**Framing Paper**

**Mainstreaming human rights in participatory urban regeneration involving sustainable communities in Ireland**

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**Dr Mark Jordan**

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This framing paper was written by Dr Mark Jordan, University of Southampton. It was commissioned by Dolphin House Community Development Association as part of their Dolphin House Regeneration access to Rights Project, funded by the Irish Human Rights and Equality Commission. It explains how adopting a Human Rights Based Approach (HRBA) to regeneration provides a means of fulfilling Ireland’s human rights obligations and supporting the development of sustainable communities. The paper explains how this approach can provide practical solutions where conflicts arise over planning policy, housing conditions, access to services, community safety and sustainability.

**Introduction**

Urban renewal and regeneration policies have a major impact on affected residents, their homes and communities. Regeneration engages a range of significant human rights issues relating, in particular, to housing and living conditions, access to services, safety, sustainable communities, participation and social inclusion. Although Ireland has accepted various legal and political obligations to mainstream human rights and increase effective participation at each level of government, regeneration projects have tended to be “property led” and there has been little recognition of the human rights of residents in the design and implementation of such policies.[[1]](#footnote-1) This paper outlines a potential HRBA to regeneration which places residents’ at the heart of regeneration projects and which offers a means of developing practical solutions to longstanding challenges associated with regeneration in an Irish context. The paper begins by outlining the regeneration of local authority estates within a broader context. Ireland’s obligations tomainstream human rights and participation in regeneration projects are then outlined. The paper then explains some key features of a HRBA to regeneration that could fulfil Ireland’s human rights obligations and support the development of sustainable communities. In the final section, the paper outlines a case study that illustrates how a HRBA could be integrated into an ongoing regeneration project in Ireland.

**1. Regeneration of local authority estates**

The regeneration of local authority estates has been a central aspect of Irish social housing policy for over four decades. However, despite the status of regeneration in Irish housing policy, there is “no national policy statement in relation to local authority housing estate regeneration”.[[2]](#footnote-2) Instead, regeneration tends be presented as a means of delivering other policies including supporting the housing market by increasing housing supply, reducing housing vacancy, creating mixed tenures, renewing cities, developing sustainable communities and meeting environmental obligations.[[3]](#footnote-3)

Government guidance has identified that regeneration involves two dimensions: “*First, it has a physical dimension, addressing the regeneration of the housing stock and the built environment. Second, it has a social dimension, addressing the regeneration of the social infrastructure through, for example, community development, tenant participation and/or estate management*.”[[4]](#footnote-4) There is no doubt that many local authority and civil society efforts have been made which effectively addressed social exclusion and other social issues, and their work has been extremely valuable. However, structurally, regeneration projects have tended to be “property led” and there has been much less emphasis placed on social regeneration e.g. adequate facilities for young people and children. This has inhibited regeneration projects from addressing “the social and economic problems affecting estates” or improving “other aspects of residents’ quality of life in the long-term”.[[5]](#footnote-5)

There is often a failure to recognise the value of existing community networks, support, integration and sustainability. International experience, particularly from the US has shown that many well-meaning regeneration projects have in fact destroyed the very communities they were intended to serve. The development and maintenance of a sustainable community requires a high level of State support and services, but also a recognition of its worth. In fact, the costs involved in re-creating a safe and sustainable community destroyed by poor regeneration is enormous, and cannot even be quantified in the costs for regeneration projects.

Many regeneration projects were paused, scaled back or significantly changed in response to the financial crisis in 2008. However, the Government has recently committed to re-commencing and expanding regeneration programmes as part of its response to a growing housing crisis.

