, disrespect, division, inequality and severe judgements and punishment can seem to flourish. It is critically important that alternative values continue to be applied in practical and effective ways.

23 Hannah Arendt, *Men in Dark Times* (New York: Harcourt, 1968), 216.

24 Meredith Rossner, *Just Emotions: Rituals of Restorative Justice* (Oxford: Oxford University Press, 2013).

25 Martha Minow, *Between Vengeance and Forgiveness: Facing history and Genocide and Mass Violence* (London: Beacon Press, 2000), 243.

26 William Isaacs, *Dialogue: The Art of Thinking Together* (New York: Doubleday, 1999).

27 Arendt, 25.

Lifelong Harm of Trauma and Homelessness

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INTRODUCTION

Rates of homelessness are rising in almost all EU countries with a 150% increase in Germany from 2014 to 2016, a 20% rise in the number of people in emergency shelters in Spain over the same period, and an 8% increase in Denmark between 2015 and 2017. In the Netherlands 4,000 children in 2015 were registered with local authorities as homeless, up 60% on 2013. While the official number of people experiencing homelessness in Ireland is contested,¹ the number has increased by 200% between July 2014 and November 2018, family homelessness having particularly contributed to this rise.²

Mortality rates among people experiencing homelessness are shockingly high. In England, the average age of death for men is 47 years old and for women it is even lower at just 43 years old. This is compared to 77 years old for the general population.³ Findings from a 2016 study of mortality among people experiencing homelessness in the Dublin region found that the average life expectancy was 44 for men and 38 for women.⁴ The impact of homelessness on the individual and society is profound, and it is therefore increasingly important to develop effective strategies to prevent and reduce the phenomenon.

UNDERSTANDING HOMELESSNESS

There is never a single cause of, or pathway to, homelessness. It is often described as an interaction of structural factors, system failures and individual variables. The predominant reasons are structural, including access to affordable housing, unemployment, failure to provide refuge in domestic abuse, and poverty. For others, relationship and individual factors, including traumatic experiences, contribute to them experiencing homelessness.

Therefore, most people who become homeless due to housing shortage or job loss need little or no additional support beyond access to affordable and adequate housing. Those who become homeless for different reasons, often due to system failures, such as leaving state care or prison, usually stay homeless for a longer period and have greater and interrelated support needs. Those who are long-term (or chronically) homeless, and cycle between street, psychiatry, criminal justice services and temporary accommodation are the most likely to have been exposed to trauma, and as a result, have the greatest support needs.

UNDERSTANDING TRAUMA

Trauma is highly prevalent in the life of people who experience homelessness. Often starting early on in childhood through experiences of neglect, abuse, parental alcoholism, domestic violence and continuing later with experiences of violence, drugs, confrontation with police and experiences of prison.

In general, trauma refers to experiences or events that by definition are out of the ordinary in terms of their overwhelming nature. They are also more than stressful – they can be shocking, terrifying and devastating to the trauma survivor and often result in feelings of terror, shame, helplessness and powerlessness. These events are neither ordinary, nor uncommon. Destructive events, such as natural disasters, are easier to accept than atrocities committed by fellow human beings. Unfortunately, there is a lot of denial, and repression both at societal level and at the individual level about traumatic events.

There are two types of trauma. Type 1 trauma occurs at a particular time and place, and is short-lived, such as serious accident, sudden loss of parent or a single sexual assault. Type 2 refers to events which are typically chronic,

1 In March 2018 the definition of homelessness used to compile national statistics changed, resulting in a drop in overall numbers recorded as homeless, see: Focus Ireland, "Latest Figures on Homelessness in Ireland" (Focus Ireland, 2018), <https://www.focusireland.ie/resource-hub/latest-figures-homelessness-ireland/>.

2 FEANTSA, "The Third Overview of Housing Exclusion in Europe 2018" (Brussels: FEANTSA, 2019), <https://www.feantsa.org/en/report/2018/03/21/the-second-overview-of-housing-exclusion-in-europe-2017/>; Department of Housing, Planning and Local Government, "Homelessness Report November 2018" (Department of Housing, 2018), https://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_november_2018_0.pdf.

3 Robert W. Aldridge et al., "Morbidity and Mortality in Homeless Individuals, Prisoners, Sex Workers, and Individuals with Substance Use Disorders in High-income Countries: a Systematic Review and Meta-analysis," *Lancet* 391, no. 10117 (2018): 241–250.

4 Joe Barry, Jo-Hanna Ivers, and Bernie O'Donoghue-Hayes, "Mortality Amongst the Homeless Population in the Dublin Region," *Irish Street Medicine Symposium* (Dublin: Institute of Public Health Trinity College Dublin and the Dublin Region Homeless Executive, September 24, 2016), <https://www.homelessdublin.ie/content/files/2017-BODH-JI-Mortality-Amongst-the-Homeless-ISM-Dublin.pdf>.

begin in early childhood and occur within the family or social environment. They are usually repetitive and prolonged, involve direct or indirect harm or neglect by caregivers or other entrusted adults in an environment where escape is impossible. Many people experiencing homelessness have experience of both, which is referred to as "compound" or "complex" trauma.⁵

The earlier in life trauma occurs, the more damaging the consequences are likely to be. Extensive evidence demonstrates that traumatic experiences in childhood are strong predictors of poor mental and physical health in adulthood. Homelessness is one of the numerous negative effects that have been associated with Adverse Childhood Experience (ACE). ACEs refer to experiences during childhood that are considered maltreatment, for instance sexual, physical or emotional abuse or neglect. ACEs can also stem from living with an adult with mental illness, substance abuse problems or criminality or if domestic violence is committed in the household.

HOW ARE TRAUMA AND HOMELESSNESS INTERLINKED?

There is a strong link between these traumatic experiences and homelessness. A report by Theresa McDonagh for the Joseph Rowntree Foundation identified an overlap between experiencing homelessness and having other support needs. Nearly half of homeless service users have experience of institutional care, problem substance use, and street activities (begging). This report also detailed research which showed that 78% of respondents identified as experiencing "multiple exclusion homelessness"⁶ had also suffered childhood traumatic experiences.⁷

Trauma and Homelessness are Connected in at Least Three Ways

Firstly, trauma is prevalent in the narrative of many people's pathway to homelessness. Research has shown that people who are homeless are likely to have experienced some form of trauma, often in childhood.⁸ There is a strong correlation between the extent of neglect and trauma suffered in childhood and the severity of disadvantage in adulthood.⁹ ACEs have long lasting impact, especially because they happen in a developmentally vulnerable period in one's life. The earlier in life trauma occurs, the more damaging the consequences are likely to be. It can disrupt children's basic biological regulatory systems and their normal attachment systems, especially if the perpetrator is a person whom they trusted and had strong emotional ties with. Insecure attachment strongly impacts upon the ability to have healthy social relationships in adulthood. Trauma experience has very strong implications for the person's relationship to care and it often underpins ambivalence or dismissal of care.¹⁰

Secondly, trauma often happens during homelessness, for example by being a victim or witness of an attack, sexual assault or any other violent event. Services that do not recognise the impact that adverse experiences have had on their service users can cause further trauma and harm. People can be re-traumatised by services that leave them feeling powerless, for example, where there are unnecessary rules, compulsory engagement in services, or an atmosphere of control. This can recreate the cycle of rejection experienced in early life and can trigger emotional or psychological responses similar to the original trauma. In response many resort to negative coping strategies of drug use and self-harm to ease

5 Nick J. Maguire, R. Johnson, P. Vostanis, H. Keats, and R.E. Remington, "Homelessness and Complex Trauma: a Review of the Literature" (Southampton: University of Southampton, 2009), <http://eprints.soton.ac.uk/69749/>.

