A Handbook on Using a Human Rights-based Approach to Achieve Social Inclusion and Equality
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A Handbook
on Using a
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1.1 Introduction

This document has been produced by the European Anti-Poverty Network (EAPN) Ireland and One Family, supported by the Combat Poverty Agency, to support organisations working on issues of equality and social inclusion that wish to adopt a human rights-based approach (HRBA) to their work or to further develop their work in this area.

1.2 Consultation Process

In order to inform the development of this handbook a number of anti-poverty organisations were sent questionnaires aimed at exploring their specific needs in relation to human rights material and to identify what material was already available. This clearly indicated that a number of anti-poverty organisations are already adopting a human rights approach to their work and that there is a significant level of interest from anti-poverty organisations in developing this area of activity. A number of these organisations are recruiting staff that have an understanding of what a HRBA means in practice and are providing training for staff and for affiliates/members on HRBA to policy making. Interestingly a number of organisations are working with legal experts to develop their expertise and impact in this area.

Those consulted also provided a number of case studies illustrating how they are currently using human rights instruments in their campaigning work. These examples are included in the handbook.

A key organisation in the area of human rights is Amnesty International. Amnesty in Ireland is currently providing human rights education within schools and colleges and is carrying out a ‘Human Rights Approaches Initiative’ which provides research, training, capacity building, advocacy, development of resource material etc., all aimed at promoting and advancing HRBA in Ireland.

1.3 Support Needs in developing a HRBA

The consultation also clearly identified the need for support for organisations working in this area. The type of supports identified as required included:

- development of a common understanding of terms and of what a HRBA actually means in practice
- development of materials that are specifically designed to be used in the ‘developed’ world
• availability of tools and methods for the application of a HRBA in an Irish context, including films, games etc.

• availability of case studies of good practice which are applicable in Ireland

• provision of supports to organisations wishing to develop human rights-based policy

• availability of resource material for training

• availability of a centre for sharing knowledge, experience and resources and for raising awareness of the need for and benefits of a HRBA to anti-poverty work

• information on sources of materials, contacts etc.

• availability of readily accessible statistics and related material that illustrate the type of discrimination experienced by certain groups which is a violation of their human rights

An important comment made by a number of those consulted was the extent to which funders shy away from human rights language and the consequent difficulties in acquiring funding for this type of work. Those consulted also made a number of specific recommendations in relation to increasing the level of involvement by anti-poverty groups in HRBA policy making. These included:

• participate in the development of shadow reports

• attend training, conferences

• engage with relevant state bodies such as the IHRC

• develop a pool of facilitators with expertise in this area that can support organisations in preparing policy submissions that have a HRBA

• develop a forum or network for interested organisations and individuals to come together

• develop training material on human rights and poverty

• hold conferences on human rights and poverty

• co-develop relevant material

• work together to develop human-rights based policy and

• work with funders and policy makers in increasing their understanding of the benefits of a HRBA to anti-poverty work
1.4 Development of the Handbook

This handbook presents an introduction to key international human rights conventions that have been ratified by the Irish Government. It aims to provide easy to understand information on how such conventions can best be used to advance a social inclusion and equality agenda in Ireland. Although individuals may find this booklet useful, it is specifically aimed at organisations and professionals working on social inclusion and equality issues and with at-risk groups.

The Handbook will be available on the EAPN Ireland website as a resource for anti-poverty organisations. EAPN Ireland and One Family are also looking at how to support anti-poverty organisations, through training and other possible supports, to better use the Handbook and international human rights instruments as a tool for bringing about change.
2.1 A human rights-based approach to address social inclusion and equality

A human rights-based approach is an approach to policy development work that draws on agreed international human rights. In the case of the European Convention on Human Rights is also involves seeking legal remedies to enforce rights. This approach works from the position that international human rights standards place an obligation and duty on governments to ensure that their plans, policies and processes uphold and promote these rights. Such an approach places the focus on rights rather than on need. The relationship between the government and those seeking rights is thus no longer based on depending on the good will of the government to meet peoples’ needs. Rather, the government when it signs up to these standards agrees that it has a responsibility to ensure that all can realise their rights and that no person can be discriminated against or experience inequality based on their individual characteristics such as gender, membership of a minority group etc. The government thus recognises that all human beings have economic, social, cultural and political rights which it is their duty to protect and promote.

2.2 The principles of a human rights-based approach

Essentially, a rights-based approach integrates the standards and principles of the international human rights system into the plans, policies, procedures and processes of government.

These principles are:

- legitimacy
- accountability and transparency
- empowerment
- participation and
- equality, non-discrimination and attention to vulnerable groups

Source: Derived from UN Office of the High Commissioner for Human Rights
Legitimacy
Human rights-based solutions are based on the human rights recognised in international law. States exercise their sovereignty in becoming parties to human rights treaties. Each State decides for itself whether or not to ratify a human rights treaty. However, once a State has decided to adhere to a human rights treaty it becomes internationally accountable. It is the international recognition of the human rights contained in the treaties which gives them their legitimacy.

Accountability and Transparency
An accountability procedure is a mechanism or device by which governments and public institutions are answerable for their acts or omissions in relation to their duties. It provides individuals with an opportunity to understand how states and state bodies have discharged or failed to discharge, their obligations. A key aspect of accountability is effective legal incorporation of international commitments so that remedies are available on the national level. This is required by the human rights treaties themselves.

Empowerment
Human rights-based development serves to empower communities and individuals to know, claim and defend their rights and to know their responsibilities. It shifts the focus from the fact that people have needs to the fact that people have rights. This contrasts with a more charity-orientated approach as it requires that the root causes of development issues be addressed. It involves the equal distribution of power and resources and challenges vested interests and power structures.

Participation
Human rights-based solutions maximise the participation of the community. Participation must be active, free and meaningful. Mere consultation is not sufficient. Participation in all aspects of national development is itself a human right requiring the State to create an enabling environment for participation of all stakeholders.

Equality, non discrimination and prioritisation of vulnerable groups
The prioritisation of vulnerable groups and principle of non discrimination is expressly included in all the human rights treaties. This reflects the fact that equality is a fundamental issue central to all human rights: social, economic, cultural and political. A range of groups in society are vulnerable to human rights violations by virtue of their difference or exclusion from power. Human rights treaties recognise the importance of ensuring particular protection of the rights of these groups.
Example: A Human Rights-based Approach to Peace and Reconciliation

Research into the relationship between a human rights-based approach and post-conflict reconstruction arrived at the following conclusions:

“the human rights approach has the potential to advance the goal of peace building and reconciliation in a variety of ways:

- by urging speedy adoption of a peace building and reconciliation strategy, underpinned by human rights, as a matter of legal obligation
- by urging the increased realisation of civil and political rights, which can play a crucial instrumental role in advancing the cause of peace building and reconciliation
- by confirming that economic, social and cultural rights are binding international human rights, not just programmatic aspirations
- by adding legitimacy to the demand for ensuring meaningful participation of the marginalised in decision-making processes
- by cautioning against retrogression and non-fulfilment of minimum core obligations in the name of making trade-offs and
- by creating and strengthening the institutions through which policy-makers can be held accountable for their action


2.3 Why a human rights-based approach is so important in combating social exclusion and inequality

The United Nations Committee on Economic, Social and Cultural Rights defines poverty as ‘a human condition characterised by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.’ This treaty, which Ireland ratified in 1989, contains a number of obligations on the State to address poverty and related rights issues. A human rights based approach means that those involved in social inclusion can use arguments of inequality and discrimination to convince governments that they have an internationally acknowledged commitment and duty to work towards greater equality in society and to ensure that no human being is deprived of the resources required to enjoy an adequate standard of living and related rights.
Evidence of Continuing Poverty and inequality in Ireland:

- Almost 9% of people in Ireland experience debt problems arising from ordinary living expenses
- More than eleven in every one hundred children under the age of fifteen are living in consistent poverty
- The top income groups had almost five times more income than the bottom income group
- One in five of ill or disabled people in Ireland are experiencing consistent poverty
- 22.8% of unemployed persons are in consistent poverty, compared with 1.6% of people at work
- Over one in every five persons with a chronic illness are at risk of poverty
- The Irish risk of poverty rate is one of the highest in the EU. It is 20% compared with the EU-25 rate of 16%


2.4 Right to non-discrimination and attention to vulnerable groups

The government by ratifying these conventions has also committed to ensuring that not only individuals but also particular groups cannot be discriminated against in the achievement of their rights. Sometimes laws, policies and processes affect one group more than others or affect them in a different way. For instance, women, children, refugees, people with disabilities, migrant workers and other vulnerable groups not only may face direct discrimination, but also indirect discrimination through the impact of long-standing dominant social attitudes and power relations.

