



CEDAW

SUBMISSION

Submission of the
Irish Human Rights Commission
to the UN Committee on the
Elimination of Discrimination
Against Women

in respect of

Ireland's Combined 4th and 5th
Periodic Reports under the
Convention on the Elimination of
All Forms of Discrimination
Against Women

IHRC

IRISH HUMAN RIGHTS COMMISSION
AN COIMISIÚN UM CHEARTA DUINE

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Executive Summary

The aim of the Irish Human Rights Commission (IHRC) in compiling this submission is to provide the Committee on the Elimination of Discrimination Against Women with an alternative source of comprehensive and critical information on the situation of women in Ireland, in order to facilitate the Committee in its examination of Ireland's *Combined 4th and 5th Reports under the UN Convention on the Elimination of All Forms of Discrimination Against Women*. This submission focuses on a number of specific areas of law and practice in Ireland where, in the view of the IHRC, the Government is failing to comply with Ireland's international legal obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and its international commitments under the Beijing Platform for Action 1995. Section 1 of this submission provides an overview of the main issues of concern in relation to equality for women in Ireland. The subsequent sections 2 to 7 examine a number of substantive areas of law and practice in detail, and conclude with a list of suggested questions for the Committee, as well as a set of recommendations for future reform in these areas. Sections 2-7 of this submission can be summarised as follows:

Review of the Irish Constitution from a Gender Equality Perspective

Section 2 reviews the Constitution from a gender equality perspective and identifies areas where there is an urgent need for constitutional reform to ensure that the Irish Constitution is in compliance with CEDAW and the other international human rights treaties Ireland has ratified. In particular, Article 41.2 of the Constitution is based on a stereotypical view of the social roles of women as homemakers and mothers, thus retaining a biological determinism in the Constitution which is offensive to women and ascribes to them a limited and dependent role. Moreover, the Irish Constitution does not explicitly embody the principle of equality of men and women, and does not contain an explicit prohibition against direct and indirect discrimination on the basis of gender as well as other equality grounds. The language of the Irish Constitution is sexist and male-oriented and urgently needs to be rephrased to ensure that it is gender-inclusive.

Key Recommendations of the IHRC:

Immediate consideration should be given to holding a referendum within a specific time-frame to amend the Constitution in a number of specific areas identified in this submission. In particular:

- **Article 41.2 of the Constitution which, in the view of the IHRC, is in violation of Articles 2 and 5 of CEDAW should be amended;**
- **Article 40.1 of the Constitution should be amended to prohibit direct and indirect discrimination on the basis of gender, race, colour, age, disability, sexual orientation, religious belief, membership of the Travelling community, language, political opinion, property, birth or other status. Discrimination by both public and private non-state actors should be prohibited;**

- **The sexist language and terminology of the Constitution should be replaced by gender-inclusive language.**

Review of Ireland's Methods of Monitoring Progress on the Implementation of its Obligations under CEDAW

An essential component of Ireland's obligations to prevent discrimination against women, and promote the full development and advancement of women, is the requirement that Ireland should effectively monitor the real situation of diverse groups of women through the compilation of comprehensive, up-to-date gender-disaggregated data. In addition, Ireland should be effectively monitoring the extent to which gender equality is being progressively realised through the use of gender equality indicators that can track changes over time. Section 3 examines the extent to which Ireland is compiling comprehensive gender sensitive data and points out some of the significant gaps in such data. In addition, this section examines the use of gender equality indicators in Ireland. Finally, this section of the submission highlights the continuing delay in the production of a National Strategy for Women which Ireland made a commitment to adopt 10 years ago at the Beijing Platform for Action 1995.

Key Recommendations of the IHRC:

- **The National Women's Strategy should be produced as a matter of priority and should contain a comprehensive set of time-bound gender equality targets and specific gender equality indicators to measure the progressive realisation of gender equality.**
- **The gaps that have been identified in gender sensitive data should be filled. In particular, data on the value of women's unremunerated work in the home and whilst caring should be gathered; the time-use of women and men should be examined; gender-disaggregated income and wealth data should be compiled; and specific statistics on diverse groups of women and men who experience multiple discrimination should be gathered.**
- **All gender equality indicators used should be comprehensive and should be monitored on an ongoing basis.**
- **The Central Statistics Office and other mainstream producers of statistics should have the main responsibility for the production of comprehensive gender sensitive data and indicators in a long-term and sustained manner that adequately reflects the realities of women's lives.**

Women and Poverty

Section 4 highlights the extent of female poverty in Ireland and examines the factors that contribute to female poverty. Women in Ireland are at a higher risk than men of living in relative income poverty (23.2%) and consistent poverty (4.9%). The overall proportion of people living below the relative income poverty line has increased significantly since 1994, as has the differential poverty rate between women and men. Specific groups of women in Irish society are at a particularly high risk of living in relative income poverty and consistent poverty including, older women, women in home duties, female lone parents, disabled women, Traveller women and rural women.

Female poverty is largely a result of women's dependent economic status and women's unequal access to economic resources. Women have a lower rate of participation in employment than men and this is particularly marked amongst specific groups of women who encounter multiple discrimination in accessing employment. A woman's maternal status continues to be a primary determinant of her labour force participation because of the chronic lack of adequate and affordable childcare in Ireland. Within the workforce women are overrepresented amongst part-time and low-paid workers. Caring work, the majority of which is carried out by women, is hugely undervalued by the State. The current social welfare system does not adequately reflect and enable women's participation in the labour force and it does not recognise the value of full-time caring work.

Key Recommendations of the IHRC:

- **Targeted measures should be put in place to reduce and prevent the risk of poverty for specific groups of women in particular, older women, female lone parents, Traveller women, women with disabilities and carers.**
- **Increased funding should be provided as a matter of priority to ensure that adequate and affordable childcare is available to facilitate women's long-term participation in employment and training. Special childcare schemes for groups of women with a low level of participation in the labour force and who are at a high risk of poverty should be provided.**

Women with Disabilities

Section 5 outlines the situation of women with disabilities in Ireland and critically examines Government policy and practice in relation to disabled women. In particular, this submission highlights the central concerns of the IHRC in relation to the recently published Disability Bill 2004 which is currently being debated in the Houses of Parliament. In addition, this section highlights the fact that there is a data deficit on women with disabilities which greatly limits the extent to which the situation of women with disabilities can be measured and the extent to which policies can be formulated to advance the equality of women with disabilities and to address the barriers that they face. In general, women with disabilities have low levels of educational attainment and low levels of participation in the labour force due to physically and socially inaccessible educational and working environments. Women with disabilities are particularly vulnerable to violence. However, this remains largely a hidden problem. The ability of disabled women to leave their violent situation is often limited due to geographically, physically and socially inaccessible refuges and other services for women experiencing violence. Specific funding needs to be made available to organisations working with women who experience violence to enable them to make their services accessible to women with disabilities.

Key Recommendations of the IHRC:

- **Comprehensive data should be gathered on women with disabilities and should be regularly updated.**

- **In accordance with General Comment 25 of the CEDAW Committee specific temporary special measures should be put in place to increase the participation of women with disabilities in education and employment.**
- **Research should be carried on the issue of violence against disabled women.**
- **Specific funding should be allocated to bodies working with women experiencing violence in order to enable them to make their services accessible to women with disabilities.**

Migrant Women and Women of Racial and Ethnic Minorities

Section 6 highlights the situation of diverse groups of women in Ireland who experience multiple discrimination, including Traveller women, women migrant workers, women asylum seekers, and refugee women. The problem of trafficking in women and girl children is also examined.

In relation to Traveller women, this section points out that this group is particularly disadvantaged in terms of their health status and their access to education and employment. In addition, a significant proportion of Traveller women and the Travelling community in general are living in inadequate accommodation, often on the side of the road without access to water, sanitation and electricity. In general, there is a lack of up to date and comprehensive gender-disaggregated data on the situation of women in the Travelling community.

This section of the submission also highlights the situation of women migrant workers who are vulnerable to unfair treatment and exploitation. This is partly due to the employer-focussed work permit system in Ireland, and the fact that women migrant workers often work in isolated sectors, such as private households where they are more vulnerable to unfair treatment.

In addition, this section highlights the adverse impact of the direct provision system on women asylum seekers, and points to the absence of specific guidelines within the refugee determination process that set standards for dealing with refugee claims that are based on gender-related persecution. In relation to refugee women, this section highlights the fact that there is a lack of measures in place to promote the integration of women refugees. In relation to trafficking in women and girl-children, the lack of specific legislation prohibiting the trafficking of women for the purposes of sexual exploitation, and the lack of measures to protect the victims of trafficking are highlighted.

Key Recommendations of the IHRC:

- **Comprehensive and up to date gender-disaggregated data on women in the Travelling community should be gathered in a regular and sustained manner.**
- **Specific measures should be put in place to protect vulnerable groups of migrant workers, such as domestic workers in private households who are predominantly women. In particular, enforcement mechanisms such as the Labour Inspectorate and the Employment Rights Unit of the**

Department of Enterprise, Trade and Employment should be given the adequate resources and staff to effectively monitor the area.

- **The Office of the Refugee Applications Commissioner and the Office of the Refugee Appeals Tribunal should adopt specific public guidelines to deal with asylum claims which are based on gender specific persecution.**
- **A long-term integration strategy should be put in place to foster the integration of refugees which identifies the specific needs of refugee women in terms of access to education, employment and health care.**
- **Specific legislation should be put in place without delay to suppress the trafficking of women for the purposes of sexual exploitation and to ensure the victims of trafficking are protected.**

Older Women

Section 7 highlights the fact that older women are at a very high risk of living in relative income poverty (50.2%) and consistent poverty (4.4%). Older women are largely dependent on non-contributory pensions as a result of historical factors which excluded them from participating in the labour force. The caring work that older women engaged in before the introduction of the Homemakers Scheme in 1994 has not been recognised.

This section of the submission also examines the health status of older women and their access to adequate housing. Women live longer than men and are more likely to experience chronic illness and mobility problems in later life. Studies demonstrate that the material disadvantage and deprivation women experience in old age undermines their quality of life and contributes to their ill-health. There is a chronic lack of supports for older women to enable them to live independently in the community. The issue of long stay care is one of particular concern to older women and, in general, the provision of this type of care is inadequate; there is lack of clarity in relation to entitlement to care; and there is a lack of safeguards for persons residing in long stay care settings.

Key Recommendations of the IHRC:

- **Targeted measures should be put in place to address the poverty and deprivation older women are experiencing. In particular, the Government should ensure that the non-contributory old age pension is adequate and is indexed to average earnings growth in the economy.**
- **The support services for older women living in the community should be put on a statutory basis and, in particular, should be adequately funded, given the large percentage of older women that live alone.**
- **A rights-based approach should be adopted in relation to the provision of long stay care for older people. Policy in relation to the creation of long stay care places should be informed by the principles of equality of treatment and non-discrimination. The entitlement to long stay care should be clarified and specified in legislation. Adequate information should be made available to people on their entitlement to long stay care in the public and private sectors.**

1. Introduction

Women in Ireland remain disadvantaged and unequal on the basis of their gender notwithstanding that many of the formal legal barriers to women's equality have been removed. The persistence of gender inequality is demonstrated in women's gross under-representation in political life and on public boards; in the high prevalence of poverty amongst women; in the fact that domestic and other violence against women is an everyday reality in Irish society; and in the fact that women continue to earn far less than men. While female labour force participation has increased significantly since the mid 1990's, the Government has failed to put in place adequate structural supports to enable women's long term participation in the labour force on an equal basis with men. Women continue to carry out the majority of unpaid caring work, which is given inadequate recognition by the State.

In making this submission to the Committee on the Elimination of Discrimination Against Women, the IHRC aims to provide the Committee with comprehensive and critical information on specific areas of law and practice where, in the view of the IHRC, the Government is not fully complying with its international legal obligations under CEDAW. The IHRC was established under the Human Rights Commission Acts 2000 and 2001 which set out the functions and powers of the Commission.¹ In its Strategic Plan, *Promoting and Protecting Human Rights in Irish Society: A Plan for 2003-2006*, the Commission identifies gender as one of its key areas of work. As a specific aspect of this key area of work, the Commission committed itself to making a submission to the Committee on the Elimination of Discrimination Against Women to "shadow" the Government's combined 4th and 5th periodic reports under CEDAW. The Commission recognises that there are several national organisations and networks of women's groups throughout Ireland who are working to ensure that the Government complies with its commitments under CEDAW, and who are also submitting shadow reports to the Committee. The aim of the Commission in making this submission is to add value to the State reporting process, and to provide the Committee with additional critical information to facilitate a constructive dialogue with the Irish Government at its 33rd session.

In general, the combined 4th and 5th periodic reports submitted by the Government list the laws, policies and programmes that are in place to prevent discrimination and promote equality for women. However, little analysis or information is provided on the impact of these measures. In failing to provide an analysis of the impact of the measures listed, the Government does not adequately demonstrate to what extent, if any, equality for women is being progressively realised in Ireland. In its Concluding Observations on Ireland's 2nd and 3rd periodic reports, the Committee requested the Government to respond in its next periodic report to the specific issues raised in the Concluding Observations. The report submitted by the Government does not adequately respond to all of the diverse range of issues raised by the Committee. The IHRC is of the view that in its future periodic report the Irish Government should include a separate specific section systematically addressing each of the Concluding Observations of the Committee and demonstrating what legislation, policies and practices have been put in place to address the concerns raised by the Committee.

¹ See powers and functions of the IHRC, Appendix I.

Overall, little or no action has been taken to address many of the concerns highlighted by the Committee when it last examined Ireland's compliance with CEDAW five years ago. For example, despite the recommendations of the Committee, Article 41.2 of the Constitution has not been amended²; the structural and systemic framework that will lead to women's long-term participation in the labour force on the basis of equality with men is not yet adequately in place³; the Government has not made full use of temporary special measures in accordance with Article 4(1) of CEDAW to increase women's participation in politics and decision-making⁴ and; the Government did not provide the Committee with detailed information on the causes, forms and extent of women's poverty and the impact of measures to reduce and eliminate women's poverty as requested by the Committee.⁵

Under CEDAW, Ireland is required not only to take all appropriate measures to prevent discrimination against women, but also to take all appropriate measures in the political, social, economic and cultural fields to promote the full development and advancement of women. Therefore, Ireland is under a positive, active obligation to progressively realise substantive equality for women. To comply with this positive obligation Ireland should be putting in place temporary special measures to accelerate the improvement of the position of women, and to effect the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women. Moreover, Ireland is required to modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices and customary and all other practices which are based on the inferiority or superiority of either of the sexes, or on stereotyped roles for men and women.

This submission focuses on a number of key areas of law, policy and practice where, in the view of the IHRC, Ireland is failing to comply with its obligations under CEDAW, and in particular, its positive obligation to promote the full development and advancement of women. Section 2 reviews the provisions of the Irish Constitution from a gender equality perspective. Section 3 critically examines the means by which Ireland is monitoring the progressive achievement of gender equality through the use of gender sensitive data and indicators. Section 4 examines the extent and causes of female poverty in Ireland. Finally, sections 5, 6 and 7 provide the Committee with information on the situation of diverse groups of women in Irish society who experience multiple discrimination and disadvantage including women with disabilities, Traveller women, women migrant workers, women asylum seekers, women refugees and older women.

A number of key common issues emerge from the IHRC's analysis of the various areas of law and practice identified in this submission. In general, progress in achieving substantive equality for women in Ireland is slow which is partly due to the low level of political priority afforded to this issue. For example, a National Strategy for Women which the Government made a commitment to produce 10 years ago at

² Concluding Observations of the Committee on the Elimination of Discrimination Against Women on Ireland's 2nd and 3rd Periodic Reports, A/54/38, para. 193.

³ *Ibid.*, para. 182.

⁴ *Ibid.*, para. 190.

⁵ *Ibid.*, para. 195.

Beijing has not yet been delivered. In general, the Government is not adequately fulfilling its positive obligations to deliver substantive equality for women. The measures that are in place to promote the advancement of women are inadequate and piecemeal, and it is often unclear whether they will be sustained in the long term. There is a lack of visibility and awareness of the situation of diverse groups of women in Irish society. This is illustrated in the lack of data and research on many of these groups and in the lack of programmes in place to address their particular concerns. The effects of the formal legal barriers to women's equality that existed until the recent past remain visible in the disadvantaged situation of older women in Irish society. There continues to be an emphasis on the stereotypical role of women as mothers and carers both within the Irish Constitution and within the broader economic, social and cultural life in Ireland.

2. Review of the Irish Constitution from a Gender Equality Perspective

2.1 Article 41.2 – Stereotypical Role of Women as Homemakers and Mothers

In accordance with Article 2(a) of CEDAW Ireland is required to embody the principle of equality of men and women in its national Constitution or other appropriate legislation. Article 5 of CEDAW also requires States to take all appropriate measures to modify the social and cultural patterns of conduct of men and women in order to promote gender equality. These measures should aim to eliminate prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for men and women. One of the appropriate measures in this context would be the amendment of Article 41.2 of the Irish Constitution which is based on a stereotyped view of the role of women in Irish society.

Article 41 of the Irish Constitution headed “The Family” states that the family is the fundamental unit group of society and is a moral institution which possesses inalienable and imprescriptible rights that are antecedent and superior to all positive law. It continues with a State guarantee to protect the family as the necessary basis of social order and as indispensable to the welfare of the nation and the State. In this context Article 41.2 of the Constitution states that,

“1. In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

2. The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.”

This provision of the Constitution has been described as reflecting a sexual division of labour which is “based on a biological determinism that assumes that one’s social destiny is dependent on whether one is female or male, thereby closing off the options for both women and men, but particularly for women.”⁶ In their Concluding Observations on Ireland’s second and third periodic reports, the Committee expressed concern about the continuing existence in Article 41.2 of concepts that reflect a stereotypical view of the role of women in the home and as mothers.⁷ In July 2000, the Human Rights Committee, in their Concluding Observations on Ireland’s second periodic report under the ICCPR, also expressed concern that the reference to women

⁶ Connelly A., “Women and the Constitution of Ireland”, in Galligan Y., Ward E. & Wilford R., *Contesting Politics: Women in Ireland, North and South* (Westview Press, Oxford, 1999), p. 24.

⁷ Concluding Observations of the Committee on the Elimination of Discrimination Against Women on Ireland’s 2nd and 3rd Periodic Reports, A/54/38, para. 161-201, para. 193.

made in Article 41.2 of the Constitution could perpetuate traditional attitudes towards the role of women.⁸

Within Ireland recommendations for the amendment of Article 41.2 have been made for many years. In 1993 the report of the Second Commission on the Status of Women recommended that Article 41.2.2 should be deleted.⁹ In 1996 the Constitution Review Group¹⁰ stated that Article 41.2 assigns to women a domestic role as wives and mothers, and is a dated provision which has never been of any particular assistance to women working exclusively within the home.¹¹ The Constitution Review Group recommended that in recognition of the significant contribution made to society by the large number of people who provide a caring function within their homes, Article 41.2 should be revised to state that the State recognises the importance of home and family life and will endeavour to support persons caring for others within the home. The All-Party Oireachtas (i.e. Parliament) Committee on the Constitution has also recognised that Article 41.2 is a dated provision that has been widely criticised because it presumes that women, by reason of their gender, are pre-determined to play a particular role in life, thus seeming to deny them the same freedom of choice as that enjoyed by men.¹² The All-Party Oireachtas Committee has recommended that an amendment similar to that recommended by the Constitution Review Group should be made to Article 41.2.

