

Irish Council for Civil Liberties
An Comhairle um Chearta Daonna

**Combined Fourth and Fifth
Periodic Reports of Ireland under the
Convention on the Elimination of All Forms
of Discrimination Against Women**

**Submission to the
CEDAW Committee**

**ICCL Women's Committee
May 2005**

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The ICCL

The Irish Council for Civil Liberties (An Chomhairle um Chearta Daonna) is an independent, non-governmental membership organisation that works to promote and defend human rights and civil liberties. It was founded in 1976 by, among others, Mary Robinson, Kader Asmal and Donal Barrington.

Since its foundation the ICCL has consistently campaigned in the sphere of civil liberties and human rights reform, and in particular has been very active in a wide range of constitutional reform campaigns. The ICCL has a standing women's committee which has undertaken many projects specific to women's rights, including previous submissions to the UN Committee on the Elimination of Discrimination Against Women, publications on reproductive rights, women's rights and the needs of female asylum seekers

The ICCL has also championed the rights of minorities including gay and lesbian rights, Travellers' rights, and the rights of refugees and asylum-seekers.

For further details:

ICCL
Dominick Court
40 – 41 Lower Dominick Street
Dublin 1
Telephone: (01) 8783136
Fax: (01) 878 3109
E-mail: iccl@iol.ie
Website: www.iccl.ie

Introduction

Established in 1997, the Women's Committee is a permanent standing committee of the ICCL. Ensuring that the organisation's work takes account of gender inequalities¹, Women's Committee members must be female and ordinary members of the ICCL. The Committee is committed to campaigning on women's human rights issues and is a member of the Women's Human Rights Alliance.

This submission to the United Nations (UN) Committee on the Elimination of Discrimination Against Women (CEDAW), focuses on developments since the Irish Government's last examination in 1999.

¹ The ICCL also has two co-chairs, one male and one female to ensure there is a gender balance in the way the organisation is chaired.

Article 2: Measures Aimed at Eliminating Discrimination Against Women

1. Constitutional Provisions

A comprehensive examination of the Irish Constitution (Bunreacht na hEireann) and its operation is currently underway. The first phase involved the report of the Expert Group on the Constitution delivered in 1996. That report is now being considered by an All-Party Parliamentary Committee², which is currently tasked with examining the constitutional articles on the family.³ At its Twenty-first Session the Committee on the Elimination of Discrimination against Women raised concerns about the gender stereotypes contained in these articles:

33. The Committee expresses its concern about the continuing existence, in article 41.2 of the Irish Constitution, of concepts that reflect a stereotypical view of the role of women in the home and as mothers. It is aware that amendments to this article are being considered by the Parliamentary Committee on Constitutional Reform. The Committee also notes with concern that the constitutional guarantee of non-discrimination does not extend to private, non-State actors.⁴

² For the various reports of All-Party Oireachtas Committee on the Constitution see website of the Taoiseach's Department - <http://www.taoiseach.gov.ie/>

³ Articles 41 and 42.

⁴ CEDAW (July 1999) *Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Ireland. 01/07/99*. Principal Areas of Concern and Recommendations (hereafter *Concluding Observations*).

Recommended Questions

- What steps is the Government taking to ensure that the work of the All-Party Committee takes account of the State's obligations under CEDAW?

Recommendations

- The Irish Government should consider organising a referenda to amend the Constitution to include: (1) a gender-neutral form of 41.2 recognising the life of carers in the home and (2) a guarantee that men and women should be treated equally.

In theory Article 40.1 prohibits discrimination against women, however in practice the guarantee has proved completely ineffective. To our knowledge, the equality guarantee has been successfully invoked to challenge gender discrimination on *three* occasions since 1937.⁵

Recommended Questions

- Could the Irish Government supply details of successful and unsuccessful litigation pursued under Article 40.1?
- When will Article 40.1 be reviewed by the All-Party Oireachtas Committee? What measures will be taken to ensure that any such review takes account of the State's obligations under CEDAW and ensures that women from minority groups are resourced to participate in the process?

⁵ *De Burca and Anderson v. A. G.* [1976] I. R. 38 (removal of bar on women serving on juries); *McKinley v Minister for Defence* [1992] 2 IR 333 (common law rule re compensation for 'loss of consortium' extended to include wives as well as husbands); *W v W* ([1993] 2IR 476) (rule to the effect that domicile of a married woman assumed to be of her husband declared unconstitutional).

