

Homelessness, Empowerment and Self-reliance in Scotland and Ireland: The Impact of Legal Rights to Housing for Homeless People

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Abstract

This paper explores the impact of legal rights to housing for homeless people, focusing on the capacity of such rights to ‘empower’ those experiencing homelessness. Lukes’ (2005) three-dimensional view of power, complemented by Bourdieu’s (1972) concept of ‘habitus’, is used to distinguish between conceptualisations of empowerment. A distinction is drawn between ‘traditional’ understandings of empowerment, which focus on people’s capacity to realise their ‘subjective interests’, and on understandings that foreground ‘real interests’. These latter ‘radical’ perspectives direct attention to people’s ‘habitus’ – their internalised dispositions to perceive situations and act in particular ways. Empirically, the paper draws on a qualitative comparison of approaches to homelessness in Scotland and Ireland. Whereas in Scotland virtually all those who are homeless now have a legal right to settled accommodation, Ireland has rejected such a ‘legalistic’ approach, pursuing a consensus driven ‘social partnership’ model. Based on primary research with national experts, service providers and homeless single men in both countries, it is argued that legal rights can effectively empower homeless people. These findings call into question popular and political understandings of the relationship between legal welfare rights and self-reliance.

Introduction

Energy and self-dependence are . . . liable to be impaired by the absence of help, as well as by its excess. It is even more fatal to exertion to have no hope of succeeding by it, than to be assured of succeeding without it. When the condition of any one is so disastrous that his energies are paralyzed by discouragement, assistance is a tonic, not a sedative. (John Stuart Mill, 1848: 354–5)

There are opposing perspectives regarding the relationship between legal rights to welfare and the empowerment of marginalised groups. On the one hand, legal welfare rights offer to mitigate inequality by ‘decommodifying’ certain key social goods and services. In addition, such rights offer to overcome the disadvantages of official discretion, which has been criticised for facilitating arbitrary

decision-making, leaving welfare recipients uncertain of the assistance they will receive and thus insecure, and necessitating intrusion into welfare recipients' private lives in search of reasons to use discretion one way or another (Donnison, 1977; Goodin, 1986). From this perspective, legal rights to welfare promise to empower disadvantaged groups, meeting social needs through clear mechanisms, supported by channels of accountability that provide welfare recipients with an effective sanction against providers. Such rights establish a counter-hierarchy of power, providing a weapon for challenging inequalities (Lister, 2004).

On the other hand, this account of the relationship between legal welfare rights and empowerment has been challenged from the perspective of those wishing to transform welfare states into tools to promote independence and self-reliance, rather than 'permissive' institutions that license dependence (Goodin, 1985; Mead, 1986; King, 2006). From this perspective, welfare policies must be designed to 'responsibilise' and 'activate' citizens, to help people – and communities – help themselves (Giddens, 1994; Pathak, 2013). Accordingly, the argument that legal welfare rights are empowering is turned on its head, with such rights seen instead to risk disempowering individuals, casting them as passive recipients of state beneficence rather than active 'autotelic' responsible citizens.

This paper seeks to contribute to this debate by focusing on the impact of legal rights to housing for homeless people. First, it seeks to unpack the concept of 'empowerment' via a critical interrogation of the underlying concept of 'power'. In considering whether certain policies are empowering or not, it is ventured that attention must be paid to both the capacity of disadvantaged groups to realise their subjective interests, *and* to the more subtle dynamics concerning the dispositions of those using welfare services and discourses around homelessness. Second, it applies this conceptual framework to the practical question of whether – and in what ways – legal rights to housing for homeless people are empowering or disempowering. It does so by drawing on primary research involving national key informants, service providers and single homeless men in Scotland, which has established a strong legal rights-based approach to homelessness, and in Ireland, which has rejected legal rights in favour of a 'social partnership' model. The paper closes by suggesting that legal welfare rights, as implemented in Scotland, can be effective tools for empowering homeless people and, moreover, that they have the potential to support rather than undermine self-reliance. However, such positive results are predicated on the bluntness and simplicity of those rights, factors that must be taken into account in considering the applicability of these findings to contexts beyond Scotland.

Conceptualising empowerment

The imprecision of the idea of 'empowerment' has been noted elsewhere (Baistow, 1994; Starkey, 2003; Lister, 2004). The concept has been described as 'ambiguous

and flexible enough in its meanings to allow many possible interpretations whilst, at the same time, carrying with it a stamp of ethical creditability that rubs-off on those who “empower” (Baistow, 1994: 45). This point remains pertinent in a context where empowerment can be claimed as an objective by those seeking to advance legal welfare rights and by those seeking to circumscribe them in order to promote self-reliance. Unlike ‘empowerment’, the concept of ‘power’ has been subject to extensive theorisation but, nevertheless, remains ‘essentially contested’ (Lukes, 2005). This section uses Lukes’ ‘three-dimensional view’ of power, supplemented by Bourdieu’s (1972/1977) concept of ‘habitus’, to conceptualise empowerment.