6 Multiple exclusion homelessness is defined as, "People have experienced MEH if they have been 'homeless' (including experience of temporary/unsuitable accommodation as well as sleeping rough) and have also experienced one or more of the following other domains of 'deep social exclusion': 'institutional care' (prison, local authority care, mental health hospitals or wards); 'substance misuse' (drug, alcohol, solvent or gas misuse); or participation in 'street culture activities' (begging, street drinking, 'survival' shoplifting or sex work)." Suzanne Fitzpatrick, "Multiple Exclusion Homelessness Across the UK : A Quantitative Survey ESRC End of Award Report" (Swindon : ESRC, 2011), 2.

7 Theresa McDonagh, "Tackling homelessness and exclusion: Understanding complex lives," in *Round-ups*, ed. Joseph Rowntree Foundation (York: Joseph Rowntree Foundation, 2011), 3, <https://www.jrf.org.uk/sites/default/files/jrf/migrated/files/homelessness-exclusion-services-summary.pdf>.

8 Eva C. Sundin and Thom Baguley, "Prevalence of Childhood Abuse among People who are Homeless in Western Countries: a Systematic Review and Meta-analysis," *Social Psychiatry and Psychiatric Epidemiology* 50, no. 2 (2015): 183–194.

9 The LankellyChase Foundation, "Hard Edges: Mapping Severe and Multiple Disadvantage" (London: The LankellyChase Foundation, 2015), <http://lankellychase.org.uk/wp-content/uploads/2015/07/Hard-Edges-Mapping-SMD-2015.pdf>.

10 Bessel A. van der Kolk, *The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma* (New York, NY: Viking Books, 2014).



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these symptoms.

Thirdly, homelessness itself can be traumatic in multiple ways. Often the loss of a home coincides with other losses, for instance loss of family connections and social roles. This is because “like other traumas, becoming homeless frequently renders people unable to control their daily lives.”¹¹ Social exclusion activates the same neurological systems as physical trauma, with a similar impact on people.¹² Added to this, homelessness can be such an additional stress in the life of a person that it can erode the person’s coping mechanisms. Life on the streets can be so stressful that it induces trauma.

If trauma is a very common experience for people who are experiencing homelessness and if we know that trauma and homelessness are so deeply interlinked, what can we do about it? How can we support those with traumatic experiences and at risk of homelessness? And what about those who are entrenched in long-term homelessness?

WHY IS IT IMPORTANT FOR THE HOMELESSNESS SECTOR TO BE TRAUMA INFORMED?

What we have learnt about trauma and its long-lasting effects allows us to better understand how trauma impacts on emotions and behaviours, and it opens up new opportunities to work with people who are often rejected by services because of their complex needs or behaviour. We can now understand behaviour as a response to the effects of trauma and consider it as a “normal responses to abnormal stress,” rather than as deviances or failures.¹³

This recognition, that exposure to violence and trauma has resulted in the problems and behaviours, brings validation to those who have suffered, in silence, the impact of traumatic experiences. If homelessness services are equipped with the right resources to help people with trauma histories, the shame and stigma that often prevents people from seeking help in the first place will be removed.

11 Lisa, Goodman, Leonard Saxe, and Mary, Harvey, “Homelessness as Psychological Trauma. Broadening Perspectives,” *American Psychologist* 46, no. 11(1991): 1219–1225.

12 N.I. Eisenberger, M.D. Lieberman, and K.D. Williams, “Does Rejection Hurt? An fMRI Study of Social Exclusion,” *Science* 302 (2003): 290–292; Ethan Kross, Marc G. Berman, Walter Mischel, Edward E. Smith, and Tor D. Wager, “Social Rejection Shares Somatosensory Responses with Physical Pain” *Proceedings of the National Academy of Sciences* 108, no. 15 (2011): 6270–6275.

13 Sandra L. Bloom, “Creating Sanctuary: Healing from Systematic Abuses of Power,” *Therapeutic Communities; The International Journal for Therapeutic and Supportive Organisations* 21, no. 2 (2000): 67–91.



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An important dimension is the gender impact of harm in critiquing homelessness. Women experiencing homelessness are extremely likely to experience violence and abuse.¹⁴ It is violence against women and children which drives women away from abusive partners and often into homelessness with violence sometimes continuing during homelessness. Homeless services are likely to be mixed-gender and not equipped to respond to the trauma-related needs of women, including the need for safety. The way trauma is experienced is specific to gender and services should be both trauma and gender-informed.

WHAT STRATEGIES CAN BREAK THE CYCLE BETWEEN TRAUMA AND HOMELESSNESS?

There is a vicious circle between trauma and homelessness. Trauma drives homelessness and homelessness can increase traumatic exposure. Trauma drives relationship difficulties and mental health problems which can cause homelessness. To break the cycle between trauma and homelessness an important step is to ensure permanent, stable and supportive housing. Trauma resulting from the experience

of homelessness reflects a failure of services to provide housing and support, and at worst it reflects re-traumatisation within homelessness services. The bigger the delay in getting the person into housing, the more psychological barriers are created by the experience of homelessness. To prevent this vicious cycle, housing should be obtained as quickly as possible to minimize the potential of additional traumatic experiences. Redesigning homelessness services to better meet the needs of people affected by trauma is crucial. Two approaches to delivering homelessness services which take effect the impact of trauma, have been developed: Trauma Informed Care (TIC) and Psychologically Informed Environments (PIE).

TIC is an approach to engaging with service users which considers behaviours from a trauma perspective, and creates an environment for recovery. Hopper, Bassuk and Oliver define TIC as:

... a strengths-based framework that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both providers and survivors, and that creates opportunities for survivors to rebuild a sense of control and empowerment.¹⁵

¹⁴ St Mungo's, "Rebuilding Shattered Lives: The Final Report" (2013), <https://www.mungos.org/publication/rebuilding-shattered-lives-final-report/>.