In November 2004 the All-Party Oireachtas Committee on the Constitution announced that it is now going to undertake an overall examination of the provisions of the Constitution that relate to the family including Articles 41, 42 and 40.3.¹³

⁸ Concluding Observations of the Human Rights Committee on Ireland's 2nd Periodic Report, A/55/40, paras. 422-451, para. 20.

⁹ *Report of the Second Commission on the Status of Women* (Government Publications 1993), p. 27. The Second Commission on the Status of Women was established in 1990 to consider and make recommendations on the means, administrative and legislative, by which women will be able to participate on equal terms and conditions with men in economic, social, political and cultural life and, to this end, to consider the efficacy and feasibility of positive action measures.

¹⁰ The Constitution Review Group was established in 1995 to review the Constitution, and in the light of this review, to establish those areas where constitutional change may be desirable or necessary, with a view to assisting the All-Party Oireachtas Committee on the Constitution, in its work.

¹¹ *Report of the Constitution Review Group*, (Government Publications, May 1996), p. 333. In the case of *L v. L* [1992] 2 IR 77 the Supreme Court rejected a claim by a married woman which was based specifically on Article 41.2. The Supreme Court held that even though she had worked exclusively within the home throughout her marriage she was not entitled to a 50% interest in the family home by virtue of Article 41.2.

¹² *First and Second Progress Reports of the All-Party Oireachtas Committee on the Constitution*, (Government Publications, 1997).

¹³ The All-Party Oireachtas Committee on the Constitution was established to complete a full review of the Constitution. The function of the Committee is to provide a focus on the place and relevance of the Constitution and to establish those areas where constitutional change may be desirable or necessary with reference to the Report of the Constitutional Review Group.

Individuals and groups have been invited to make submissions on, amongst other issues, whether the Constitution's reference to woman's life within the home is a dated provision that is in need of change. While it is reasonable to expect that the Committee will refer to Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in relation to the definition of "family life", it is also imperative that the Committee should have full regard to the provisions of CEDAW in its review of these particular articles of the Constitution.

The low priority afforded to amending what has been consistently recognised as one of the most dated provisions of the Constitution is illustrated by the fact that since the Committee on the Elimination of Discrimination Against Women made its concluding comments on Ireland's 2nd and 3rd periodic reports in 1999, four referenda have been held proposing six different amendments to the Constitution. None of these referenda have included a proposal to amend Article 41.2.

2.2 Article 40.1 – Equality Before the Law

The Irish Constitution does not explicitly embody the principle of equality of men and women and does not contain an explicit prohibition against discrimination on the basis of sex. The equality provision in the Irish Constitution, Article 40.1, states as follows,

“All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.”

In general, it has been observed that in contrast to comparative and international jurisprudence on the subject of equality before the law, the Irish Constitution jurisprudence on the guarantee of equality is remarkably underdeveloped.¹⁴ For example, Irish judges have not yet authoritatively considered the concept of indirect discrimination.¹⁵ In addition, in general, the judiciary have interpreted the phrase “as human persons” contained in Article 40.1 in quite a restrictive manner to mean that the guarantee of equality only applies in relation to the “essential attributes of the human person”.¹⁶ In the case of *Quinn's Supermarket v. Attorney General*, it was stated that the equality guarantee “refers to human persons for what they are in themselves rather than any lawful activities, trades or pursuits which they may engage in or follow.”¹⁷ This “human personality doctrine” has been widely criticised as unduly restricting the concept of equality in the Irish Constitution and as undermining the effectiveness of the equality guarantee.¹⁸ The Constitution Review Group recommended that the words “as human persons” should be removed from Article

¹⁴ Hogan & Whyte, *JM Kelly: The Irish Constitution* (4th ed., Butterworths, Dublin, 2003), p. 1324, para. 7.2.05.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, para. 7.2.40-7.2.56.

¹⁷ *Quinn's Supermarket v. Attorney General*, [1972] IR 1 at 14.

¹⁸ Mullally S., “The Myth of Constitutionalism and the ‘Neutral’ State”, in Murphy T. & Twomey P. (eds.), *Ireland's Evolving Constitution 1937-1997 Collected Essays* (Hart Publishing, Oxford 1998), p. 154.

40.1 on the grounds that it is not found in other constitutional orders or in the international instruments to which Ireland is a party.¹⁹

In contrast, the international human rights treaties Ireland has ratified place the norms of non-discrimination and equality as “core norms” and define the concepts of non-discrimination and equality quite broadly to include direct and indirect discrimination, and to encompass a wide number of grounds. Article 2 of CEDAW requires States to condemn discrimination against women in *all its forms* and to pursue a policy of eliminating *all forms* of discrimination against women. In particular, Article 2(a) of CEDAW provides that States agree “to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other means the practical realisation of this principle”. Moreover, Article 26 of the ICCPR is a free standing non-discrimination and equality standard which guarantees equality before the law to all persons. This provision requires States to prohibit all discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

In its 1993 report, the Second Commission on the Status of Women recommended the amendment of the Constitution to prohibit all forms of discrimination, whether direct or indirect, based on sex.²⁰ In its 1996 report, a majority of the Constitution Review Group recommended that a provision should be added to Article 40.1 which should state that no person shall be unfairly discriminated against, directly or indirectly, on any ground including sex, race, language, religion, political or other opinion, national, social or ethnic origin, property, birth or other status.²¹

The principle of equality has been given greater effectiveness in Irish law through the enactment of the Employment Equality Act 1998 and the Equal Status Act 2000. These Acts prohibit discrimination within certain spheres, including employment, vocational training, advertising, collective agreements, and the provision of goods and services to which the public generally have access. Discrimination is prohibited on the basis of nine distinct grounds including gender, membership of the Travelling community, race, disability, age, marital status, family status, sexual orientation and religion. However, the prohibition against discrimination in this legislation is limited to certain spheres of human activity. While this legislation has an extremely important role to play in advancing the equality of women, the existence of this legislation does not diminish the importance of having an all-embracing effective equality guarantee in the Irish Constitution to bring the Constitution into line with international human rights law.

The Committee on the Elimination of Discrimination Against Women also noted in its Concluding Observations on Ireland’s 2nd and 3rd periodic reports that the constitutional guarantee of non-discrimination does not extend to private, non-State

¹⁹ *Report of the Constitution Review Group*, p. 224.

²⁰ *Report of the Second Commission on the Status of Women*, p. 27.

²¹ *Report of the Constitution Review Group*, p. 230.

actors.²² The wording of Article 40.1 appears to envisage that the equality obligation applies primarily to the State rather than to private, non-State actors.²³ Jurisprudence on the question of whether the guarantee of equality contained in Article 40.1 is capable of “horizontal application” is not very well developed in the Irish legal system.²⁴ In two cases the Courts have imposed constitutional obligations on trade unions to respect the constitutional rights of others.²⁵ However, it is not clear from the existing jurisprudence whether or not the *equality guarantee* under Article 40.1 is capable of horizontal application.

In its most recent General Comment, the Committee on the Elimination of Discrimination Against Women stated that States should ensure that “women are protected against discrimination – committed by public authorities, the judiciary, organisations, enterprises or private individuals – in the public as well as the private spheres by competent tribunals as well as sanctions and other remedies”.²⁶ The Human Rights Committee has also stated that States parties have positive obligations to protect persons against acts committed by private persons or entities that would impair the enjoyment of their rights under the ICCPR. A State party is in violation of this positive obligation where it permits a private person to violate the rights of another person or, where it fails to take appropriate measures, or fails to exercise due diligence, to prevent, punish, investigate or redress the harm caused by private persons or entities.²⁷

2.3 **Temporary Special Measures under Irish Law**

In its most recent General Comment on temporary special measures, the Committee on the Elimination of Discrimination Against Women recommended that States should include a provision allowing for temporary special measures in their constitutions, or in their national legislation. The purpose of temporary special measures is to accelerate the improvement of the position of women to achieve their substantive equality with men, and to effect the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women, as well as to provide them with compensation. In its General Comment, the Committee makes it clear that the application of temporary special measures should not be regarded as an exception to the norm of non-discrimination, but rather should be viewed as being an integral part of a necessary strategy to achieve the substantive equality of women with men in the enjoyment of their fundamental human rights.

As the report submitted by the Government points out, section 24 of the Employment Equality Act 1998 allows for positive action measures to ensure equality in practice

²² Concluding Observations of the Committee on the Elimination of Discrimination Against Women on Ireland’s 2nd and 3rd Periodic Reports, A/54/38, para. 193.

²³ Hogan & Whyte 2004, para. 7.2.24.

²⁴ See further Mullally S., 1998.

²⁵ *Murtagh Properties Ltd. v. Cleary*, [1972] IR 330; *Meskell v. CIE*, [1973] IR 121.

²⁶ General Recommendation No. 25, Temporary Special Measures, CEDAW/C/2004/I/WP.1/Rev.1, para. 35.

²⁷ Human Rights Committee, General Comment No. 31, Nature of the General Legal Obligation on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13(2004), para. 8.

between men and women in employment and to allow for specific advantages to make it easier for an under-represented sex to pursue vocational activity, or to prevent or compensate for disadvantage in professional careers. However, there is no provision in the Irish Constitution that allows for the application of positive temporary special measures to promote the full development or advancement of women and other disadvantaged groups. In recognition of past discrimination against women, the Report of the Second Commission on the Status of Women 1993 recommended that, in addition to the prohibition of direct and indirect discrimination, a provision should be inserted into the Constitution allowing for positive discrimination measures. Such a provision would ensure that the equality guarantee does not prevent the State from putting in place positive measures designed to redress imbalances and achieve substantive equality for women with men.²⁸

2.4 Sexist Language of the Irish Constitution

With the exception of a small number of specific references to women in the Constitution, the language of the Constitution is predominantly sexist and male-oriented. The President is referred to throughout the Constitution as “he”, as are the Taoiseach (ie. prime minister), the attorney general and the judges. Moreover, notwithstanding the fact that under the Constitution every citizen “without distinction of sex” is eligible for membership of Dáil Éireann, a member of either House of the Irish Parliament is referred to as “he”. The specific references to women in the Irish Constitution are limited to the reference in Article 41.2 to a woman’s duties in the home and to the reference in Article 40.3.3 to the right to life of the unborn and the equal right to life of the mother. In addition, under the Directive Principles of Social Policy which are intended to generally guide the legislature and which are not cognisable in the Courts, Article 45.2(i) refers to the equal right of men and women to an adequate livelihood. Under Article 45.4(i) the State pledges itself to safeguard the economic interests of the “weaker sections” of the community including the “widow”. Finally, under Article 45.4(ii) the State is required to ensure that citizens shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength.

The All-Party Oireachtas Committee on the Constitution has described the text of the Constitution as a product of the patriarchal times in which it was written, as being insensitive on the issue of gender, and as invariably presuming that officeholders will be male. This Committee further stated that a consistent rephrasing of the Constitution so as to ensure that it is gender-inclusive is a common courtesy the State should pay to more than half its citizens.²⁹

2.5 Article 40.3.3 – The Right to Life of the Unborn and the Equal Right to Life of the Mother

In its Concluding Observations on Ireland’s 2nd and 3rd periodic reports, the Committee on the Elimination of Discrimination Against Women expressed concern about the fact that abortion remains illegal in Ireland with very limited exceptions and

²⁸ *Report of the Second Commission on the Status of Women*, p. 27.

²⁹ *First and Second Progress Reports of the All-Party Oireachtas Committee on the Constitution*, (Government Publications, 1997).

that women who wish to terminate their pregnancies have to travel abroad to do so. In particular, the Committee stated that this can create hardship for vulnerable groups, such as female asylum seekers who cannot leave the territory of the State.³⁰

The Human Rights Committee in its Concluding Observations on Ireland's 2nd periodic report also expressed concern about the fact that abortion can only be legally carried out in very limited circumstances when the life of the mother is in danger and that these limited circumstances do not include situations where pregnancy is the result of rape. The Human Rights Committee stated that Ireland should ensure that women are not compelled to continue with pregnancies where that is incompatible with obligations arising under Article 7 of the ICCPR and General Comment 28.³¹ In General Comment 28 the Human Rights Committee states that in order to assess compliance with Article 7 of the ICCPR the Committee needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape.³²

The Committee on the Elimination of Discrimination Against Women, in its last examination of Ireland's periodic reports urged the Government to facilitate a national dialogue on women's reproductive rights, including on the restrictive abortion laws.

Since the Committee examined Ireland's reports in 1999, the legal situation in relation to abortion in Ireland remains the same. Abortion can be carried out in Ireland under limited circumstances. Article 40.3.3 of the Constitution acknowledges the right to life of the unborn and, with due regard to the right to the life of the mother, guarantees to defend the right to life of the unborn as far as practicable. In addition, sections 58 and 59 of the Offences Against the Person Act, 1861 make it a criminal offence to carry out an abortion at all stages of pregnancy. In the case of *Attorney General v. X*.³³, the Supreme Court held that a termination is permissible where continuance of the pregnancy constitutes a real and substantial risk to the life of the mother. For these purposes, a threat of suicide constitutes a real and substantial risk to the mother's life. A risk to the *health*, as opposed to the *life*, of the mother is insufficient to justify an abortion in Ireland.

There is no legislation specifically governing the limited circumstances in which a legal termination can be carried out in Ireland despite numerous recommendations that the Parliament should legislate in this area including recommendations from the judiciary³⁴ and the Constitution Review Group.³⁵ There is no definition of what is

³⁰ Concluding Observations of the Committee on the Elimination of Discrimination Against Women on Ireland's 2nd and 3rd Periodic Reports, A/54/38, para. 161-201, para. 185.

³¹ Article 7 of the ICCPR prohibits torture or cruel, inhuman or degrading treatment or punishment.

³² Human Rights Committee, General Comment 28, Equality of Rights between Men and Women, CCPR/C/21/Rev.1/Add.10, para. 11.

³³ *Attorney General v. X* [1992] IR 1.

³⁴ *Attorney General v. X* [1992] IR 1, McCarthy J., stated as follows: "In the context of the eight years that have passed since the [1984] Amendment was adopted and the two years since *Grogan's* case the failure by the legislature to enact the appropriate legislation is no longer just unfortunate; it is inexcusable. What are pregnant women

meant by the “unborn” in Article 40.3.3 of the Constitution. In addition, there is no express protection for appropriate medical intervention where the life of the mother is at risk, and there are no criteria for the assessment of a “real and substantial” risk to the life of the mother.

Since the Committee’s examination of Ireland’s 2nd and 3rd periodic reports, a constitutional referendum on the issue of abortion was held in March 2002. The Twenty-fifth Amendment of the Constitution (Protection of Human Life in Pregnancy) Bill 2001 proposed to further restrict the availability of abortion in Ireland by removing the probability of suicide as a ground for lawful abortion. Moreover, the Bill proposed a penalty of up to 12 years imprisonment for carrying out an illegal abortion, or aiding, assisting, or counselling another person to carry out an illegal abortion. The referendum was rejected.

The report submitted by the Government does not address the question of vulnerable groups of women who may wish to terminate their pregnancies. Female asylum seekers and non-EU nationals are particularly vulnerable because their right to leave and re-enter the country is restricted, and they may not be aware of the fact that they can obtain temporary visas to allow them to leave and re-enter Ireland. According to media reports, more than 60 asylum seekers living in Ireland have been given exit entry visas to travel to the UK for an abortion.³⁶ In addition, media reports have revealed that the police force is now investigating some cases of backstreet abortions amongst immigrant communities.³⁷ In general, organisations working with women in crisis pregnancy report that the number of women from immigrant communities using their services has increased substantially.

2.6 List of Recommended Questions for the CEDAW Committee:

- a. In the light of Articles 2 and 5 of CEDAW and the Concluding Observations of the CEDAW Committee on Ireland’s 2nd and 3rd periodic reports, what steps do the Government intend to take to amend Article 41.2 of the Constitution and what priority will be afforded to this issue?**

to do? What are the parents of a pregnant girl under age to do? What are the medical profession to do? They have no guidelines save what may be gleaned from the judgments in this case. What additional considerations are there? ...The [1984] Amendment, born of public disquiet, historically divisive of our people, guaranteeing in its laws to respect and by its laws to defend the right to life of the unborn, remains bare of legislative direction.”

³⁵ On this issue the Constitution Review Group stated that “While in principle the major issues...should be tackled by constitutional amendment, there is no consensus as to what that amendment should be and no certainty of success for any referendum proposal for substantive constitutional change in relation to this subsection. The Review Group, therefore, favours, as the only practical possibility at present, the introduction of legislation covering such matters as definitions, protection for the appropriate medical intervention, certification of ‘real and substantial risk to the life of the mother’ and a time-limit on lawful termination of pregnancy”.

³⁶ Irish Times, 17th September 2004.

³⁷ Irish Times, 9th July 2004.

- b. Does the Government regard temporary special measures as a necessary part of achieving substantive equality for women and, in light of General Comment 25, is the Government in favour of allowing for temporary special measures in the Irish Constitution?**
- c. In the light of the recommendations of the All-Party Oireachtas Committee on the Constitution, what priority is being afforded to replacing the sexist language and terminology of the Irish Constitution with gender-inclusive language?**

2.7

Recommendations:

- a. The IHRC recommends that the All-Party Oireachtas Committee should take full consideration of Ireland’s legal obligations under CEDAW in considering the appropriate amendments to the Constitution relating to the family, in particular Article 41.2.**
- b. The IHRC recommends that immediate consideration should be given to holding a referendum within a specific time-frame to amend Article 41.2 of the Constitution which in the view of the IHRC, is in violation of Article 2 and Article 5 of CEDAW.**
- c. The IHRC recommends that the proposal to amend Article 41.2 of the Constitution should recognise the equal role and responsibility of men and women for carrying out the caring function in society. In addition, the constitutional amendment should recognise the significant contribution made to society by those who engage in caring work and should contain a State guarantee to actively support such persons.**
- d. The IHRC recommends that immediate consideration should be given to holding a referendum within a specific time-frame to amend Article 40.1 of the Constitution to prohibit direct and indirect discrimination on the basis of gender, race, colour, age, disability, sexual orientation, religious belief, membership of the Travelling community, language, political opinion, property, birth or other status.**
- e. The IHRC recommends that an amendment of Article 40.1 should also prohibit discrimination by private actors and should require the State to take the appropriate measures to protect persons against such discrimination.**
- f. The IHRC recommends that a specific provision should be inserted in Article 40.1 to allow the State the possibility to put in place temporary special measures in a targeted, time-bound manner to accelerate the equality of women and other disadvantaged groups in Irish society.**

- g. The IHRC recommends that immediate priority should be afforded to replacing the sexist terminology of the Constitution with gender-inclusive language within a specific time-frame.**
- h. The IHRC recommends that the Government should introduce legislation to define the circumstances in which an abortion can currently be legally carried out in Ireland.***

* This recommendation does not have the unanimous support of the Commission. (Commissioners Binchy and Egan dissenting). Commissioner William Binchy opposes the recommendation because, in his view, legislation of this type would violate the human rights of unborn children up to the time of birth, denying them the right to life, dignity and equality, and would be inconsistent with the democratic will, since the referendum of 2002 demonstrated that the majority of voters oppose such legislation.