One-dimensional power can be located by observing who succeeds ‘in the making of decisions on issues over which there is an observable conflict of (subjective) interests’ (Lukes, 2005: 19). Those who hold power can be identified by observing whose preferences are served or interests realised in such situations. Conflicts of interest/preference (understood as synonymous) therefore offer an ‘experimental test of power attributions’ (Lukes, 2005: 17). Power can also be exercised ‘by confining the scope of decision-making to relatively “safe” issues’ (Bachrach and Baratz, 1963: 948). In these cases, conflicts of interest will be latent and harder to observe. Such agenda-setting power constitutes the two-dimensional view of power (Lukes, 2005). On the one- and two-dimensional views, power can be exercised through several mechanisms: force, coercion, influence and authority (Bachrach and Baratz, 1963; Lukes, 2005). Of particular relevance in the context of welfare services is the mechanism of coercion, that is, securing compliance through the threat of deprivation.

Lukes’ ‘three-dimensional’ view of power rests on the insight that people will not necessarily express or be conscious of their ‘real interests’, and thus on a distinction between subjective preferences and real interests. To assume genuine consensus from the absence of grievances ignores the possibility of a manipulated consensus. On this ‘radical’ view, power may not be revealed in decision-making situations, but is secured by shaping people’s ‘perceptions, cognitions and preferences’ (Lukes, 2005: 28), their ‘internalized dispositions’ (Brubaker, 2004: 43). Its mechanisms – including processes of socialisation, indoctrination and the production of discourse – render it harder still to observe than two-dimensional power.

The distinction between subjective and real interests is contentious, in that it requires imputing interests to a person that they do not themselves recognise (Polsby, 1963; Berlin, 1958/2002). Objections to this apparent paternalism were articulated forcefully by Berlin in his essay ‘Two concepts of liberty’:

if the essence of men [sic] is that they are autonomous beings . . . then nothing is worse than to treat them as if they were not autonomous, but natural objects, played on by causal influences, creatures at the mercy of external stimuli, whose choices can be manipulated by their rulers,

whether by threats of force or offers of rewards. To treat men in this way is to treat them as if they were not self-determined . . . as if they were not free, but human material for me, the benevolent reformer to mould in accordance with my own, not their, freely adopted purpose. (1958/2002: 183)

Lukes defends the distinction between subjective and real interests, acknowledging that people's interests are 'many, conflicting and of different kinds' (Lukes, 2005: 147) and thus that specifying 'real interests' is inherently problematic. He suggests that 'real interests' are taken to be 'a function of one's explanatory purpose, framework and methods, which in turn have to be justified' (Lukes, 2005: 148). Real interests might therefore be understood as a set of central capabilities (Nussbaum, 2000) or basic needs (Doyal and Gough, 1991). Nussbaum herself appears to acknowledge the distinction when she questions whether an Indian women's endorsement of 'traditions of modesty, purity and self-abnegation' should be the last word in a context where she has no property rights, no education, no right to divorce and faces the risk of violence if she seeks employment outside the home (Nussbaum, 2000: 43).

Foucault (1980) and Bourdieu (1972/1977) have advanced other, highly influential, 'radical' views of power. Of particular relevance is Bourdieu's concept of habitus, which describes 'a system of durable and transposable dispositions which, integrating all past experiences, functions at every moment as a matrix of perceptions, appreciations, and actions' (Bourdieu, 1972/1977: 261). Habitus describes how society becomes 'sedimented' in a person as propensities to think, feel and act in certain ways in particular situations (Wacquant, 2004). Bourdieu further distinguishes between various forms of capital (economic, cultural, social, symbolic), which yield power for those who hold them. Symbolic capital is the form taken by all types of capital when their possession is seen as legitimate. It is not perceived as power 'but as a source of legitimate demands on the services of others' (Brubaker, 2004: 40). Bourdieu and Lukes' perspectives both highlight how power can lead people to 'accept their role in the existing order of things . . . because they can see or imagine no alternative to it, or because they see it as natural and unchangeable' (Lukes, 2005: 28).