“A range of other groups in society are vulnerable to human rights violations by virtue of their status, their difference or their exclusion from power. Ultimately, the test of success of a human rights based approach is the extent to which it encompasses and addresses as priority the human rights of such groups.”

Border Action, Respect, Protect and Fulfil, A Human Rights-Based Approach to Peacebuilding and Reconciliation, Monaghan: Border Action, 2007 at p. 36.
Activists working for the fulfilment of the rights of such vulnerable groups are involved in identifying specific ways in which such groups are economically, socially and culturally disempowered and disadvantaged and at highlighting measures needed in both law and policy to address such inequalities. Human rights instruments now recognise, not only the duty to immediately prohibit discrimination, but also to ensure that it is progressively eliminated. This means that special measures of “affirmative action” to redress conditions that prevent or impair the equal enjoyment of human rights by specific groups can lawfully be adopted.

**Example: Migrant Workers**

Many migrant workers around the world have no status in the country in which they live because they do not have the legal right to enter into or remain in the country. Such people are very vulnerable to abuse and often live and work in appalling conditions. However all migrants, regardless of their status, are entitled to the protection of international human rights law and standards. While the fundamental principle of non-discrimination permits certain distinctions to be made between nationals and non-nationals, these distinctions must serve a legitimate objective and must not be disproportionate. Most importantly such distinctions must not inhibit the individual, either directly or indirectly, from enjoying his or her human rights. The Committee on the Elimination of Racial Discrimination (responsible for monitoring states’ compliance with ICERD) underlined that the Convention requires the removal of obstacles that prevent the enjoyment of economic, social and cultural right by non-citizens.

**2.5 Achieving economic and social rights**

Economic, social and cultural rights (ESC rights) are traditionally regarded as more difficult to enforce than civil and political rights. Governments seek to justify violations of ESC rights on the basis that they do not have adequate resources to protect them. It is often argued that ESC rights are imprecise and that they vary over time and place. For these reasons, it is maintained, they cannot be protected by courts.

The position that ESC rights cannot be protected in the same way as civil and political rights is contested by human rights activists. Civil and political rights also vary over time and are inexact. The right to freedom of expression, for example, is open to interpretation in the same way as the notion of an ‘adequate’ standard of living is. Equally, civil and political rights also require considerable financial resources. The right to a fair trial for example, requires the state to provide courts, judges, legal aid and other types of infrastructure.
Recognised economic and social rights include:

- the right of all children to the enjoyment of the highest attainable standard of health (The Convention on the Rights of the Child, Article 24)

- the right to work, to just and fair conditions of employment, and to protection against unemployment (The International Covenant on Economic, Social and Cultural Rights, Articles 6 and 7)

- the right to form and join trade unions (The International Covenant on Economic, Social and Cultural Rights, Article 8)

- the right to a standard of living adequate for health and well-being, including food, clothing, housing, medical care and social services, as well as security in the event of loss of livelihood, whether because of unemployment, sickness, disability, old age or any other reason (The International Covenant on Economic, Social and Cultural Rights, Article 11)

- the right to education, which shall be free and compulsory in its “elementary and fundamental” stages (The International Covenant on Economic, Social and Cultural Rights, Article 13)

- the right of access to childcare (Convention on the Elimination of All Forms of Discrimination against Women, Article 11)

- the right of all children to have their voice heard (The Convention of the Rights of the Child, Article 12) and

- the right to participate in cultural and scientific life (The International Covenant on Economic, Social and Cultural Rights, Article 15)

### 2.6 What are cultural rights?

An individual’s community affects how that individual views all aspects of life including housing, food, the environment, health care, education, the arts and religion. It is therefore important that related rights are realised in a way which is culturally appropriate to all individuals. For example a member of the Traveller community is likely to have a different view of what constitutes adequate housing than a member of the settled community. It is important that governments, local authorities and service providers recognise and respect this difference in their housing and other policies.
What constitutes a violation of economic, social and cultural rights?

- A framework for assessing possible violations of economic, social and cultural rights has been developed through international expert seminar in 1986 and 1996, and confirmed by subsequent case law. These include situations where a state:

  - fails to respect or protect a right or to remove obstacles to its immediate fulfilment (for example, through forced eviction or failing to adequately regulate private service providers)

  - employs policies or practices with the intent or effect of discrimination against certain groups or individuals on impermissible grounds (for example, where health care professionals speak only official languages, not minority languages)

  - fails to realize without delay a minimum core obligation (for example, failing to prioritize free and compulsory primary education)

  - fails to take prompt, concrete and targeted steps towards the full realization of a right (for example, failing to plan for essential medicines to be affordable and available to all)

  - fails to adequately prioritize the realisation of minimum essential levels of each right, particularly for marginalized people, the excluded and the vulnerable (for example, investing heavily in improving the environment of wealthier districts and little on ensuring the safety of shanty towns)

  - places limitation, not recognized in international law, on the exercise of a right (for example, restricting the right to security of tenure to citizens, and denying it to non-citizens)

  - retards or halts the progressive realisation of a right, unless it is acting within a limitation permitted by international law (because it lacks resources, or because of unforeseeable and uncontrollable events) (for example, closing all universities during armed conflict)

One in eight people in Ireland live in a one-parent family in Ireland. One-parent families are particularly at risk of poverty and social exclusion, relative to other groups in society. In fact, you are three times more likely to live in poverty if you live in a one-parent family. International human rights conventions can assist one-parent family groups to strengthen their work in claiming the economic, social and cultural rights of such families and of individual members within them. One Family has identified a set of issues that impinge on the rights of one parent families.

These are:

- high child poverty levels in one-parent families that prevent certain children and groups of children from achieving their full potential;
- inequalities in relation to accessing economic well-being by lone parents, particularly those who are carers;
- inequalities in relation to children in one-parent families accessing the resources needed for their development and education;
- and discrimination in relation to access to services such as education and training, childcare and housing.

3.1 What are international human rights?

International human rights are a body of legal rights contained in international treaties. These treaties are agreed by international organisations such as the United Nations and the Council of Europe, and are signed and ratified by states.

International human rights are:

- **universal** – they apply everywhere and to every human being
- **indivisible** – political and civil rights cannot be separated from social and cultural rights and
- **inalienable** – they cannot be surrendered or given away, and they cannot be denied to any human being

International human rights conventions guarantee a number of such rights, including the right to equality and protection from discrimination.