**2. Ireland’s obligations to mainstream human rights and participation in regeneration projects**

Ireland has accepted various legal and political obligations to mainstream human rights and increase participation at every level of government. These national and international obligations are particularly relevant in housing regeneration projects because it is through the implementation of public policies at a local level that human rights and commitments to meaningful participation are fulfilled.[[6]](#footnote-6)

*National obligations*

Irish law places obligations on public bodies, including local authorities and Departments of State,[[7]](#footnote-7) to promote effective participation[[8]](#footnote-8) and protect the human rights of those to whom they provide services.[[9]](#footnote-9) This means that when public bodies undertake regeneration projects they must provide individuals and communities affected with opportunities for meaningful participation in the design and implementation of such projects. Furthermore, they must carry out their housing functions in a way that protects the human rights of individuals and communities in their area, as provided in the international human rights treaties which Ireland has ratified (outlined below). These legal obligations are bolstered by political commitments made by successive Irish Governments that regeneration projects should be undertaken in a way that recognises the importance of both material and social regeneration in creating sustainable communities.[[10]](#footnote-10) This has been “an enduring goal” of Irish housing policy in recent decades and it has been replicated in national Departmental guidance on regeneration[[11]](#footnote-11) and in local authority development plans.[[12]](#footnote-12) The current State Housing Plan – *Housing for All* (2021)(p. 122) states:

*The creation of sustainable communities has been an enduring goal of housing policy in recent decades. Sustainable communities are places where people want to live and work. They meet the diverse needs of existing and future residents, are sensitive to their environment and contribute to high quality of life. They are safe and inclusive, well planned, and offer equality of opportunity and good services for all*.

*International obligations*

Ireland has accepted obligations in international law to protect, respect and promote human rights at a national, regional and local level.[[13]](#footnote-13) These treaties establish the rights of individuals and impose obligations on states to protect, fulfil and promote such rights. Many of the rights contained in these treaties are relevant to urban renewal and regeneration, but the right to adequate housing is particularly significant in this context.

The Republic of Ireland has accepted and ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the European Social Charter. Under Article 11 of the ICESCR, the Republic of Ireland has accepted an obligation to ensure an adequate standard of living “including adequate food, clothing and housing, and the continuous improvement of living conditions". Housing is treated as a discrete right derived from Article 11.[[14]](#footnote-14) In General Comment 4, the UN Committee on Economic Social and Cultural Rights outlined seven essential elements which must be present in order for housing to be considered adequate and for the right to housing to be enjoyed e.g. security of tenure, affordability, safe and habitable. Within each element, there “are a set of highly specific sub-elements”.[[15]](#footnote-15) Under the ICESCR Ireland has accepted an obligation to “take appropriate steps” towards the progressive realisation of the right to adequate housing.[[16]](#footnote-16) This requires the state to show that measures being taken are “sufficient to realise the right for every individual in the shortest possible time in accordance with the maximum of available resources.”.[[17]](#footnote-17)

The right to housing is also recognised in a number of articles of the European Social Charter which Ireland has accepted and ratified. In particular, Article 16 RESC imposes obligations on Ireland to promote the provision of an adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing be of an adequate standard and include essential services. This is not simply a rhetorical commitment. In *International Human Rights Federation (FIDH) v. Ireland*, Complaint No. 110/2014 (*FIDH v. Ireland)* the European Committee of Social Rights (‘the Committee’) found that a significant number of families living in Local Authority Housing in Ireland reside in poor housing conditions amounting to housing that is inadequate in nature.[[18]](#footnote-18) The Committee found that persistent conditions like sewage invasions, contaminated water, dampness and mould go “to the core of what adequate housing means.”[[19]](#footnote-19) The inadequate housing conditions at the centre of this case have not yet been addressed and, as the Committee have repeatedly determined, Ireland remains in violation of Article 16.

The Committee have made clear that when realising one of the rights in question is exceptionally complex and particularly expensive to implement, states party must take steps to achieve the objectives of the Charter within a reasonable time, with measurable progress and making maximum use of available resources.[[20]](#footnote-20) Obligations under the Charter, while not imposing an “obligation of results” require governments to take a “practical and effective, rather than purely theoretical form”.[[21]](#footnote-21) For the situation to be compatible with the Charter, the Irish State must:

1. adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter;
2. maintain meaningful statistics on needs, resources and results;
3. undertake regular reviews of the impact of the strategies adopted;
4. establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage;
5. pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable.