The one- and two-dimensional (or 'traditional') perspectives discussed above indicate that interactions between those who use and provide welfare services can be understood as 'power situations' in that there is a potential conflict of interest between these parties. In the context of homelessness, a homeless person's interests can in part be understood as having their need (for settled housing of an adequate quality) met. Those administering welfare services are likely to have a plurality of objectives (reflecting the plurality of objectives embodied within welfare institutions generally) (Hoggett, 2006). They are likely to be motivated to act in the 'public interest' (however defined); to respond to managerially/legally imposed rules (e.g. to ration resources/prioritise certain cases); to minimise the stress/workload associated with their role; and/or to

(de)prioritise certain groups according to their own perceptions of justice/desert (Lipsky, 1980; Jeffers and Hoggett, 1995). While these objectives may in specific cases be congruent with the interests of service users, it is highly likely that conflicts of interest between welfare providers and individual users will frequently occur. Empowering those who are homeless would therefore require either enabling self-reliance (thus avoiding or minimising the length of the ‘power situation’ of welfare interactions) or – drawing on the typology of mechanisms of power offered above – reducing the coercive power of the service provider within the welfare interaction.¹ The coercive power of the provider constitutes their capacity to threaten deprivation and, thus, reducing it would involve reducing their discretion to decide not to meet the homeless person’s housing needs.

The ‘radical’ view of power, on the other hand, suggests that ‘empowering’ those experiencing homelessness would involve attending to the subtle ways in which dispositions, cognitions and preferences influence people’s perceptions of their own interests, as well as the nature and outcomes of welfare interactions. Considering how freedom can be understood if people’s dispositions are shaped by society through past experiences (as Bourdieu argues), Hilgers proposes that freedom ‘resides in [a person’s] ability to objectivize his or her own condition . . . [Through] a reflexive effort, they identify and begin the work of gaining (relative) control over their own disposition’ (2009: 738). Empowerment then might be understood in terms of ‘critical autonomy’ – a person’s capacity to ‘question and to participate in agreeing or changing the rules’ (Doyal and Gough, 1991: 67). Hoggett (2001) makes a distinction between ‘radical’ agency – through which rules or discourses can be challenged – and ‘limited’ agency – which seeks change within existing rules/discourse. Prior (2009) speaks of oppositional or ‘counter-agency’ in similar terms.

This paper now seeks to apply the understandings of empowerment developed above to the policy approaches to homelessness policy pursued in Scotland and Ireland. The next section describes these contrasting policy approaches and puts Scotland’s legal rights-based approach in an international context. This is followed by an account of the methods employed in this study.

Legal rights to housing for homeless people

Legal rights to accommodation for homeless people are unusual internationally (Fitzpatrick and Stephens, 2007). Where they exist, they tend to entitle those who are literally roofless to emergency accommodation. Enforceable rights to settled accommodation are rarer still, with the only clear examples being the French ‘DALO’ (‘enforceable right to housing’) introduced in 2007 (Houard and Lévy-Vroelant, 2013) and the UK statutory homelessness legislation established in 1977 (Fitzpatrick *et al.*, 2012). Although legal rights-based approaches to homelessness are rare, something of an orthodoxy has developed in their favour (Anderson,

2009; Kenna, 2005; Loison-Leruste and Quilgars, 2009; Fitzpatrick and Watts, 2010; FEANTSA, 2012; Bratt *et al.*, 2006), despite a paucity of empirical evidence.

Devolution has led to significant divergence in homelessness policy across the UK (Fitzpatrick *et al.*, 2012). Developments in Scotland have been particularly noteworthy. The focal point of reforms has been the phasing out of the 'priority need category'. Since December 2012, virtually all homeless people in Scotland have been entitled to settled housing secured by their local authority, a duty normally discharged through the allocation of a social housing tenancy (Fitzpatrick *et al.*, 2012). Under previous UK legislation, the priority need category was the key rationing device, meaning that only a subset of homeless households (those including children, pregnant women and those deemed specifically 'vulnerable') were entitled to settled housing. While the UK statutory framework has been criticised as complex, qualified and 'hardly a prize of citizenship' (Mullins and Niner, 1998; Cowan, 1999), from an international perspective the legislation is strikingly robust, in that the definition of homelessness is wide and the rights legally enforceable through domestic courts (Fitzpatrick and Watts, 2010). By expanding these rights to a wider group, Scotland has established what is generally considered an exceptionally progressive approach to homelessness (Pawson and Davidson, 2008; Anderson, 2012).