3. Review of Ireland’s Methods of Monitoring Progress on the Implementation of its Obligations under CEDAW

3.1 Relevant International Human Rights Standards

An essential component of Ireland’s obligations under CEDAW to prevent discrimination against women, and promote the full development and advancement of women, is the requirement that Ireland should monitor the real situation of women and measure the extent to which women effectively enjoy their human rights on the basis of equality with men.

In its General Recommendation 9, the CEDAW Committee states that, “statistical information is absolutely necessary in order to understand the real situation of women in each of the States parties to the Convention”.³⁸ The Committee goes on to recommend that States,

“should make every effort to ensure that their national statistical services responsible for planning national censuses and other social and economic surveys formulate their questionnaires in such a way that data can be disaggregated according to gender, with regard to both absolute numbers and percentages, so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested.”

In its recent General Recommendation 25, the Committee highlights the importance of compiling accurate gender specific data in order to measure the effectiveness of any temporary special measures.³⁹ In its General Recommendation 17, the Committee focuses on another key issue in relation to monitoring progress on gender equality; namely the measurement and quantification of unremunerated domestic activities, and their recognition in the calculation of a State’s gross national product. The Committee recommends that States should,

“encourage and support research and experimental studies to measure and value the unremunerated domestic activities of women; for example, by conducting time-use surveys as part of their national household survey programmes and by collecting statistics disaggregated by gender on time spent on activities both in the household and in the labour market.”⁴⁰

In its Concluding Observations on Ireland’s combined 2nd and 3rd periodic reports, the Committee recommended that the implementation of the Equal Status Act should include temporary special measures to overcome systemic and indirect discrimination against women. In particular, the Committee recommended that the impact of such legislation and policy should be rigorously monitored using data disaggregated by

³⁸ General Recommendation 9, Statistical Data Concerning the Situation of Women, A/44/38.

³⁹ General Recommendation 25, para. 35.

⁴⁰ General Recommendation 17, Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product, A/46/38, para. A.

sex. The Committee also recommended that a discussion of methodologies and of indicators used and their impact on women's equality should be included in the next report that will be submitted by the Government.

Under the Beijing Platform for Action Ireland has also made a number of important commitments in relation to the gathering of gender-disaggregated data and the compilation of gender equality indicators.⁴¹

3.2 **Review of Current Methods of Monitoring Progress on Equality for Women**

One of the primary means by which successive Irish Governments have sought to measure progress on gender equality has been through the Reports of the Commission on the Status of Women. The Report of the Second Commission on the Status of Women, which was published in 1993, contained 211 recommendations with over 600 parts that were to be implemented over a ten-year period. Three subsequent monitoring reports were published in 1994, 1996 and 1999 by a monitoring committee composed of representatives from various government departments and a number of other persons from organisations such as the National Women's Council of Ireland and the Irish Countrywomen's Association.⁴²

A fourth review of the implementation of the recommendations of the Second Commission on the Status of Women, entitled *The Development of Mechanisms to Monitor Progress in Achieving Gender Equality in Ireland*, was commissioned by the Department of Justice, Equality and Law Reform and was published in 2000.⁴³ This report found that 164 of the 211 recommendations of the Second Commission had been implemented or were on the policy agenda as of 2000, with a further 41 outstanding recommendations. The highest proportions of outstanding recommendations were in the areas of rural women; participation, politics and policies; women in situations of disadvantage; and culture and sport. In general, the report found that, while a large proportion of the recommendations of the Second Commission have been implemented, the underlying issues remain very problematic and require further renewed action within the present day context.⁴⁴

In addition, the report found that the absence of benchmarking indicators constructed around the recommendations of the Second Commission on the Status of Women made it difficult to objectively assess what progress was being made. The report

⁴¹ Beijing Platform for Action 1995, Strategic Objective H3.

⁴² *First, Second and Third Progress Reports of the Monitoring Committee on the Implementation of the Recommendations of the Second Commission on the Status of Women* (Government Publications, 1994, 1996 and 1999).

⁴³ Galligan, Y., *The Development of Mechanisms to Monitor Progress in Achieving Gender Equality in Ireland*, (Department of Justice, Equality and Law Reform, December 2000). The terms of reference of this most recent review were as follows: (a) To assess the recommendations of the Second Commission on the Status of Women; (b) To develop indicators that could measure the impact of Government policies on the status of women; (c) To make proposals with regard to the establishment of a comprehensive gender-disaggregated statistical database; (d) To advise on an institutional framework for monitoring gender equality.

⁴⁴ *Ibid.*, p. 19.

concluded that the commitment to monitoring progress on equality for women in the Report of the Second Commission was not sufficiently structured to ensure full and effective implementation across the wide range of issues covered.⁴⁵ In line with this assertion, the report concluded that it is now time to shape a new, forward-looking equality agenda in Ireland.⁴⁶

3.3 Gender-Disaggregated Statistics in Ireland

To effectively monitor progress towards the full development and advancement of women, comprehensive statistical data is required to reflect the real situation of diverse groups of women. Gender-disaggregated statistics are designed to properly reflect the realities of women's and men's lives, presenting an accurate measurement of their participation in political, social and economic life. A comprehensive set of gender-disaggregated statistical data underpins the identification of quantitative targets for gender equality, and the development of indicators to measure the progressive achievement of such gender equality targets.⁴⁷

3.3.1 Gender Equality Unit – National Development Plan

The report submitted by the Government points out that the Gender Equality Unit within the Department of Justice, Equality and Law Reform has responsibility for providing training and information and for monitoring gender mainstreaming as part of the National Development Plan (NDP).

The report submitted by the Government further states that a key area of their work is the development of gender-disaggregated statistics and indicators. As part of this work the Unit has compiled two databases of gender-disaggregated statistics and has commissioned a number of reports which highlight gaps in the availability of gender specific data.⁴⁸ While these studies are very welcome, it is imperative that the recommendations contained in these studies are implemented and that gender specific statistics are generated to fill the gaps that have been identified.

The Gender Equality Unit has also produced a handbook of statistics entitled *Women and Men in Ireland: Facts and Figures* which is based on a similar Swedish publication. The publication of this handbook is a welcome initiative and should be continued on an annual basis. However, the Swedish handbook also includes a specific section on time-use, childcare and eldercare which is not included in the Irish handbook. Moreover, in measuring participation in the labour force, the Swedish

⁴⁵ Galligan 2000, pp. 19-20.

⁴⁶ *Ibid.*, p. 39.

⁴⁷ *Ibid.*, p. 42.

⁴⁸ The Gender Equality Unit has produced the following research reports: *Women and Men in Ireland as Entrepreneurs and as Business Managers* 2002; *Assessment of the Main Gaps in Existing Information on Women in Agriculture*, 2003; *Women and Men in Farms in Ireland – their activities, attitudes and experiences*, 2004; *Accommodation Disadvantage: A Study to Identify Women's Accommodation Experiences, Useful Data Sources and Major Research Gaps*, 2002; *Women and Men in Ireland: their modes of transport and their housing tenure*, 2004.

study also measures underemployment and hidden unemployment amongst women and men, neither of which are measured in the Irish study.⁴⁹

The present National Development Plan runs until 2006 and it is not clear at this stage what priority will be afforded to gender equality after 2006. It is important that the work that has been carried out to date by the Gender Equality Unit in relation to the gathering of statistics is sustained in the long-term and is carried out by the mainstream producers of statistics in particular the Central Statistics Office (CSO).

3.3.2 Sources of Gender-Disaggregated Statistics in Ireland

The main collectors of national socio-economic data in Ireland are the CSO, Government departments and other statutory bodies.⁵⁰ A number of problems have been identified with existing statistical sources when they are examined from a gender and equality perspective.⁵¹ For example, many of the definitions and concepts used in existing surveys and censuses do not accurately reflect women's participation in economic and social life. Mullally observes,

“Women are more often than men in situations that are difficult to measure. They often perform both paid and unpaid work, work in the informal sector, have specific health problems relating to childbearing and have limited educational opportunities. Women's and men's interrelations in the family and in society are also difficult to measure. Family structure and composition, female and male parental responsibilities, decision making in the family and in society, and many other aspects of gender interrelations are not adequately reflected in concepts and definitions used in conventional data collection.”⁵²

In addition, some of the data that is available is highly uneven and variable, dispersed across a variety of different organisations and structures. There is a lack of co-ordination and integration in the approach to data collection. The result of having a wide variety of sources of statistical information is a lack of uniformity in definitions, classifications and methods of analysis used. For example, data on violence against women is recorded by a variety of agencies and organisations, including hospitals, Garda stations, courts, individual doctors and social workers. Voluntary organisations also keep information on telephone calls to help lines, women accessing support services and those availing of refuge accommodation. Occasionally, funding is secured for specific research projects that have examined the scale and nature of violence against women. However, there is no co-ordinated approach to the

⁴⁹ Statistics Sweden, *Women and Men in Sweden – Facts and Figures 2004*, available at http://www.scb.se/templates/publdb/publikation_2725.asp&plopnr=1738

⁵⁰ The main sources of statistical information are as follows: Census of Population from the Central Statistics Office (CSO); Quarterly National Household Survey from the CSO; Household Budget Survey from the CSO; Living in Ireland Survey (ESRI), now the Survey of Income and Living Standards (CSO); Live Register of Unemployed, Department of Social and Family Affairs.

⁵¹ Barry U., *Building the Picture: The role of data in achieving equality*, The Equality Authority, Opinion Series, May 2000;

⁵² Mullally S., *Gender Proofing and the European Structural Funds: Outline Guidelines*, 1999.

collection and dissemination of such data, and no commitment of resources to ensure that data is produced and updated at regular intervals.⁵³

A further problem with many sources of social and economic data is the use of household units for the collection and analysis of data. The Census of Population, Quarterly National Household Survey, Household Budget Survey and the Living in Ireland Survey all use households as the basic unit of analysis. There is a lack of attention to the situation of individuals within the household, and it is generally assumed that resources are equitably distributed and that all household members operate to the same standard of living. Women's traditional economic dependency means in practice that their direct access to resources may be more limited than men's. It is critical to gather statistics on the different situations of individuals within the household and the role played by gender, age, disability and other factors in determining the position of women within the household.⁵⁴

3.3.3 Gaps in Existing Gender-Disaggregated Statistical Data

The study commissioned by the Department of Justice, Equality and Law Reform recommended that the following specific gender sensitive data should be compiled to enable a more accurate portrayal of the situation of women and men in Irish society:⁵⁵

- a. Women's and men's unpaid work in the informal and unpaid sectors of the economy, in particular women's unpaid work in the home as well as household enterprises, family businesses and household farms;
- b. Specific statistics on sub-groups of women and men, especially those experiencing multiple discrimination, in particular, women with disabilities, Traveller women, women from racial and ethnic minorities, migrant women, asylum seekers and refugees who are women, lesbian and bisexual women, and women from religious minorities;
- c. Comprehensive gender-disaggregated income and wealth data;
- d. Comprehensive time-use data on women and men including the percentages of women and men harmonising work and care responsibilities;
- e. Accurate data on rural women who are engaged in agriculture or living in rural areas, in particular, data on rural women's access to transport;
- f. Accurate comprehensive data on women's unemployment;
- g. Financial outcomes for women and men, in terms of earnings, pensions, benefits and promotions, related to career interruptions due to child rearing and caring duties;
- h. Accurate and comprehensive data on all forms of violence against women.

⁵³ Barry, 2000, pp. 36-37.

⁵⁴ *Ibid.*, p. 37-38.

⁵⁵ Galligan, 2000, pp. 48-49.

3.4 **Gender Equality Indicators**

Indicators are statistical information chosen specifically to shed light on a particular economic or social problem or question. Gender equality indicators provide a framework for action to monitor the progressive achievement of gender equality.⁵⁶

The Department of Justice, Equality and Law Reform has commissioned two studies which cover the subject of gender equality indicators. The first report recommended a wide range of specific indicators that should be included in a National Plan for Women taking the 12 critical areas of concern in the Beijing Platform for Action as its frame of reference.⁵⁷ A second report was subsequently commissioned to suggest, based on existing data availability where possible, a concise and coherent set of gender equality indicators.⁵⁸ This report also uses the Beijing Platform of Action as its frame of reference and suggests a total of 45 indicators across the 12 critical areas of concern. It is essential that these indicators should be incorporated into the National Strategy for Women and that a number of key gender equality targets should be set and monitored annually by reference to these indicators.⁵⁹

The Central Statistics Office (CSO) has the main responsibility for developing national progress indicators and has made a commitment to produce a series of key thematic social indicator reports structured around the nine equality grounds contained in the Equal Status Act 2000. The first of these reports entitled *Women and Men in Ireland* was published in December 2004. This report contains a total of 79 gender indicators in the areas of population, employment, social cohesion and lifestyles, education, health, crime and transport. The report also incorporates a number of EU gender policy indicators.⁶⁰ This gender indicators report is greatly welcome. It is essential that this type of report is published annually rather than in an *ad hoc* manner. However, there are some gaps in the indicators chosen. For example the set of indicators used in the report do not contain any indicators in relation to unremunerated work as a percentage of GDP, time-use amongst women and men, the number of childcare places available and the cost of childcare as a percentage of earnings. These significant gaps largely result from the lack of data on these issues which need to be filled in order to provide a comprehensive picture of the situation of women and men. Moreover, there are virtually no indicators on women and men who experience multiple discrimination, such as members of the Travelling community, migrants, and persons with disabilities.

3.5 **Towards a National Strategy for Women**

The Government made a commitment in 1995 as part of the Beijing Platform for Action to develop an implementation strategy for the commitments made at Beijing by means of a National Action Plan for Women. The Beijing Platform for Action states that

⁵⁶ Statistics Sweden, *Engendering Statistics: A Tool for Change*, 1996, p. 41.

⁵⁷ Galligan, 2000.

⁵⁸ Gender Equality Unit, *Indicator Research Based on "The Development of Mechanisms to Monitor Progress in Achieving Gender Equality in Ireland"*, (Department of Justice, June 2004).

⁵⁹ See list of Indicators Appendix I.

⁶⁰ See list of Indicators Appendix II.

“...these implementation strategies should be comprehensive, have time-bound targets and benchmarks for monitoring, and include proposals for allocating or reallocating resources for implementation.”⁶¹

The Government submitted a report to the United Nations on the implementation of the Beijing Platform for Action in 2002. In this report the Government made a commitment to produce a five year National Women’s Strategy by the end of 2004. However, the Government has not yet produced a national women’s strategy. In their most recent submission on the implementation of the Beijing Platform for Action the Government stated that it is currently carrying out scoping work on developing a national strategy for women.⁶² It is imperative that immediate priority is afforded to the production of an effective and ambitious national strategy for women that aims to deliver substantive equality for women through setting and measuring time-bound gender equality targets.

3.6 List of Recommended Questions for the CEDAW Committee:

- a. What steps does the Government intend to take to fill the identified gaps in gender-disaggregated statistics in light of General Recommendations 9 and 17 of the CEDAW Committee?**

3.7 Recommendations:

- a. The IHRC recommends that a comprehensive National Women’s Strategy should be produced as a matter of priority in accordance with the Government’s commitments under the Beijing Platform for Action.**
- b. The National Women’s Strategy should contain guarantees that comprehensive gender equality data will be produced on an annual basis and will be disseminated widely in an accessible format. In addition, a strategy should be put in place to fill the identified gaps in gender-disaggregated data including the value of women’s unpaid work in the home and in the informal sector of the economy; women’s and men’s time use; gender-disaggregated income and wealth data etc.**
- c. The National Women’s Strategy should contain a comprehensive set of time-bound gender equality targets and specific gender equality indicators to measure progress towards the gender equality targets set in the Strategy. The gender equality targets in the National Women’s Strategy should be monitored on an annual basis.**

⁶¹ Beijing Platform for Action 1995, para. 297.

⁶² UN Questionnaire to Government’s on the Implementation of the Beijing Platform for Action (1995) and the Outcome of the Twenty-Third Special Session of the General Assembly (2000) – National Report of Ireland, p. 5.

- d. A gender equality index constructed from a small number of carefully selected indicators, similar to the UN Gender Empowerment Index or the more comprehensive Canadian Economic Equality Index should be produced at the end of the life cycle of the National Women's Strategy to provide a template to measure the overall progress on gender equality over time.**
- e. The Central Statistics Office and other mainstream producers of statistics should carry out a gender audit of the definitions and concepts they use in gathering statistical data and should revise such definitions to ensure that the definitions accurately reflect women's participation in economic, social and cultural life. In addition, the Central Statistics Office should recommend the use of a set of common, accurate definitions to ensure that common definitions are being used between the various bodies producing statistics.**
- f. The Central Statistics Office should publish a gender equality indicators report on an annual basis and the indicators chosen should comprehensively reflect a broad range of measurements of gender equality.**

4. Women and Poverty

4.1 Relevant International Human Rights Standards

In accordance with its obligations under CEDAW, Ireland is required to take all appropriate measures to eliminate discrimination against women in all areas of economic and social life, and to ensure the full development and advancement of women.⁶³

In its Concluding Observations on Ireland's 2nd and 3rd combined reports, the Committee requested that:

“...a detailed analysis be included in the next report of the causes, forms and extent of women's poverty and its intergenerational perpetuation, as well as of the impact of measures to reduce and eliminate women's poverty in general and that of vulnerable groups of women in particular.”

The Committee also requested that comprehensive information, including statistical data in relation to the life expectancy, literacy rates, employment and property rights of rural women be included in the next report.

In the Beijing Platform for Action Ireland made a commitment to develop gender-based methodologies and to conduct research addressing the feminisation of poverty. The Beijing Platform states that to fulfil this commitment Governments should incorporate a gender perspective into all aspects of economic policy-making and conduct gender impact analyses of all economic policies and programmes.⁶⁴

4.2 The Extent of Female Poverty in Ireland

The number of women living below the relative income poverty line of 60% of median income has increased significantly from the 1990's onwards and this increase has been particularly marked for specific groups of women from diverse backgrounds. In 1994, 11.6% of women lived on incomes below the poverty line compared to 10.6% of men. The overall proportion of people living below the poverty line had increased by 2001, as had the differential poverty rates between women and men, with 23.2% of women and 19.4% of men falling below the poverty line in that year.⁶⁵

Moreover, women are over-represented within the category of consistent poverty, with 4.9% of women considered to fall within this category in 2001 compared to 3.5% of men. A person or household is regarded as being in consistent poverty where that

⁶³ Article 10 (right to education); Article 11 (right to employment); Article 12 (right to health); Article 13 (economic and social life) and Article 14 (rural women).

⁶⁴ Beijing Platform for Action 1995, Strategic Objectives A1-A4.

⁶⁵ Whelan C.T., Layte R., Maitre B., Gannon B., Nolan B., Watson D., & Williams J., *Monitoring Poverty Trends in Ireland: Results from the 2001 Living in Ireland Survey*, Policy Research Series Number 51, (Economic and Social Research Institute, December 2003), table 4.19. These are the most up-to-date poverty statistics available as of December 2004.

person or household experiences enforced basic deprivation and their income falls below the mean relative income threshold, which is set at 70% of average income.⁶⁶

4.3 Review of Government Policies in Relation to Female Poverty

The report submitted by the Government points to a number of different policies and initiatives that are in place to tackle poverty and to some of the measures in place to support specific groups of women who are vulnerable to poverty. However, the report does not provide a detailed analysis of the causes, forms and extent of women's poverty, nor does it contain a comprehensive assessment of the impact of the measures in place to reduce and to eliminate women's poverty, as was requested by the Committee in its Concluding Observations.