¹⁵ Elizabeth K. Hopper, Ellen L. Bassuk, and Jeffrey Olivet, "Shelter from the Storm: Trauma-Informed Care in Homelessness Services Settings," *The Open Health Services and Policy Journal* 2 (2009), 133.

A Psychologically Informed Environment (PIE) takes into account the psychological makeup of each individual, their thinking, emotions, personalities and past experiences.¹⁶ It is an approach to supporting people out of homelessness, in particular those with complex trauma-related needs. It also works with the psychological needs of staff by providing training, increasing motivation and job satisfaction and building resilience to avoid burn-out and vicarious (or secondary) trauma.

Relationships are essential to healing from trauma and recovery. According to both approaches, staff are encouraged to develop relationships with clients that are supportive and encourage self-development and recovery. The emphasis is on enabling clients to lead their own recovery. This is only possible if staff are also given time to reflect together, on a regular basis, with the aim of developing an understanding of their own, and their clients' psychological needs, and the relationship between both.

The evidence of the link between adverse childhood experiences and the risk of homelessness is clear. The overrepresentation of ACEs amongst those experiencing homelessness strongly points to the need for effective prevention and early intervention and for strategies across the life course to be developed that aim to reduce the long-term effects of ACE on health and wellbeing. Such intervention has the potential to decrease rates of homelessness, in particular cyclical homelessness. It is also critical to embed trauma considerations across the whole range of services across different sectors so that whichever service the person accesses they will get a service that is trauma sensitive.

CONCLUSION

The cost of ignoring trauma is high. It can take a huge toll on people's lives and result in a cycle of being in and out of prisons, hospitals and homeless services, and rough sleeping. Developing trauma-sensitive services does not require significant new resources but requires change in the way organisations work, and first and foremost a recognition of the impact

of trauma in the lives of people experiencing homelessness.

While it is important to recognise the link between trauma and homelessness, it should not be done at the expense of the recognition of homelessness as a structural problem and the structural inequalities and poverty as the main causes of homelessness.

¹⁶ Helen Keats, Nick Maguire, Robin Johnson, and Peter Cockersell, "Psychologically Informed Services for Homeless People: Good Practice Guide" (2012), www.rjaconsultancy.org.uk/6454%20CLG%20PIE%20operational%20document%20AW-1.pdf.

Reflections on Ireland's Response to Potentially Irreversible Climate Change

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INTRODUCTION

Ireland stands at an important historical moment. We live in an era where the world is endeavouring at last to get to grips with what philosopher Noam Chomsky, recently deceased physicist Stephen Hawking, and many others have described as one of the greatest problems facing humanity, that is, anthropogenic (human driven) climate change.¹ Ireland has the capacity to make a world-leading contribution towards overcoming this challenge. However, its current performance is extremely poor given the diminishing time available to prevent dangerous climate change.

Writing six years ago in the *Cork Online Law Review*, produced out of Cork University, I made some general observations on Ireland's overall performance in the sphere of climate governance, and ended with a question.² Alluding to W.B. Yeats, I invited the reader to "call to the mind's eye"³ from out of the grave John Tyndall (1820–1893), the Victorian scientist, and ask what he would make of Ireland's climate commitments and performance if he were alive today (?). Tyndall was chosen not only because he was Irish (from County Carlow), but because he made essential contributions to the unfolding understanding of the science behind climate change.⁴ His most important contribution to science was to demonstrate and measure how atmospheric greenhouse gases absorb heat to different extents. This work made a vital contribution to our understanding of

the greenhouse effect that underpins climate change.⁵

One can only speculate on what Tyndall would make of Ireland's endeavours in this area. It is useful to remember however, that through Tyndall, Ireland has already contributed significantly to building the historical foundations for the global scientific response to climate change.⁶ Tyndall's scientific legacy can be an inspiration to Ireland's response to climate breakdown. When one of our forefathers made such scientific advances, perhaps Irish legislators and activist groups can aspire to be at the forefront of sustainable and creative adaptation?

Having first made these arguments in 2014, it is clear today that no such opportunity has been seized. The "remarkable Irish example to the world"⁷ has not materialised. Quite the opposite.

ANTHROPOGENIC CLIMATE CHANGE

Anthropogenic climate change is caused chiefly by a stock of greenhouse gases present in the earth's atmosphere that traps some of the sun's heat, serving to warm the planet — as demonstrated by the work of Tyndall, interpreted in concert with other key scientists from history.⁸ The modern industrial revolution, which was beginning to transform society across the late 1700s in Ireland and Britain, continued to expand throughout

1 Chris Baynes, "Noam Chomsky: "Urgent and Dedicated Action" Needed to Defeat "Existential Threat" posed by Donald Trump," *Independent*, July 6, 2017,

<https://www.independent.co.uk/news/world-0/us-politics/noam-chomsky-donald-trump-action-defeat-republican-us-president-threat-climate-change-nuclear-a7826606.html>; Stephen Hawking, "This is the Most Dangerous Time for our Planet," *The Guardian*, December 1, 2016,

<https://www.theguardian.com/commentisfree/2016/dec/01/stephen-hawking-dangerous-time-planet-inequality>.

2 Thomas L Muinzer, "Observations on Ireland's Approach to Climate Law," *Cork Online Law Review*, February 24, 2014,

<https://www.corkonlinelawreview.com/single-post/2017/03/02/Observations-on-Ireland's-approach-to-Climate-Law>.

3 "On the grey rock of Cashel the mind's eye / Has called up the cold spirits that are born / When the old moon is vanished from the sky / And the new still hides her horn." W.B. Yeats, "The Double Vision of Michael Robartes," *The Wild Swans at Coole* (New York, NY: MacMillan, 1919), 109–110.

4 See: John Tyndall, "The Bakerian Lecture: On the Absorption and Radiation of Heat by Gases and Vapours, and on the Physical Connexion of Radiation, Absorption, and Conduction," *The London, Edinburgh, and Dublin Philosophical Magazine and Journal of Science* 22, no. 146 (1861): 169–194.

5 An excellent discussion of aspects of Tyndall's contribution is provided in Mike Hulme, "On the Origin of "the Greenhouse Effect": John Tyndall's 1859 Interrogation of Nature," *Weather* 64, no. 5 (2009): 121–123.

6 There is evidence that Tyndall's memory and legacy may be more neglected in Ireland than in certain other places. The Tyndall Centre for Climate Change Research is named in his honour, headquartered at East Anglia, England, and including partners in Cardiff and Shanghai.