3.2 What are the key United Nations human rights treaties?

Ireland is a party to 16 United Nations human rights treaties. The primary human rights treaty is the Universal Declaration of Human Rights, adopted by the United Nations (UN) in 1948. The most important UN human rights treaties with regard to economic, social and cultural rights that have been ratified by the Irish government are:

- **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**
- **Convention on the Rights of the Child (CRC)**;
- **International Covenant on Economic, Social and Cultural Rights (ICESCR)** and
- **Convention on the Elimination of Racial Discrimination (CERD)**

In this handbook we focus on these treaties which have been ratified by Ireland and which support economic, social and cultural rights, as these are the most helpful in promoting social
inclusion and equality in Ireland today. Other international treaties however, include the UN Convention Against Torture (CAT) which was ratified by Ireland and came into effect in Ireland on 11th May 2002 and the Covenant on Civil and Political Rights (ICCPR) which was ratified by Ireland on 8th December 1989. More recently, Ireland signed, but has not yet ratified, the International Convention on the Rights of Persons with Disabilities (ICRPD) and International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED).

Further details on these can be found on the websites listed under ‘Further Information’ on page 38.

3.3 When do such conventions become enforceable in Irish Law?

International conventions do not become part of Irish law unless the Government brings in specific legislation to give them effect in the Irish courts. This is called incorporation. So far, none of these UN conventions have been incorporated into Irish law. Therefore, while lawyers can refer to rights under the conventions in legal argument, they are not legally binding in court. They can, however, be very effectively used as a lobbying tool for policy change in an Irish context. The Government has committed itself to protecting and promoting the rights expressed in these conventions over time. Also, in relation to many of these treaties, Ireland has committed itself to be answerable to international bodies on the implementation of these rights and to submit reports to UN expert committees on its compliance at intervals of two to five years (see below).

3.4 What is the European Convention on Human Rights?

The European Convention on Human Rights (ECHR) was adopted by the Council of Europe in 1950 and is the main human rights treaty for Europe. The Council of Europe is an organisation of 46 European States and predates the EEC or EU. The ECHR is the only convention that is directly enforceable in the Irish courts. The European Convention on Human Rights Act was enacted in 2003 to give effect to the ECHR, although at a level below the Constitution. Cases can be taken under the European Convention on Human Rights to the European Court of Human Rights in Strasbourg.

3.5 How is compliance with the conventions monitored?

All of the United Nations Human Rights Conventions have committees that monitor progress on their implementation called Treaty Monitoring Bodies, or more commonly known as Oversight Committees. When governments ratify a convention they agree to report to the various Oversight Committees on the steps that they have taken to implement convention
rights at home. This is called the **State Reporting System**. Non-governmental organisations (NGOs) and other bodies such as national human rights commissions and other international bodies can also submit information for review by such a committee when it is assessing a government’s compliance.

The Oversight Committees then issue **Concluding Comments** to the government of the state concerned on their progress, which the government agrees to address. Often, information from NGOs takes the form of **Shadow Reports** that provide a counter-balance to the state report. NGOs can submit individual shadow reports or can produce joint reports through networks and alliances. For example, in relation to the most recent national report under CEDAW, the Women’s Human Rights Alliance coordinated and presented the Irish shadow report. In the case of the UNCRC, the Children’s Rights Alliance coordinated the shadow report. The Irish Human Rights Commission also presents reports to the various committees as do other organisations, for example, the Ombudsman for Children in the case of the UNCRC.

The relevant UN Committees also produce a number of what are called **General Recommendations** on issues that they consider need to be elaborated on in more detail than is possible in the convention itself. For instance, the CEDAW Committee has produced general recommendations on violence against women, statistical data concerning the situation of women, equal remuneration for work of equal value, and equality in marriages and family relationships. ICESCR has produced **General Comments** on the equal right of all men and women to the enjoyment of all economic, social and cultural rights, the right to adequate housing, and the economic, social and cultural rights of older women. CEDAW, CERD and ICESRC also have a procedure whereby individuals and groups can submit claims of violations of rights protected by the conventions to the committee. The committee can also initiate an enquiry procedure in cases of grave or systematic violations of rights under these conventions.

### 3.6 Enforcement of different rights

As referred to above the argument is often made that ESC rights are more difficult to enforce than civil and political rights. Because of the perceived difficulties in enforcing ESC rights, three principles are suggested to support their implementation:

1. **Identify a minimum core content for each right**: While ESC rights may vary over time and from place to place, it is possible to identify a minimum core content for each right. Governments can then be held accountable to providing everyone in their State with this basic level of protection.

2. **Non-discrimination and protection for the most vulnerable groups**: Regardless of the availability of resources governments should still be able to show that they have not
discriminated between people in the protection of ESC rights and that they have prioritised the basic needs of the most vulnerable groups in their society.

iii. **Progressive realisation of rights**: The concept of progressive realisation of rights demands that each state takes steps, to the maximum of its available resources, with the view to achieving overtime, the full realisation of ESC rights. The concept of progressive implementation allows for differences between states and recognises that full implementation cannot be achieved in a short timeframe; however, such a concept prevents states from deferring their obligation indefinitely.


**State Obligation to protect and promote ESC rights**

“Even where the available resources are demonstrably inadequate, the obligation remains for a State Party to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances.

Even in times of severe resource constraints, whether caused by a process of adjustment, of economic recession, or by other factors, the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes”


“Economic, social and cultural human rights involve immediate obligations in three ways, regardless of resources (non-discrimination; an obligation ‘to take steps’ and to ensure the core minimum of the right). It is important for community and voluntary groups to realise that the people that they represent have the right to demand these standards from their government.”

4.1. What is the International Covenant on Economic, Social and Cultural Rights?

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the main UN treaty protecting Economic, Social and Cultural rights. ICESCR lists a set of rights and standards that governments are obliged to work towards. The ICESCR imposes immediate obligations on governments to take steps to bring about the full enjoyment of the rights contained in the ICESCR, particularly the adoption of legislative measures. The rights contained within the ICESCR include:

- the right to earn a living and choose a job (article 6)
- the right to just and favourable working conditions including fair wages, safe and healthy working conditions, equal opportunities and paid holidays (article 7)
- the right to form and join trade unions (article 8)
- the right to social security, including social insurance (article 9)
- the right to family protection and assistance, including special protection for mothers before and after childbirth, and the protection of children and young persons from economic and social exploitation
- the right to an adequate standard of living including food, clothing and housing and the continuous improvement of living conditions (article 11)
- the right to the highest attainable standard of physical and mental health (article 12)
- the right to education including free and compulsory primary education (article 13)

4.2 What is its status in Ireland?

The Irish Government ratified the ICESCR in 1989 and is accountable to the UN Committee on Economic, Social and Cultural Rights (CESCR) on its progress in complying with the provisions of the treaty. It is not legally binding as it has not been incorporated into Irish law.
4.3 Where is Ireland in breach of the Convention?

The Committee on Economic, Social and Cultural Rights last considered Ireland’s implementation of ICESCR in 2002. In their concluding observations they expressed the following concerns:

- no steps have been taken to incorporate or reflect the Covenant in domestic legislation.

- no steps have been taken to adopt a human rights-based approach to the National Anti-Poverty Strategy (NAPS)

- there is an absence of a human rights framework encompassing among other things, the principles of non-discrimination and equal access to health facilities and services in the National Health Strategy

- the Disability Bill does not adopt a human rights-based approach

- many new households cannot secure adequate and affordable housing; and some 1,200 families of the Traveller community are living in roadside encampments without access to water and adequate sanitary facilities, and are liable to be forcibly evicted

- there is persistent discrimination against persons with physical and mental disabilities, especially in the fields of employment, social security benefits, education and health

- the inadequacy of the minimum wage and welfare payment levels set by the State party

- the failure of the State to introduce a common waiting list for treatment in publicly funded hospital services for publicly and privately insured patients

- The large number of persons with mental disabilities, whose state of health would allow them to live in the community, who are still accommodated in psychiatric hospitals
In this report the Committee recommended that the Irish Government:

- incorporate economic, social and cultural rights in the proposed amendment to the Constitution, as well as in other domestic legislation
- adopt a human rights-based approach to the Disability Bill
- integrate economic, social and cultural rights into NAPS
- accelerate its social housing programmes in order to reduce the waiting time for social housing, provide alternative accommodation for roadside Travellers and provide all necessary traveller accommodation
- revisit the recently published National Health Strategy with a view to embracing a human-rights framework in that strategy, in line with the principles of non-discrimination and equal access to health facilities and services
- grants people with disabilities who work employment status and allows them to retain the right to free medical care
- ensure the minimum wage and welfare payments conform with the States obligations under the treaty
- continue to involve non-governmental organisations and other members of civil society in the preparation of its third periodic report

Apart from the final two recommendations where progress has been made the Government has continued to fail to incorporate the Convention or to adopt a human rights based approach to relevant legislation and government policy.