2. Anti-discrimination Legislation

The Government's Combined Fourth and Fifth Reports under CEDAW (2003) refer to the enactment and operation of the Employment Equality Act 1998 and the Equal Status Act 2000. Both pieces of legislation are generally activated only when someone takes a case before the Equality Tribunal. Irish anti-discrimination laws therefore operate in a reactive and negative manner. Prohibitions on discrimination are negative in character in that they tell employers and service providers what they should not do. They are reactive because an objectionable practice must occur in order to trigger the legislation. This means that even blatant discrimination goes unchallenged unless an aggrieved individual is in a position to take a case. ICCL believes that the Acts place an unrealistic burden upon vulnerable and minority women: in fact many may not even be aware of their rights. A related feature of the law is that it is not preventative. It does not require restructuring to prevent discriminatory patterns arising time and again. There is a high degree of repetition in the types of cases being pursued under the legislation.⁶

⁶ See the website of the Equality Tribunal - <http://www.odei.ie/>

Proactive and positive approaches to equality are needed to effect real change. In recognition of such difficulties several of our European counterparts, and mostly notably our closest neighbours in Northern Ireland and Great Britain, have included statutory *duties* to promote equality within their legislative packets.⁷ These duties, which are directed at the public sector, have the merit of being designed to prevent discrimination occurring in the first place and of shifting the onus for compliance from individuals to the source of the problem, that is, the practices of employers and service providers.

Moreover, some existing legislative provisions have not been utilised (need to distinguish between being brought into force and not used). Under Part VI of the Employment Equality Act 1998, the Equality Authority has certain functions with respect to equality reviews and action plans. The Authority may either invite a particular business or group of businesses to conduct an equality review of their workplace practices, or instigate one itself.⁸ Depending on the outcome of that review an equality action plan may issue, requiring the employer/s concerned to effect changes.

⁷ For further details of these developments see Equality Authority (2003) *Mainstreaming Equality: Models for a Statutory Duty*, Report of Conference, 27 February 2003.

⁸ Firms with less than 50 employees are exempt – a limitation which could be revised given the proliferation of small and medium sized enterprises in Ireland.

Deployment of these powers by the Equality Authority would facilitate more effective enforcement of the Employment Equality Act. It is ICCL Women’s Committee’s understanding that to date the Equality Authority has *invited* a limited number of bodies to conduct reviews but has not exercised its power to commence such actions where co-operation is not forthcoming.

Further, Section 2 of the Employment Equality Act includes a blanket measure enabling employers to discriminate against prospective employees who are applying for work in a person’s home for the provision of personal services.⁹ In practice, this section enables persons requiring services to mistreat and reject women applying for jobs because of their own personal prejudices. We believe that this is not permissible under Article 2 of CEDAW.

⁹ Section 3 of the Equality Act 2004 amended section 2 of the Employment Equality Act 1998 inserted a new definition of ‘employee’ to include: “any person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment”. The definition of an employee does not include persons seeking work in the provision of services within the home.

Recommended Questions

- Does the Government plan to amend anti-discrimination legislation to include a *statutory duty* to promote equality between men and women?
- Given the proven nexus between gender and the risk of poverty when will the Irish Government include “social condition” as a prohibited ground of discrimination under the Employment Equality Act 1998 and the Equal Status Act 2000?
- Can the Irish Government provide examples of positive discrimination in the area of gender?

Recommendations

- The Government should introduce a statutory duty to promote equality between men and women.
- The Government should include “social condition” as a prohibited ground of discrimination under the Employment Equality Act 1998 and the Equal Status Act 2000.

3. Status of CEDAW

International human rights instruments are not binding within the jurisdiction unless specifically incorporated by the Irish Parliament (Oireachtas). The Irish Government recently gave further effect to the European Convention on Human Rights through the European Convention on Human Rights Act 2003. However, the Government has still failed to incorporate CEDAW as an ordinary legislative instrument.

Recommended Questions

- When does the Government intend to incorporate CEDAW into Irish law?
- What training and awareness has the Government provided to ensure that public bodies, the legal profession and the judiciary are aware of human rights standards in CEDAW?