The report submitted by the Government refers in detail to the Revised National Anti-Poverty Strategy (NAPS), one of the aims of which is to reduce the proportion of women who are "consistently poor" to below 2% by 2007. The Strategy also aims to increase the employment participation rate of women to an average of more than 60% by 2010.⁶⁷ However, the Government does not provide information in relation to the means by which it is monitoring these targets, and no information is provided on the level of progress that has been made in reducing female poverty since the original NAPS was launched in 1997.

The report submitted by the Government also points to the requirement under NAPS that all Government Departments poverty-proof significant areas of policy. The NAPS guidelines on poverty-proofing require policy-makers to pay particular attention to the inequalities, including gender, that lead to poverty. A study reviewing the poverty-proofing process under the original NAPS found that, while Government Departments formally poverty-proof significant policy proposals, there is little direct evidence to suggest that the poverty-proofing has seriously influenced policy formation, and no evidence that it has effected the distribution of resources.⁶⁸

4.4 Specific Groups at Risk of Poverty

In general, gender-disaggregated data on the measurement of poverty is not comprehensive or up-to-date. In particular, comprehensive and accurate data on traveller women, rural women and women with disabilities is not presently available. Moreover, households are treated as single units when data is being gathered, and the extent to which women have access to resources within the household has not been measured. As a result, the poverty women experience within the household is often hidden in the analysis. It would seem however from the data that is available that poverty tends to be concentrated among a number of specific groups of women within Irish society. Groups who are particularly vulnerable to poverty include:

⁶⁶ *Ibid.*, table 5.13.

⁶⁷ Ireland's combined 4th and 5th reports, para. 3.10. The NAPS defines "consistent poverty" as being below 50-60% of average household income and experiencing enforced basic deprivation.

⁶⁸ National Economic and Social Council, *Review of the Poverty Proofing Process*, November 2001.

4.4.1 Older Women

Older women are at a particularly high risk of living in poverty and this risk has increased significantly since 1994. In 1994, 5.5% of women over 65 years were living below the poverty line of 60% of median income (compared to 6.4% of men), whereas in 2001 that figure had risen to 50.2% of women over 65 years (compared to 36.1% of men).⁶⁹ In addition, 4.4% of older women experience “consistent poverty”.⁷⁰ High levels of poverty are especially prevalent among rural elderly women.⁷¹

A significant proportion of older women had little option but to leave the workforce upon marriage and motherhood due to a variety of factors, including: the lack of childcare arrangements; unequal rates of pay within employment; unequal tax arrangements; and the existence, until 1973, of a bar on married women working in the higher grades of the public sector. As a result, older women today do not have an occupational pension and have not had the opportunity to accumulate enough social welfare credits to qualify for the contributory pension.⁷² A significant number of older women depend on the non-contributory pension or the non-contributory widow’s pension, both of which are set at a lower rate than the contributory pension. Statistics demonstrate that persons who rely on non-contributory pensions are at a considerably higher risk of experiencing poverty.⁷³ The non-contributory pension is means-tested, and the amount granted is dependent on the overall income of the household. In general, a significant proportion of older women do not have an individualised entitlement to a pension payment that is independent of the income of their partner.

Notwithstanding the high incidence of poverty amongst older people, and particularly older women, an attempt was made in the budget of November 2003 to eliminate the availability of half-rate disability, maternity and unemployment benefits to widows and widowers receiving contributory and non-contributory pensions. While this measure was reversed due to widespread opposition from organisations representing the groups affected, the proposed cut-backs call into question the effectiveness of existing poverty-proofing mechanisms.

A Homemaker’s Scheme was introduced in 1994 which makes it easier for persons who provide full-time care for children or an incapacitated person to qualify for the contributory pension by disregarding the period they spend outside of the labour force. However, this scheme has little impact on older women as it does not apply to caring work performed before 1994.

4.4.2 Women in the Home

Women who are involved in home duties also have a high risk of living in poverty. In 1994, 20.9% of persons in home duties fell below the 60% of median income poverty

⁶⁹ *Monitoring Poverty Trends in Ireland*, 2003, table 4.19.

⁷⁰ *Ibid.*, table 5.13.

⁷¹ Layte R., Fahey T., & Whelan C., *Income, Deprivation and Well-Being Among Older Irish People*, National Council on Ageing and Older People, Report No. 55, Nov. 1999, p. 131.

⁷² *Ibid.*, p. 7, para. 29.

⁷³ *Ibid.*, p. 53, figure 3.8.

line, while in 2001 46.9% of persons in home duties fell below this poverty line.⁷⁴ One third of persons in consistent poverty are in households where the reference person is engaged in home duties.⁷⁵ As mentioned above, the Homemaker's Scheme makes it easier for persons providing full-time care to qualify for the contributory pension by disregarding the period they spend outside of the labour force. However, this scheme has little impact on women who were consistently caring for children or an incapacitated person before 1994.

4.4.3 Female Single Parents

Women who are single parents are also at a high risk of experiencing poverty. In 2001, 39.7% of persons in receipt of the one parent family allowance, 98% of whom are women, fell below the poverty line of 60% of median income.⁷⁶ The percentage of persons in receipt of one parent family allowance who were experiencing consistent poverty in 2001 stood at 17.6%. The factors that contribute to poverty among female lone parents include: low educational attainment; dependency on social welfare payments; lack of employment or low-paid employment; and the lack of affordable and accessible childcare. The lack of clear and accessible information for lone parents in relation to their social welfare entitlements also makes such families, who are already financially insecure, quite cautious in relation to taking up employment or education.⁷⁷

The report submitted by the Government lists a number of initiatives and supports that are in place for lone parents and states that measures are being developed to encourage and support lone parents to join the active labour force. However, a number of retrograde changes were made in the budget of November 2003, which had a particularly negative impact on women who are lone parents during 2004. In particular:

1. The transitional half-rate social welfare payment to ease the break from welfare to work was abolished where the single parent was earning more than €293 per week.
2. The time period for which a single parent had to be on social welfare to qualify for the back to education allowance was increased from 6 months to 15 months.
3. The creche supplement which was provided to assist disadvantaged families in covering the cost of emergency childcare was abolished.
4. A condition was introduced in relation to rent supplement that required the person to be in private rented accommodation for at least 6 months before they could receive this supplement.

While many of these measures were reversed in the budget of November 2004, these cut-backs during 2004 call into question the effectiveness of the existing poverty-

⁷⁴ *Monitoring Poverty Trends in Ireland*, p. 24, table 4.7.

⁷⁵ *Ibid.*, p. 41, table 5.11.

⁷⁶ *Ibid.*, table 4.22.

⁷⁷ National Economic and Social Forum, *Lone Parents*, Forum Report No. 20, July 2001; OPEN, *One Size Fits All? Irish Government's Failed Approach to One Parent Families 1994-2004*.

proofing mechanisms, and the Government's commitment to breaking the cycle of poverty of single parent families in a long-term and sustained manner.

4.4.4 Women with Disabilities

Women who are disabled are also at a high risk of experiencing poverty and this risk has increased from 1994 onwards. In 1994, 29.5% of ill or disabled people fell below the poverty line of 60% of median income, while in 2001 that figure had risen to 66.5%.⁷⁸ Gender-disaggregated data in relation to the numbers of women with disabilities who experience poverty is not available. However, in general women with disabilities have low levels of educational attainment and low levels of participation in the labour force, factors which make them more vulnerable to poverty.⁷⁹

4.4.5 Traveller Women

There is no recent comprehensive data in existence on the extent to which the Travelling community in general, and women Travellers in particular, experience poverty. One of the primary indicators of poverty is average life expectancy. A study carried out in 1987 pointed out that at birth female Travellers have a life expectancy 11.9 years less than that of non-Traveller females, while male Travellers can expect to live 9.9 years less than non-Traveller males. The infant mortality rate for Travellers was 18.1 per 1000 live births in 1987 compared to a national figure of 7.4 at that time.⁸⁰ In general, women Travellers have a low level of educational attainment and have low levels of participation in the labour force factors, which make them more vulnerable to poverty.⁸¹

4.4.6 Rural Women

There is no comprehensive data available in relation to levels of rural poverty in Ireland. Factors that place certain rural women at a high risk of poverty include: lack of access to employment possibilities; lack of access to childcare, which acts as a barrier to women taking up employment or training; lack of ownership of resources and independent income; poor public transport infrastructure; and constraints on access to continuing education. Only 3% of farms are in joint ownership and, out of the total number of family run farms 91% are operated by men while 9% are operated by women. While 50% of farmwomen have an independent income and social insurance coverage, the Irish Farmers' Association has identified that the remaining 50% have no independent pension rights.⁸²

4.5 Factors that Contribute to Female Poverty in Ireland

A key strategy to tackle the poverty faced by women is to break the cycle of economic dependence that many women find themselves in. While this should focus primarily on ensuring greater access to employment for women, it should also be underpinned by tax and social welfare systems that enable women's participation in the labour

⁷⁸ *Monitoring Poverty Trends in Ireland*, p. 24, table 4.7.

⁷⁹ See further Section 5, Women with Disabilities.

⁸⁰ Barry J., Herity B., & Solan J., *The Travellers Health Strategy Study: Vital Statistics of Travelling People 1987*, Health Research Board 1989.

⁸¹ See further Section 6, para. 6.2 Traveller Women.

⁸² *Report of the Advisory Committee on the Role of Women in Agriculture*, September 2000, p. 10.

force, while also recognising women's caring work. The Combat Poverty Agency, a statutory body with responsibility for advising the Government on anti-poverty measures, has stated that,

“...the causes of female poverty are quite distinct, emanating principally from **women's dependent economic status**, whether in the home, the welfare system and the workforce...tackling poverty among women requires targeted interventions, along with measures to address inequalities in access to resources between men and women.”⁸³

4.5.1 Barriers to Women's Full and Equal Participation in the Labour Force

Over the past twenty years there has been a steep increase in the number of women, particularly young women, in paid employment in Ireland. The current employment rate amongst women aged 15 to 64 years is 55.8% compared to a male rate of 75.2%.⁸⁴ In its Concluding Observations on Ireland's 2nd and 3rd periodic reports, the Committee urged the Government to ensure that,

“...legislation and policies create the **structural and systemic framework that will lead to women's long-term participation in the labour force** on a basis of equality with men.”⁸⁵

The Committee expressed concern that women continue to hold the majority of part-time jobs and to earn less than men, and that little progress is being made in assessing and valuing work of comparable value. A number of considerable barriers continue to prevent women from participating fully and equally in the labour force, and the structural framework that would allow such participation is clearly not in place.

Lack of adequate and affordable childcare

In accordance with Article 11(2)(c) of CEDAW Ireland is required to

“...encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities.”

The lack of a comprehensive system of adequate and affordable childcare provision is a critical barrier to many women entering or re-entering the labour force. Statistics demonstrate that a woman's maternal status continues to be a primary determinant of her labour force participation. In 2004 the employment rates amongst women aged 20 to 44 years with no children was 87.2%. However, for women in that age bracket who had children aged 0 to 3 the employment rate was 52.4%, and for women with children aged 4-5 their employment rate was 54.3%.⁸⁶ There is no comprehensive data currently available on the number of childcare places in Ireland.

⁸³ Combat Poverty Agency, *Giving Women an Equal Share, Submission to the National Plan for Women 2001-2005*, February 2002, emphasis added.

⁸⁴ Central Statistics Office, *Women and Men in Ireland*, December 2004, Table 1.1.

⁸⁵ A/54/38, paras. 161-201, at para. 182, emphasis added.

⁸⁶ Central Statistics Office, *Women and Men in Ireland*, 2004, Table 1.7.

The report submitted by the Government points out that under the Equal Opportunities Childcare Programme of the National Development Plan €436.7 million will be invested in childcare for the period 2000-2006.⁸⁷ This resource allocation is to be welcomed. However, the number of childcare places that the Government programme aims to provide is inadequate, given the increasing numbers of women entering the workforce. A study carried out in 1998 projected that there would be an increase of between 25% and 50% in the demand for childcare services by the year 2011. This study also stated that Irish parents spend an average of 20% of their income on childcare, which amounts to an average of €400 per month.⁸⁸ For women in low income households and for lone parents the crisis in affordable, accessible childcare services is particularly acute and acts as a substantial barrier to them taking up employment or furthering their education.

Low levels of educational attainment

The low level of educational attainment of many women acts as a barrier to their participation in the labour force. Women's labour market participation is very strongly linked to their educational attainment in Ireland, especially among younger women.⁸⁹ Women who are lone parents have low levels of educational attainment with as many as 47% having reached only primary level education.⁹⁰ Women in home duties have a low level of educational attainment, 40% having no post-primary education.⁹¹ Traveller women and women with disabilities also suffer from low general levels of educational attainment as a result of the multiple discrimination they encounter within the education system. Targeted measures that tackle low educational attainment amongst women are extremely important given the established link between the educational attainment of women and their participation in the labour force.

Women as part-time and low-paid workers

While part-time employment is engaged in by 28% of the labour force, women account for over 80% of part-time workers.⁹² Women are much more likely than men to choose part-time work because it often represents the only feasible means of combining caring work with paid employment. Part-time work is closely related to the age of a woman's children. There are a disproportionate number of female workers in the lower paid jobs of the services sector, and this plays a role in determining women's low paid position.

⁸⁷ Concluding Observations on Ireland's 2nd and 3rd periodic reports, para. 11.20.1.

⁸⁸ Goodbody's Economic Consultants, *The Economics of Childcare – Ireland*, 1998.

⁸⁹ Fahey T., Russell H., and Smyth E., "Gender Equality, Fertility Decline and Labour Market Patterns among Women in Ireland" in Nolan B., O'Connell P.J., & Whelan C.T. (eds.) *Bust to Boom? The Irish Experience of Growth and Inequality*, (Institute of Public Administration: Dublin, 2000).

⁹⁰ Department of Social and Family Affairs, *Review of the One Parent Family Payment Scheme*, September 2000.

⁹¹ Russell H., Smyth E., Lyons M., & O'Connell P., "Getting Out of the House" *Women Returning to Employment, Education and Training*, (ESRI, The Liffey Press, 2002), p. 23, table 2.8.

⁹² Central Statistics Office, *Quarterly National Household Survey*, 2003.

4.5.2 The Social Welfare System – A Male Breadwinner Model

It has long been recognised that the Irish social welfare system is based on a male-breadwinner model, in which the family or household unit is granted welfare assistance rather than the individual. The social welfare system does not adequately reflect and enable women's participation in the labour force, and it does not recognise the value of full-time caring work which is mainly carried out by women.⁹³

Lack of individualised payments

In calculating the amount of social welfare assistance to be granted, the means of the household rather than the means of the individual is used. While women can receive half of the household payment directly, they are not entitled to an individual payment in their own right. As a result of this system some women face financial disincentives to taking up employment, particularly where their partner is unemployed. In the case of female single parents this system also acts as a deterrent to entering a formal relationship where they have a partner.

A further example of the negative impact of having a system that focuses on the household rather than the individual is the limitation rule. In households where both adults are eligible for a social assistance payment in their own right (for example, where both are unemployed), the total payment to the household is reduced to 1.7 times the rate of two adult payments. There is no direct financial incentive for both adults to prove eligibility for a payment. This rule has led to a greater number of women being classed as “qualified adults” and not declaring their own specific eligibility for a social welfare payment.⁹⁴ The limitation rule also affects lone parents considering living with or marrying their partner if the partner is unemployed. By not signing on the live register to make a claim in their own right, many women are not recognised as being part of the labour force and can be excluded from a range of subsequent employment schemes and training programmes. A very small percentage of women in home duties are on the live register and therefore their access to training courses is limited by this requirement.

The social welfare system should be reformed to ensure that all women in receipt of social welfare receive an individualised payment.⁹⁵ This should move beyond a simple administrative change – whereby existing payment is divided in two – to one where a woman can apply for, and be entitled to, a full welfare payment in her own right.⁹⁶

⁹³ National Women's Council of Ireland, *A Woman's Model for Social Welfare Reform*, April 2003; Combat Poverty Agency, *Giving Women an Equal Share, Submission on the National Plan for Women 2001-2005*, February 2002.

⁹⁴ A person can claim a payment for a “qualified adult” (for non old-age payments this is usually 70% of the adult payment) when the claimant can prove a spouse or partner does not have a social welfare payment in their own right or earn adequate income from employment.

⁹⁵ Combat Poverty Agency, *Giving Women an Equal Share, Submission on the National Plan for Women 2001-2005*, February 2002.

⁹⁶ The National Women's Council of Ireland has carried out a thorough examination of this issue and has made a number of important recommendations in this regard in their report entitled, *A Woman's Model for Social Welfare Reform*, April 2003.

Lack of recognition of caring work

The majority of unpaid caring work is carried out by women. Sixty-one per cent of persons engaging in caring work are women, and 34% of the total number of women carers spend between 29 to 43 or more hours per week carrying out caring work. A significant proportion of women (39%), who engage in caring work look after the family and home and therefore have no independent income. However, only 4.3% of men who engage in caring work look after family and home.⁹⁷ The principal payment for caring, the Carer's Allowance, is determined according to the household means rather than on the basis of the woman's care responsibilities.⁹⁸ The maximum weekly care rate is €139.60 for carers under the age of 66 and €157.80 for those over 66. No value is placed on the demands of the caring role, and often female carers remain financially dependent on their partner's income. The Carer's Benefit which was introduced in October 2000 is for people who give up work to care on a short term basis and who have enough PRSI contributions. In July 2002 there were 19,405 recipients of Carer's Allowance and 450 recipients of Carer's Benefit.⁹⁹

Full-time carers should have a greater entitlement to accumulate social welfare credits in a similar manner to a person engaging in the formal workplace. The Combat Poverty Agency have stated that the key route to individualisation of social welfare payments is through expanding social insurance coverage for women, rather than introducing means-testing on an individual basis. This would involve a redefinition of how social insurance credits can be accumulated, including more credits for full-time care.¹⁰⁰

4.6 List of Recommended Questions for the CEDAW Committee:

- a. What progress has been made in meeting the target set by the National Anti-Poverty Strategy of reducing the number of women in consistent poverty below 2%? How is the gender poverty target in the NAPS being monitored, and what impact has the poverty-proofing process had on Government policy in relation to the poverty women experience?**

- b. What impact has Government investment had in providing adequate and affordable childcare? How many childcare places will be needed over the next ten years and does the Government expect to meet the projected need?**

⁹⁷ Census 2002, Volume 10 Disability and Carers, table 46A.

⁹⁸ In order to qualify to a carer's allowance the carer must: (a) be living with or in a position to provide full-time care and attention to a person in need of care who is not living in long stay care; (b) be at least 18 years old and (c) must not be engaged in employment or self-employment outside the home for more than 10 hours a week.

⁹⁹ Irish Human Rights Commission, *Older People In Long Stay Care*, April 2003.