Ireland is a useful comparator through which to consider the difference legal rights make to experiences of homelessness. Like Scotland, Ireland is a relatively small jurisdiction considered to operate broadly as a 'liberal' welfare regime and has also pursued ambitious reforms to homelessness policy over the last fifteen years. In contrast to Scotland however, Irish reforms have been rooted in 'a consensual or negotiated problem-solving approach' (O'Sullivan, 2008) between key 'social partners'. This reflects a resistance to responses to social problems founded on justiciable rights (O'Donnell, 2003). Legal rights to housing for homeless people were explicitly rejected in the mid-1980s (Harvey, 2008), with an ambitious reform programme initiated in the late 1990s in the hope that a 'low key, incremental' approach 'may provide more robust and intended outcomes than those offered by the legalistic route' (O'Sullivan, 2008: 229). The main tenets of the Irish model are an emphasis on strong partnership, working between statutory and voluntary organisations in the homelessness sector, coordinated by the Homeless Initiative in Dublin (established in 1996, now the Dublin Region Homelessness Executive) and, from 1998, a Cross-Departmental Team on Homelessness.

This 'social partnership' ethos has also characterised the reconfiguration of Dublin services initiated in 2009, aiming to shift away from emergency accommodation provision to offering sustainable and long-term solutions to homelessness (O'Sullivan, 2012). This strategic shift from a 'housing-ready' approach (according to which homeless people must prove their readiness for settled housing before being able to access it) towards a 'housing-led' approach

appears to bring Ireland partially in line with Scottish approaches, albeit without a framework of legal rights.

Methods

The study combined two phases of fieldwork. First, interviews were conducted (in late 2010) with national key informants working in the fields of homelessness and social housing, across the statutory and voluntary sector and within academia (Scotland $n = 10$; Ireland $n = 13$). Participants were purposively sampled in discussion with well-placed academic contacts, and participants with a diversity of perspectives – both ‘insiders’ (involved in policy formulation) and ‘outsiders’ (those not involved in policy formulation and/or critical of current approaches) – were sought. Further participants were selected on the recommendation of initial interviewees (‘snowball’ sampling). These interviews explored participants’ perceptions of the rationale and objectives of national policy, its success in achieving those objectives and its drawbacks.

The second phase of fieldwork (in 2011) constituted two local case studies in Edinburgh and Dublin, cities selected as ‘exemplars’ of the national homelessness policy (responses to homelessness are widely acknowledged as most advanced in Dublin; Edinburgh was the only local authority in Scotland to receive a top ‘A’ grade in baseline inspections of homelessness services (Communities Scotland, 2006)). Interviews or small focus groups were conducted with service providers (Dublin $n = 8$; Edinburgh $n = 10$). Initial participants were recommended by national key informants, with further participants being ‘snow-ball sampled’. Perspectives were sought from statutory and voluntary sector providers both in favour and critical of current approaches. Interviews explored experiences of implementing homelessness policy and perspectives on the strengths and weaknesses of the current approach.

Interviews were also conducted with currently homeless men residing in emergency homeless hostels or recently homeless men now residing in social or privately rented accommodation (Dublin $n = 15$, Edinburgh $n = 11$). Around two-thirds of participants were currently homeless and one-third recently homeless (within the last eighteen months). The duration of homelessness experienced by participants ranged from several months up to seven years. Focusing on single men (to the exclusion of other household types and women) enabled a detailed comparison of their specific experiences.² Scottish reforms brought single homeless households (without any specific ‘vulnerability’) into the statutory safety-net for the first time, making their experiences as ‘rights-bearers’ particularly significant. This focus also provided a means of accounting for the varying official definitions of homelessness in Scotland and Ireland (in practice, Ireland’s definition is somewhat narrower than Scotland’s).

Participants were accessed through three different homeless services (hostels or support agencies) in each city, on the recommendation of national and local informants. Sampling was 'opportunistic' within constraints defined by a purposive sampling strategy: Irish/UK nationals over the age of eighteen were sought in Dublin/Edinburgh respectively, and in Edinburgh only men owed the 'main homelessness duty' were included (fieldwork occurred prior to the full elimination of the 'priority need' category). The risk of staff suggesting only service users with positive experiences of services was minimised by emphasising the importance of gathering a range of perspectives and because the research sought to evaluate national policy rather than specific services. Interviews focused on experiences of and attitudes towards accessing homelessness services, perceptions of the quality of support received and of the (temporary and settled) accommodation accessed. All interviews were transcribed and thematically coded and analysed using Atlas-Ti.

The next section presents the empirical findings of this study, focusing on three themes prompted by the conceptual framework developed above. The next two sections focus on understandings of empowerment suggested by the traditional view of power: first, the impact of legal rights on self-reliance and personal responsibility and, second, the impact of legal rights on the discretion (or coercive power) of service providers. The third section considers the impact of legal rights on empowerment, as understood through the lens of the 'radical' view of power, focusing on how they affect the dispositions and attitudes of providers and users and broader discourses around homelessness.