Recommendations

- The Irish Government should incorporate the CEDAW Convention fully as an ordinary domestic legislative instrument.
- The Irish Government should support the development of a training programme for public bodies, the legal profession and judiciary on the application of standards in CEDAW.

4. Regressive Measures

Under Article 2(d) state parties undertake to “refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation.” Despite this clear commitment the Irish Government has adopted a series of measures in recent years, which amount to discrimination (both direct and indirect) against especially vulnerable women.

Women Living in Poverty

The proportion of women at risk of poverty, after pensions and social transfers, was 23% in Ireland in 2001.¹⁰ This was the highest rate across the 25 European Union Member States. The rate was 51% for women aged 65 and over, compared with a rate of 35% of men in that age group.¹¹ In 2004 the Combat Poverty Agency reiterated that “the gap between men and women has widened significantly, with women now having a higher risk of income poverty than men.”¹²

Despite the Government’s stated commitment to ‘gender mainstreaming’,¹³ it is clear that such analysis only occurs in select areas. Indeed, over the past number of years the Government has introduced a series of cuts in social welfare

programmes¹⁴, which have affected in particular women living in poverty. Amongst these measures are cuts on benefits received by lone parents who are dependent on Rent Supplement¹⁵, those using the Crèche Supplement and those who need the Dietary Supplement. Because 90.9% of lone parents are women these measures amount to indirect gender discrimination.

Recommended Questions

- Is gender analysis mandatory for all aspects of government policy-making?
- Why was a gender analysis on the impact of the cuts in social expenditure programmes not carried out?

Recommendations

- Gender mainstreaming should be adequately resourced and mandatory for all aspects of government policy, in particular, social expenditure.

¹⁰ The equivalent figure for men was 20%.

¹¹ Central Statistics Office (2004) *Women and Men in Ireland 2004*.

¹² Combat Poverty Agency (2004) *Poverty in Ireland: The Facts 2001* www.cpa.ie/

¹³ See in particular paras. 3.5-3.9 of the Combined Fourth and Fifth Reports (2003).

¹⁴ These cuts have been labelled the “Savage Sixteen” by opposition political parties and civil society generally.

¹⁵ Rent supplement is a discretionary payment funded by the Department of Social and Family Affairs. Community Welfare Officers in Health Boards allocate a supplement if satisfied that it is appropriate and the applicant meets eligibility conditions such as not being in full-time employment.

Lesbian Women

For the first time in the history of the State, the Irish Government in 2004 enacted legislation which deliberately discriminates against lesbian women. Section 19 of the Social Welfare (Miscellaneous) Act 2004 and Section 39 of the Residential Tenancies Act 2004 specifically discriminate against same-sex couples in terms of access to benefits and other entitlements.

Section 19 of the Social Welfare (Miscellaneous) Act 2004 specifically excludes same-sex couples benefiting from statutory and non-statutory welfare payments. This section was included by the Department of Social and Family Affairs to reverse the outcome of a successful Equal Status¹⁶ case and represents a deliberate attempt to discriminate against same-sex couples.¹⁷

¹⁶ The Equal Status Act 2000 outlaws discrimination in relation to goods and services on the basis of: gender, family status, marital status, age, disability, sexual orientation, religious belief, race and membership of the Traveller community.

¹⁷The case involved an older same-sex couple where one partner possessed a free travel pass but had been refused one for this partner. Usually both partners in married and cohabiting couples are eligible for the pass when one of them becomes eligible. In settling the case, the Department of Social and Family Affairs accepted that it had unfairly discriminated against the couple on the basis of sexual orientation under the Equal Status Act, 2000.

Section 39 of the Residential Tenancies Act 2004 relates to the termination of tenancies upon death. This section provides that a local authority tenancy shall not be terminated upon the death of the main holder if he or she was cohabiting in a committed conjugal opposite-sex relationship. As a result, the tenancy will be transferred to the surviving non-married cohabiting partner. This measure does not apply to same-sex couples, leaving the surviving partner in such a relationship homeless if his or her partner dies.

Recommended Questions

- Why has the Irish Government deliberately decided to discriminate against lesbian women in same-sex partnerships?
- Will the Irish Government explain why it does not recognise the family life of lesbian couples?