¹⁰⁰ Combat Poverty Agency, *Giving Women an Equal Share, Submission on the National Plan for Women 2001-2005*, February 2002.

4.7 **Recommendations:**

- a. **The IHRC recommends that, in accordance with the Government's obligation to promote the full advancement of women and its commitments under the Beijing Platform, steps should be taken to effectively incorporate a gender and poverty perspective into all aspects of economic policy-making. The IHRC further recommends that an effective gender impact analysis of all economic policies and anti-poverty measures should be conducted.**

- b. **The IHRC recommends that targeted measures should be put in place to reduce and prevent the poverty of groups of women who are at a high risk of experiencing poverty. In particular:**
 - (i) **Older Women: The IHRC recommends that the Homemaker's Scheme should be extended retrospectively in recognition of the caring work that older women engaged in before 1994. This would enable a greater number of older women to avail of the higher rate contributory pension.¹⁰¹ Moreover, the amount of the non-contributory pension should be adequate and should be indexed to average earnings growth in the economy.**

 - (ii) **Women in the Home: The IHRC recommends that women who are involved in full-time caring in the home should have a greater entitlement to accumulate social welfare credits in a similar manner to a person working in the formal workplace. In addition, full-time carers should be entitled to a carer's allowance that is independent of the income of their partner and that provides adequate recompense for the demands of full-time caring work.**

 - (iii) **Female Single Parents: The IHRC recommends that long-term targeted measures should be put in place in a continuous and sustained manner to address the low educational attainment of lone parents and to encourage their participation in the labour force.**

 - (iv) **Women with Disabilities: The IHRC recommends that immediate steps should be taken to gather comprehensive data on the extent to which women with disabilities experience poverty.**

 - (v) **Traveller Women: The IHRC recommends that immediate steps should be taken to gather comprehensive data on the**

¹⁰¹ The Equality Authority in *Implementing Equality for Older People*, June 2002, has also made this recommendation, as have the National Women's Council of Ireland and the National Council on Ageing and Older People.

extent to which women within the Travelling community experience poverty and the factors that cause such poverty.

- (vi) Rural Women: The IHRC recommends that immediate steps should be taken to gather comprehensive data on poverty amongst rural women. In addition, the IHRC recommends that measures should be put in place to encourage joint ownership of farms and to ensure that women's unpaid work on the farm is recognised.**
- c. In order to ensure that a support framework is put in place that will lead to women's long-term participation in the labour force on an equal basis as men, the IHRC recommends:**
- (i) The Government should ensure that adequate and affordable childcare is available to all families and that a sufficient number of childcare places to keep in line with the projected number of places required.**
 - (ii) The Government should provide special childcare schemes for particular groups of women who have a low participation in the labour force and who are at a high risk of poverty.**
- d. The IHRC recommends that the Social Welfare system should be reformed to provide each person with an individual entitlement. As part of the process of individualisation, social insurance coverage should be expanded to recognise the types of work that more women than men engage in. The means by which social insurance credits are accumulated should be redefined to recognise full-time caring work.**
- e. The IHRC recommends that the Government should put in place targeted measures that emphasise the shared responsibility of men and women for caring for the family.**

5. Women with Disabilities

5.1 Relevant International Human Rights Standards

In accordance with its obligations under CEDAW, Ireland is required not only to eliminate discrimination against women in all its forms, but also to take all appropriate measures in all fields to ensure the full development and advancement of all women. Ireland is also required to put in place temporary special measures to accelerate the achievement of equality of women with men as part of a necessary strategy to advance the equality of women.¹⁰² For groups of women who experience multiple discrimination the Committee has emphasised that targeted temporary special measures may be required to address their particular situation.

The CEDAW Committee has stipulated that the States parties to CEDAW should provide specific information on disabled women in their periodic reports. In particular, States parties are required to provide information on the measures taken to deal with the particular situation of disabled women, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.¹⁰³

The Committee on Economic, Social and Cultural Rights has also highlighted the fact that the “double discrimination suffered by women with disabilities is often neglected.” The Committee has recommended that the States parties should address the situation of women with disabilities, with high priority being given in the future to the implementation of economic, social and cultural rights-related programmes.¹⁰⁴

5.2 Review of Government Policies in Relation to Women with Disabilities

Women with disabilities in Ireland suffer multiple forms of discrimination. They encounter discrimination against them as women, and they encounter discrimination against them as disabled women.¹⁰⁵ The legislative and policy initiatives that have been put in place to advance the equality of women have failed to address the specific discrimination suffered by women with disabilities, as have the measures that have been designed to advance the equality of people with disabilities. Only a very limited number of measures have targeted women with disabilities, and the impact and effectiveness of these measures has not been adequately monitored.

¹⁰² General Recommendation 25.

¹⁰³ General Recommendation 18, Disabled Women, A/46/38.

¹⁰⁴ Committee on Economic, Social and Cultural Rights, General Comment 5, Persons with Disabilities, E/1995/22, para. 19.

¹⁰⁵ *Report of the Commission on the Status of People with Disabilities*, 1996, para. 17.2. The term “disabled woman” is considered to be the most appropriate term by some disabled women who argue that this term most accurately describes the disabling affect of the environment and society on disabled women. Others feel that the term tends to exaggerate her disability and describe her as a victim of it, and prefer the term “woman with a disability”. These two terms are used interchangeably in this submission.

The Government's report lists a number of policy initiatives that are in place to promote the rights of women with disabilities in accordance with Article 3 of CEDAW.¹⁰⁶ However, no information is provided on the impact of the various measures listed, and the extent to which these measures are promoting the full development and advancement of women with disabilities is unclear.

The measures listed in relation to women with disabilities in the report submitted by the Government include the implementation of the recommendations of the Report of the Commission on the Status of People with Disabilities and the Equality for Women Measure. This section critically examines the effectiveness of the measures listed.

- **Progress Report of the Commission on the Status of People with Disabilities**

A number of specific recommendations were made in relation to women with disabilities in the Report of the Commission on the Status of People with Disabilities 1996. The first Progress Report of the Commission to which the Government report refers demonstrates that in 1999 very little progress had been made in implementing the extensive recommendations of the Commission in relation to women with disabilities. A follow-up progress report has not been carried out, and it is unclear whether a progress report will be carried out in the future. Therefore, the extent to which the recommendations in the 1996 and 1999 reports of the Commission are being implemented is unclear and is not being effectively monitored.

- **Equality for Women Measure**

The Equality for Women Measure is an initiative that provides funding to support work that is specifically focussed on improving the opportunities of women. The measure is being funded by the Government, and partly funded by the European Union under the National Development Plan 2000-2006. The programme of work under the Measure is divided into eight key strands: access to employment, education and training; career development for women; entrepreneurship among women; disadvantaged women and women over 50; promoting gender balance in decision-making; gender proofing personnel practices; development of family friendly policies and programmes of research. A total of 70 projects have been funded under the Equality for Women Measure. Only 4 of those projects focus specifically on women with disabilities.¹⁰⁷ A small number of women with disabilities also participate in the mainstream projects under the Equality for Women Measure. Of the 4982 women participating in the Equality for Women Measure only 112 (2.25 %)

¹⁰⁶ Ireland's combined 4th and 5th reports, para. 3.31.

¹⁰⁷ In 2004 these included a project of Cavan Partnership which had 26 participants with disabilities and which provided specific employment training. The Carlow County Council project catered for 26 persons with disabilities and again provided education and training. The St. John of God project was directed at teaching 18 women with learning disabilities to understand personal relationships to enable them to work in the community. Finally, the National Training and Development Institute project catered for 10-15 women with disabilities and aimed to develop a national network of women with disabilities that will promote their concerns in relation to education, training and employment.

them are women with disabilities.¹⁰⁸ The funding of projects under this measure runs until 2006, and it is unclear what programmes will be put in place after 2006 to advance the development of women with disabilities.

5.3 Effective Rights-Based Disability Legislation

A recommendation was made eight years ago by the Commission on the Status of People with Disabilities that a comprehensive rights-based legislative framework should be put in place to set out the specific rights of people with disabilities, to define the duties of service providers and to provide a mechanism for redress where the rights of persons with disabilities are not adequately provided for. Following a protracted delay the Disability Bill was finally published in September 2004 and was referred to the Irish Human Rights Commission by the Minister for Justice, Equality and Law Reform pursuant to section 8(b) of the Human Rights Commission Act 2000. The Commission submitted detailed observations on the provisions of the Bill and identified a number of areas of the Bill that fail to comply with the relevant international human rights standards. The main areas of concern in relation to the Disability Bill are as follows:

1. There is a general exclusion of court proceedings to assess the adequacy of an independent assessment of needs except on a point of law. The standard of justiciability required by international human rights law is effectiveness. Any proposals to exclude judicial remedies must be accompanied by evidence that proposed administrative mechanisms will provide effective alternative remedies. In its assessment of the Bill the Commission found many aspects of the administrative remedies proposed in the Bill do not meet the standards of effectiveness.
2. The Bill fails to develop a new mechanism for ensuring either basic levels of services to persons with disability or a binding framework which would guarantee the progressive realisation of rights.
3. The nature of commitment to making public buildings accessible is weak and in many aspects the obligations on public bodies contained in the Bill are unenforceable.
4. The definition of disability contained in the Bill does not reflect international standards and is narrower than the definition contained in the Equal Status Act 2000.

5.4 Statistical Data on Women with Disabilities in Ireland

In General Recommendation 9 the CEDAW Committee recommends that States parties should make every effort to ensure that their national statistical services disaggregate the data they collect in terms of gender, with regard to both absolute numbers and percentages, so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested. In Strategic Objective H3 of the Beijing Platform for Action the Government made a commitment to generate and disseminate gender-disaggregated data and information for planning and evaluation. In particular, one of the actions States are required to take is to

¹⁰⁸ Information supplied by the Equality for Women Measure.

“[i]mprove concepts and methods of data collection on the participation of women and men with disabilities, including their access to resources”.¹⁰⁹

The Government’s report does not provide any statistical information on the number of women with disabilities in Ireland, the nature of their disabilities and the extent to which women with disabilities have access to education, employment, health care, and social security. There is no comprehensive source of gender-disaggregated statistical information in relation to people with disabilities in Ireland. This significant lack of data greatly limits the extent to which the situation of women with disabilities in Ireland can be measured and the extent to which effective policies can be formulated to advance the equality of women with disabilities and address the barriers that they face in many different aspects of their lives. The lack of a common definition of disability between agencies generating statistics in relation to people with disabilities is also preventing the collection of meaningful data. A common definition which is based on the social and human rights model of disability should be adopted by all those gathering statistics in relation to people with disabilities.¹¹⁰

The most recent Census of Population included a specific question on disability for the first time, the results of which are disaggregated by gender. In answer to the census form 2002, 8.26% of the population classified themselves as having a disability and/or long term illness. Women account for 54% of persons with a disability and/or long term illness in Ireland. However, the Census of Population provides limited information on the levels of participation of women with disabilities in employment and education and does not provide any detailed information on the levels of participation of women with disabilities in other aspects of political, social and cultural life.

5.5 Education and Training for Women with Disabilities

In General Recommendation 5 the Committee on Economic, Social and Cultural Rights states:

“School programmes in many countries today recognise that persons with disabilities can best be educated within the general education system....In order to implement such an approach, States should ensure that teachers are trained to educate children with disabilities within regular schools and that the

¹⁰⁹ Beijing, Platform for Action 1995, Strategic Objective H3, para. 206 (k).

¹¹⁰ The UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities state that the term “disability” summarises a great number of different functional limitations occurring in any population in any country of the world. People may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness. Such impairment, conditions or illnesses may be permanent or transitory in nature. The term “handicap” means the loss or limitation of opportunities to take part in the life of the community on an equal level with others. It describes the encounter between the person with a disability and the environment. The purpose of this term is to emphasise the focus on the shortcomings in the environment and in many organised activities in society, for example, information, communication and education, which prevent persons with disabilities from participating on equal terms.

necessary equipment and support are available to bring persons with disabilities up to the same level of education as their non-disabled peers.”¹¹¹

Level of educational attainment of women with disabilities

Primary school level is the highest level of education completed by 43% of disabled people aged 15 years and over, 42% of disabled women and 44% of disabled men. In contrast for 18% of the general population aged 15 years and over primary school level is the highest level of education completed. Secondary school level is the highest level of education completed by 32% of disabled people aged 15 years and over, 33% of disabled women and 31% of disabled men. Finally, third level education is the highest level of education completed by 9% of disabled people aged 15 years and over, 9.2% of disabled women and 8.8% of disabled men. This compares with a rate of 21% who complete third level education in the general population.¹¹²

One survey demonstrates that the participation rate of people with disabilities in third level education is very low at 1.1% of the total undergraduate population attending universities and institutes of technology.¹¹³ Of all those people with disabilities enrolled in their first year of third level education, 63% are male while only 37% are female. This contrasts with the overall participation rate of women in third level education in Ireland which stands at 54%.¹¹⁴ When considered by institutional type, the institutes of technology reported that 73% of first year students with disabilities are male and 27% are female.

In further education, the overall rate of participation of disabled people is quite low, standing at 3%.¹¹⁵ Gender-disaggregated data in relation to the participation rates of women with disabilities in the various further education schemes is not available.

These statistics indicate that women with disabilities have a far lower level of educational attainment than the general population, and have a lower rate of participation in third level education than disabled men. This suggests that there exists a systemic inequality in relation to access to adequate and effective education for women with disabilities.

¹¹¹ General Comment 5, Committee on Economic, Social and Cultural Rights, para. 35.

¹¹² Census 2002, Volume 10 Disability and Carers, Table 23.

¹¹³ AHEAD, *Initial Findings of HEA Survey on Participation Rates and Provision for Students with Disabilities in Higher Education for the Academic Year 1998-1999*.

¹¹⁴ Ireland's combined 4th and 5th periodic reports, p. 56.

¹¹⁵ Further education in Ireland is understood as education and training which takes place after second level but which is not part of the third level system. Further education is delivered through networks of Vocational Education Committees and community groups. Further education is an important option for people with disabilities seeking to improve their educational and vocational skills with a view to entering the open labour market.

Barriers to accessing education

The legislative framework that provides for the education of people with disabilities has improved in recent years with the enactment of the Education Act 1998 and the more recent enactment of the Education for Persons with Disabilities Act 2004. The IHRC submitted observations to the Government on what was previously called the Education for Persons with Special Educational Needs Bill 2003 and expressed some concerns in relation to the formulation of mainstreaming in the Bill and the proposed appeal and complaints mechanism where mainstream services are not provided.¹¹⁶

In general, a commitment has been made to educate children with disabilities in mainstream education and this is a very welcome development. However, the extent to which primary, secondary and third level education establishments are accessible physically, educationally and socially to people with disabilities does not reflect the commitments made in policy documents and legislation. There has been inadequate implementation and resource allocation to ensure that mainstream education is fully accessible to people with disabilities. One study demonstrates that only 17% of second-level schools were estimated to be fully physically accessible. For example, although almost two thirds of all second-level schools are multi-storey, only 14% of these are equipped with a lift.¹¹⁷

The commitment to mainstreaming in education has not been matched by an adequate allocation of resources to make mainstream education an adequate and effective form of education for people with disabilities.

5.6 Employment for Women with Disabilities

General Recommendation 5 of the Committee on Economic, Social and Cultural Rights points out that the field of employment is one in which disability-based discrimination has been prominent and persistent. The Committee states that the integration of persons with disabilities into the regular labour market should be actively supported by States parties. In addition, the Committee states that governments should develop policies which promote and regulate flexible and alternative work arrangements that reasonably accommodate the needs of disabled workers. Technical and vocational guidance and training programmes should reflect the needs of all persons with disabilities, take place in integrated settings, and be planned and implemented with the full involvement of representatives of persons with disabilities.¹¹⁸

Women with disabilities have a low level of participation in the labour force

According to the Census of Population the participation rate of people who defined themselves as having a disability and/or long term illness in the labour force is 18.5%. The percentage of women with disabilities in the labour force as a percentage of all women with disabilities aged 15 to 64 years is 25%. In contrast, the percentage of

¹¹⁶ IHRC, *Preliminary Observations on the Education for Persons with Disabilities Bill 2003*, September 2003.

¹¹⁷ AHEAD, *Survey of Students with Learning Difficulties and/or Disabilities in Second-Level Schools in the Republic of Ireland*.

¹¹⁸ General Comment 5, Committee on Economic, Social and Cultural Rights, para. 20.

men with disabilities in the labour force as a percentage of all men with disabilities aged 15 to 64 years is 40%. This may be compared with the overall participation rate of women and men in the Irish labour force which is 49.7% and 71% respectively.¹¹⁹ Therefore, women with disabilities are far less likely to be participating in the labour force than men with disabilities, non-disabled women and non-disabled men.

Women with disabilities who are in employment are more often concentrated in low skilled and low paid jobs. Within the civil service which sets a 3% target for the employment of persons with disabilities, 45% of those employed who have a disability are women. A smaller number of women with disabilities are represented in the higher grades of the civil service while a larger number are represented in the lower grades of the civil service. Four men with disabilities have reached the grade of Principal Officer which is the highest grade held by a disabled person, while no disabled woman has reached this grade. Thirty-five per cent of disabled persons who hold the grade Higher Executive Officer are women, while at the lowest grade, Clerical Officer, 56% of disabled persons at this grade are women.¹²⁰

These statistics suggest that there is a systemic inequality in relation to access to employment for women with disabilities. The extremely low level of participation of women with disabilities in the labour force in comparison to men with disabilities, non-disabled women and non-disabled men illustrates the impact of multiple discrimination on women with disabilities in terms of their ability to access employment.

Barriers to employment for women with disabilities

One of the barriers preventing women with disabilities from entering employment is the loss of primary and secondary benefits, particularly the medical card. A medical card entitles the holder to health services free of charge. However, the medical card is means tested so that where, for example, a single person living alone has an income of over €142.50 per week, they are not entitled to a medical card. This has been identified by the National Disability Authority as a major barrier to people with disabilities who wish to take up employment.

The lack of sufficient and affordable childcare is also a major barrier for women in general seeking employment, and this also affects women with disabilities.

The low educational attainment of women with disabilities also acts as a barrier to disabled women's participation in the labour force. A study carried out in 2000 noted that "for women there is a very substantial link between educational levels and participation in the labour force, and a comparative absence of such a link between

¹¹⁹ Census 2002, Volume 10 Disability and Carers, Table 11. "In the labour force" is defined under the Census as at work or unemployed, (a) looking for first regular job or (b) unemployed, having lost or given up a previous job.

¹²⁰ Murphy C., Drew E., Humphreys P., Leigh-Doyle S., O' Riordan J. & Redmond S., *Employment and Career Progression of People with a Disability in the Irish Civil Service*, p. 28.

men”.¹²¹ Therefore low educational attainment acts as a greater barrier for women with disabilities when they are seeking employment.

The lack of information and awareness amongst women with disabilities and prospective employers about the various support schemes that are available to promote the integration of people with disabilities into the workforce is also a barrier.

5.7 **Violence Against Women with Disabilities**

In General Recommendation 19 the CEDAW Committee states that States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women. States parties to CEDAW are required to compile statistics and research on the extent, causes and effects of violence against women. Moreover, States parties are required to ensure that services for victims of violence are accessible to all women.