Legal rights and self-reliance

Legal rights to welfare have increasingly tended to be seen as injurious to self-reliance in that they risk lessening the need for people to take personal responsibility for their own wellbeing (Mead, 1986; Giddens, 1994; King, 2006). On this reasoning, according to the 'traditional' view of power, Scotland's legal rights might be expected to disempower homeless men relative to their Irish counterparts, who will face greater incentives to be self-reliant. This study suggests some support for this view, among professionals in the sector and homeless men themselves. As will be seen, however, a multi-dimensional consideration of the impact of the legal rights on empowerment undermines this conclusion.

Though Scottish key informants tended to be supportive of the rights-based model, some emphasised that, in applying as homeless, people 'surrender quite a lot of control' (National stakeholder, voluntary sector, Scotland). Echoing this, another Scottish stakeholder doubted that how 'people are herded into situations through the homeless route actually does empower them at all' (National stakeholder, social housing sector, Scotland). While these comments appear to

focus on the impact of legal rights on autonomy, another key informant went further, arguing that legal rights:

Risk . . . taking away any incentive for people to take more responsibility for their own housing situation and the danger [is] that systems . . . are set up for people who need their hands held, need everything done for them. (National stakeholder, Scotland)

Resistance to rights-based approaches predominated in Ireland, among both professionals and service users (though, notably, an academic and several voluntary sector informants were strongly pro legal rights), and tended to focus on issues of self-reliance and personal responsibility. Echoing the concern with autonomy articulated above, one national stakeholder saw a tension between ‘the notion of people being the bearers of very defined rights [and] the notion that they should have some authorship of their own lives and . . . of what those rights should mean’ (National stakeholder, Ireland). Other Irish participants saw a further tension between rights and personal responsibility. A Dublin statutory service provider described their opposition to rights-based approaches in these terms, explaining that they would be ‘much more in favour of encouraging people’s ability to take responsibility and accountability and taking charge of their own life’. This sentiment was even echoed by some homeless men in Dublin who favoured the ‘stricter’ Irish response as better responding to ‘human nature’, by leaving the onus on the individual to resolve their situation. Reflecting on the Scottish approach, one Dublin hostel resident commented:

over there that sounds a bit like they’re doing all the work for you, that to me . . . that’s creating a bit of laziness . . . Over here, you’re doing a bit of the work yourself . . . given human nature, you’ll respect it more . . . [and] chances are you’ll hold onto it more.

These perspectives suggest that legal rights fail to encourage those who are homeless to ‘produce the conditions of [their] own independence’ (Clarke, 2005: 451). While they may meet housing needs (Watts, 2013), according to some they problematically cast homeless people as passive recipients of welfare, rather than self-reliant citizens. There are, however, several problems with drawing this conclusion. First, some participants suggested that enabling access to settled accommodation should be the focus of homelessness services, even at the expense of promoting self-reliance. Thus, to conclude that Scotland’s legal rights undermine self-reliance among homeless men is not to make a decisive case against the approach. This chimes with normative arguments, that claims to meet basic needs are prior to demands for self-reliance (Doyal and Gough, 1991; White, 2003).

Second, while some participants felt Scottish homelessness policy undermines autonomy and self-reliance, it is not at all clear that Ireland’s approach does any better on this standard. The homeless men involved in this study faced substantial barriers to settled accommodation and reported spending

long periods in temporary accommodation (Watts, 2013), echoing other reviews of homelessness services in Dublin (Homeless Agency, 2008). It was common for those interviewed to describe being ‘stuck in a rut’ in temporary accommodation of ‘just of not doing anything’. This seemed to result from a combination of learning to live with this kind of environment and having no clear route out of it. One participant described his state of mind when in temporary accommodation:

I’m homeless, that’s the way it is, it was meant to be, you don’t see any light, you know? It’s kind of a hopeless state of mind, everything’s negative, you’re like a robot doing day-to-day stuff. (Ex-service user, Dublin)

The Irish service user quoted above as concerned that legal rights in Scotland may ‘create laziness’, described how he ‘got very lazy’ in one hostel where he lived for almost six years. During this time, he had little support to move into settled accommodation. Whilst the perspective outlined above would predict that his self-reliance would be enhanced in this situation, this did not reflect his own account of his experiences. As demonstrated below, this experience of being stuck in a rut and of ‘getting lazy’ was less common among Scottish participants.

Legal rights and discretion

As well as prompting a focus on self-reliance, the ‘traditional’ conception of power also suggests that empowerment can be achieved by reducing the coercive power of service providers, i.e., their capacity to choose not to meet the housing needs of those experiencing homelessness (or ‘threaten continued deprivation’ in Lukes’ terminology). Reducing the discretion of service providers through formal rules, including law, offers one means to reduce their coercive power. This section thus considers the difference legal rights make to the discretion of those working with homeless men in Scotland and Ireland.