Recommendations

- The Irish Government must refrain from discriminating against lesbian couples in the provision of goods and services.
- Welfare and family policies must be reviewed to ensure that lesbian couples can benefit equally from all the same benefits/entitlements as opposite-sex couples.

Traveller Women

Travellers¹⁸ are one of Ireland's indigenous ethnic minorities and consist of about 25,000 families. The Irish Traveller Movement estimates that there are approximately 1,200 families who are transient with no fixed site for their mobile home.¹⁹ Inequalities faced by Traveller women²⁰ in particular include their comparatively short life expectancy, high infant mortality rates, extremely poor accommodation on official and unofficial Traveller sites and evictions from unofficial camps despite lack of alternative accommodation provision.²¹

Despite the already vulnerable position of Traveller women, in 2002 the Irish Government enacted legislation that indirectly discriminates against this group. The Housing (Miscellaneous Provisions) Act 2002 (otherwise known as the 'Criminal Trespass' legislation) creates a criminal offence relating to entry on and occupation of land, or bringing onto or placing an 'object' on land without consent. 'Object' includes dwelling places such as caravans and mobile homes.

¹⁸ Travellers have a long shared history, cultural values, language, customs and traditions which make them a self-defined group, one which is recognisable and distinct. Their culture and way of life, of which nomadism is an important factor, distinguishes them from the sedentary (settled) population. Adapted from the Irish Traveller Movement (ITM)'s website <http://www.itmtrav.com/whatitm.html>

¹⁹ Refer to the ITM website www.itmtrav.com

²⁰ Traveller women are more likely to be unemployed than settled Irish women. Refer to Appendix 1 for national statistical data.

²¹ Pavee Point (2000), Fact Sheet on Traveller Women, <http://www.iol.ie/~pavee/index.htm>

In enforcing this criminal trespass law the Irish police (Gardaí) can oblige families to move on without any notice.²²

If found guilty of the offence of trespass individuals can be fined €3,800 and/or jailed for one month. Further the Gardaí are empowered to seize family homes after a notice period of one month has elapsed. To date over 1,000 families have been forced to move on because of this provision.²³ With nowhere else to go, and because the State has failed to provide additional halting sites for Travellers, families are often forced to move a second or third time.

Traveller women have been particularly adversely affected by this provision since they assume primary responsibility for the family home and the care of dependents such as children.²⁴

²² ITM (2004) *An Analysis of the use of Housing (Miscellaneous Provisions) Act, 2002*. Available on the ITM website.

²³ Lucey, S. (2004) 'The Impact of Incorporating the ECHR on Travellers' Rights' in *Celebrating the European Convention on Human Rights Act 2003, Airey v. Ireland: 25 years on*, published by the Independent Law Centres Network. Available the Free Legal Advice Centres www.flac.ie

²⁴ Pavee Point (2000), Fact Sheet on Traveller Women, <http://www.iol.ie/~pavee/index.htm>

Recommended Questions

- Has the Irish Government carried out a gender impact assessment on the effect of the Criminal Trespass legislation on Traveller women?

Recommendations

- The Government must repeal anti-trespass legislation and re-examine its national accommodation strategy with a view to creating more accommodation spaces for Traveller families.

Migrant Parents of Irish Citizen Children

Until February 2003, migrant parents from outside the European Union (EU) could apply for residency in Ireland on the basis of their parentage of an Irish citizen.²⁵ This followed a judgement of the Supreme Court²⁶ to the effect that the guarantee in the Irish Constitution of right to family life entitled migrant parents to remain in the State with their Irish children, unless there were exceptional circumstances to deny them residency. By 2003, approximately 10,145 migrant parents have been granted residency on this basis. In addition, others who were in a similar situation were encouraged to withdraw their asylum claims on the basis of a guaranteed right of residency as parents of an Irish child.

On 10 June 2004 a referendum was passed to amend the Irish Constitution to deny citizenship to anyone born in Ireland unless at least one of their parents was entitled to Irish citizenship, unless otherwise provided for in law.

The Irish Nationality and Citizenship Act 2004, which entered into force on 1 January 2005, gave effect to that Twenty Seventh Amendment of the Irish Constitution. The Act provides that persons both of whose parents are non-Irish nationals shall not be entitled to be an Irish citizen unless one of their parents has been legally resident on the island of

²⁵ Until January 2005, every child born on the island of Ireland had a constitutional right to citizenship.