In its Concluding Observations on Ireland’s 2nd and 3rd periodic reports, the Committee requested Ireland to include in its next periodic report

“comprehensive statistical information on the types and frequency of violence against women, including domestic violence, the number of complaints brought by women and the results of investigations”.

While the Government report does provide information on domestic violence, it does not provide any information on the type and frequency of violence against women with disabilities or the number of complaints brought by women with disabilities in relation to violence. There is no comprehensive research in existence in Ireland on the extent to which women with disabilities experience violence, the type of violence they experience or the extent to which services for women experiencing violence are accessible for women with disabilities. However, research that has been carried out in other countries suggests that disabled women are particularly vulnerable to violence and abuse.¹²²

A preliminary scoping study carried out in Ireland reveals that violence against women with disabilities is largely a hidden problem. The forms of violence against disabled women range over a wide spectrum and often depend on the context in which the violence occurs.¹²³ The possibilities for women with disabilities to leave their violent situation are often extremely limited due to a number of factors including inaccessible services, lack of accessible information for women with disabilities, the

¹²¹ Department of Social, Community and Family Affairs, *Report of the Working Group on Women’s Access to Labour Market Opportunities*, 2000, p. 71.

¹²² Canadian Abilities Foundation, 1995; Turk and Brown *The sexual abuse of adults with learning disabilities: Results of a two-year incidence study*, (1993) *Mental Handicap Research* 6(3); Brown, Stein and Turk *The sexual abuse of adults with learning disabilities: Report of a second two year incidence survey*, (1995) *Mental Handicap Research* 8(1).

¹²³ Wilson N., *Violence Against Disabled Women*, Report on a consultation carried out by Women’s Aid on the feasibility of carrying out research, November 2001.

institutionalised setting in which many women with disabilities live and the lack of awareness that women with disabilities can also be victims of violence.

In the health service disabled women are particularly vulnerable to mistreatment in closed environments, such as residential institutions and rehabilitation centres. Within the medical setting, inappropriate medical procedures that disabled women have been subjected to, without their consent, undermine their bodily integrity. Within institutions inappropriate care practices, including over-medication, inappropriate restraint and rough handling, can undermine the bodily integrity of disabled women. Also, within the family and intimate relationships disabled women are vulnerable to physical, sexual and psychological abuses.¹²⁴

Services for women with disabilities experiencing violence

A limited number of the organisations working to address violence against women have the specific training or the expertise to respond to the needs of disabled women experiencing abuse. Practical barriers, such as lack of physical access and lack of access to information, can make it very difficult for women with disabilities to access services for women who are experiencing violence.¹²⁵

There are currently 42 dedicated domestic violence services in Ireland, 18 refuges and 24 support services. Of the 18 refuges, 3 are fully accessible to disabled women, including a fully accessible accommodation unit. A further 9 refuges can accommodate disabled women, while 5 refuges are not accessible. One of these 5 refuges is currently being refurbished and will be fully accessible¹²⁶ when finished.

There are 18 rape crisis centres in Ireland located throughout the country. Of the 18 centres, only 1 describes their facilities as fully wheelchair accessible, while 6 centres state that they can provide an alternative room which can accommodate a woman in a wheelchair. Four of the rape crisis centres stated that a member of their staff had the expertise to cater for the needs of women with disabilities or had received specific training in this regard. Many of the rape crisis centres state that they disseminate information about their services and liaise with the relevant organisations, including health boards and disability organisations.¹²⁷

The lack of adequate funding for the organisations working in the area is the major barrier preventing them from making their services fully accessible to women with disabilities. There has been no additional funding made available to refuges and support services dealing with women experiencing violence since 2002, and this is

¹²⁴ *Ibid.*, p. 7.

¹²⁵ *Ibid.*, p. 9. The National Disability Authority and Women's Aid have written a booklet outlining the steps that organisations working to address violence against women and disability organisations should take to respond to violence against women with disabilities.

¹²⁶ Figures provided by the National Network of Women's Refuges and Support Services.

¹²⁷ *National Directory of Services for Women who have Experienced Violence or the Threat of Violence*, National Steering Committee on Violence against Women, December 2000.

currently limiting their ability to respond effectively to the needs of women with disabilities.

In 1997 the Report of the Task Force on Violence Against Women recognised that abused women and their children can be further isolated by discrimination on grounds of disability.¹²⁸ The Task Force recommended that in the implementation of all policy and practice the needs of women from marginalised groups, including disabled women, should be taken into account at all times.¹²⁹ The National Steering Committee on Violence Against Women was established in 1997 to co-ordinate and advise on the ongoing development of policies in relation to violence against women and to undertake research and needs assessment nationally. In relation to women with disabilities, the First Report of the Steering Committee 1999 states that the National Network of Rape Crisis Centres will provide training for all network centres in disability awareness.¹³⁰ The report also points to the enactment of the equal status legislation and the national plan on women's health.¹³¹ However, the National Steering Committee has not examined the specific needs of disabled women who experience violence and has not examined current policy or practice from the perspective of disabled women.

5.8 List of Recommended Questions for the CEDAW Committee:

- a. What impact have the programmes funded under the Equality for Women Measure had on the lives of women with disabilities and does the Government intend to continue to fund and extend these programmes?**
- b. What specific steps are being taken to ensure that women with disabilities have access to mainstream employment? Does the Government consider that temporary special measures should be put in place to accelerate the achievement of equality for women with disabilities, given their low level of participation in employment?**
- c. What steps are the Irish Government taking to gather statistics concerning the frequency and type of violence experienced by women with disabilities?**

5.9 Recommendations:

- a. The IHRC recommends that comprehensive gender-specific data on women with disabilities should be gathered and updated in a regular manner. In addition, specific research should be carried out on the situation of women with disabilities in Ireland.**

¹²⁸ *Report of the Task force on Violence Against Women*, (Government Publication, 1997).

¹²⁹ *Ibid.*

¹³⁰ First Report of the National Steering Committee on Violence Against Women.

¹³¹ *Ibid.*, p. 12.

- b. The IHRC recommends that temporary special measures should be put in place to increase the participation of women with disabilities at all levels of education, in particular third level education where disabled women are more disadvantaged compared to disabled men and the men and women in the general population. For example, resources should be allocated to substantially increase the number of education programmes for women with disabilities who have left mainstream education at an early age. Moreover, women with disabilities should be targeted for enrolment by third level institutions.**
- c. The IHRC recommends that targeted temporary special measures should be put in place to increase the participation of women with disabilities in the labour force where women with disabilities are markedly disadvantaged compared to disabled men and men and women in the general population. For example, women with disabilities should be targeted for recruitment, hiring and promotion in the public and private sectors. Moreover, existing quotas in the public sector should be enforceable and monitored effectively. Resources should be allocated to substantially increase the number of training programmes for women with disabilities such as those funded under the Equality for Women Measure.**
- d. The IHRC recommends that the Government should carry out comprehensive research on the experience of violence by disabled women taking into consideration the various contexts in which disabled women live, in particular institutional settings.**
- e. The IHRC recommends that specific funding should be allocated to services working with women experiencing violence to enable them to make their services accessible to women with disabilities.**

6. Migrant Women and Women of Racial and Ethnic Minorities

6.1 Relevant International Human Rights Law

Women from racial and ethnic minorities and migrant women in Ireland often experience multiple barriers in accessing the full range of their human rights. In its General Recommendation 25, the Committee observed,

“Certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such multiple discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple discrimination against women and its compounded negative impact on them.”¹³²

The Committee on the Elimination of All Forms of Racial Discrimination also points out that racial discrimination does not always affect women and men equally and that there are circumstances where racial discrimination only or primarily impacts on women.¹³³ This Committee requires States parties to develop a systematic and consistent approach to evaluating and monitoring racial discrimination against women, as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights on grounds of race, colour, descent, or national or ethnic origin.¹³⁴

In the Beijing Platform for Action Ireland made a commitment to intensify its efforts to ensure that women and girls who face multiple barriers to their empowerment and advancement because of such facts as their race, ethnicity or culture, have equal access to all their human rights and fundamental freedoms.¹³⁵

6.2 Traveller Women

6.2.1 Lack of Data on Traveller Women

In general, there is a lack of up to date and comprehensive gender-disaggregated data on the Travelling community in Ireland. For example, there is currently no systematic or regular gathering of data relating to the health status of Travellers and there has been no significant statistical analysis of Traveller’s health since 1986.¹³⁶ The major barrier to achieving this is the absence of any specific identifier of Travellers within

¹³² General Recommendation 25.

¹³³ Committee on the Elimination of All Forms of Racial Discrimination, General Recommendation XXV, A/55/18, para. 1.

¹³⁴ *Ibid.*, para. 3.

¹³⁵ Beijing Platform for Action 1995, para. 46.

¹³⁶ Barry & Ors., Health Research Board, 1987; Traveller Health, A National Strategy 2002-2005, para. 5.1.

the existing health data-gathering systems in use in hospitals or the community.¹³⁷ In general, there is no specific data gathered on the extent to which Traveller women and men participate in a broad range of areas. This lack of data undermines the ability of the Government and other service providers to gain a comprehensive understanding of the situation of the Travelling community. It also prevents us from gaining a full understanding of the intersection of gender and ethnicity. In addition, having available comprehensive statistical data is an essential part of the development of effective policies and strategies to tackle the problems facing Traveller women.

6.2.2 Health Status of Traveller Women

A health survey carried out in 1987 revealed that Traveller women have a life expectancy which is on average 12 years less than women in the general population, and Traveller men have a life expectancy 10 years less than men in the general population.¹³⁸ As no similar study has been carried out since 1987, it is impossible to determine if Traveller's life expectancy has improved. However, since Traveller's remain disadvantaged in other areas of health status and access to health services generally, the Traveller Health Strategy states that it is reasonable to assume that there has been little, if any, improvement since that time.¹³⁹ The infant mortality rate amongst the Travelling community is 18.1 per 1000 live births compared to a national figure of 7.4 and the stillbirth rate is 20 per 1000 live births compared to a national figure of 5.4. A study also demonstrates that 34% of Traveller women suffer from long term depression compared to approximately 9% of the general population. This suggests that the high level of disadvantage experienced by the Travelling community can be linked to the high prevalence of depression, particularly amongst Traveller women.

The report submitted by the Government states that a key target in the National Anti-Poverty Strategy is the reduction of the gap in life expectancy between the Traveller community and the overall population by 10 years by 2007.¹⁴⁰ However, the Government report does not provide any information on the extent to which this key target is being progressively realised. In any case, this target will be extremely difficult to monitor given the lack of data on Traveller health.

The Traveller Health Strategy 2002-2005 contains a realistic proposed action plan to improve the health status of the Travelling community. This plan identifies a number of key actions to improve the health status of Traveller women including improving access to information on ante and post-natal care and family planning and sexual reproductive health; as well as improving access to support services for Traveller women experiencing violence. It is essential that the proposed actions in this strategy are realised in practice within the time period specified.

6.2.3 Accommodation and Traveller Women

The report submitted by the Government states that the provision of proper accommodation for the Travelling community in houses or serviced caravan sites,

¹³⁷ *Ibid.*

¹³⁸ Barry & Ors., Health Research Board, 1987.

¹³⁹ *Ibid.*

¹⁴⁰ Ireland's combined 4th and 5th reports, p. 17.

according to the wishes of the Travelling community themselves, has been Government policy for over twenty years.¹⁴¹ In 1995 the Report of the Task Force on the Travelling Community recommended that 3100 new accommodation units were required by 2000 to provide proper accommodation for the Travelling community consisting of 2200 halting site bays and transient bays, and the 900 units of standard and group housing. However, statistics from 2002 demonstrate that the Government has made very little progress in providing suitable Traveller accommodation. Only 251 extra families have been provided with halting site accommodation, 192 families with group housing and 665 with standard housing.¹⁴² The Housing (Traveller Accommodation) Act 1998 which requires each of the local authorities to adopt a five year programme for the provision of accommodation for Travellers and to take “reasonable steps” to implement that programme has not been adequately implemented. There are no sanctions against local authorities who fail to provide suitable accommodation. As a result of the failure of local authorities to carry out their statutory duty in 2003 from the Department of the Environment 788 Traveller families continue to live on the roadside without access to water, sanitation and electricity.¹⁴³ Many other Travellers live in official accommodation that is poorly serviced and maintained, and often situated in unhealthy and dangerous conditions.¹⁴⁴ In addition, 323 Traveller families are living in shared accommodation, while many others have been accommodated in temporary accommodation for extended periods of time.

Traveller women predominantly carry out the domestic work within Travelling families, caring for children and the elderly.¹⁴⁵ Statistics from the Census 2002 demonstrate that 43% of Traveller women classified themselves as looking after the family and home, while only 2.6% of Traveller men look after the family and the home. Groups representing Traveller women assert that the living environment of Traveller women has a particularly detrimental impact on their quality of life and health. The Traveller Health Strategy states that “there is little doubt that the living conditions of Travellers are probably the single greatest influence on health status...it is clear that an immediate improvement to the living environment of Travellers is a prerequisite to the general improvement in health status.”¹⁴⁶

In 2002 the Government enacted the Housing (Miscellaneous Provisions) Act which made trespass which was previously a civil offence, a criminal offence. Camping on public or private land is now punishable by one month imprisonment or a fine or by the confiscation of property including caravans. This legislation criminalises Traveller families who are obliged to trespass on land because of the failure by local

¹⁴¹ Ireland’s combined 4th and 5th reports, p. 17, para. 3.12.1.

¹⁴² Irish Traveller Movement, Pavee Point and National Traveller Women’s Forum, Submission to the Department of Environment, Heritage and Local Government on the Review of the Housing (Traveller Accommodation) Act 1998.

¹⁴³ Department of the Environment, Traveller Families in Local Authority and Local Authority Assisted Accommodation and on unauthorised sites, Annual Count 2003.

¹⁴⁴ National Traveller Women’s Forum and Pavee Point Traveller’s Centre, *A Submission to the National Action Plan for Women*, February 2002, p. 34.

¹⁴⁵ See further Murray C., *Pavee Children A study on Childcare issues for Travellers*, Pavee Point Publications, 1997.

¹⁴⁶ Traveller Health, *A National Strategy 2002-2005*, para. 4.14.

housing authorities to provide suitable accommodation in accordance with their statutory obligation under the Housing (Traveller Accommodation) Act 1998.

6.2.4 Access to Education and Employment for Traveller Women

According to the Census 2002, primary school education is the highest level of education reached by 54% of the Travelling community who are aged over 15 years (this contrasts to 18% of the general population). A significant proportion of Traveller children under the age of 15 years leave school early, 63.2%, compared to a national average of 15.4%. In addition, Traveller women have a significantly lower rate of participation in the labour force than Traveller men, and men and women in the general population. Amongst Traveller men aged 15 years and over, 72% are in the labour force compared to 37% of Traveller women aged 15 years and over. This may be compared with the overall participation rate of men and women in the Irish labour force, which is 71% and 49.7% respectively. A significant proportion of Traveller women who are not in the labour force, 43%, are looking after the family and home, while only 2.6% of Traveller men not in the labour force are classified as looking after the family and home.

One of the primary barriers to Traveller women participating in education and employment is their experience of individual and institutional racism within the education system and when attempting to gain access to employment.¹⁴⁷ The generally low level of educational attainment amongst Traveller women further limits their access to employment. The lack of affordable and culturally appropriate childcare for Traveller women limits their access to further education courses and also to employment.¹⁴⁸

6.3 Women Migrant Workers

There has been a significant increase in the numbers of migrant workers residing and working in Ireland on work permits or work visas since the mid 1990's. Large numbers of the migrant workers working in Ireland are women. In 2002 23,326 women were issued with work permits in comparison to 16,562 men. The number of women being issued with work permits has fallen significantly in 2004 with 6409 women having been issued with work permits as of August 2004 in comparison to 14,684 men.¹⁴⁹ Large numbers of migrant workers are employed in specific sectors of the labour force, including the services sector, the catering sector, the agricultural sector and the medical and nursing sector. The number of migrant workers employed in the domestic sector has also risen significantly from 88 persons in 1999 to 861 persons in 2003.¹⁵⁰

¹⁴⁷ National Traveller Women's Forum and Pavee Point Traveller's Centre, *A Submission to the National Action Plan for Women*, February 2002

¹⁴⁸ See further Murray C., *Pavee Children: A study on Childcare issues for Travellers*, Pavee Point Publications, 1997.

¹⁴⁹ Figures supplied by the Department of Enterprise, Trade and Employment.

¹⁵⁰ Figures available from the Department of Enterprise, Trade and Employment at www.entemp.ie.

6.3.1 Work Permit System

Work permits are issued to employers for a restricted range of low or semi-skilled jobs where the employer cannot fill the vacancy with Irish or EU nationals. The work permit is temporary and is valid for up to 12 months. Permits can be renewed for a further 12 months on an application by the employer. It is only possible for a migrant worker with a work permit to change jobs if another employer applies for a permit in respect of him or her and if the permission to remain in the state is still valid.

The possession of work permits by employers can lead to exploitation and racism, and a substantial number of cases of abuse of the work permit system have been documented.¹⁵¹ Women migrant workers can be particularly vulnerable as larger numbers of women work in isolated sectors, such as private households in the domestic sector.¹⁵² In the case of pregnancy, the Migrant Rights Centre of Ireland, an advocacy and support organisation for migrant workers in Ireland, states that women migrant workers have little rights in practice. In a number of instances reported to the organisation pregnant women were asked to leave employment, and consequently accommodation.¹⁵³ Female migrant workers in isolated sectors can also experience poor working and living conditions; salaries below the minimum wage; lack of clarity re contracts; and difficulty in practising religion or adhering to cultural traditions of choice.¹⁵⁴

The IHRC has called on the Government to ratify the UN International Convention on the Protection of the Rights of All Migrant Workers and Their Families on a number of occasions. While, Ireland has not yet ratified this convention the Government has signalled its commitment to bring in comprehensive immigration legislation to ensure greater regulation of the area.¹⁵⁵ It is imperative that this new legislative framework should be based on the rights of migrant workers, and should make special provision for the protection of vulnerable sections of the migrant working community, including migrant workers who are women. In addition, it is clear that greater resources need to be made available to enforcement bodies including the Labour Inspectorate and the Employment Rights Unit in the Department of Enterprise, Trade and Employment to ensure that they can effectively fulfil their statutory role, including the provision of targeted and accessible information to migrant workers on their employment rights.

6.3.2 Equality Legislation Excludes Domestic Workers

The Equality Act 2004, which amends the Employment Equality Act 1998, excludes from the definition of an employee any person attempting to access employment for the provision of personal services in another person's home where the services affect

¹⁵¹ Immigrant Council of Ireland, *Labour Migration Into Ireland*, 2003.

¹⁵² See further O'Donoghue S., *Private Spaces: A Public Concern, The Experiences of migrant women employed in the private home*, Migrant Rights Centre of Ireland, December 2004.

¹⁵³ Kelly N., *Work Permits in Ireland, A Recommendation for Change*, Migrant Rights Centre of Ireland, March 2004.

¹⁵⁴ *Ibid.*, p. 47.