7 Muinzer, 3.

8 At present, the Intergovernmental Panel on Climate Change has issued several major reports on climate change. In its fourth report, "Climate Change 2007", it emphasised the severity of the anthropogenic aspects of global warming. In its Fifth Assessment Report, it has further emphasised the gravity of the matter. In recent months, its "Special Report" has stressed these concerns yet further, appearing in advance of a cumulative Sixth Assessment Report that is due to arrive in instalments over the immediate years ahead. See: Intergovernmental Panel on Climate Change, *Climate Change 2007 - The Physical Science Basis: Working Group I Contribution to the Fourth Assessment Report of the IPCC* (Cambridge: Cambridge University Press, 2007), 9.1.3; Intergovernmental Panel on Climate Change, *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge: Cambridge University Press, 2014), 15, 17; Intergovernmental Panel on Climate Change, "Global Warming of 1.5°C: Summary for Policymakers" (IPCC, 2018), https://www.ipcc.ch/site/assets/uploads/sites/2/2018/07/SR15_SPM_High_Res.pdf.

the Victorian period and onwards, driven by a radical increase in the burning of fossil fuels. This period of rapid growth served to raise the density of the earth's atmospheric stock of greenhouse gases substantially. The global community continues to contribute to this augmentation today through the ever-increasing generation of heat and electricity, the ongoing use of fossil fuels in heavy industry, and an expanding global transport sector.⁹

It is clear that the anthropogenic increase in the stock has been driving a greater incidence of global warming,¹⁰ which has been generating in turn greater global weather extremes. If these matters and related knock-on impacts go unchecked, they will have profoundly damaging consequences for life as we know it on our planet.¹¹ Indeed, a 2018 Report by the UN's Intergovernmental Panel on Climate Change has set a 12 year deadline to halt the rise in global average temperature.¹²

The effects of human driven climate change have resulted in reduced Arctic sea ice, the bleaching of coral reefs, and incremental sea-level rise. If unaddressed, such impacts on the world's waters, in conjunction with associated increases in dangerous weather extremes, will drive substantial population displacement in especially vulnerable places. Such places range from heavily populated countries like Bangladesh — pervaded by waterways and flood plains — to small nations like Tuvalu, composed of tiny low-lying islands in the South Pacific that are disappearing due to rising sea levels.

THE CONDITION OF IRISH CLIMATE LAW AND POLICY

The international community has been moving to combat this problem through a variety of international agreements,¹³ and numerous bottom-up initiatives have also originated and been implemented to various degrees of success in the domestic setting within countries.¹⁴ Set in the context of international action, Ireland's position and performance in the area of climate mitigation and adaptation is extremely poor.

An assessment by Oisín Coghlan, Director of Friends of the Earth Ireland, clearly highlights Ireland's performance and attitude to climate change. Coghlan observes that Ireland initially agreed as part of the Kyoto Protocol to adopt promising international greenhouse gas emission reduction limits, then proceeded to take three years to develop domestic policy instruments appropriate to the task, and eventually abandoned the main policy initiative outright before it could have effect.¹⁵

Bearing in mind that Ireland is part of the EU, it is therefore subject to fairly extensive climate decarbonisation obligations.¹⁶ It is notable that after China and the USA, the EU is the largest emitter of greenhouse gases in the world. As such, it bears a particular responsibility to contribute to the international decarbonisation drive.

The EU has been something of a pioneer and leader on the international stage.¹⁷ However, Ireland's performance in this area is highly concerning. In a major report published by Climate Action Network in 2018, Ireland was assessed as the second worst country

9 The importance of the issue in the context of Irish life and affairs is addressed by Paul Cunningham in: Paul Cunningham, *Ireland's Burning: How Climate Change will Affect You* (Dublin: Poolbeg Press, 2016).

10 John Krebs, "Lord Krebs: Scientists must Challenge Poor Media Reporting on Climate Change," *The Conversation*, May 3, 2016, <https://theconversation.com/lord-krebs-scientists-must-challenge-poor-media-reporting-on-climate-change-58621>.

11 See, eg, Intergovernmental Panel on Climate Change, "Climate Change 2014: Synthesis Report, Summary for Policymakers" (IPCC, 2014), https://www.ipcc.ch/site/assets/uploads/2018/02/AR5_SYR_FINAL_SPM.pdf.

12 Intergovernmental Panel on Climate Change, 2018.

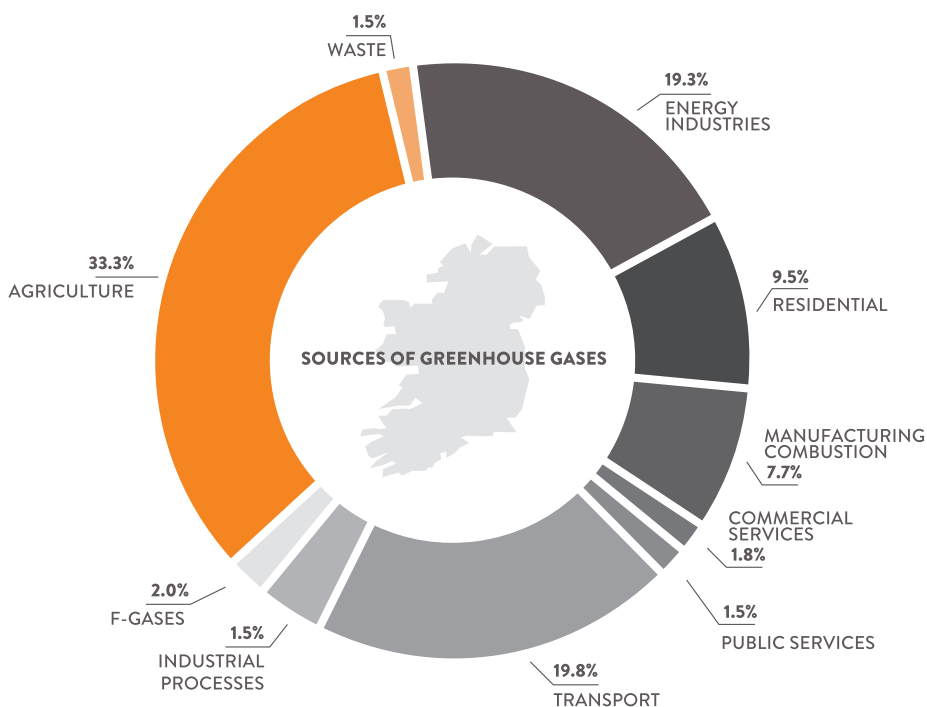
13 See, eg, United Nations, "United Nations Framework Convention on Climate Change" (United Nations, 1992), <https://unfccc.int/resource/docs/convkp/conveng.pdf>; and the agreements and arrangements that have flowed from it, including the United Nations, "Paris Agreement" (United Nations, 2015), <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>.

14 See, eg, M.A. Mohamed Salih, ed., *Local Climate Change and Society* (New York: Routledge, 2013).

15 Oisín Coghlan, "Irish Climate-Change Policy from Kyoto to the Carbon Tax: a Two-Level Game Analysis of the Interplay of Knowledge and Power," *Irish Studies in International Affairs* 18 (2007): 131–153.