In Dublin, a range of considerations were brought to bear in service providers’ decisions about when, how and whether a homeless person would access settled housing. First, service users’ ‘readiness’ for a settled tenancy was considered: ‘we wouldn’t give a unit where we felt really he wasn’t able to look after himself. . . we’d take the recommendation from [temporary accommodation staff] to say yes, he can manage it’ (Accommodation provider, Dublin). Where providers felt an individual still wanted ‘to enjoy life and get up to mischief’ (Service provider, Dublin) or hadn’t addressed the issues the provider saw as causing their homelessness (e.g., substance misuse), they were unlikely to seek to rehouse them immediately. Second, access to social housing is subject to ‘estate management checks’ establishing whether the homeless person has a criminal record. Results are used at the discretion of housing managers, but, in practice, a criminal record weighs heavily against chances of accessing a tenancy. These dynamics were reflected in the perspectives of homeless men, who saw their time in temporary accommodation as ‘sort of a trial . . . to see who’s worthy of getting

[move-on accommodation] and who's pulling their socks up . . . putting the effort in' (Hostel resident, Dublin). Third, considerations of social mix loomed large, with housing managers reluctant to rehouse homeless men in areas considered to be 'saturated' with such residents or where existing residents were known to actively resist such allocation decisions.

These concerns regarding 'housing readiness', desert, social mix and local reactions are not explicitly articulated in the Irish policy framework. Indeed, at the strategic level there is an emphasis on 'housing-led' responses to homelessness. However, those administering homelessness policy had the discretion to bring these criteria into play. These considerations thus provided a means of prioritising between homeless people in a context of limited resources. In Scotland, legal obligations – by minimising discretion – provided some tension, pulling policy and practice closer together.

Scotland's statutory homelessness framework enforces a focus on meeting homeless people's need for settled housing above other potential policy objectives (Watts, 2013). All applicants found to be unintentionally homeless are owed the 'full duty' to be rehoused. Local authorities' legal duties are publicly stated, enforceable (via internal reviews and ultimately the courts) and subject to regulation and monitoring. The clarity of the Scottish approach was clear from participants' accounts:

the government are quite clear to all local authorities: this is exactly what you have to provide and what you have to do. (Service provider, Edinburgh)

people are clear on, or can be made clear on, what their rights are and that . . . forces local authorities to deal equitably with homeless people. (Service provider, Edinburgh)

While housing officers must still make judgements to interpret rules, the simplicity of the statutory framework minimises their discretion (see Donnison, 1977 on the distinction between judgement/discretion). Scotland's legal rights-based approach thus imposes tight parameters on providers' decisions, thereby – returning to the mechanisms of power identified above – minimising their 'coercive power' and empowering service users.

Minimising discretion thus appears to empower homeless households by providing a blunt but effective tool to prioritise their housing needs (Watts, 2013). Minimising discretion may have disadvantages, however (Titmuss, 1971). For instance, one Edinburgh hostel resident commented that services could be impersonal: 'I was just another person . . . they could've been a bit more supportive.' This kind of sentiment was less evident in Dublin, where service users were often very positive about their interactions with providers (see below). This may reflect that Irish providers have stronger motivation to build supportive relationships with services users: such relationships make a more significant difference than in Scotland, where legal rights define access to accommodation.

Legal rights and 'radical' approaches

Lukes' three-dimensional view of power directs attention to how people's 'perceptions, cognitions and preferences' (Lukes, 2005: 28) are shaped. Bourdieu's complimentary concept of 'habitus' offers a lens for understanding how social structures and contexts, through past experiences, lead to durable 'internalized dispositions' (Brubaker, 2004: 43) for people to think, feel and act in particular ways. This section considers how the contrasting legal rights and 'social partnership' frameworks in Scotland and Ireland impact on the discourses within which homeless men and service providers understand homelessness and their dispositions and 'habitus'. This study points to substantial differences between Ireland and Scotland in this regard, suggesting that a framework of legal rights may help promote a particular kind of 'habitus' among homeless single men.

Scottish homeless men tended to articulate a sense of entitlement to help, seeing their use of public resources as legitimate. As Lewis and Smithson argue in a different context, 'statutory rights... become internalised as a sense of entitlement' (2001: 1477; Parsell, 2011). Homelessness was viewed as a matter of social injustice not just personal responsibility: 'Everybody in Britain has a right to accommodation... society is wrong where people sleep on the street... I think it's ridiculous that people are homeless' (Service user, Edinburgh). Furthermore, those working in the sector saw this sense of entitlement as justified, even desirable: 'there is a sense of people knowing that if they're homeless, they can expect a service provided to them... and I think that's an advantage' (National stakeholder, voluntary sector, Scotland). Another agreed: 'If there's a view... that [service users] are getting a bit more angsty, then fantastic!' (National stakeholder, voluntary sector, Scotland).