*Mainstreaming the right to housing in regeneration projects*

The right to housing can serve, at least, four functions where local authorities undertake regeneration projects. First, it provides minimum human rights standards which all public bodies must meet when undertaking regeneration projects. In order for housing to be adequate, it must, at a minimum, be secure, affordable, habitable and be facilitated by appropriate services, facilities and infrastructure.[[22]](#footnote-22) Second, it sets the values that must guide the treatment of individuals and communities in regeneration projects i.e. equality, non-discrimination, and participation. Third, it imposes obligations on local authorities to empower residents to participate in the design and implementation of regeneration projects. Finally, it provides a framework for resolving technical or policy conflicts that may arise in regeneration projects.

These human rights obligations are complemented by a number of international political commitments which Irish governments have accepted. Ireland has committed to achieving a number of Sustainable Development Goals as part of the United Nations 2030 Agenda.[[23]](#footnote-23) Of particular relevance to regeneration projects is Goal 11 under which Ireland has committed to making cities and human settlements inclusive, safe, resilient and sustainable.[[24]](#footnote-24) To help States realise these commitments, the UN has developed the New Urban Agenda (2016) which sets global standards of achievement in sustainable urban development. This guidance document makes clear that sustainable urban development is firmly grounded in human rights and that the realization of the human right to adequate housing of all urban residents is a prerequisite to developing inclusive and sustainable communities**.**

**3. A Human Rights Based Approach to regeneration**

Adopting a Human Rights Based Approach (HRBA) to regeneration provides a means of fulfilling Ireland’s human rights obligations and supporting the development of sustainable communities. The HRBA is a conceptual framework directed towards protecting human rights, based on international human rights standards. This approach puts human rights and corresponding state obligations at the heart of regeneration policy and it can be used to empower residents and local communities to participate in decision-making processes and hold duty-bearers accountable.

As Maxi Ussar explains, at its core the HRBA is “*a framework for analysing development challenges and for planning meaningful responses. It provides a ‘lens’ for looking at specific situations that leads to a comprehensive understanding of problems to be addressed and facilitates the identification of effective, inclusive and sustainable solutions to those problems. The HRBA is therefore a tool for looking at development and for doing development*.”[[25]](#footnote-25)

A HRBA involves identifying rights holders and duty bearers in a specific urban renewal or regeneration context. Once identified as rights holders, residents in a regeneration project should be empowered to know and claim their rights and increasing the ability and accountability of individuals and local authorities who are responsible for respecting, protecting and fulfilling rights. This approach shifts the focus to looking at regeneration as a process that should empower people and communities through an inclusive and participatory approach focused on rights rather than needs.

There is growing recognition that such approaches offer a means of challenging duty bearers public bodies to break with stigmatising attitudes to residents and instead recognise their right to meaningful participation in key decisions relating to the design and implementation of regeneration projects. Various advocates for a human rights based approach to protecting the human right to housing have emphasised the PANEL principles as a means of explaining in concrete terms what a human rights based approach means in practice (see PANEL principles below).[[26]](#footnote-26)

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| **Participation** | Residents should be involved in decisions that affect their rights |
| **Accountability** | Public bodies (relevant government departments and local authorities) should monitor how resident’s rights are being impacted by regeneration projects. There must be remedies when things go wrong |
| **Non-discrimination** | Nobody should be treated unfairly because of their age, gender, ethnicity, disability, religion or belief, sexual orientation, gender identity or any other personal characteristic . Residents who face the biggest barriers to realising their rights in regeneration projects should be prioritised when it comes to taking action |
| **Empowerment** | Residents and local communities should be empowered to know and claim their rights. As duty bearers, public bodies must support residents and local communities in taking an active role in shaping the design and implementation of regeneration projects which affect their lives, homes and communities |
| **Legality** | National and local regeneration policy should be grounded in the human rights that are set out in domestic and international law |