16 Good coverage of the EU's regime is provided in: Edwin Woerdman, Martha Roggenkamp, and Marjin Holwerda, eds., *Essential EU Climate Law* (Cheltenham: Edward Elgar, 2015).

17 Thomas L Muinzer, "An Evaluation of the Implications of EU Climate and Energy Governance for the UK in light of Brexit," *European Journal of Current Legal Issues* 23, no. 2 (2017): <http://webjcli.org/article/view/564/752>.



Ireland's Sources of Greenhouse Gases. (Source: Environmental Protection Agency, "Ireland's Provisional Greenhouse Gas Emissions 1990–2017" (Dublin: EPA, 2018), 5.

in Europe, just ahead of Poland, in fighting climate change.¹⁸ Here it is reported that “Ireland and Poland rank lowest” in the EU, not merely because of their poor performance in the area of reducing actual greenhouse gas emissions, but also “because of their stiff opposition to climate action nationally and in the EU.”¹⁹

Poland’s administration has persisted in endeavouring to push back on important elements of the EU’s broader momentum towards reducing greenhouse gas emissions.²⁰ In particular, it has doggedly privileged the protection and ongoing extensive burning of coal in dangerous and damaging quantities in a way that has undermined the EU’s wider mitigation strategy.²¹ In being placed on an approximate parity with the Polish administration, the Irish government has far

from covered itself in glory.

Ireland is dogged by climate policy apathy, particularly in the area of agriculture, which is responsible for a disproportionately large share of emissions. It is a notoriously challenging sector to mitigate. Recent economic growth has also posed challenges, insofar as it has augmented energy-sourced emissions and made it more difficult to dampen down emissions from a bustling transport sector.²²

In terms of various quantifiable performance targets that have been applied by the EU to its Member States, for 2020 the EU has legally obligated itself to achieve a collective overall 20% reduction in greenhouse gas emissions, with regulated industry and energy generation being specially targeted.²³ It has also obligated itself to achieve an overall

18 Climate Action Network, “Off Target: Ranking of EU Countries’ Ambition and Progress in Fighting Climate Change” (Brussels: Climate Action Network, 2018).

19 Climate Action Network, 4.

20 These sorts of governmental actions often occur in the face of significant public resistance, see eg, Barbora Černušáková and Lene Christensen, “Poland’s Protesters will Not be Silenced,” *Euronews*; re-published by Amnesty International News Releases, 25 June 2018.

21 See further, eg, Climate Analytics, “About 80% of EU and German, Virtually All Polish Coal Plants Non-Compliant with new EU 2021 Air Pollution Regulations” *Climate Analytics Briefing Paper*, November 15, 2017, https://climateanalytics.org/media/coal_germany_briefing_15112017.pdf; Kuba Gogolewski, “Coal-Friendly Poland: A Bad Climate Leader for the EU,” *Euroobserver*, June 30, 2011, <https://euobserver.com/opinion/32570>.

22 Environmental Protection Agency, “Ireland’s Greenhouse Gas Emissions Projections 2017–2035” (Ireland: EPA, 2018): i–ii, https://www.epa.ie/pubs/reports/air/airemissions/ghgprojections2017-2035/EPA_2018_GHG_Emissions_Projections_Summary_Report.pdf.

23 See further, European Parliament and Council, “Directive 2009/29/EC, Amending Directive 2003/87/EC so as to Improve and Extend the Greenhouse Gas Emission Allowance Trading Scheme of the Community,” *Official Journal of the European Union* 52, no. L140 (2009): 63–88.

increase in renewable energy in the EU energy mix of 20% by 2020,²⁴ and a cumulative 20% improvement in energy efficiency, also by 2020.²⁵ These EU-level targets have been passed down to the Member States, including Ireland, with each country being apportioned different pre-agreed targets based on reasonable calculations, historic emissions levels, and each state's perceived socio-economic ability to achieve the goals in practice. Here, energy generation and heavy industry in Ireland have become subject to an EU Emissions Trading Scheme (ETS). This means that by 2020 Ireland has to source 16% of its gross final energy consumption from renewables, and must reduce non-ETS emissions by 20% from 2005 emissions levels.²⁶ As of 2009 Ireland has also been required to improve its energy efficiency levels by 20% come 2020.²⁷

More recently, David Boyd, UN Special Rapporteur on Human Rights and the Environment, has stressed that the "Government of Ireland has clear, positive, and enforceable obligations" under international human rights law to "take additional actions on an urgent basis" in order to meet Ireland's climate change responsibility.²⁸ Yet Ireland continues to be apathetic to necessary climate policy change.

Ireland's performance is currently massively off track. Indeed, it was announced by the Irish Environmental Protection Agency in May 2018 that Ireland's emissions trajectory has been substantially *increasing* rather than decreasing since these obligations were announced.²⁹ The EU's 2020 targets have

been ratcheted up and extended for the more distant date of 2030, and it is already clear even at this early stage that Ireland is so far off the pace that it cannot meet even its 2030 targets without taking radical action.³⁰ The situation is not greatly helped by Ireland's domestic legislative regime, which is drawn together under the terms of the Climate Action and Low Carbon Development Act 2015. Although the passage of this Act was a positive development of sorts insofar as it signalled a commitment to some degree of meaningful legislative action, there is no doubt that it could be considerably more robust and stringent.³¹ Most particularly, it neglected to include national long-term legally binding emissions reduction targets.

For an indication of just how troubling this performance is, one can look to the United Kingdom for a comparator. UK Parliament passed the Climate Change Act 2008 eleven years ago, absorbing key elements of the EU's 2020 requirements for the UK and exceeding them in many areas.³² Here, the UK set in law for itself a stringent 34% greenhouse gas emissions reduction target for 2020, and locked in a robust 80% emissions reduction target for 2050.³³ Rather than pegging the required emissions reductions to 2005 levels, the UK pegged them to 1990 levels.³⁴ The UK has already met its 2020 target (-34%) at the time of writing.

WHAT CAN BE DONE?

In order to reverse Ireland's poor trend, the Irish government needs to take action and minimise projected environmental harms

24 European Parliament and Council, "Directive 2009/28/EC," *Official Journal of the European Union* 52, no. L140 (2009): 16–62.

25 European Parliament and Council, "Directive 2012/27/EU on Energy Efficiency," *Official Journal of the European Union* 52, no. L315 (2012): 1–56.

26 See further: Sustainable Energy Authority of Ireland, "Ireland's Energy Targets: Progress, Ambition & Impacts" (Ireland: SEAI, 2016) https://www.seai.ie/resources/publications/Ireland_s-Energy-Targets-Progress-Ambition-and-Impacts.pdf.

27 Department of Communications, Energy and Natural Resources, "The National Energy Efficiency Action Plan for Ireland 2009–2020" (Ireland: Irish Government, 2009).