²⁶ *Fajujonu v. Minister for Justice*, ILRM, 234, Irish Supreme Court 1989.

Ireland for a period not less than three years out of the last four.

On 15 January 2005, the Department of Justice, Equality and Law Reform announced details of new administrative arrangements for migrant parents of Irish children to apply for permission to remain in the State. This is an extremely welcome development since 16 families with Irish children had already been deported in 2004 and a further 9,000 people were either in legal limbo or faced deportation.²⁷ The families were required to submit a new application, together with key documentation, for permission to remain in the State before 31 March 2005. By the end of the deadline more than 18,000 parents had applied for permission to remain in the State.²⁸

As part of the process for permission to remain, migrant parents who are mostly women have been asked to sign a statutory declaration that if they are granted residency, they will not have any entitlement or legitimate expectation to family reunification. Hence, the Minister for Justice Equality and Law Reform has made clear that other children and dependent family members will not be permitted to join the parental family unit in Ireland.

²⁷ Until February 2003, migrant parents from outside the European Union could apply for residence permits on the basis of their parentage of an Irish citizen because of a Supreme Court ruling. Following a second Supreme Court ruling in February 2003, the Government abolished the process by which foreign national parents could apply for residency because of their parentage of an Irish citizen.

²⁸ Information provided by the Department of Justice, Equality and Law Reform to CADIC – Coalition Against the Deportation of Irish Children.

Article 41 of the Irish Constitution recognises the family as the primary and fundamental unit of society, possessing inalienable rights, and requires the State to protect the family as the necessary basis of social order. In addition, Article 40 provides that all citizens are equal before the law.²⁹ However, the fact remains that these new Irish citizens, the country's newest racial/ethnic minority, are not being treated equally before the law because the State is failing to respect their right to family life. Like all Irish children, they should enjoy the right to grow up in the company of their parents, brothers and sisters, as well as other family members. The Irish Government is currently denying them this right.

The ICCL Women's Committee believes that this is a violation of Article 2 in CEDAW and Article 2 (principle of non-discrimination) in the International Convention on the Rights of the Child.

Recommendations

- The Irish Government must not discriminate against the Irish children of migrant parents. They should have the right to family reunification with other family members on the same basis as any other Irish national.
- The State should adopt a humane family reunification policy and refrain from forcing migrant women from signing away children in other jurisdictions.

²⁹ It is worth mentioning that Article 2 of the International Convention on the Rights of the Child, 1989, provides that all children should be treated equally irrespective of their parent's status. This would include legal status.

Article 3: Measures Aimed at Ensuring Full Enjoyment of Human Rights

At present asylum seeking³⁰ women are unable to benefit equitably from legal protection and social assistance measures for a number of reasons.³¹ Statistics reveal that there has been a steady increase in the number of asylum seeking women entering Ireland since the early 1990s.³² In 2003 the number of women seeking asylum in Ireland outnumbered men, when 50.1% of asylum applicants were women and 49.9% were men.³³

Legal protection measures

There are two major issues or obstacles that arise for asylum seeking women in the legal domain. Firstly, women can sometimes be persecuted for reasons that differ from those applicable to men. These include refusing arranged marriages, having sexual relations outside of marriage; failing to provide a satisfactory dowry or wearing certain forms of dress can result in persecution.³⁴

Secondly, the application procedure for seeking asylum generally raises serious issues for women seeking asylum because their specific needs are rarely considered. So for example, there is no guarantee that an asylum seeking women will get a female interviewer or interpreter. Female interviewers/interpreters are crucial, especially when women have been subjected to torture, including rape. Further, it might be culturally inappropriate to have a male interviewer and interpreter.

The Office of the Refugee Applications Commissioner (ORAC), which processes asylum applications, claims to have a number of guidelines/papers that assist them when assessing women's cases. ORAC and the Refugee Appeals Tribunal (RAT) have also undergone training delivered by the United Nations High Commissioner on Refugees (UNHCR). But this seems to have had no discernible impact on the ground.

³⁰ An asylum seeker is defined as a person who arrives independently in the State and asks to be recognised as a refugee under the 1951 Geneva Convention relating to the Status of Refugees and the 1967 Protocol.