This sense of legitimate entitlement tended to go alongside higher expectations about the quality of services and facilities they should have access to (an older long-term rough sleeper in Edinburgh with complex needs was an exception who did not appear to feel a sense of entitlement to assistance). These expectations manifested in most cases in an assertive set of dispositions towards staff. In addition, homeless men in Edinburgh described feeling 'in limbo' in temporary accommodation and were impatient to access settled housing: 'I'm just champing at the bit, ready to go' (Service user, Edinburgh). Another described how everyday felt 'like a waste, cos I could've been doing something more constructive'. Overall, the dispositions and discourses among homeless men in Edinburgh revealed a sense in which they viewed themselves and were viewed as entitled rights-holders (albeit that their sense of moral entitlement didn't always accurately reflect their legal entitlements). These findings support the suggestion that the violation of a sense of entitlement may prompt a 'motivation to seek change' (Major, 1994: 299).

In contrast, Irish homeless men tended to emphasise their luck, gratitude and relief at receiving assistance. Service users were accepting of – even positive

about – their situation in temporary accommodation: ‘this is like excellent . . . I’m glad to be here . . . it’s a good place to get breathing space, I can’t knock it really’ (Service user, Dublin). Another hostel resident went further, explaining ‘where I am here, is perfect’. It is important to note that this satisfaction did not reflect objectively higher standards of temporary accommodation in Dublin compared to Edinburgh but, rather, it seemed, lower expectations (Watts, 2013). Even when there was dissatisfaction, this did not translate into assertiveness: ‘I was told a couple of times to put complaints in . . . and I wouldn’t. I’m not that type, I don’t know what it is, but I just didn’t feel I was entitled to it’ (Service user, Dublin). These tendencies went alongside a stronger sense than in Edinburgh that moving on from homelessness is a matter of personal responsibility and that staff ‘haven’t got a magic wand’:

if I’ve got any fault . . . it’s towards meself, because I should’ve been personally linking in myself . . . it’s not the staff’s fault . . . to a very large degree it’s what you do and say, so no, I’ve got no qualms . . . I’ve not been pushing it as hard as I should have. (Service user, Dublin)

This translated into a lack of support for legal rights to housing for some: ‘Why should there be a legal right for people to be housed? You should work towards it’ (Service user, Dublin). These passive and grateful dispositions among homeless men in Dublin and the more individualistic discourses around homelessness reveal a sense in which homeless men viewed themselves and were viewed as grateful supplicants, not entitled rights-holders. Arguably, this ‘depressed sense of entitlement’ serves ‘to perpetuate and maintain social inequality’, rather than challenge it (O’Brien and Major, 2009: 430).

Of course, the dispositions identified as dominant in Scotland and Ireland were not uniformly or systematically held by participants in each jurisdiction, and the strength of this sense of entitlement and associated attitudes varied within, as well as between, Edinburgh and Dublin. It should also be noted that these differences in dispositions and discourses between Scotland and Ireland may not only – or primarily – arise from the presence/absence of legal rights. They will also reflect broader socio-cultural and socio-political factors, namely, Scotland’s ‘social democratic’ leanings (see Mooney and Scott, 2012, for a detailed, if contentious, account) and Ireland’s ‘conservative individualism’ (see Coakley, 2005). Nonetheless, the evidence presented suggests that Scotland’s legal rights tend to bolster the development of a more assertive and less quiescent ‘habitus’ among those experiencing homelessness, who are therefore ready to articulate claims against the state, and are ‘empowered’ in terms of ‘radical’ views of power. As this assertiveness was seen as legitimate by service providers, legal rights can be understood as a form of state-sponsored symbolic capital (Bourdieu, 1972/1977), conferred on an otherwise ‘capital poor’ group (McNaughton, 2008). Structuring welfare interactions in terms of legal rights makes it more transparent that these interactions are power situations which involve conflicts of interest.

This framing appears to support a more oppositional (Prior, 2009) or radical (Hoggett, 2001) form of agency among those experiencing homelessness. Whereas Irish service users saw providers as 'doing their best', those in Scotland recognised the power and resources at the disposal of providers and were correspondingly more demanding, reflecting perhaps a capacity on their part to 'objectivise' their situation (Hilgers, 2009).