28 David R. Boyd, "Statement on the human rights obligations related to climate change, with a particular focus on the right to life," (October 25, 2008): 13, <https://www.ohchr.org/Documents/Issues/Environment/FriendsIrishEnvironment25Oct2018.pdf>

29 Environmental Protection Agency, "Ireland's Greenhouse Gas Emissions Projections 2017–2035" (Ireland: EPA, 2018), https://www.epa.ie/pubs/reports/air/airemissions/ghgprojections2017-2035/EPA_2018_GHG_Emissions_Projections_Summary_Report.pdf.

30 Environmental Protection Agency, 2018.

31 See, eg, the opinion to this end commissioned by Irish legal organisation Ceartas and provided to the Irish Government prior to the passage of the Act, produced by legal expert Dr Peter Doran and setting out clearly key shortcomings in the framework: Peter Doran, "Climate Action and Low Carbon Development Bill – An Opinion" (Dublin: Ceartas, 2013).

32 See further Thomas L Muinzer, *Climate and Energy Governance for the UK Low Carbon Transition: The Climate Change Act 2008* (London: Palgrave, 2018).

33 HM Government, *Climate Change Act 2008* (London: Her Majesty's Stationery Office, 2008), Section 5, (1)(a), Section 1(1), http://www.legislation.gov.uk/ukpga/2008/27/pdfs/ukpga_20080027_en.pdf.

34 Government of Ireland, 2008.

for present and future generations. This must involve placing climate mitigation and adaptation as a top priority across all relevant departments. Flagged ahead of Budget 2019 was an indication that there would be an increase in carbon tax in order to better mitigate emissions; however, the budget failed to include the measures.³⁵ Society needs to be part of the pressure, holding the government to account in the process. Some recent actions taken in the public interest have been encouraging. For example, and importantly, in 2017 Friends of the Irish Environment brought a major case before Ireland's High Court. It was determined by the Irish courts for the first time that, although the Irish Constitution does not set out an explicit fundamental environmental right, such a right can be said to exist.³⁶

There are many ways that a general environmental right of this nature can be articulated. Ben Boer usefully suggests that it can be summarised in the broad context of environmental law as “the right to a quality environment.”³⁷ Friends of the Irish Environment has since sought to extend this positive outcome by receiving permission to bring a further case before the High Court, this time related directly to climate change.³⁸ Here, the group is arguing that aspects of the Irish government's climate mitigation plan and policy strategy for 2040 neglect climate change obligations by permitting Irish greenhouse gas emissions to continue to rise. The judicial review process is ongoing at the time of writing.³⁹

As with all sections of Irish society, religious communities also have a role to play in advocating for climate action. The signals

here too have been frequently encouraging. For instance, the leadership of the Catholic Church has accepted the consensus view on climate change and has summoned Catholics to action. This call has been personally underscored by Pope Francis, expressed for example in the encyclical *Laudato Si'*.⁴⁰ Immediately prior to Pope Francis, Pope Benedict XVI had attracted the moniker of “The Green Pope” for championing climate change and other issues.⁴¹ Religious communities have also played an important role in driving forward the global fossil-fuel divestment movements. These kinds of positive religious examples have had a useful impact across the landscape of national Irish and broader international affairs.

If society and government alike are to succeed in effectively combatting one of the greatest problems of our times, it will be through recognising that we are cast as stewards of this precious planet. Moreover, as creatures of this planet ourselves, both the earth's wellbeing and the wellbeing of humanity itself over the course of present and future generations are intimately bound together as conjoined interests.

35 See, Fiach Kelly, “Government set to Increase Carbon Tax in Budget: Taoiseach says Move is Necessary as part of Climate Change Obligations,” *The Irish Times*, August 6, 2018, <https://www.irishtimes.com/news/environment/government-set-to-increase-carbon-tax-in-budget-1.3587267>; Kevin O'Sullivan, “Budget's Failure to Increase Carbon Tax is Shocking,” *The Irish Times*, October 9, 2018, <https://www.irishtimes.com/news/environment/budget-s-failure-to-increase-carbon-tax-is-shocking-1.3657392>. See: Government of Ireland, *Budget 2019* (Dublin: The Stationery Office, 2018), <http://www.budget.gov.ie/Budgets/2019/2019.aspx>.

36 *Merriman & Ors Vs. Fingal County Council & Ors; Friends of the Irish Environment Clg Vs. Fingal County Council & Ors* (The High Court of Ireland, 2017, IEHC 695): Para 269.

37 See further, Ben Boer, “Environmental Principles and the Right to a Quality Environment,” in *Principles of Environmental Law*, eds. Ludwig Kramer and Emanuela Orlando (Edward Elgar: UK, 2018), 73.

38 See further, Green News, “Legal case brought against Project Ireland 2040 over climate change concern,” May 16, 2018, <https://greennews.ie/ngo-brings-legal-challenge-project-ireland-climate-concerns/>.

39 The hearing date for Friends of the Irish Environment's climate case was confirmed in the High Court in June of 2018. The case will be heard over four days at the Four Courts in Dublin, beginning on Tuesday 22 January 2019, <https://www.climatecaseireland.ie/hearing-date-confirmed-for-climate-case-ireland/>.

40 Pope Francis, “Encyclical Letter: *Laudato Si'* of the Holy Father Francis, on Care for our Common Home” (Dublin: Veritas, 2014).

41 Mary Rezac, “The Green Pope isn't who you think it is,” *Catholic News Agency*, October 11, 2016, <https://www.catholicnewsagency.com/news/the-green-pope-isnt-who-you-think-it-is-30552>.

What Harm a Poor Healthcare System?

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INTRODUCTION

What constitutes a good healthcare system? Opinions differ, but the World Health Organisation (WHO) has simply defined it as one that: “delivers quality services to all people, when and where they need them.”¹ This definition is closely aligned to the much-discussed concept of universal healthcare. While the term is somewhat ambiguous and often used without explanation, most commentators agree that universal healthcare encompasses individuals receiving the care they need without suffering financial hardship.²

A majority of European countries introduced universal healthcare (to a lesser or greater extent) during the 20th Century. However, Ireland remains an anomaly in Europe in not providing it. In this article, I explore some of the benefits of universal healthcare before examining the shortcomings of the Irish healthcare system and their potential for harm.

BENEFITS OF A UNIVERSAL HEALTHCARE SYSTEM

Countries adopt universal healthcare for a variety of reasons, but a compelling case for it derives from a concern with fairness and a belief that people should have access to healthcare regardless of their ability to pay. Underlying this is the assumption that adequate healthcare has a positive impact on health status. There are also other potential benefits to universal healthcare including economic benefits for both the individual and society.