4.4 How can the ICESCR be used to promote social inclusion and equality?

The ICESCR provides strong protection for social and economic rights and can be used to lobby the Government to protect, promote and fulfil a variety of rights contained within it. Article 6 establishes the right of everyone to gain their living by work which they freely choose and provides for training programmes and policies to achieve economic, social and cultural development. Article 10 gives the widest possible protection for the family, places particular emphasis on supporting the family in its caring role for dependent children and protects young people against discrimination based on their parentage. Article 11 provides for the right to an adequate standard of living including adequate food, clothing and housing. There are also strong protections for physical and mental health contained in Article 12.
As referred to above, traditionally economic, social and cultural rights, as opposed to civil and political rights, have been described by government as particularly difficult to enforce. It is argued that they are imprecise, that they change over-time, that they require massive financial resources and that their implementation therefore undermines the Government’s right to decide all policy. With this in mind, Article 2 of ICESCR establishes the principle of ‘progressive realisation’.

As outlined earlier (see par. 3.6), the concept of progressive realisation provides that state parties take steps, to the maximum of their available resources, towards achieving the full realisation of the rights contained in the Covenant. It also holds that the rights in the Covenant should be exercised without discrimination of any kind. The concept of progressive realisation has been further developed by the UN Committee on Economic, Social and Cultural rights through the Limburg principles on the implementation of the ICESCR and the Maastricht Guidelines on violations of ESC Rights. Both the Committee and the Principles recognise that the concept of progressive implementation is flexible enough to allow for differences among state parties but that there exists a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights.

EXAMPLE OF NGO PARTICIPATION IN THE REPORTING PROCESS:
Submission by the Irish Traveller Movement

In 2002 the Irish Traveller Movement made submissions to the Committee on Economic, Social and Cultural Rights. These submissions set out the Government’s failure to protect the rights of members of the Traveller community, as set out in ICESCR. In particular they recorded the level of discrimination against Travellers, contrary to Article 2, the limited access to employment experienced by Travellers, contrary to Article 6, the inadequacy of the accommodation provided for Travellers, contrary to Article 11 and the poor health record suffered by Travellers, contrary to Article 12. Recognition by the committee, of the difficulties faced by the Traveller community is evident in their concluding observations where, in particular, they urged the government to provide adequate Traveller accommodation.
5.1 What is the Convention on the Rights of the Child?

The Convention on the Rights of the Child (CRC) provides an internationally agreed framework of minimum standards necessary for the wellbeing of the child. The key principle underpinning the CRC is that the best interests of the child should always be taken into account (Article 3). Some of the main articles are as follows:

- protection from discrimination (Article 2)
- the right of every child to life, survival and development (article 6)
- the right of every child to know and be cared for by his or her parents (article 7)
- the right of a child who is capable of forming his or her own views, to be heard in judicial and administrative proceedings (article 12)
- the right to the highest attainable standard of health and access to health and medical services (Article 24)
- the right to benefit from social security and to an adequate standard of living (Articles 26 & 27)
- right to primary education compulsory and free to all and access to secondary education (Articles 28 & 29)
- the right of children of ethnic, religions, or linguistic minorities and persons of indigenous origin to enjoy their own culture, practise their religion and use their own language (article 30)
- the right of children to enjoy rest and leisure and to participate fully in cultural and artistic life (article 31)
- children are defined as all persons under the age of 18 years (Article 1)
Statistics: Inequality among Children and Families

- Perinatal mortality (five months before and one month after birth) is three times higher in poorer families than in rich families.

- Infant mortality amongst Traveller children is two and a half times that for the settled population.

- Young people who leave school early with few or no qualifications have significantly higher unemployment rates than the average and considerably lower earnings.

- Almost one in three 3rd class pupils in disadvantaged areas suffer severe literacy difficulties.

- Over one third of persons in consistent poverty are children.

- One parent households have the highest consistent poverty rate at 32.6% and are three and a half times more likely to live in consistent poverty.

- Over half of persons at risk of poverty and almost two-thirds of persons in consistent poverty live in households with children.

Taken from the END CHILD POVERTY COALITION: Child Poverty in Ireland 2005: An Overview

5.2 What is its status in Ireland?

The Government has ratified the Convention and is therefore obliged to take all necessary steps to ensure that the minimum standards set by the CRC in areas such as social services, legal, health and education, family rights and the right to be heard for children are met. The Convention has not been made part of Irish law and, therefore, is not legally binding in the Irish courts. However the proposed new Social Partnership agreement refers specifically to Ireland’s commitment to implement the CRC within Irish laws and policies. The document states that:
Irish Government’s Commitment to Children’s Rights

‘Ireland has ratified the UN Convention on the Rights of the Child and is committed to its implementation in our laws and policies. To achieve this vision, the Government and social partners will work together over the next ten years towards the following long-term goals for children in Ireland:

- Every child should grow up in a family with access to sufficient resources, supports and services, to nurture and care for the child, and foster the child’s development and full and equal participation in society.
- Every family should be able to access childcare services which are appropriate to the circumstances and needs of their children.
- Every child should leave primary school literate and numerate.
- Every student should complete a senior cycle or equivalent programme (including ICT), appropriate to their capacity and interests.
- Every child should have access to world-class health, personal social services and suitable accommodation.
- Every child should have access to quality play, sport, recreation and cultural activities to enrich their experience of childhood.
- Every child and young person will have access to appropriate participation in local and national decision-making’.


5.3 Where is Ireland in breach of the Convention?

Ireland’s second progress report to the UN Committee on the Rights of the Child was examined in September 2006. The Irish Government appeared at a plenary hearing in front of the UN Committee in September 2006 to account for its progress since 1998. The Committee produced its concluding observations setting out its concerns regarding the rights of children in Ireland. These included:

- the failure to adopt a child rights-based approach in policies and practices
- the failure to incorporate the CRC into Irish law so that it is usable in the Irish courts
- the lack of a broad based and child-centred approach to family support programmes
- the inadequacy of the health services and educational facilities for children with disabilities
- the absence of statutory guidelines safeguarding the quality of and access to healthcare services
the number of children living in low-income households

the failure of the state to cover the cost of educational materials and the high educational dropout rates existing among children belonging to the Traveller community and children with disabilities

the minimal political and financial importance given to the creation of recreational facilities

The Committee recommended to the Government that it:

• incorporate the Convention into domestic law

• extensively reviews its family support services

• put in place an inclusive and rights-based legal framework that addresses the specific needs of children with disabilities

• ensure a child’s views are heard at judicial and administrative proceedings affecting that child

• adopts all-inclusive legislation that address the health needs of children and pays particular attention to the needs of refugee and asylum seeking children and children belonging to the traveller community

• strengthens its support to families living in economic hardship and in particular supplements universal child benefit and increases spending on childcare, healthcare and housing for particularly vulnerable families

• continues taking measures to create an education environment where the special needs of the child are taken into consideration

• places more emphasis on the creation of leisure and cultural facilities for children

The Irish Government is due to submit its next report on its implementation of the CRC in April 2009.
Example: NGOs action under the CRC: Shadow report compiled by the Children’s Rights Alliance

The Children’s Rights Alliance prepared a Second Shadow Report to the United Nations Committee on the Rights of the Child and made a number of recommendations. In particular, they recommended that the Government:

- call a referendum to amend the Constitution to give express recognition to children’s rights
- address the increasing inequalities between children in Ireland
- introduce a new social welfare payment for children in low-income families
- build quality social and affordable housing for families with children;
- provide full medical cards (free healthcare) for all children living in low-income families
- develop a range of appropriate prevention, early intervention and treatment supports and services for children and young people with mental health difficulties and
- adequately fund primary and second-level education

5.4 How can the CRC be used to promote social inclusion and equality?

The CRC requires that Governments take all necessary measures to ensure that all children and young people experience the rights contained in the Convention. The Convention furthermore prohibits discrimination and requires that all children, in the contracting states, have access to medical services, education, leisure facilities and an adequate standard of living.