¹⁵⁵ IHRC and National Consultative Committee on Racism and Interculturalism, *Safeguarding the Rights of Migrant Workers and their Families A Review of EU and International Standards: Implications for Policy in Ireland*, April 2004.

the private or family life of those persons.¹⁵⁶ Therefore, the prohibition against discrimination does not apply to domestic migrant workers when they are accessing employment. Domestic workers are a particularly vulnerable sector of the migrant workforce and the introduction of a blanket exclusion of domestic workers from protection in the area of discrimination is likely to have a disproportionately negative impact on women migrant workers who are over-represented within the domestic sector.¹⁵⁷

6.4 Women Asylum Seekers

6.4.1 Adverse Impact of Direct Provision on Female Asylum Seekers

Under the direct provision system, asylum seekers are accommodated and are entitled to €19.10 per adult and €9.60 per child per week. As of the end of 2004, 48.5% of all asylum seekers aged 18 or over living in direct provision accommodation are women. The largest portion of female asylum seekers, 58.7%, are between the ages of 26 and 35, and 27% are between the ages of 18 and 25 years. A significant proportion of women on direct provision, 30.9%, have been living on direct provision for between 12 and 18 months, and 13.4% have been living on direct provision for between 18 and 24 months. A total of 8.9% of these women have been on direct provision for 24 months and over.¹⁵⁸

Asylum seekers do not have the right to work in Ireland, notwithstanding that in some cases asylum seekers can be on direct provision for 2 years and over. As a result of the habitual residence rule, asylum seekers who entered the country since May 1st 2004 are no longer entitled to monthly child benefits or one parent family payments. The inadequacy of the income for asylum seekers has been highlighted by a number of organisations, and this further restriction on welfare entitlements will have a particularly negative impact on families and female asylum seekers who are single parents.¹⁵⁹

In addition, under the Social Welfare (Miscellaneous Provisions) Act 2003, asylum seekers are no longer entitled to claim rent supplement and can therefore no longer gain access to private rented accommodation. Private rental accommodation was previously granted to persons where the direct provision accommodation was judged unsuitable for some asylum seekers for family reasons or because of illness. However, since the introduction of this law, hostels and hotels, which are unsuitable for children, pregnant women and families, are now the only accommodation option for asylum seekers.

¹⁵⁶ Section 2 of the Employment Equality Act 1998, as amended.

¹⁵⁷ See further IHRC, *Observations on the Equality Bill*, June 2004, available at www.ihrc.ie.

¹⁵⁸ Information provided by the Reception and Integration Agency, Department of Justice, Equality and Law Reform.

¹⁵⁹ Free Legal Advice Centre, *Direct Discrimination? An analysis of the scheme of Direct Provision in Ireland*, July 2003; Fanning B., *Beyond the Pale – Asylum Seeking Children and Social Exclusion in Ireland*, 2001, Dublin: Irish Refugee Council.

6.4.2 Gender and the Refugee Determination Process

The Refugee Act 1996 specifically provides that the definition of “membership of a social group” includes gender. In Ireland, therefore claims of gender-based persecution may be assessed on this specific ground, in addition to the other grounds contained in the refugee definition.

An overall assessment of the extent to which the asylum determination process takes into consideration the specific needs of female asylum seekers who have suffered gender-based persecution has not been carried out in Ireland. There are no specific written guidelines in existence in Ireland similar to those in Canada, the United States or the United Kingdom that require certain procedures and considerations to be taken into account during the refugee determination process.¹⁶⁰

The Office of the Refugee Applications Commissioner (ORAC) states that interviewers receive specific training in relation to gender-based asylum claims that draws on the UNHCR “Guidelines for the Protection of Women”, as well as specific guidelines developed in other jurisdictions. The ORAC further states that female applicants are generally interviewed by female caseworkers, subject to the availability of female caseworkers. Where a gender-related issue has been highlighted, the ORAC states that a female interviewer will always be assigned to the case and a female interpreter will also be assigned.¹⁶¹

These steps are to be welcomed. However, the absence of specific gender-related guidelines to take into consideration the concerns and experiences of refugee women allows for too much discretion within the process. The presence of specific guidelines similar to those in Canada or the United Kingdom is required to ensure consistency at both the first instance and appeal stages of the process. Non-governmental organisations in Ireland have written detailed recommendations on this issue, drawing from examples of best practice internationally.¹⁶² Gender-specific guidelines should allow for a regular review of the quality of the refugee determination process from a gender perspective.

6.5 Refugee Women

6.5.1 Integration of Refugee Women into Irish Society

From 2001-2004 the Office of the Refugee Applications Commissioner has declared 808 women to be refugees at first instance, and during the same period the Office of the Refugee Appeals Tribunal has declared 1228 women to be refugees at the appeals

¹⁶⁰ United Kingdom, Immigration Appellate Authority, *Asylum Gender Guidelines*, 2000; Canada, Immigration and Refugee Board, *Guidelines for Women Refugee Claimants Fearing Gender-Related Persecution*, 1996; United States, Immigration and Naturalization Service, Office of International Affairs, *Considerations for Asylum Officers Adjudicating Asylum Claims for Women*, 1995.

¹⁶¹ Information provided by the Office of the Refugee Applications Commissioner.

¹⁶² Irish Refugee Council, *Guiding Principles on Asylum-Seeking and Refugee Women*, June 2001; Irish Council for Civil Liberties, *Women and the Refugee Experience: Towards a Statement of Best Practice*, 2000.

stage.¹⁶³ In accordance with section 3 of the Refugee Act 1996, refugees are entitled to the following rights: to seek and enter employment, to carry on any business, trade or profession and to have access to education and training in the State on the same basis as Irish citizens; to receive the same medical care and the same social welfare benefits as Irish citizens on the same terms; to reside in the State and travel to and from the State; to freely practise his or her religion; to have access to the Courts on the same basis as Irish citizens and to join and form trade unions. There is very little research in existence on the extent to which refugees in Ireland and refugee women in particular are effectively exercising their rights to employment, education, social welfare and health care in Ireland.

The Reception and Integration Agency (RIA) of the Department of Justice, Equality and Law Reform fund a small number of integration projects through the European Refugee Fund. One project in particular focuses on the integration needs of refugee women and provides language training and computer skills training.¹⁶⁴ In general, the integration measures in place are hugely inadequate and only one of the projects has a particular focus on the integration needs of refugee women. In addition, there is one integration project for refugee women funded under the Equality for Women Measure. This project can only cater for 25 women at a time despite a high demand for its services, and it is unclear whether the funding for this project will be continued when the Equality for Women Measure is ended in 2006. In general, there is no long-term, coherent strategy in place to integrate refugees into Irish society

There are no specific statistics available on the number of women refugees in employment or participating in education in Ireland. However, organisations working with refugee women report that refugee women face substantial barriers in accessing education and employment.¹⁶⁵ Similar to many women in Irish society, the lack of adequate and affordable childcare is a major barrier for refugee women who want to access education and employment. This is compounded by the fact that refugee women, in particular single mothers, do not have an extended family support structure to aid them with childcare. The lack of recognition of qualifications is a further barrier to employment, as well as low educational attainment for some refugee women.

6.5.2 Habitual Residence Condition for Social Welfare Payments

The habitual residence condition, which was brought into effect on May 1st 2004, will have a negative effect on persons who have been declared refugees as well as asylum seekers. The habitual residence condition limits the range of persons who can claim certain social welfare payments. Under this requirement any person regardless of nationality has to be habitually resident in the State for 2 years before she or he is entitled to claim one parent family payment, child benefit, unemployment assistance, supplementary welfare allowance, carer's allowance, disability allowance, and old age non-contributory pension. This restriction on welfare payments could foreseeably

¹⁶³ Information provided by the Office of the Refugee Applications Commissioner and the Office of the Refugee Appeals Tribunal.

¹⁶⁴ The Longford Irish Country Women's Association provides a support service to women refugees, women with Irish born children and women asylum seekers.

¹⁶⁵ Information provided by Access Ireland, Refugee Social Integration Project, Women's Project.

have a detrimental impact on persons who have been declared refugees who have not been habitually resident in the State for 2 years.

5.6 Trafficking of Women and Girl Children

Article 6 of CEDAW requires States to take all appropriate measures, including legislation, to suppress all forms of trafficking in women and the exploitation of women as prostitutes. During its examination of Ireland's 2nd and 3rd periodic reports the Committee asked the Irish Government to provide information with respect to trafficking in women. The Government responded by stating that trafficking in women is not a major problem in Ireland.¹⁶⁶ In its 4th and 5th periodic reports the Government takes a different approach and states that it opposes and seeks to eliminate the practice of trafficking in women and that this is a priority.¹⁶⁷ The Government also states that legislation will be prepared to give effect to the Protocol to the U.N. Convention on Transnational Organised Crime.¹⁶⁸

There is very little publicly recorded information on the extent to which women are being trafficked into Ireland or on the extent to which Ireland is being used as a transit country. According to the International Organisation of Migration (IOM), at least 500,000 women are sold annually to local prostitution markets in Europe. There is information now available from voluntary organisations and also from the Garda Síochána that trafficking is a problem in Ireland. The Ruhama Women's Project, a voluntary organisation that provides support for women involved in prostitution, have been highlighting the rise in the trafficking of women into Ireland for a number of years. They state that "...more and more women are being trafficked into the country, mostly from Eastern Europe, where many have their passports taken by brothel owners and find themselves being subjected to ruthless exploitation."¹⁶⁹

A study carried out for the International Organisation for Migration on the trafficking of unaccompanied minors into Ireland states that no public data is reported specifically on child smuggling or trafficking, although such data is gathered under the Child Trafficking and Pornography Act 1998. This study found that, in the 17 month period from January 2002 to May 2003, 23 cases of investigations or preparation of prosecutions for trafficking in children for labour or sexual exploitation were identified. This figure does not include cases being investigated for which no information is in the public domain or suspect cases which social workers are still exploring. Of the 23 cases identified in the study, 11 involved girls and 5 involved boys, while in 7 cases the sex of the child was not known. Eleven of the cases identified involved children under 12 years, and 12 involved children aged between 13 and 17 years of age.¹⁷⁰

The Child Trafficking and Pornography Act 1998 protects children from being trafficked for purposes of sexual exploitation from one country to another, and also

¹⁶⁶ 21st Session of CEDAW (7th-25th June 1999).

¹⁶⁷ Ireland's 4th and 5th Periodic Reports, p. 29.

¹⁶⁸ *Ibid.*, p. 30.

¹⁶⁹ Irish Times 10th May 2003.

¹⁷⁰ Conroy P. Dr., *Trafficking in Unaccompanied Minors in Ireland*, International Organisation for Migration, August 2003.

makes it a serious offence to use Ireland as a transit point for this activity. However, there is no specific legislative measure dealing with trafficking in women for the purposes of sexual exploitation. Moreover, the primary emphasis has been on criminal prosecution, and there has been very little emphasis on the protection of the victims of trafficking. As a signatory to the Protocol to the UN Convention on Transnational Organised Crime, Ireland is required to put in place measures to both suppress trafficking, but also measures to *protect* the victims of trafficking.

6.7 List of Recommended Questions for the CEDAW Committee:

- a. In accordance with General Recommendation 25 of the CEDAW Committee has the Irish Government put in place temporary special measures to seek to address the multiple barriers women from ethnic minorities and migrant women often face in accessing and enjoying their human rights?**
- b. Does the Irish Government intend to ratify the UN International Convention on the Protection of the Rights of All Migrant Workers and their Families?**
- c. Has the Government taken any steps to review the system of direct provision from the point of view of the welfare of asylum seekers, in particular families and pregnant asylum seekers?**
- d. Does the Government have any information on the number of women and girls being trafficked into Ireland for the purposes of labour or sexual exploitation?**
- e. What measures does the Government intend to put in place to effectively protect the victims of trafficking?**

6.8 Recommendations:

Women from the Travelling Community

- a. The IHRC recommends that comprehensive and up to date gender-disaggregated data on the Travelling community should be gathered as a matter of priority. This data should be gathered at regular intervals and should be collated and published in an accessible format.**
- b. Gender-disaggregated data on the Travelling community should be collected within a comprehensive equality and human rights framework. All government departments and other service providers should be required to gather statistics on the nine equality grounds, which include gender and membership of the Travelling community.**
- c. The IHRC recommends that the actions proposed in the Traveller Health Strategy 2002-2005 should be fully implemented in practice. In particular, the activities identified in relation to ante-natal and post-natal**

care and sexual and reproductive health should be brought into practice as a matter of priority.

- d. The IHRC recommends that the Housing (Traveller Accommodation) Act 1998 should be amended to provide for a mechanism that has the power to force the local authorities to provide suitable Traveller accommodation in accordance with their statutory duty.
- e. The IHRC recommends that temporary special measures should be put in place to increase the participation of Traveller women in education and employment. Temporary special measures could include targeting Traveller women in hiring and promotion in the public and private sectors and introducing a quota system. In addition, resources should be allocated to substantially increase the number of training programmes for Traveller women such as those funded under the Equality for Women Measure.

Migrant Workers who are Women

- a. The IHRC recommends that Ireland should ratify the UN Convention on the Protection of All Migrant Workers and Members of Their Families.
- b. The IHRC considers that the Equality Act 2004 should be amended to remove the exclusion of domestic workers from the prohibition of discrimination in accessing employment. The IHRC is of the view that this law will have a particularly negative impact on female migrant workers.
- c. The IHRC recommends that a legislative framework for a new immigration policy should be put in place without further delay. Under this legislative framework migrant workers should be guaranteed effective equality of treatment with nationals of the State of employment in relation to employment rights, and also in relation to economic and social rights, including the right to housing, health care and education.
- d. The IHRC recommends that specific measures should be put in place to protect vulnerable groups of migrant workers, such as domestic workers in private households who are predominantly women. In addition, enforcement mechanisms such as the Labour Inspectorate and the Employment Rights Unit of the Department of Enterprise, Trade and Employment should be given the adequate resources and staff to effectively monitor the area.

Asylum Seekers who are Women

- a. The IHRC recommends that the system of direct provision should be reviewed taking into consideration the welfare of asylum seekers who are pregnant and of families.
- b. The IHRC recommends that asylum seekers who are pregnant and their families should have the option of living in private rental accommodation and that the payments received under direct provision should be

increased. In addition, the IHRC recommends that asylum seekers should be entitled to claim child benefit and one parent family allowance.

- c. The IHRC recommends that the Office of the Refugee Applications Commissioner and the Office of the Refugee Appeals Tribunal should adopt specific public guidelines to deal with claims of gender-based persecution by asylum seekers who are women. These guidelines should comply with best international practice, having regard to the UNHCR Guidelines and the guidelines in place in the United Kingdom, Canada and the United States.

Refugee Women

- a. The IHRC recommends that a long-term integration strategy should be put in place to foster the effective participation of refugees in Irish society. In particular, the integration needs of refugee women should be identified and targeted initiatives should be put in place to encourage and facilitate the participation of refugee women in education, employment and health care.
- b. The IHRC recommends that the habitual residency condition should be revised to ensure that it does not create undue hardship for persons who have been declared refugees.

Trafficking in Women and Girl Children

- a. The IHRC recommends that specific legislation should be put in place without delay to suppress the trafficking of women and to ensure the victims of trafficking are protected. This legislation should define the concept of trafficking in line with the internationally accepted definition of trafficking set out in the Protocol to the UN Convention on Transnational Crime. In addition, a strong emphasis should be placed on the protection of the victims of trafficking and measures should be put in place to provide for the physical, psychological and social recovery of the victims, including the provision of housing, counselling and medical care.

7. Older Women

7.1 Relevant International Human Rights Standards

In its most recent General Comment 25, the Committee on the Elimination of Discrimination Against Women highlighted the fact that women often experience multiple discrimination not merely on the basis of their gender, but also on the basis of additional grounds such as age. The Committee recommended that States parties should put in place specific temporary special measures to eliminate multiple discrimination against such groups of women. In addition, the Committee pointed out that temporary special measures are often necessary to remedy past discrimination against women.¹⁷¹

The Committee on Economic, Social and Cultural Rights has stated that States should pay particular attention to promoting and protecting the economic, social and cultural rights of older persons. In particular, the Committee recommends that States should monitor the situation of older people and should design policies and programmes to meet their specific needs, including the enactment of legislation where necessary or the repeal of discriminatory legislation, as well as budget support.¹⁷²

7.2 Review of Government Policies in Relation to Older Women

The report submitted by the Government highlights the situation of a number of vulnerable groups of women in Irish society including lone parents, Traveller women, women with disabilities, lesbian women and refugee and migrant women.¹⁷³ However, the report submitted by the Government does not recognise older women as a vulnerable group in Irish society, and does not provide any comprehensive or specific information on the situation of older women. Section 2 of this submission highlighted the fact that older women are at a very high risk of living in poverty with 50.2% of older women living on incomes that fall below 60% of median income, and 4.4% of older women living in consistent poverty. High levels of poverty are especially prevalent amongst rural elderly women.¹⁷⁴

The Government in its report highlights the fact that the National Anti-Poverty Strategy (NAPS) has a particular focus on older people and requires Government Departments when poverty proofing policies to give particular attention to older people.¹⁷⁵ However, the Government does not provide any assessment of the effectiveness of the NAPS in reducing the significant number of older women who are living in relative income poverty and in reducing the number of older women living in consistent poverty.

The Equality for Women Measure is one of the few policy initiatives in place that funds projects that specifically target marginalised groups of women including older

¹⁷¹ Committee on the Elimination of Discrimination Against Women, General Comment 25.

¹⁷² Committee on Economic, Social and Cultural Rights, General Comment No. 6, “The Economic, Social and Cultural Rights of Older People”, E/1996/22.

¹⁷³ Ireland’s 4th and 5th periodic reports, pp. 15-21.

¹⁷⁴ See further Section 2 of this submission.

¹⁷⁵ Ireland’s 4th and 5th periodic reports, p. 15.

women. A very small number of projects have been funded under this measure to target older women. The funding for projects under the Equality for Women Measure is available until 2006, and it is unclear what programmes will be put in place after 2006 to advance the development of older women.

7.3 **Adequacy of Income and Pensions for Older Women**

The poverty experienced by a significant portion of older women in Ireland is partly as a result of past discrimination in relation to women's participation in the labour force. A particular aspect of the life history of older women in Ireland was the combination of social, cultural, administrative, legislative and even constitutional pressures on women to retire from paid employment on marriage and more particularly on the arrival of children.¹⁷⁶ The current generation of older women has been largely excluded from the social insurance system and, as a result, a far greater number of older women rely on non-contributory pensions.

The majority of persons in receipt of non-contributory pensions are women while the majority of those in receipt of contributory pensions are men.¹⁷⁷ The non-contributory pension is means-tested, and the amount granted is dependent on the overall income of the household. A study on income and deprivation amongst older people found that persons whose main source of income is the non-contributory old age pension are at a high risk of falling below the poverty line.¹⁷⁸ A significant proportion of older women do not have an individualised entitlement to a pension payment regardless of the income of their partner.

As pointed out in Section 3 of this submission, the homemaker's scheme was introduced in 1994 to make it easier for persons who provide full-time care for children or an incapacitated person to qualify for the contributory pension by disregarding the period they spend outside of the labour force. However, this scheme has little impact on older women as it does not apply to caring work performed before 1994. Numerous recommendations have been made from a number of different bodies to retrospectively extend the scheme to recognise the caring work older women engaged in before 1994.¹⁷⁹

In addition to experiencing income poverty, older women face an increased risk of living in deprivation. A person is regarded as living in deprivation where that person lacks the basic necessities that every person should be able to have and that nobody should have to do without.¹⁸⁰ A recent study on levels of deprivation amongst older

¹⁷⁶ Report of the Equality Authority, *Implementing Equality for Older People*, June 2002, p. 44.