³¹ ECRE (1997) *Position on Asylum Seekers and Refugee Women*, www.ecre.org

³² 2004 was the first year to see a decline (approximately 40%) in the number of applications for asylum lodged. This decline was also reflected in the number of asylum applications overall European figures.

³³ Refer to the website of the Office of the Refugee Applications Commissioner (ORAC). www.orac.gov.ie

³⁴ ECRE (1997) *ibid*, pp. 1.

Both the Irish Council for Civil Liberties and the Irish Refugee Council have dealt with cases of asylum seeking women who have not been treated in a gender sensitive manner by ORAC, RAT and the Department of Justice, Equality and Law Reform.

Recommended Questions

- What steps have the Irish Government taken to ensure that asylum seeking women experience in practice, gender sensitive treatment when having their claims assessed?
- What steps have the Irish Government taken to ensure in practice that the gender dimension of women asylum seekers is taken fully into account when examining and assessing a claim for asylum?

Social Assistance Measures

Social assistance measures administered by the State also raise serious issues for asylum seeking women's well-being and physical/mental health.

- Accommodation/reception centres sometimes fail to offer women a safe and secure environment to live in. One can imagine how vital safety is for asylum seeking women who have already been subjected to physical harm.
- Workers in accommodation centres for asylum seekers do not have to undergo any criminal background checks. Hence a convicted sex offender could conceivably secure employment in a centre accommodating asylum seeking women and children without undergoing any police checks.
- Most centres do not have family rooms, which adversely affects the quality of life for mothers.
- In general, health services available to asylum seeking women are not tailored to their specific needs. There is an absence of culturally appropriate health care providers, although some are trying to translate their information material.

- For the most part, there are no language interpreters to assist with medical and other appointments.
- State funded language and education programmes for asylum seeking and refugee women are either under-funded or only tailored for men.
- There is a complete absence of childcare services for asylum seeking and refugee women.
- Since 1999, asylum seekers in Direct Provision accommodation³⁵ only receive €19 per week to live on and €7 per child. This particularly impacts on women with children and this sum has not been increased. Further, research has shown that reliance on Direct Provision undermines the mother's role in the family unit.³⁶

Many of the problems identified here could be addressed if the State adopted a gender sensitive policy or engaged in a gender mainstreaming exercise. Unlike Canada and the United Kingdom, the Irish Government has not adopted gender guidelines for working with asylum seeking women.

Recommended Questions

- Can the Irish Government provide evidence of gender mainstreaming among agencies working with asylum seekers?
- Can the Irish Government provide statistics on the number of asylum seeking women who have been recognised on the basis of being persecuted because of their gender?

³⁵ Asylum seekers in Direct Provision receive food and board.

³⁶ Fanning, B. and Veale, A. (2001) *Beyond the Pale: Asylum-seeking Children and Social Exclusion in Ireland*, Irish Refugee Council: Dublin.
www.irishrefugeecouncil.ie

Article 7: Representation in Public Life

29. The Committee notes with concern that women continue to be under-represented in public life, and that structural and attitudinal reasons, including limiting cultural and social values, difficulties in reconciling family life, paid employment and political tasks, have been identified among the reasons for this low representation.³⁷

In 2004, only 13.3% of Dáil Eireann³⁸ members were women. This rate was well below the average European Union rate of 22.1%.³⁹ Since Ireland's last state report to the CEDAW Committee, the number of female Cabinet Ministers has declined by 7% to 12%. The number of Ministers of State has also decreased by 11% and now stands at 13%.

³⁷ *Concluding Observations*.

³⁸ Dáil Eireann is the main house of the Irish parliament.

³⁹ Central Statistics Office (2004) *Women and Men in Ireland 2004*

Recommended Questions

- Does the Government acknowledge that measures taken so far have failed to facilitate greater participation by women in the political life of the country?
- Does the Government accept that Temporary Special Measures must now be implemented in order to address this imbalance as explicitly recommended by the CEDAW Committee in 1999?⁴⁰
- Recognising that the Government recently imposed a compulsory 40% quota on state boards to increase women's participation,⁴¹ will the Government explain how this quota will be properly enforced?

Recommendations

- The Government should introduce Temporary Special Measures to increase the number of women who are nominated for election by political parties.
- The Government should enforce sanctions against State Boards who fail to meet quotas designed to increase women's participation.