Health benefits of universal healthcare

While an individual's health status is influenced by a range of social, economic and genetic factors, there is clear evidence linking positive

population health outcomes and the delivery of a universal system where individuals can access needed services in a timely manner.

A review of international evidence on the links between expansion of universal healthcare coverage (defined as providing all people with access to needed health services of sufficient quality to be effective) and population health outcomes found that broader healthcare coverage generally leads to better access to necessary care and improved population health, particularly for poorer people.³ Quantifying the impact of universal healthcare on mortality in low and middle income countries, Margaret Kruk and colleagues found that 8.6 million deaths could have been prevented in 2016 if appropriate healthcare had been received in a timely manner.⁴ In the UK, a recent analysis found that the introduction of the National Health Service in 1948 (which largely provides healthcare free at the point of use) was associated with a reduction in infant mortality as well as a decrease in total mortality among lower social class individuals.⁵

In the US, under the Obama Administration, attempts were made to improve access to healthcare by increasing the number of people with insurance through the Affordable Care Act (2010). Reviewing how improvements in access to healthcare impacted on health status, Sommers and colleagues found that the expansion of health coverage significantly increased patients' access to care and use of preventive care, primary care, chronic illness treatment, medications, and surgery.⁶ These increases appear to have produced significant and multifaceted benefits to health including earlier detection of disease, better medication adherence and better management of chronic conditions. While such benefits can take a number of years to be fully realised, the evidence also suggested that policies aimed

1 World Health Organization, “Health Systems,” http://www.who.int/topics/health_systems/en/.

2 David Bloom, Alexander Khoury, and Subbaraman Ramnath, “The promise and peril of universal health care,” *Science* 361, no. 6404 (2018): eaat9664; Tim Boerma, Carla Abouzahr, David Evans, and Tim Evans, “Monitoring intervention coverage in the context of universal health coverage,” *PloS Med* 11, no. 9 (2014): e1001728.

3 Rodrigo Moreno-Serra and Peter Smith, “Does progress towards universal health coverage improve population health?” *Lancet* 380, no. 9845 (2012): 917–923.

4 Margaret Kruk, Anna Gage, Naima Joseph, et al., “Mortality due to low-quality health systems in the universal health coverage era: a systematic analysis of amenable deaths in 137 countries,” *Lancet* 392, no. 10160 (2018): 2203–2212.

5 Melanie Luhrmann and Tanya Wilson, “Long-run health and mortality effects of exposure to universal health care at birth,” *University of Sheffield Working paper* (2018), https://www.sheffield.ac.uk/polopoly_fs/1.7971891/file/A3_Wilson.pdf.

6 Benjamin Sommers, Atul Gawande, and Katherine Baicker, “Health Insurance Coverage and Health — What the Recent Evidence Tells Us,” *New England Journal of Medicine* 377, no. 6 (2017): 586–593.



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at reducing coverage will cause significant harm to health, particularly among people suffering with chronic conditions who are on low incomes.

The available evidence suggests that the health benefits of introducing universal healthcare are most strongly experienced by those from lower socio-economic groups,⁷ largely because such individuals will be able to access healthcare under a universal system which previously was prohibitively expensive. Universal healthcare therefore not only has the potential to improve total population health but also to reduce health inequalities between socio-economic groups.

There are also likely to be positive impacts on psychological wellbeing. Such benefits may arise from knowing that one can afford and access healthcare when required. Evidence from a number of American studies indicates that the increase in healthcare coverage arising from the Affordable Care Act substantially improved patients' perceptions of their own health,⁸ which in part may be explained by the knowledge that healthcare is available when

needed without significant cost.

Economic implications of universal healthcare

A healthy population is a precondition for economic prosperity. People's health influences economic outcomes in terms of productivity, labour supply, human capital, and public spending. The EU Commission notes:

Health expenditure is recognised as growth-friendly expenditure. Cost-effective and efficient health expenditure can increase the quantity and the productivity of labour by increasing healthy life expectancy.⁹

Without a strong health system that supports the health of the population, economic development will be constrained.

At the individual level, better health is often associated with higher income.¹⁰ While the direction of the relationship between health and income at the individual level is somewhat ambiguous (for example, does better health lead to higher income or higher income lead to better health?), those with better health generally have higher participation in education

⁷ Moreno-Serra and Smith; Luhrmann and Wilson.

⁸ Sommers, Gawande, and Baicker.

⁹ European Commission, *Investing in Health Commission Staff Working Document* (European Commission, 2013).

¹⁰ Dean Jamison, Lawrence Summers, George Alleyne, et al, "Global health 2035: a world converging within a generation," *Lancet* 382, no. 9908 (2013):1898–1955.

and in the labour force, contributing to higher incomes. The provision of universal healthcare ensuring that people receive healthcare, when required will help facilitate an individual's participation in the labour market impacting positively on income, while reducing social and economic inequality.

People can be protected from high out-of-pocket health expenditure through the extension of universal healthcare. In the US, where there is no universal healthcare system, 62% of all bankruptcies in 2007 were attributable to medical problems.¹¹ Subsequent healthcare reforms in the US which have attempted to increase healthcare coverage have successfully reduced catastrophic out-of-pocket expenditure (defined as out-of-pocket medical expenses exceeding a certain percentage of income) and personal bankruptcies.¹² Within Europe, where most countries have universal healthcare, the overall incidence of catastrophic health expenditure is relatively low.¹³ However, there is evidence of catastrophic expenditure among certain groups including older people with chronic conditions¹⁴ — highlighting the need for vigilance and safeguards around out-of-pocket expenses even within universal systems.

Accessing healthcare in Ireland

As noted earlier, Ireland is somewhat unusual in the European context for not providing universal access to healthcare provision. There are a number of features of the Irish healthcare system that potentially prevent people from accessing needed services. These include (but are not limited to) the high cost of accessing GP and other primary care services for those without a medical or GP visit card, regional variations in the supply and access to

community-based services, and long waits for public hospital services. Also, the existence of private health insurance that can facilitate faster access to hospital-based services means that in some instances receipt of healthcare is determined by ability to pay rather than by need.

There is a small but growing body of Irish research that has looked at the implications of high out-of-pocket fees for accessing some healthcare services in Ireland. O'Reilly and colleagues, for example, found that almost 19% of patients (4% of medical-card holders and 26% of non-medical card holders) reported a medical problem in the previous year but had not consulted the doctor because of cost.¹⁵ A more recent study found that of those reporting an unmet healthcare need, 59% attributed their unmet need to affordability issues.¹⁶ Affordability issues were most common among those without a medical/GP visit card suggesting that they may be related to the high cost of accessing GP services for those who pay at the point of use. Recent analysis looking at accessing healthcare in Ireland prior to and during the recent economic downturn, found that the number of people reporting difficulties in accessing the doctor due to cost increased over time.¹⁷

While there is little Irish evidence on the health implications of these access issues, one study on experiences of hypertension found that those without a medical card (and therefore required to pay for GP and other primary care services at the point of use) were less likely to be treated compared with those with a medical card,¹⁸ with the outcome likely contributing to poorer health.