¹⁷⁷ National Women's Council of Ireland, *A Woman's Model for Social Welfare Reform*, April 2003, p. 16, figure 11.

¹⁷⁸ Layte R., Fahey T., & Whelan C., *Income, Deprivation and Well-Being Among Older Irish People*, National Council on Ageing and Older People, Report No. 55, Nov. 1999, p. 54.

¹⁷⁹ The Equality Authority in *Implementing Equality for Older People*, June 2002 has also made this recommendation, as have the National Women's Council of Ireland and the National Council on Ageing and Older People.

¹⁸⁰ *Ibid.*, p. 55.

people highlighted the high risk older women face of living in deprivation and concluded that,

“the difference between the living standards of men and women is a deep-rooted phenomenon that is structured over a long period ... it is likely that such processes took root well before retirement in the economic and social situation of women.”¹⁸¹

7.4 **Health Status of Older Women**

In their General Comment 24 on Women and Health, the Committee on the Elimination of Discrimination Against Women stated that “special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups such as...older women”. In particular, the Committee pointed out that not only do women live longer than men but they are also more likely than men to suffer from disabling and degenerative chronic diseases, such as osteoporosis and dementia. In addition, older women often have the responsibility to care for their older spouse. The Committee recommended that States parties should take appropriate measures to ensure the access of older women to health services that address the handicaps and disabilities associated with aging.”¹⁸²

In Ireland the average life expectancy is 79.4 years for women and 74 years for men. A recent study carried out on income, deprivation and well-being among older people demonstrates that chronic illness or mental health problems are far higher in the elderly population and, in addition, are higher amongst older women affecting 47.6% of women over 65 years compared to 38.4% of older men.¹⁸³ This study also found that as a result of chronic illness mobility problems are particularly high amongst older women with 52% of older women with a chronic illness experiencing mobility restrictions and 38% of older men experiencing such problems. Moreover, this study demonstrated that where a person experiences basic or secondary deprivation (i.e. missing one or more items through lack of resources) and is female this significantly increases their chances of having a chronic illness in older age. The report concluded that older women are at a material disadvantage compared to men and this can have distinct consequences for their health and thus their quality of life.¹⁸⁴

7.5 **Older Women’s Access to Adequate Housing**

Poor quality housing is an urgent concern for older persons, the majority of whom own their own houses. Studies have demonstrated that older persons are at a far

¹⁸¹ Layte R., Fahey T., & Whelan C., *Income, Deprivation and Well-Being Among Older Irish People*, National Council on Ageing and Older People, Report No. 55, Nov. 1999, p. 68.

¹⁸² General Comment 24, Committee on the Elimination of Discrimination Against Women.

¹⁸³ Layte R., Fahey T., & Whelan C., *Income, Deprivation and Well-Being Among Older Irish People*, National Council on Ageing and Older People, Report No. 55, Nov. 1999, p. 94.

¹⁸⁴ *Ibid.*, p. 101.

greater risk of experiencing housing deprivation than the general population.¹⁸⁵ A significant proportion of older women, 37%, live alone in comparison to 22% of older men who live alone. Income levels among older people, in particular older women, are insufficient to meet their housing repair needs.¹⁸⁶

While there are some limited grant schemes to which older people can apply to help them with repairs to their houses, these schemes are *ad hoc* and are not comprehensive. There is no legal obligation on local authorities to provide for the repair and adaptation of the dwellings of older people, particularly those on low incomes.¹⁸⁷

A further concern for older people is the lack of home help supports to enable them to live independently for as long as possible in their own homes.¹⁸⁸ Support services are essential for older people to maintain a quality of life and a level of functional autonomy which enables them to live independently in the community and consequently to avoid unnecessary hospitalisation or admission to long stay institutions. Surveys demonstrate that the vast majority of older people, 87%, want to continue to live in their own homes.¹⁸⁹ There is no legislative obligation for health boards to provide assistance to engage home help, and it is currently provided on a discretionary basis.

Unpaid carers provide an important support for older people in the home, the vast majority of whom are women. However, as highlighted in Section 3 of this submission, caring work is significantly under-valued by the State and the principal payment for caring which is means-tested is inadequate and fails to recognise the value and demands of the caring role.¹⁹⁰

7.6 Older Women in Long Stay Care

Currently approximately 5% of older people live in long stay care. In general, long stay care places are provided through a mixture of publicly funded health board places and private nursing homes. In recent times most of the growth in long stay places is in the private sector and recent initiatives in relation to taxation and public private partnership arrangements suggest that the official policy favours private provision.¹⁹¹

In research commissioned by the Irish Human Rights Commission, a number of problems were highlighted in relation to the current law and practice in the provision of long stay care places in Ireland. Firstly, the law on entitlement to public health board long stay care is not clear; there is an absence of clarity in the admission procedures, and the rules about the resident's liability to contribute to his or her care

¹⁸⁵ Housing deprivation is defined as housing which lacks adequate heating; has damp walls or floors; has rot in the windows or floors or has a leaking roof.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.* p. 25.

¹⁸⁸ *Ibid.* p. 38.

¹⁸⁹ Garavan R., Winder R., & McGee M.H., *Health and Social Services for Older People*, 2001 National Council on Ageing and Older People.

¹⁹⁰ See further section 3.

¹⁹¹ Irish Human Rights Commission, *Older People in Long Stay Care*, April 2003.

are also unclear.¹⁹² Secondly, there is no specific legislation dealing with the quality of health board long stay care places for older people, and such institutions are not subject to any external assessment of quality.¹⁹³

In general, there is no statutory independent complaints and appeals procedure within the health services. Furthermore, there is no organised comprehensive advocacy service for vulnerable older people in care.¹⁹⁴

While private nursing homes are subject to inspection by the health boards, the research carried out by the IHRC demonstrates that there are shortcomings in the inspection system. Inspections are rarely carried out at night; the inspection is largely concerned with the physical conditions and rarely addresses broader quality of life issues; the health boards take very few prosecutions and almost never close down a nursing home.¹⁹⁵

7.7 List of Recommended Questions for the CEDAW Committee:

- a. What steps are being taken by the Government to reduce the significant number of older women living in relative income poverty and to reduce the number of women living in consistent poverty?**
- b. In light of the past discrimination suffered by older women in terms of their access to employment is the Government considering putting in place temporary special measures to redress this discrimination?**
- c. What steps are being taken to provide older women who are at a high risk of living in poverty, with an adequate income and pension entitlement?**
- d. What steps are being taken to increase the availability of home help and community supports to enable older women to live in their own homes for as long as possible?**

7.8 Recommendations:

- a. The IHRC recommends that an ongoing aim for Government policy in relation to the labour market and the social welfare system should be to ensure that as many women as possible have full and independent pension coverage as soon as possible. This should be achieved by putting in place a framework that enables maximum labour force participation for women so that women can access occupational pensions. In addition, the social insurance system should be reformed to recognise the more varied**

¹⁹² *Ibid.*, pp. 22-25.

¹⁹³ *Ibid.*, p. 38.

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*, p. 39.

work patterns women engage in over their lifetime and to allow them to accumulate an adequate number of social insurance credits.¹⁹⁶

- b. The IHRC recommends that the Government should ensure that the non-contributory old age pension, on which a significant proportion of older women rely, is adequate and indexed to average earnings growth in the economy.
- c. The IHRC recommends that the support services for older persons, in particular older women living in the community, need to be adequately funded and that spending urgently needs to be focussed in this area. In particular, health boards should be placed under a statutory obligation to provide home help to all older persons who are in need of such support.
- d. The IHRC recommends that a larger number of projects similar to those funded under the Equality for Women Measure should be put in place. In particular, rural elderly women and older women living alone should be targeted by these measures.
- e. The IHRC recommends that a rights-based approach should be adopted in relation to the provision of long stay care for older people. Policy in relation to the creation of long stay care places should be informed by the principles of equality of treatment and non-discrimination. The entitlement to long stay care should be clarified and specified in legislation. Adequate information should be made available to older people on their entitlement to long stay care in the public and private sector.
- f. The IHRC recommends that an independent inspection system for public long stay care institutions and private nursing homes should be put in place and that a comprehensive set of standards should be drafted to inform the inspections.

¹⁹⁶ For a comprehensive range of reform proposals on this issue see further National Women's Council of Ireland, A Woman's Model of Social Welfare Reform, 2003.

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Appendix I

Powers and Functions of the Irish Human Rights Commission

The Human Rights Commission Act, 2000, confers a wide ranging jurisdiction on the Commission to promote and protect human rights as defined both in international agreements to which Ireland is a party and in the Constitution. The functions of the Commission include the following:

- to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights;
- to consult with relevant national and international bodies;
- to make recommendations to Government on measures to strengthen, protect and uphold human rights in the State;
- to promote understanding and awareness of the importance of human rights and, for these purposes, to undertake or sponsor research and educational activities in the field;
- to conduct enquiries. For this purpose the Commission will have the means to obtain information, with recourse to the courts, if necessary;
- to offer its expertise in human rights law to the courts in suitable cases as *amicus curiae*, or friend of the court, in cases involving human rights issues;
- to take legal proceedings to vindicate human rights in the State or provide legal assistance to persons in this regard;
- to participate in the Joint Committee of Representatives of members of the Commission and members of the Northern Ireland Human Rights Commission.

Appendix II

List of indicators from the report commissioned by the Gender Equality Unit entitled *Indicator Research Based on “The Development of Mechanisms to Monitor Progress in Achieving Gender Equality in Ireland”, 2004.*

SUGGESTED SET OF INDICATORS
1. Suggested Indicators for Poverty
1. Percentage of female-headed households below the relative income poverty line (G)
2. Percentage of women and men on low pay (as defined by the OECD) disaggregated by occupation, age, educational attainment, number and ages of dependants (G)
3. Percentage of women and men in receipt of State income support (G)
4. Develop: Distribution of income within households (G)
2. Suggested Indicators for Education and Training of Women
1. Boys and girls who are early school leavers not in education or training (Laeken indicator)
2. Female and male percentage of students taking science and technology subjects in the Leaving Certificate (G)
3. Percentage of woman and men Principals at 1 st and 2 nd level schools as a ratio of teachers to principals (G expanded)
4. Develop: Gender breakdown of staff at schools and universities according to qualifications and rank (G)
3. Suggested Indicators for Health
1. Hospital waiting lists by age and health concern (G)
2. Female and male life expectancy rates (G)
3. Percentage of women and men at each level of the health service (G)
4. Develop: Percentage of women and men carers of the long term ill, disabled and elder persons in the home (G)
4. Suggested Indicators for Violence against Women
1. Percentage of rapes reported leading to conviction (G)
2. Number of domestic violence orders in existence (G)
3. Number of woman serving in the judiciary and the Gardaí at each level as a percentage of all people serving in the judiciary and the Gardaí at each level (G)
5. Suggested Indicators for Women and Armed Conflict
1. Percentage of women and men from Ireland on international peace-keeping duties (G)
2. Percentage of Irish aid budget allocated to supporting women in conflict situations (G)
3. Percentage of women and men on Irish delegations to the UN at Assistant Secretary, Principal Officer and Assistant Principal Officer level in the DSFA, DJELR and DD (G expanded)
6. Suggested Indicators for Women and the Economy
1. Economic status (particularly employment/unemployment rates) of women and men by age, education attainment, number and age of dependants, geographical region and specific disadvantage (G)
2. Wage differentials for women and men based on average earnings across the public and private sector and the full range of occupations (G expanded)
3. Vertical and horizontal occupational segregation (G)
4. Childcare places as a percentage of the number of children aged between three years and the mandatory school age, and the number of children under three years of age (Lisbon Strategy)
5. Develop: Estimated value of unpaid work in the home as a percentage of GDP (G)

SUGGESTED SET OF INDICATORS (CONTD)
7. Suggested Indicators for Women in Power and Decision Making
1. Women TDs as a percentage of all TDs in Dáil Eireann (G developed)
2. Percentage of women and men in senior decision-making positions in the public and the private sectors (G)
3. Percentage female composition of State boards (G)
4. Develop: Percentage of women in national party executives (G)
8. Suggested Indicators for the Human Rights of Women
1. Number of successful cases taken before the Equality Tribunal for discrimination against women and men on the grounds of gender under the Employment Equality Act and the Equal Status Act (G expanded)
2. Gender composition of the membership of the Commission of Human Rights
3. Develop: Keeping remaining reservations of CEDAW under review (G)
9. Suggested Indicators for Woman and the Media
1. Percentage of women and men employed in the media industry, with a detailed classification of employment (G)
2. Percentage of women and men in top executive positions/regional authorities in broadcast and print media (G)
3. Develop: Content analysis of specific programmes to highlight role assignment to women and men (G)
10. Suggested Indicators for Women and the Environment
1. Female share of board members of An Bord Pleanála and the EPA (G expanded)
2. Percentage of women and men employed in environmental management as professionals and scientists (G)
3. Develop: Percentage of women and men who regularly recycle household materials
11. Suggested Indicators for the Girl-Child
1. Educational attainment of girls and boys (G)
2. Teenage Fertility (G)
3. Develop: Percentage of girls and boys participating in activities that prepare them for public life and leadership: involvement in school councils, youth organisations, representative activities (G)
12A. Suggested Indicators for Culture
1. Percentage of women and men involved in artistic or cultural activities as employees and participants (G)
2. Gender composition of the board of the Arts Council
3. Develop: Percentage of women and men holding Arts Council Bursaries and awards (G)
12B. Suggested Indicators for Sport
1. Women's share of athletes and sports officials admitted to carding schemes at various standards (G)
2. Gender composition of the board of the Irish Sports Council
3. Percentage of women and men who engage in regular moderate exercise (G)
1. 'G' in brackets indicates that an indicator is a Galligan indicator.

Appendix III

List of Indicators from the report published by the Central Statistics Office entitled *Women and Men in Ireland, December 2004*.

Domain and indicator
1 EU Council policy indicators
1.1 Ireland and EU: Employment rate, 1994-2004
1.2 Ireland and EU: Female employment rate, 1994-2003
1.3 EU: Employment rate, 2003
1.4 Ireland: Employment rate for persons aged 55-64, 1994-2004
1.5 Ireland: Labour force participation rate (ILO) by age group, 2004
1.6 EU: Average exit age from the labour force, 2002
1.7 Ireland: Employment rates of persons aged 20-44 by family status, 2004
1.8 Ireland: Persons in employment by occupation, 1999 and 2004
1.9 Ireland: Income liable for social insurance, 2002
1.10 Ireland: Average income liable for social insurance by age, 2002
1.11 Ireland: Employment by usual hours worked, 1999 and 2004
1.12 EU: Gender pay gap, 2001
1.13 EU: Early school leavers, 2003
1.14 EU: At risk of poverty rates, 2001
1.15 Ireland: Life expectancy at birth and at 65 years, 1925-2003
1.16 EU: Life expectancy at birth, 2002
1.17 EU: Representation in national parliaments, 2000-2004
1.18 Ireland: Women and men in decision-making 2004
1.19 Ireland: Civil Service general service grades, 2003
2 Population
2.1 Ireland: Population by age group, 2004
2.2 EU: Women per 100 men, 2002
2.3 Ireland: Lone parents with children aged under 20, 1994-2004
2.4 Ireland: Lone parents with children aged under 20 by age of youngest child, 2004
2.5 Ireland: Migration by age group, 1994 and 2004
2.6 Ireland: Migration, 1994-2004
2.7 Ireland: Principal economic status, 1994 and 2004
3 Employment
3.1 Ireland and EU: Employment by economic sector, 2003
3.2 Ireland: Employment by marital status and usual hours worked, 2004
3.3 Ireland: Employees aged 20-69 with an occupational pension scheme by NACE sector, 2002
3.4 Ireland: Unemployment rates by age group, 1994 and 2004
3.5 Ireland: Unemployment rates and long-term unemployment rates, 1994-2004
3.6 Ireland and EU: Unemployment rates, 1994-2003
3.7 EU: Unemployment rates, 2003
4 Social cohesion and lifestyles
4.1 Ireland: Recipients of one-parent family payment by age, 2003
4.2 Ireland and EU: At risk of poverty rate for persons aged 16 and over by most frequent economic activity, 2001
4.3 Ireland and EU: At risk of poverty rate by age group, 2001
4.4 Ireland: Persons aged 20 years and over living alone, 2004
4.5 Ireland: Age of women at birth of first child, 1955-2003
4.6 EU: Age of women at birth of first child and total fertility rate, 2002
4.7 Ireland: Religion by age group, 2002
4.8 Ireland: Religion by nationality, 2002
4.9 Ireland: Membership of selected sports associations, 2004
4.10 Ireland: Grants to high performance athletes, 2003
4.11 Ireland: Arts Council grants to artists by artform, 2003
4.12 Ireland: Arts Council grants to artists by size of grant, 2003
5 Education
5.1 Ireland: Leaving Certificate candidates, 2002
5.2 Ireland: Third level graduates by field of study, 2002
5.3 Ireland: Students as proportion of population aged 18-24, 1999 and 2004
5.4 Ireland: Persons aged 25-34 with third level qualification, 1999-2004
5.5 Ireland: Persons aged 35-64 by highest level of education attained, 2004
5.6 Ireland: Classroom teachers, 1994-2003

5.7 EU: Classroom teachers, 2002
5.8 EU: School management personnel, 2002
6 Health
6.1 Ireland: Age-sex specific death rates, 2003
6.2 Ireland: Death rates for persons aged 65-74, 1994-2003
6.3 Ireland: Mortality by cause of death, 2003
6.4 EU: Women undergoing preventative examinations, 2002
6.5 Ireland: Health determinants, 2002
6.6 Ireland: Persons registered with the General Medical Services scheme, 2003
6.7 Ireland: Acute hospital discharges by principal diagnosis, 2001
6.8 Ireland: Acute hospital discharges by patient type, 1994-2001
6.9 Ireland: Persons with an intellectual disability by level of disability, 2004
6.10 Ireland: Admissions to psychiatric hospitals and units, 2002
6.11 Ireland: Carers by number of hours of unpaid help provided, 2002
6.12 Ireland: Labour force participation rate of carers by number of hours of unpaid help provided, 2002
6.13 Ireland: Recipients of Carer's Allowance and Carer's Benefit by age, 2003
6.14 Ireland: Health service personnel by grade category, 2004
7 Crime
7.1 Ireland: Prisoners by offence group, 2002
7.2 Ireland: Criminal convictions, 2000-2003
7.3 EU: Criminal convictions, 2000
7.4 EU: Victims of selected crimes, 2000
7.5 Ireland: Homicides recorded by age of victim, 2003
7.6 Ireland: Incidents of domestic violence reported to the Gardai, 2000-2003
8 Transport
8.1 Ireland: Means of travel to work, 1991 and 2002
8.2 Ireland: Time taken to travel to work, 2002
8.3 Ireland: Road fatalities by road user type, 2002
8.4 Ireland: Road fatalities, 1993-2002
8.5 Ireland: Road casualties by age group of victim, 2002
8.6 Ireland: Current driving licences by age of holder, 2003