⁴⁰ *Concluding Observations*, para. 30.

⁴¹ Department of Justice, Equality and Law Reform (21 April 2005) "Government Decision Will Transform Situation In Relation In Relation to Women on State Boards Said Minister of State Fahey" www.justice.ie Go to press releases.

Article 12: Health

Abortion is still a criminal offence under the Offences Against the Person Act 1861 and is only permissible where necessary to save the life of a pregnant woman. The Irish courts have decided that a risk to life includes cases where suicide of the woman is a probability. Abortion is not permitted in cases of rape or incest.

26. The Committee urges the Government to facilitate a national dialogue on women's reproductive rights, including on the restrictive abortion laws.

Successive governments have neglected their duties by failing to put legislation before the Irish Parliament aimed at clarifying the legal implications of the various constitutional referenda held on the issue to date (at various stages the courts have requested that they do so). Indeed in 2002 the Government put yet another constitutional referendum proposal before the Irish electorate. If passed the primary effect of the proposed legal change would have been to overturn the decision of the Supreme Court in the *X* case by *outlawing abortion where a pregnant woman's life was put at risk by her suicidal tendencies.*

Currently there is a case pending before the European Court of Human Rights, *D. v. Ireland*, (Application No. 26499/02), which challenges the restrictions on abortion in place in Ireland. In that case a woman was forced to go to the United Kingdom to secure a termination of her pregnancy, and was not entitled to any assistance in Ireland in order to obtain the termination. The woman was pregnant with twins, one of whom died in the womb and the other which was diagnosed with Edwards' Syndrome, a chromosomal abnormality that typically proves fatal during the first year of an infant's life.

Recommended Questions

- Why has the only government proposal on abortion since the previous progress report, attempted to further restrict the rights of women experiencing crisis pregnancies?
- When will the Government enact legislation giving effect to the *X* case and clarifying the legal status of emergency contraceptive devices?

Recommendations

- The Government should introduce legislation to give effect to the *X* case.
- The Government should decriminalise abortion and consider organising a referendum to repeal the Eight Amendment of the Irish Constitution.

Article 14: Rural Women

The Joint Oireachtas Committee on Women and Rural Development (1994) concluded that ‘the overall position of rural women in Ireland is, in general, one of subsidiary status compared to both urban women and rural men’. This is still the position more than a decade later. While even women who live in Ireland’s urban centres suffer from discrimination caused by the gender pay gap, inadequate childcare facilities, and outdated societal norms surrounding the role of the woman as primary carer to the disabled and the elderly, those who live in rural areas suffer the additional problems caused by social exclusion.

The National and Economic Social Forum⁴² identified women in rural areas as a group who are at an increased risk of poverty, both economic poverty and the social poverty of isolation, exclusion and powerlessness.

Women in rural areas are at an even greater disadvantage in regard to joining the workforce than women who live in urban areas, as they suffer from an inadequate public transport system, a lack of affordable and accessible child care, a lack of access to training facilities and to information in general. The lack of support services in rural areas places even greater emphasis on the woman’s traditional role as primary unpaid carer for children, elderly and disabled family members. This work should be recognised and provision should be made for women to receive social welfare benefits in their own right

⁴² www.nesf.ie

rather than as dependents on the male breadwinner in these domestic situations.

A change should be made to the Article 41.2 of the Constitution, the provision setting out the role of women as being mainly in the home.

Healthcare for Rural Women

Women in rural areas also suffer as a result of underfunded health care provision, for example breast check screening. Ireland has the third highest mortality rate in the EU for breast cancer, ovarian cancer and coronary heart disease. Breast cancer is the most common cause of cancer death for women in Ireland. The National Cancer Forum recommended that a network of specialist breast units be established across the country.⁴³ So far the screening programme has not been extended to rural areas. Women are therefore more at risk of dying from breast cancer in rural areas due to a failure to detect the disease early enough for treatment. Women should not be at more risk of dying from a serious disease as a result of their location. The Government must ensure that the screening programme reaches rural areas and also that it is made available to all women, including the disabled, traveller women and others who have difficulties in accessing public services.

⁴³ Report of the Forum’s Sub-Group, March 2000.