There are also access issues for hospital-

11 David Himmelstein, Deborah Thorne, Elizabeth Warren, and Steffie Woolhandler, "Medical bankruptcy in the United States, 2007: results of a national study," *The American Journal of Medicine* 122, no. 8 (2009): 741–746.

12 Katherine Baicker, Sarah Taubman, Heidi Allen, et al., "The Oregon experiment — effects of Medicaid on clinical outcomes," *The New England Journal of Medicine* 368, no. 18 (2013): 1713–1722; Bhashkar Mazumder and Sarah Miller, "The effects of the Massachusetts Health Reform on household financial distress," *American Economic Journal: Economic Policy* 8, no. 3 (2016): 284–313.

13 World Health Organization and World Bank, *Tackling Universal Health Coverage: 2017 Global Monitoring Report* (Geneva: World Health Organization, 2017).

14 Jelena Arsenijevic, Milena Pavlova, Bernd Rechel, and Wim Groot, "Catastrophic Health Care Expenditure among Older People with Chronic Diseases in 15 European Countries," *PLoS One* 11, no. 7 (2016): e0157765.

15 Dermot O'Reilly, Tom O'Dowd, Karen Galway, et al., "Consultation charges in Ireland deter a large proportion of patients from seeing the GP: results of a cross-sectional survey," *European Journal of General Practice* 13, no. 4 (2007): 231–236.

16 Sheelah Connolly and Maev-Ann Wren, "Unmet healthcare needs in Ireland: Analysis using the EU-SILC," *Health Policy* 121, no. 4 (2017): 434–441.

17 Simone Schneider and Camilla Devitt, "Accessing healthcare in times of economic growth and economic downturn: Evidence from Ireland," *Journal of European Social Policy* 28, no. 4 (2017): 357–369.

18 Catriona Murphy, Patricia Kearney, Emer Shelley, et al., "Hypertension Prevalence, Awareness, Treatment and Control in the over 50s in Ireland: Evidence from The Irish Longitudinal Study on Ageing," *Journal of Public Health* 38, no. 3 (2016): 450–458.



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based services, with waiting times for public elective surgery and Accident and Emergency in Ireland among the worst in Europe.¹⁹ Consequently, a significant proportion of the population purchase private health insurance to ensure more timely access. The Irish Cancer Society noted that there were striking differences in access for patients in the public system versus those in the private system for the majority of cancer diagnostic tests, with those able to pay (either through insurance or out-of-pocket) able to access more timely services.²⁰

This issue of long waits for public hospital services and the differential timing between those with and without insurance came to public attention in 2007 when a cancer patient — Susie Long — spoke on national radio about having to wait seven months for a colonoscopy within the public health system compared with a three-day wait for a private patient for the same treatment. Her long wait resulted in a late cancer diagnosis, which potentially contributed to her early death. While cancer services were subsequently overhauled in Ireland, long waits and inequalities between

those with and without insurance remain.²¹ Long waits are also a feature of accessing many community-based services including mental health services and home care supports. While waiting (in particular for the treatment of non-life-threatening conditions) is a feature of all healthcare systems, the long waits in the Irish context inevitably have a detrimental impact on health and quality of life. For some, long delays may mean living with impaired health or quality of life for a longer period of time than would be the case if care was provided in a timelier manner. For others, the consequences may be more severe as health deteriorates further while waiting, meaning that the proposed treatment is less effective, or that the individual dies while awaiting treatment.

Difficulties in accessing health services in a timely manner also have implications for the healthcare system. For example, a deterioration in a person's health as they wait for care may mean more sophisticated and more costly services are eventually required. Similarly, long waits for community-based home care services could contribute to longer hospital stays than are clinically required,

19 Arne Björhberg, *EuroHealth Consumer Index 2017* (France: Health Consumer Powerhouse, 2017).

20 Marie O'Shea and Claire Collins, *Access to Diagnostics Used to Detect Cancer* (Dublin, Ireland: Irish Cancer Society, ICGP, 2016).

21 O'Shea and Collins.

reducing capacity in an already overstretched system.

In some instances, people can access services in a timely manner but in doing so incur significant out-of-pocket costs. A recent WHO report noted that 6.4% of the Irish population experienced catastrophic health spending in 2010.²² While higher than for many European countries, this figure likely underestimates the extent of financial hardship experienced by many people in Ireland given that the figure does not include private health insurance premiums which can equate to a significant proportion of a household's income.

Reform of the Irish healthcare system

Recognising the many failings of the Irish healthcare system, various reforms have been proposed over the past 100 years.²³ However, it was not until 2011 that an Irish Government committed to a universal healthcare system.²⁴ While the proposals, based on a system of Universal Health Insurance, were later abandoned on cost grounds, the possibility of introducing universal healthcare has remained on the political agenda. In 2016, an all-party parliamentary committee was established with the aim of achieving a long-term vision for healthcare and the direction of health policy in Ireland. The committee's final report (Sláintecare), published in May 2017, noted the need to move towards equitable access to a high quality, universal single-tier health system for Ireland where people are treated on the basis of need rather than ability to pay.²⁵ The report recommended the introduction of universal GP and primary care, reducing or removing out-of-pocket fees and substantially increasing public healthcare expenditure and capacity in a tax-funded system. However, despite the cross-party political commitment to universal healthcare, the adoption of these recommendations by Government is not a foregone conclusion and progress has been slow. While an implementation plan was published by the Government in the summer of 2018, there has been little

practical implementation of the Sláintecare recommendations. The Irish healthcare system therefore stands at a crossroads and it remains to be seen if and when universal healthcare will be delivered in Ireland.

CONCLUSIONS

The Irish healthcare system is characterised by financial barriers to access, inequalities in the supply of various community-based services and long waits for both community and hospital-based services. These features have contributed to people not receiving appropriate healthcare services in a timely manner. While lacking an extensive evidence base, it is inevitable that the non or delayed use of healthcare has a detrimental impact on peoples' health and quality of life. To minimise further harms, the evidence points to an urgent need for reform of the system to ensure that all people can access quality healthcare services, when and where they need them.

22 World Health Organization and World Bank.

23 Maeve-Ann Wren and Sheelah Connolly, "A European Late Starter: Lessons from the History of Reform in Irish Health Care," *Health Economics, Policy and Law* doi: 10.1017/S1744133117000275.

24 Department of the Taoiseach, *Programme for Government 2011–2016* (Dublin: Department of the Taoiseach, 2011).

25 Houses of the Oireachtas Committee on the Future of Healthcare, *Sláintecare Report* (Dublin: Houses of the Oireachtas, 2017).