Example: FLAC’s Universal Child Benefit Campaign

In November 2006 FLAC launched a campaign that has been supported by many NGOs, to restore universal child benefit following the Government’s decision to make habitual residence a condition to obtaining the benefit. FLAC highlighted the adverse affect of this condition on the children of asylum seekers, refugees and migrant workers. In their campaign, they argued that the Government’s actions were in violation of the CRC. They cited article 26 of the Convention, stating that every child had the right to benefit from social security and Article 2, protecting the child from discrimination on the basis of the status of the child’s parents or legal guardians.
6.1 What is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

CEDAW contains rights on a number of issues affecting women such as protection against discrimination in education, employment, health, family relations, benefits and political participation. It defines an equality agenda for women and sets out a framework for action to end discrimination against women. Some of the main provisions of the Convention are as follows:

- Governments are required to condemn discrimination and to implement laws protecting women from discrimination (Articles 1 & 2)

- Governments are permitted to implement special temporary measure as a means of accelerating equality between men and women and of protecting maternity (Article 4)

- Governments are required to take all appropriate measures to eliminate prejudice and patterns of behaviour based on stereotyped roles for men and women (Article 5)

- All appropriate measures should be taken to ensure the equal rights of men and women in relation to education (Article 10)

- All appropriate measure should be taken to eliminate discrimination against women in the field of employment and in particular provide support structure and child care facilities to enable parents to combine family obligations with work responsibilities (Article 11)

- All appropriate measures should be taken to eliminate discrimination in the area of health care (Article 12)

- All appropriate measures should be taken to eliminate discrimination against women in areas of economic and social life and to ensure the same rights to family benefits, bank loans, mortgages and other forms of financial credit and to participate in recreational activities, sports and all aspects of cultural life (Article 13)

- All appropriate measures should be taken to account for the problems faced by rural women (Article 14)
Through its National Action Plan against Poverty and Social Exclusion (NAPS, 2002) the Irish Government committed itself to eliminating consistent poverty for women. It sought to ‘…improve access for women to appropriate healthcare, education and employment, thus reducing the risk of poverty for such women and their families’. However this target was not achieved during the period of the NAPS and was not included in the latest National Action Plan for Social Inclusion (2007)

The CEDAW articles can be used to strengthen the case to the government to reaffirm and act on these commitments to women.

### Inequality among Women and Men in Irish Society

'Women in Ireland are at a higher risk than men of living in poverty. Twenty-one percent of women are in danger of suffering from poverty. Specific groups at a particularly high risk include older women, women engaged 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 are paid 14% less than men [CSO 2005]
- the employment rate for women in 2005 was 58% compared to 76.2% for men. [CSO 2005]
- the risk of women in Ireland falling below the 60 per cent poverty line was 21 per cent in 2004, compared with 18 per cent for men (CSO,2005)
- over half of older women live on incomes below 60% of median income and 40.4% of older women live in constant poverty. [CSO 2005]
- 1 in 7 women have experienced severe abusive behaviour from a partner at some time in their lives (ESRI/National Crime Council, 2005)

### 6.2 What is its status in Ireland?

Ireland has ratified CEDAW, which means the government has committed itself to undertake a series of measures to end discrimination against women in all its forms. However, CEDAW has not been incorporated into Irish domestic law as no legislation has been brought in to give it effect in the Irish courts.

### 6.3 Where is Ireland in breach of the convention?

In July 2005 the UN Oversight Committee considered Ireland’s fourth and fifth periodic report. In response it made the following recommendations:
CEDAW should be made part of Irish law so that it can be used in the Irish courts

stereotypical attitudes towards women should be eliminated and equality between men and women should be taken into account in any amendment to the Constitution

a National Women’s Strategy should be implemented to ensure an integrated and comprehensive approach to women’s equality and to securing women’s human rights

effective measures should be implemented to protect those vulnerable to poverty and social exclusion

affordable childcare and other measures should be provided to allow women to access employment and training

Discrimination in pay between men and women should be eradicated and equal opportunities in the labour market created

A national debate on women’s reproductive health should be held and full access to family planning services for adult and teenage women and men should be ensured

Violence against women and the trafficking of women should be addressed by putting in place strategies backed up by law, resources and training for service providers

A National Women’s Strategy has just been published. While welcomed by various NGOs its lack of hard targets and its aspirational tone has disappointed many advocating for equality for women in all spheres of society.

6.4 How can CEDAW be used to promote social inclusion and equality issues?

CEDAW promotes equality of women with men in all aspects of life including economic and social. It demands that governments take all appropriate measures to facilitate women’s equal access to the labour market and to services, addressing the economic disparities between women and men. The UN Oversight Committee, for example, has recognised that Irish women are still seriously disadvantaged in the labour market and that lack of affordable childcare and other measures such as family friendly work policies seriously impede women’s access to employment.

1 National Women’s Strategy 2007 – 2016, April 2007, Department of Justice, Equality and Law Reform under the direction of an Inter-Departmental Committee 2007
Example: The National Women's Council Of Ireland's Campaign for Social Welfare Reform

The National Women’s Council of Ireland used CEDAW to support its campaign for social welfare reform to make the system more equitable for women. They argued that the social welfare system continues to be based on a male breadwinner model, which denies women full independence. Their research indicated that the system reinforced the concept of women as adult dependents rather than as individuals entitled to benefits in their own right. They highlighted the State’s failure to provide recognition for the unpaid care work which is predominately undertaken by women and to recognise the reality of women’s participation in the labour market. In their campaign, NWCI outlined how a rights approach aimed at securing economic independence for women is consistent with the CEDAW.

Shadow Report: The Irish Family Planning Association (“IFPA”)

The Irish Family Planning Association submitted a shadow report to the Oversight Committee in 2005. Their report focussed on the right to secure an abortion in Ireland. In their report, the IFPA argued that the restrictions on abortions in Ireland violated Article 12 of the Convention, which provides women with equal access to health care services, including family planning. The report submitted that the Government had ignored the previous concluding observation of the oversight committee in failing to provide greater access to abortion information and services in Ireland. They highlighted the hardship caused by the abortion restrictions for vulnerable groups, such as female asylum seekers who cannot leave the territory of the State.
7.1 What is International Convention on the Elimination of all Forms of Racial Discrimination?

The International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) seeks to eliminate all forms of racial discrimination. It is the main international instrument that deals with issues in relation to racism, racial discrimination, xenophobia and related intolerance. It defines and condemns racial discrimination and includes a number of key rights.

The most of significant of these with regard to social inclusion and equality are set out in Article 5. Article 5 contains:

- the right of everyone to equality before the law
- the entitlement to political and civil rights, for example, freedom of movement, thought, conscience, religion, opinion and expression, peaceful assembly and association and
- the rights to a range of economic, social and cultural rights such as the right to work and favourable conditions of work, the right to housing, to public health, social security and to equal participation in cultural activities

Article 6 states the right to redress when the above rights have been breached.