Agriculture

‘Women and women’s work tends to be invisible in farming and agriculture’.⁴⁴ The effects of the unremunerated work that women do, however, is not invisible. ‘Women continue to make an enormous contribution to sustaining and enhancing life throughout rural Ireland’.⁴⁵ This unpaid work contributes immeasurably to the economic and social life of the country. Women should not be expected to work for free just because traditionally it has been expected of them. The work they do in the home and on the farm should be treated as of equal value to the work that men do outside the home.

The work that women do on family-run farms is not recognised and does not count towards social insurance or pension credits.⁴⁶ “Farm spouses” unpaid work should be remunerated and should count towards contributory pensions so as to reduce the number of older women living in rural areas who have to survive on the lower old-age pension.

⁴⁴ See Shortall, S. and Kelly, R. (2001) *Gender Proofing CAP reforms*, Rural Community Network: Belfast.

⁴⁵ Mary Coughlan, Ireland’s first female Minister for Agriculture and Food, International Women’s Day March 7, 2005.

⁴⁶ The Census of Population in 2000 recorded 89% of farmers as being male. In the Agricultural Census 2000, only 15, 099 agricultural land holdings were registered to women out of a total of 141,572; Of 187,138 herds registered in Ireland, only 10% are registered in the name of the female (Dept of Agriculture and Food).

Women are under-represented in agricultural decision-making as they are in all other decision-making fora in Ireland.⁴⁷ Nineteen separate Government departments and agencies have responsibilities arising from the recommendations of the 2000 Report of the Advisory Committee on the Role of Women in Agriculture. One department should have overall responsibility to co-ordinate efforts and make sure that progress is made. At the Croke Park Conference for Women in Agriculture, a declaration was supported by 600 delegates calling on the Government to establish a temporary “women in agriculture” unit for this purpose.⁴⁸

Insufficient sex-aggregated data is collected with which to monitor efforts to improve the situation of women in rural areas. This lack of available statistics makes it impossible to get an accurate overview of the situation of women in agriculture.⁴⁹

⁴⁷ In 2002 women represented 13% of TDs, 33% of MEPs, 15% of councillors, 4% of Irish Farmers Association Council members. Assessment of Main Gaps in Existing Information on Women in Agriculture -Gender Equality Unit, Dept of Justice, Equality and Law Reform.

⁴⁸ Carroll, M. (2004) *Blocking the GAP!: A women in agriculture unit: Submission to Agri Food 2015 committee*, Irish Farmers Association.

⁴⁹ Fitzpatrick Associates (2004) *Indicator Research Based on ‘The Development of Mechanisms to Monitor Progress in Achieving Gender Equality in Ireland*, Gender Equality Unit/Department of Justice, Equality and Law Reform: Dublin. For a list of areas where no official data is collected and made available, see [www.justice.ie/80256E010039C5AF/iWeb/fiJUSQ65SBSC-en/\\$File/GenderEq.pdf](http://www.justice.ie/80256E010039C5AF/iWeb/fiJUSQ65SBSC-en/$File/GenderEq.pdf)

Recommended Questions

- Given that breast cancer is the most common cause of cancer death for Irish women, what plans does the Government have to extend breast cancer screening to all rural areas in Ireland and to ensure that it is available to every woman who needs it?
- What does the Government intend to do to recognise and remunerate the unpaid agricultural work done by women in rural Ireland in order to eradicate the link between gender and poverty in this sector?

Recommendations

- The Government must ensure that breast screening and all other screening programmes aimed at early detection of serious illnesses reaches women in rural areas, particularly women who have difficulty accessing public services in these areas, e.g. disabled women and Traveller women.
- The Government must amend social welfare law and policy in order to recognise the work that women do on family-run farm as counting towards social welfare benefits and contributory pensions.

Appendix 1: Irish Travellers aged 15 years and over, classified by labour force, employment status and labour force participation rate, 2002

Source: Central Statistics Office

	Total aged 15 years +	Total in LF	Employer or own account worker	Employee	Assist relative	Looking for first regular job	Unemployed having lost or given up previous job	Total not in LF	LF participation rate
Persons	1,368	7,401	255	1,979	23	823	4,321	6,279	54.1
Males	6,620	4,751	235	1,019	10	518	2,969	1,869	71.8
Females	7,060	2,650	20	960	13	305	1,352	4,410	37.5