**4. Case study: Integrating a HRBA in an existing local authority regeneration project**

In *FIDH v Ireland* the European Committee of Social Rights found that a significant number of families living in Local Authority housing in Ireland reside in poor housing conditions amounting to housing that is inadequate in nature.[[27]](#footnote-27) The Committee found that persistent conditions like sewage invasions, contaminated water, dampness and mould go “to the core of what adequate housing means.”[[28]](#footnote-28) Over the past three decades regeneration has been one of the main policy responses of the Irish government to poor housing conditions of local authority estates. However, as noted above, various regeneration projects have fallen short in delivering safe and sustainable communities.

One of the challenges facing residents, civil society groups and local authorities in ongoing regeneration projects stems from the fact that regeneration is not an event but a process that is likely to take up to 15 years or more to complete. During that time, it is likely that there will be changes in the planning processes and in the local, regional and national political context. These changes can have a significant impact on existing regeneration programmes. This can undermine residents’ trust in the regeneration process and increase tensions between residents, civil society groups and local authorities. For local authorities, such changes present real administrative challenges that can put greater pressure on workers and resources.

The following case study outlines how a HRBA could be integrated into an ongoing regeneration project of a ‘typical’ local authority housing estate in Ireland which is faced with changes in national planning policy that were unanticipated at the beginning of the regeneration project.[[29]](#footnote-29) The example has been used in order to illustrate how a HRBA can respond to the real challenges that can arise in contemporary regeneration projects. Furthermore, the example illustrates how a HRBA offers a potential model of best practice for developing practical solutions for common problems, while at the same time providing a means for local authorities to meet their national and international obligations to respect the human rights of residents (see section 2 above).

*Integrating a Human Rights Based Approach*

A Human Rights Based Approach requires, as a first step, that relevant public bodies must recognise residents as holders of human rights. This includes the right to adequate housing that is set out in international law and which has been accepted by Ireland. The regeneration project should, at a minimum, ensure that all housing is adequate, suitable, has access to appropriate infrastructure and services, and residents enjoy the right to meaningful participation in key decision affecting their homes and communities.

States employ different national, regional and local actors, including local authorities and government departments, in designing and implementing regeneration programmes. In international law, it is the State which is the ultimate duty bearer and has responsibility to ensure human rights are realised.[[30]](#footnote-30) However, the obligations to respect, protect, and fulfil the right to housing of residents in regeneration projects extends to all public bodies which exercise functions that may impact on regeneration policy and practice. This includes the Department of Housing, Local Government and Heritage, local authorities and any other relevant public body.

Once identified as such, the focus shifts to the actions which the duty bearer must take in order to protect, fulfil and promote the human rights of residents. The following table outlines how the PANEL principles could be used to integrate a HRBA in a ‘typical’ local authority housing estate that is currently undergoing regeneration. In this particular example, national planning policy has changed in a material way which has implications for the project.