Concluding remarks

There are contradictory perspectives regarding the relationship between legal welfare rights and empowerment. On the one hand, legal rights offer to empower marginalised groups, ameliorating socio-economic inequalities and overcoming some of the disadvantages of discretionary responses to social need. On the other, legal rights are seen to disempower, by undermining self-reliance, autonomy and personal responsibility. The latter perspective has gained ground in recent decades, prompting welfare reforms underpinned by the objective of 'responsibilisation', that seek to make welfare rights more conditional and less inclusive (Dwyer, 2004). By expanding the legal safety-net for homeless households, Scotland appears in one sense to have bucked these trends (Pawson and Davidson, 2008; Anderson, 2009). By comparing homelessness policy in Scotland and Ireland, this paper has sought to contribute to these debates both conceptually and empirically.

A conceptual framework has been presented that distinguishes between various understandings of empowerment by drawing on Lukes' (2005) three-dimensional account of power, complemented by Bourdieu's concept of 'habitus'. While the 'traditional' one- and two-dimensional views of power direct attention to people's ability to realise their subjective interests, 'radical' views foreground that there may be a difference between a person's subjective preferences and 'real interests'. Such views direct attention to people's internalised dispositions to perceive situations and act in particular ways.

Scotland's framework of legal rights appears to empower those experiencing homelessness in both the 'traditional' and 'radical' senses. In the 'traditional' sense, the discretion of service providers is minimised within a legal framework that enforces a focus on meeting the needs of homeless households for settled housing by crowding out competing policy objectives. In the radical sense, legal rights appear often to be internalised as a sense of legitimate entitlement to support and a more assertive set of dispositions. Homeless men are cast as entitled rights-holders, not grateful supplicants. While it might be to overstate the case that homeless men in Scotland displayed 'radical' agency (Hoggett, 2001), they did tend to adopt a more 'oppositional' stance to service providers and be able to reflect on their situation 'from the outside' (Hilgers, 2009), in a way that empowered them relative to their Irish counterparts.

The 'habitus' associated with being homeless in Scotland thus appeared to conform to the ideal of an 'active' 'responsibilised' welfare subject to a greater extent than that in Ireland, where an absence of legal rights – and emphasis on personal responsibility – appeared to weigh those experiencing homelessness down, encouraging them to accept their lot. Although professionals in the sector were concerned that legal rights constrain people's autonomy, by enabling homeless men to pursue a realisable aspiration to access settled housing and 'get back to normal', Scotland's legal rights appeared in fact to promote, rather than undermine, self-reliance. In Ireland, where homeless men face considerable barriers to accessing settled housing, reliance on homelessness services was often accepted. This raises the normative question of whether it is desirable for those experiencing homelessness to have a sense of entitlement. Such an outlook tends to be seen as problematic if it dulls incentives to be self-reliant, but, as argued here, this may not to be the case.

These conclusions further suggest that approaches to empowerment that rest entirely on extending service users' 'voice and choice' (Clarke, 2005: 449) are insufficient. Within the conceptual terrain that Lukes and Bourdieu offer, the subjective or expressed preferences of service users (especially those who may have a depressed sense of entitlement) should not be assumed to be synonymous with their 'real interests'. Thus equating empowerment with participatory approaches may be argued to offer only a partial and impoverished account of empowerment (see Nussbaum, 2000; Hoggett, 2001), albeit that the concept of 'real interests' must always be handled with care, and reflexivity (see above).

The comparison between Scotland and Ireland presented here has distilled a largely positive 'story' regarding the empowering potential of legal rights to housing for homeless people. However, caution is required in assuming that the apparently empowering outcomes of the Scottish 'model' will be replicated elsewhere if legal rights to housing are established for homeless people. These encouraging Scottish outcomes rely not only on the existence of these rights, but also their form; namely their simplicity and bluntness. This stands in contrast not only to the opacity of processes and contingency of outcomes observed in Ireland's non-rights-based system, but also to the highly selective statutory homelessness system in the rest of the UK (Hunter, 2010), and to the reportedly administratively cumbersome French 'DALO' (Houard and Lévy-Vroelant, 2013; Loison-Leruste and Quilgars, 2009). It is at least arguable then, whether these other legal rights-based approaches have the same 'empowering' effects as the Scottish model. Nonetheless, the experience in Scotland demonstrates the potential for clear and simple legal rights to minimise provider discretion, 'crowding out' non-needs-related considerations in responding to homelessness, as well as to enhance the assertiveness of service users, and reinforce the perceived legitimacy of this assertiveness among service providers. Moreover, it seems to achieve this without fatally undermining self-reliance and, indeed,

may support self-reliance rather better than the highly discretionary Irish model.

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Notes

- 1 Exercising power through force (the removal of choice) is excluded from the analysis. Empowering those who are homeless by reducing *influence* and/or *authority* are not considered here because similar themes are covered under 'radical' views of power.
- 2 See Baptista (2010) for a review of the distinct nature of women's homelessness and a review of relevant research.

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