7.2 What is its status in Ireland?

The Irish Government ratified CERD in December 2000. It is not legally binding as it has not been incorporated into Irish law. The Irish Government’s first and second reports on the implementation of the Convention in Ireland were considered by the UN Committee in March 2005. The Equal Status Acts of 2000–2004 and the Employment Equality Acts of 1998–2004, serve to ban racial discrimination in some but not all areas, but particularly in relation to employment and the supply of goods and services.
7.3 Where is Ireland in breach of the convention?

The consideration of the Irish Government’s reports on the implementation of ICERD resulted in a number of important concluding comments by the UN Oversight Committee. It recommended that:

- ICERD should be incorporated into domestic law
- the Irish Government should undertake to combat prejudice and xenophobic stereotyping, especially in the media
- all necessary steps should be undertaken to avoid negative consequences of the direct provision and dispersal system for individual asylum seekers, and measures adopted to promote their full participation in society
- the scope of the Equal Status Act should be expanded to ensure protection against discrimination by public authorities to cover the whole range of government functions and activities
- Ireland should ensure full practical implementation of legislation prohibiting discrimination in employment and in the labour market to ensure greater protection for new communities
- the police should undergo antiracism training and a monitoring mechanism to investigate allegations of racially motivated police misconduct should be put in place; in recognition of the link between racial and religious discrimination
- the Irish Government should recognise Travellers as an ethnic group
- the Irish government should take measures to improve access by Travellers to all levels of education, their employment rates as well as their access to health services and to accommodation suitable to their lifestyle
- the Irish Government should put in place measures with regard to the special needs of women belonging to minority and other vulnerable groups, in particular, female Travellers, migrants, refugees and asylum seekers
- the Irish Government should ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families to ensure better protection for migrants and migrant workers and
- adequate resources should be made available for bodies such as the Irish Human Rights Commission, the Equality Authority and the National Consultative Committee on Racism and Interculturalism, to enable them to exercise the full range of their statutory functions and to support the NGO community
These recommendations mirror those put forward by the NGO Alliance who produced a shadow report and submitted it to the process. Ireland is due to submit its third and fourth periodic reports jointly, in January 2008.

Example of NGO Participation

Over 40 NGOs working in Ireland on issues such as anti-racism, community development and human rights submitted a joint shadow report to the United Nations oversight committee in 2005. The report criticised the Government on a number of grounds including: its failure to incorporate the convention into Irish law; its failure to undertake adequate research into Black and minority ethnic groups and the racism they suffer, the minimal efforts made to introduce positive discrimination programmes, the segregation of asylum seekers and the lack of suitable accommodation for minority ethnic groups including Travellers. It recommendations: increased funding for Black and minority ethnic-led groups, the introduction of statutory-based equality proofing, community based housing and social welfare benefits for asylum seekers and improved Traveller accommodation programmes. The Shadow report of the NGO Alliance is available at www.immigrantcouncil.ie.

7.4 How can ICERD be used to promote social inclusion and equality?

ICERD can be used to advocate for changes to tackle the social exclusion faced by many new communities in Ireland, by refugees and asylum seekers and by the indigenous Traveller community. Article 5(e) sets out everyone’s equal right to work, to just and favourable conditions of work, to equal pay, to housing, to public health, medical care and social security, to education and to equal participation in cultural activities.

In its most recent concluding observations on Ireland the United Nations Committee on the Elimination of Racial Discrimination criticised the Irish Government’s policy of dispersal and direct provision for asylum seekers and recommended that measures be adopted to promote their full participation in society. It expressed concern at reports of exploitation of foreign workers and at the situation faced by members of the Traveller community in the field of health, housing, employment and education. The rights set out in article 5(e) and the comments issued by the oversight committee support campaigns such as those aimed at equal treatment of asylum seekers, at improving the conditions of members of the Traveller community and at providing increased rights and security for migrant workers.
8.1 What is the European Convention on Human Rights?

The European Convention on Human Rights (ECHR) is the only one of the Conventions to have been implemented into Irish law. The European Convention on Human Rights Act 2003 made the ECHR enforceable in the Irish courts. This means that the ECHR is not only powerful as a lobbying tool but is legally binding.

The ECHR protects a number of basic human rights and freedoms in the civil and political sphere. The main rights under the Convention are as follows:

- the right to life (Article 2)
- the right to freedom from torture and inhuman or degrading treatment or punishment (Article 3)
- the right to liberty and security of the person (Article 5)
- the right to fair and public trial within a reasonable time (Article 6)
- the right to respect for private and family life as well as home and correspondence (Article 8)
- the right to freedom of thought, conscience and religion (Article 9)
- the right to freedom of expression (Article 10)
- the right to marry and found a family (Article 12).
- the right to an effective remedy for violation of rights set out in the Convention (Article 13)
- the prohibition of discrimination in the enjoyment of those rights (Article 14)

8.2 Who Created the ECHR?

The ECHR was created by the Council of Europe. The Council of Europe was set up in 1949 shortly after the Second World War with the aim of achieving peace and a respect for human rights throughout Europe. It is based in Strasbourg where it has its own court, the European
Court of Human Rights. The Strasbourg court deals with complaints from individuals who claim that their rights under the convention have been breached by an organ of the state. Before taking a case to Strasbourg however, individuals must take a case to the courts of their own country. Only when they fail to get redress in their domestic courts can they look to the European Court of Human Rights. The Court has been in existence for 50 years and has generated a huge and significant body of case law.

8.3 What is its status in Ireland?

In 2003, the Irish Government passed the European Convention on Human Rights Act. This Convention is now enforceable in the Irish courts. This Convention, however, has been incorporated at a level below the Constitution. If there is a conflict between the Convention and the Constitution on any right, for example, the right of the family, the Constitution takes precedence.

However the Act puts a duty on the Organs of the State to perform their duties in a way that is compatible with the Convention. (Organs of the State include local authorities, for example.) Under the 2003 Act, if these bodies fail to perform their functions in a way that is compatible with the Convention, a complainant can go to the courts in Ireland and damages can be sought.

The Act also requires the courts to interpret domestic legislation in a manner consistent with the Convention. The courts must therefore pay attention to any relevant judgment or opinion of the European Court of Human Rights when making a decision. The Convention also gives the High Court or the Supreme Court the power to declare any statutory provision to be in breach of the Convention (a declaration of incompatibility). This does not declare the law in question invalid but it does place an obligation on the Taoiseach to put that law in front of the Oireachtas within 21 days. The Oireachtas does not have to change the law but it is likely that it will. If an individual believes their rights under the ECHR have been breached but they do not get redress in the High Court or Supreme Court then they can take a case to the Strasbourg Court.

8.4 How can the ECHR be used to promote social inclusion and equality?

The ECHR is principally concerned with civil and political rights. None-the-less it does contain certain rights which have implications for social inclusion and equality issues. Article 3 protects against torture and inhuman and degrading treatment. Article 6 establishes the right to a fair trial which has been held to necessitate the provision of civil free legal aid. Article 8 contains the right to respect for private and family life and a home. Article 14 provides that the Convention rights are to be secured without discrimination. In addition, protocol 1 to the Convention protects the right to education and the right to property.

Where organs of the state breach these provision cases can be taken in the Irish courts looking for a declaration of incompatibility. So far there has not been a declaration of incompatibility under the 2003 Act in the Irish Court. There has however, been many such

2 (Court of Appeal, upholding Moses J) [2003] EWCA Civ 875
declarations made in the English court under the equivalent piece of legislation there. In R (on the application of Hooper and others) v Secretary of State for Work and Pensions² for example, it was held that it was incompatible with the convention to make social security payments available to widows that were not available to widowers. R (on the application of Sylviane Pierrette Morris) v Westminster City Council & First Secretary of State³ concerned an application for local authority housing by a single mother whose daughter was the subject of immigration control. The court found that it was incompatible with article 14 (discrimination) to disregard the daughter when determining priority need in the allocation of housing. As more cases are brought in Ireland pleading the ECHR it is likely that in the future we will see a declaration of incompatibility being granted in the Irish courts.