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| **Participation** | The Department of Housing, Local Government and Heritage and local authorities must provide residents and local communities with opportunities for meaningful participation in the design and implementation of regeneration projects. The duty on public bodies to provide opportunities for meaningful participation is particularly important where technical or policy conflicts arise in a regeneration project. Where material changes in planning policy occur, Department of Housing, Local Government and Heritage should work withlocal authorities to ensure that residents, and representative associations, are:   * alerted to likely changes in national planning policy as soon as possible so that they have adequate notice of the changes; * provided with opportunities to raise concerns and get answers to their questions about any material changes in planning policy; and how they may be affected * provided with meaningful opportunities to develop alternative courses of action for responding to the changes in planning policy   The right of residents to meaningful participation should be the basis for developing sustainable solutions to technical or policy conflicts. The Department of Housing, Local Government and Heritage should work with local authorities to ensure that public bodies engage with residents to develop sustainable solutions that take account of resident’s concerns about the impact of changes in planning policy on the regeneration project. For example, changes in planning policy may place additional pressures on a regeneration project and require that additional funds are raised locally to provide facilities for children and young people. While selling public lands to raise funds is sometimes presented as a solution, local authorities should take account of more sustainable alternatives that may be proposed by residents such as leasing public land.[[31]](#footnote-31) |
| **Accountability** | The Department of Housing, Local Government and Heritage and the local authority should monitor how resident’s rights will be affected by changes in planning policy that may impact on regeneration projects. Where changes in planning policy have material impacts on regeneration projects, all relevant public bodies should make clear to residents how it will ensure that it will realize its other obligations to protect residents’ right to housing and to develop sustainable communities. |
| **Non-discrimination** | Public bodies must ensure that nobody is treated unfairly because of their age, gender, ethnicity, disability, religion or belief, sexual orientation, gender identity or any other personal characteristic. The Department of Housing, Local Government and Heritage and the local authority must ensure that both the public sector equality duty and participation duty are reflected in the design and implementation of the regeneration project. These duties are particularly important where unforeseen changes in planning policy have a material impact on ongoing regeneration projects. These duties require that residents who face the biggest barriers to realising their rights in regeneration projects and who may be particularly impacted by changes in planning policy should be prioritised. |
| **Empowerment** | The Department of Housing, Local Government and Heritage should work with local authorities in order to ensure that residents understand their rights, and are fully supported to take part in developing policy and practices which affect their lives, homes, and local communities. As duty bearers, public bodies must support residents and local communities in taking an active role in shaping the design and implementation of regeneration projects. Where changes in planning policy impact on regeneration policy, public bodies must empower residents to take an active part in shaping how these changes impact on the regeneration project. By empowering residents, public bodies play a vital role in supporting residents in holding the duty bearer account in fulfilling their human rights obligations. |
| **Legality** | Public bodies must ensure that regeneration plans and policies are grounded in the human rights that are set out in domestic and international law.[[32]](#footnote-32) In particular, the Department of Housing and the local authority must demonstrate how they are realising residents human right to housing and Ireland’s commitment to develop sustainable communities as part of the UN Sustainable Development Goals. In doing so, they must demonstrate how they are taking account of national good practice guidelines on regeneration which emphasize the importance of social regeneration (ie the provision of adequate facilities for children and young people) in developing sustainable communities. |

**Conclusion**

The centrality of human rights and inclusivity to effective urban renewal and regeneration policies and the development of sustainable communities is widely recognised internationally.[[33]](#footnote-33) Ireland has accepted numerous obligations internationally to protect, fulfil and promote the human rights of residents and has committed itself to developing sustainable communities, as part of the UN Sustainable Development Goals. These international commitments are reinforced by national legal and political commitments to mainstream human rights and increase participation at every level of government. As public bodies, the Department of Housing, Local Government and Heritage and local authorities, must take account of these obligations when undertaking regeneration projects. This is vitally important because it is through the implementation of public policy at a local level that human rights are realised. This framing paper has explained how these international and national commitments can be realised in regeneration projects. By adopting a human rights based approach to regeneration, public bodies can fulfil their commitments, respect residents human rights and meet their obligations to develop sustainable communities.

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26. This table is adapted from the Scottish Human Rights Commission review of the Scottish Social Housing Charter (2016) as developed in the literature review on which this framing document is based. [↑](#footnote-ref-26)
27. The Report to the Ministers of the Council of Europe of 22 June 2017 on the Decision on the Merits of Collective Complaint *International Human Rights Federation (FIDH) v. Ireland*, Complaint No. 110/2014, para 105-106. [↑](#footnote-ref-27)
28. *FIDH v. Ireland*, Complaint No. 110/2014, para 119. [↑](#footnote-ref-28)
29. Of course, there is no standard local authority housing estate but this example has been developed to illustrate a real challenge that can affect many regeneration projects. [↑](#footnote-ref-29)
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