Examples of Cases Using the ECHR in Ireland

Since the 2003 Act, the ECHR has been pleaded in many cases before the Irish Courts.

In Cronin v Minister for Education⁴, the Applicant was a 4 year old boy suffering from ADHD/Autism suing through his mother. He sought an injunction requiring the State to provide pre-school home education and supervision. In doing so he relied on Article 2 of the first protocol (right to education).

Article 8 containing the right to privacy and home, in conjunction with Article 14, prohibiting discrimination, have been pleaded in cases taken by members of the Traveller community to compel the state to provide them with suitable accommodation.

The ECHR has also been used in immigration and refugee cases, cases concerning special educational needs and cases involving property rights amongst others.

Cases taken by Irish litigants to the European Court of Human Rights in Strasbourg.

Several cases have been taken by Irish litigants to the European Court of Human Rights in Strasbourg.

In DG v Ireland⁵, the applicant, while still a minor, had been detained in St Patrick’s Institution, Dublin, without charge or conviction, because there was no suitable secure, supervised accommodation available in Ireland. The European Court of Human Rights accepted the Applicant’s claim that this detention violated his right to liberty contrary to Article 5 of the Convention.

In Airey v Ireland⁶ the failure of the State to provide legal aid for judicial separation cases was found to be a violation of Article 6 and Article 8 of the Convention. The Civil Legal Aid Scheme was introduced as a result of this case.

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¹ [2005] EWCA Civ 1184
² [2004] IEHC 255 (06/07/04)
³ Application no. 39474/98, 16th August 2002
⁴ [1979] Series A, No. 32
NGOs can use the various human rights conventions outlined above to support their work to eliminate the inequalities and discriminations that continue to be experienced by certain groups in Irish society today.

9.1 Using Human Rights Conventions in Work to Achieve Social Inclusion and Equality in Ireland

A range of actions can be taken, using the human right conventions, to promote social inclusion and equality. NGOs could use the conventions in the following ways:

- to lobby and advocate for policy change
- to contribute to the shadow reports submitted to the UN Oversight Committees
- to ensure the use of the conventions within the legal system
- to collect data and produce publications looking at the implementation of the rights enshrined in the conventions
- by adopting a human rights-based approaches in ongoing project work
- to provide training on a human-rights based approach

9.2 Using the Conventions in lobbying and advocacy work

NGOs can campaign against breaches of rights under the conventions and, through this, work to create the political will to implement the rights contained within them.

NGOs Using the Conventions to Lobby and Advocate for Policy Change

- become familiar with the articles that affect specific groups under the conventions and select articles that are most relevant to the issues being worked on
- provide information to those concerned about the conventions
- refer to the convention articles in policy documents and submissions and/or representations to the government and other bodies
- identify gaps in the provision of services which will indicate the convention articles that are being breached. For example, a lack of provision of childcare services will breach CEDAW Article 11
• document any breaches in policy documents to show for example how the rights of individuals belonging to minority groups are not being upheld in line with the conventions

• build a case. Collect accurate data on breaches of the conventions and case studies which can be of use to lobby effectively

• find out about the reporting processes under the conventions and prepare shadow reports or contribute to other shadow reports.

• target local media to generate discussion on human rights and violations of these rights

• undergo training on the conventions, where available

• use the opportunities provided by elections to lobby politicians and highlight the gap between what the government promised to deliver at an international level and what it has actually provided at national and local level for groups who are most at risk from poverty

9.3 Using the UN reporting procedure

NGO’s Role in preparing Shadow Reports

• find out about the reporting processes under the conventions and make shadow reports or contribute to other shadow reports being prepared for example by Children’s Rights Alliance

• collaborate with the government on their report by sending information and informing government officials about the issues on the ground

• get involved in preparations for presentations to the UN committee with other groups

• monitor the progress of the Irish government in implementing the recommendations of the UN oversight committees

• highlight through the media, to the Irish Human Rights Commission and other human rights platforms at local, national and international level where the government has implemented or failed to implement the recommendations; and lobby politicians and inform them of the gaps in implementation and look for reasons for the lack of progress

• attend the UN sessions where the government is presenting its report to the UN Committee
The UN Oversight Committees examine the Government’s regular reports on their progress in implementing the conventions in great detail and prepare their own report. During this process they are strongly influenced and informed by submissions made by NGOs. NGO shadow reports can therefore play a vital role in highlighting the gap between the national situation and international human rights standards.

9.4 Using the law to promote rights

NGOs can play an important role in ensuring that the conventions are used within the legal process. The use of the legal aspect of the conventions can be promoted in one or more of the following ways:

**NGO Role in ensuring the use of the Conventions within the Legal system**

- Lobby for legislation to incorporate the conventions into Irish domestic law.
- Encourage lawyers to use the convention in their legal arguments.
- Take cases under the European Convention on Human Rights and the European Convention on Human Rights Act to advance rights. This means encouraging individuals whose rights under the ECHR have been violated to talk to legal experts, for example at Free Legal Advice Centres. If these legal experts consider that an organ of the state has violated an individual’s rights, they can advise on how to issue proceedings using the European Human Rights Act, 2003.
- Use the individual complaints mechanism available under CEDAW, CERD and ICESCR which enables individuals, whose rights under the convention have been breached and who have exhausted domestic remedies, to complain to the oversight committees.

9.5 Using data gathering and monitoring to promote rights

The United Nations recognises the importance of monitoring the implementation of the conventions in individual countries and providing indices against which to assess such implementation. The UN recognises three ways of measuring human rights:

1. as they are laid out in national and international legal documents (*human rights in principle*);
2. as they are enjoyed by individuals and groups in nation states (*human rights in practice*)
3. through the generation of official statistics that may not have been devised originally to measure rights, but that nevertheless may serve as important proxy measures related to human rights protection (*official statistics*)
Recording the human rights experience of particular target groups is a necessary element of such monitoring systems. NGO’s have an important role to play in informing an assessment of the human rights experience and in providing statistics against which human rights can be measured.

**Example: Indicators and the right to health**

Health is one of the key components of an adequate standard of living.

*The scope of the right to health.* It is the right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of the highest attainable standard of health. The right includes both health care and the underlying determinants of health. It contains both freedoms and entitlements. The freedoms include the right to control one’s body, including reproductive health, and the right to be free from interference, such as non-consensual medical treatment. The entitlements include a system of health care and protection that is available, accessible, acceptable and of good quality. Therefore the right to health implies that functioning public health and health care facilities, goods and services are available in sufficient quantity within the State. It means that they are accessible to everyone without discrimination. According to international human rights law, the right to health encompasses a number of more specific health rights including: the right to maternal, child and reproductive health; the right to healthy natural and workplace environments; the right to prevention, treatment and control of diseases; and the right to health facilities, goods and services.

*Potential indicators.* Life expectancy at birth, proportion of public expenditure on primary health care, proportion of the population not covered by any kind of pre-payment mechanisms or by privately funded health insurance, number of primary health care units per thousand population, number of doctors per thousand population, under-five mortality rate, infant mortality ratio, maternal mortality ratio, proportion of births attended by skilled health personnel, proportion of mothers with access to pre- and post-natal medical care facilities, disability-adjusted life years lost for men and women.


**9.6 Adopting a human rights-based approaches in project work**

NGOs can progressively adopt a human rights-based approach in all their activities. For example they can adopt such an approach in their on-going project work.
NGOS adopting a human rights-based approach to Project Work

- plan and implement projects in which a key feature in the initial assessment is the legal framework for protecting human rights and the general human rights situation
- identify duty bearers and rights holders across different policy areas
- ensure that monitoring and evaluation of the project includes indicators that measure adherence to human rights principles and
- include an assessment of the human rights impact of the project

Source: Border Action, Respect, Protect and Fulfil, A Human Rights-Based Approach to Peacebuilding and Reconciliation, Monaghan: Border Action, 2007 at p. 93

9.7 Providing training on a human-rights based approach

NGOs can provide training on how there members can utilise a human-rights based approach in there work. For example training can be provided on using a HRBA approach to combat racism.

Example Anti-Racism Training

The purpose of the LIR Anti-Racism Programme is to promote education and awareness on issues of racism using a development education approach. LIR Anti-racism Training and Education programmes are delivered using a range of methodologies that promote discussion and interaction, including group discussions, role play, creative brainstorming and experiential learning. The sessions have been developed to raise awareness and provide anti-racism awareness training from a development education perspective among community development groups and organisations. It is important we have an opportunity to learn about the concepts involved, the extent of racism in Ireland and how it affects all of our lives, and to begin to discuss and think about the reasons for its existence and ways to take action from an anti-racism perspective. These sessions are intended to facilitate participants to explore racism from their own perspective and in so doing, to challenge their own values and attitudes. They are introduced to the issues of racism as one form of oppression and supported in ensuring the promotion of Human Rights. At the same time through various avenues we network with groups in order to promote the Anti Racism agenda, this is done for example by being members of the NGO Alliance Against Racism, European Network Against Racism, etc.

Source LIR Anti Racism Training and Education Programme


**Submissions**


Glossary of Human Rights Terms

ADOPT (A LAW OR RESOLUTION) – vote to accept

CONTENT OF A RIGHT – the meaning of a right; what it guarantees

CONVENTION – in this context it means a treaty

DECLARATION – in this context it means a statement by governments that is not legally binding on them

DEVELOPMENT – a comprehensive process involving sustainable improvement in economic, social and political well-being of all individuals and peoples. Development aims for the realisation of all human rights and for the greatest possible freedom and dignity of every human being

HUMAN RIGHTS STANDARDS / NORMS – requirements in human rights treaties or declarations. Used to assess/measure how well a government’s policies and practices comply with human rights

JURISPRUDENCE – case law; rulings by national and/or international courts and treaty bodies

JUSTICIABLE – capable of being brought within the legal framework and invoked as a cause of action before a court

LEGALLY-BINDING – having the force of law

PROTOCOL – in this context, it means a document or treaty related to an existing treaty

PROVISION – an article or clause in a treaty or other legal document

RATIFICATION – formal approval by a state, in this case of a treaty; has greater legal force than a signature

RESOLUTION – formal expression of opinion of a body; not legally binding

SIGNATURE – an expression of will from a state to a treaty; it is a step towards approval; subject to further ratification

TREATY – a written contract between states; legally binding on states that ratify it

TREATY BODY – in this context, a group established to oversee compliance with a treaty
Further Information

Combat Poverty Agency: www.combatpoverty.ie

European Anti-Poverty Network (EAPN) Ireland: www.eapn.ie

One Family: www.onefamily.ie


Children’s Rights Alliance: www.childrensrights.ie

End Child Poverty Coalition: www.endchildpoverty.ie

International Save the Children Alliance: www.savethechildren.net/

National Children’s Office: www.nco.ie

Office of the High Commissioner for Human rights: www.unhchr.ch

The United Nations Human Rights Treaties: www.bayefsky.com

UNICEF/ United Nations Children’s’ Fund: www.unicef.ie and


Human Rights Education Associates: www.hrea.org

Office of the High Commissioner for Human Rights:

The United Nations Human Rights Treaties: www.bayefsky.com
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Women’s Rights Issues:

Department of Justice, Equality and Law Reform: [www.justice.ie](http://www.justice.ie)

Equality Now: [www.equalitynow.org](http://www.equalitynow.org)

Human Rights Watch for Women: [www.hrw.org/women](http://www.hrw.org/women)

International UN High Commissioner for Human Rights: [www.unhchr.ch](http://www.unhchr.ch) and [www.unhchr.ch/html/menu2/6/cedw.htm](http://www.unhchr.ch/html/menu2/6/cedw.htm)

International Women’s Rights Action Group: [www.iwraw-ap.org](http://www.iwraw-ap.org)

Irish Human Rights Commission, CEDAW Submission: [www.ihrc.ie](http://www.ihrc.ie)

National Women’s Council: [www.nwci.ie](http://www.nwci.ie)

The United Nations Human Rights Treaties: [www.bayefsky.com](http://www.bayefsky.com)

UN Division for the Advancement of Women: [www.un.org/womenwatch/daw](http://www.un.org/womenwatch/daw)

Women’s Human Rights Alliance: [www.whra-ireland.org](http://www.whra-ireland.org)

Women’s Human Rights Net: [www.whrnet.org](http://www.whrnet.org)

European Convention on Human Rights (ECHR):

Council of Europe: [www.coe.int](http://www.coe.int)

European Union: [www.europa.eu.int](http://www.europa.eu.int)

Irish Council for Civil Liberties: [www.iccl.ie](http://www.iccl.ie)

Irish Human Rights Commission: [www.ihrc.ie](http://www.ihrc.ie)

European Committee on Racism and Intolerance: [www.ecri.coe.int](http://www.ecri.coe.int)

European Monitoring Centre on Racism And Xenophobia: [www.eumc.eu.int](http://www.eumc.eu.int)

European Network Against Racism: [www.enar-eu.org](http://www.enar-eu.org)

Irish Human Rights Commission: [www.ihrc.ie](http://www.ihrc.ie)

Irish Traveller Movement: [www.itmtrav.com](http://www.itmtrav.com)

National Consultative Committee on Racism and Interculturalism: [www.nccri.ie](http://www.nccri.ie)


The United Nations Human Rights Treaties: [www.bayefsky.com](http://www.bayefsky.com)

Other relevant websites:

Amnesty International: [www.amnesty.ie](http://www.amnesty.ie)

British Irish Rights Watch: [www.birw.org](http://www.birw.org)

Citizens Information Database: [www.cidb.ie](http://www.cidb.ie)

Comhairle: [www.comhairle.ie](http://www.comhairle.ie)

Equality Authority: [www.equality.ie](http://www.equality.ie)

Equality Tribunal: [www.equalitytribunal.ie](http://www.equalitytribunal.ie)

Front Line Defenders of Human Rights

Defenders: [www.frontlinedefenders.org](http://www.frontlinedefenders.org)

Human Right First (Formerly the Lawyer’s Committee for Human Rights): [www.lchr.org](http://www.lchr.org) or [www.humanrightsfirst.org](http://www.humanrightsfirst.org)

Human Rights Watch: [www.hrw.org](http://www.hrw.org)
Immigrant Council of Ireland: www.immigrantcouncil.ie

International Federation for Human Rights: www.fidh.org

Irish Centre for Human Rights: www.nuigalway.ie/human_rights

The International Human Rights Network: www.ihrnetwork.org

**Key Government websites:**

Irish Government: www.irlgov.ie

Department of Education and Science: www.education.ie

Department of Enterprise, Trade and Employment: www.entemp.ie

Department of Environment and Local Government: www.environ.ie

Department of Foreign Affairs: www.foreignaffairs.gov.ie

Department of Health and Children: www.doh.ie

Department of Justice, Equality and Law Reform: www.justice.ie

Department of Community, Rural and Gaeltacht Affairs: www.pobail.ie

Department of Social and Family Affairs: www.welfare.ie

Department of the Taoiseach: www.taoiseach.gov.ie

Office for Social Inclusion: www.socialinclusion.ie