

flacNews

SPECIAL UN ICESCR REPORTING EDITION

FREE LEGAL ADVICE CENTRES

UN: ‘Disproportionate’ state focus on cuts during austerity



Palais Wilson, where the UN Committee on Economic, Social & Cultural Rights held its examination of Ireland under the International Covenant

The Irish State’s response to the economic and financial crisis – cutting public expenditure, especially in housing, healthcare, social security and education – has been criticised by the UN’s top body in this area as having a disproportionate impact on vulnerable groups.

The UN Committee on Economic, Social and Cultural Rights issued its Concluding

Observations on the state’s performance over the past decade on Monday 22 June. This followed a formal examination of Irish government delegation led by Minister of State Sean Sherlock on how Ireland is meeting its obligations under the International Covenant, a treaty on human rights to which Ireland is a signatory since 1989.

FLAC welcomed the UN observations,

noting the Committee’s grave concerns at the consequences of austerity measures in Ireland. Some of the groups most impacted had already been severely disadvantaged before the recession, while others had been reduced to poverty during it.

The Committee made a host of strong recommendations for state action on all areas covered by the Covenant. In particular, FLAC welcomed its suggestions

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Introduction

The following section comprises blog posts and news articles published in the months leading up to the UN examination of the Irish State in Geneva in June 2015.

These pieces cover issues including health, access to justice, rights of Travellers and Roma, rights of the elderly, housing and social security. They have been written by Civil Society representatives, academics and our own FLAC team. All pieces have appeared previously either online or in print.

A life of dignity: Why the UN has 28 questions for the Irish government



**Yvonne O'Sullivan, FLAC Policy & Advocacy Officer,
December 2014**

The issues of water privatisation and how to prevent abuse of disabled people in residential care have been on the national news agenda. However these issues are also on the international agenda as they feature among 28 questions put by the UN Committee on Economic, Social and Cultural Rights to the Irish Government.

The Committee is examining Ireland's record on meeting its legal obligations under international human rights law. The law in question is the Covenant on Economic, Social and Cultural Rights ratified by Ireland in 1989. Such rights might well be termed "everyday" rights as they cover issues like an adequate standard of living (including housing, food and water), to just and favourable conditions of work, to social welfare, to physical and mental health, to education, to a family life and to a cultural life. The State must ensure all people are not discriminated against in the enjoyment of any of these rights.

The formal examination of the Government will take place in Geneva in June 2015 but as a first stage, the Committee has put a series of twenty-eight human rights questions – known as the List of Issues – to the Government. In setting these questions, the Committee has been informed by the Government's own report on the years from 2002 to 2010. However it has also received more up to date information from Irish civil society, including a report coordinated by FLAC with evidence supplied by more than fifty organisations and individuals around



Ireland. The Irish Human Rights and Equality Commission has also provided data.

The Government now has an opportunity to update the information sought by the Committee well in advance of the examination to ensure a comprehensive understanding of how economic, social and cultural rights have been protected in Ireland over the twelve years since the last examination. The overarching theme of the UN Committee's questions is how the Government's policy direction since its last examination impacted on the right of people in Ireland to a life of dignity. It queries how the state prioritised the well-being of disadvantaged and marginalised in our society during what were undeniably tough economic times in its decision-making.

Themes emerge in the Committee's questions for Government, such as how disabled persons can access training, health care, community care and be safe from abuse; whether children are protected

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from poverty; the impact of cuts on hospital waiting lists, bed shortages and community care facilities, especially in rural and disadvantaged areas; whether fair wages can be guaranteed to people on zero-hour contracts; whether rights of minorities are protected in accessing public services; whether privatisation impacts on the human right of access to clean and affordable water; whether the state plans to provide social security for self-employed people beyond what is already available and to review its laws on abortion, and many others.

Overall, the Committee frames useful questions around the adequacy, accessibility and affordability of key public services in Ireland over a time period spanning

boom and bust. They will not only help the Committee in assessing the Government's record on these rights; they will help us as a country to assess where we are and how much further we have to go to make Ireland a place of respect for every person's basic dignity. The civil society report, *Our Voice, Our Rights*, is a kind of 'People's Evidence' on how the state is meeting its duties.

The ball is now in the Government's court. Irish civil society groups remain willing to support the dialogue between Government and the UN by ensuring an accurate, evidence-based picture of Ireland's recent but challenging history presented by those who felt it most harshly. ■

benefit of legal training.

Access to justice, rather than mere access to the courts, therefore seems to be a right only enjoyed by the wealthy. This has important implications for the relationship between rights and poverty.

Access to justice has to be free from any wealth-based considerations because all other rights are contingent on the ability of the individual to uphold and enforce their rights through the justice system if necessary. You need to be able to find redress for discrimination, to challenge unfair work practices and to ensure that any assistance provided by the State such as education or social welfare is not unfairly denied to you. Access to justice becomes imperative in order to access all of your other rights.

An example of Ireland failing to uphold an ICESCR right concerns Article 9, the right to social security. While Ireland has a civil legal aid system, there are some specific exclusion areas of law or fora where it cannot be accessed. Currently, you will not receive civil legal aid for most tribunals, including the Social Welfare Appeals Office. Cases before this office often concern complicated points of law, such as the application of the habitual residence condition, and the avenues to appeal are unclear and difficult to understand.

One TD recently described the social welfare appeal system as a 'spider's web' while holding up a complex diagram of the different routes of appeal. Even though a semi-judicial body has been set up, the lack of access to legal representation for many does prevent people from accessing social security.

Of course, in an ideal world we would not need to go to the courts. The Government would never incorrectly deny someone social welfare. There would never be discrimination. Everyone would have perfect access to education and health services. Working conditions would always be fair and equitable. We would all enjoy and adequate standard of living.

Unfortunately even with good intentions and the will to realise these rights, there are still situations where a person may be denied them. This is why civil legal aid is so critical in any society which professes to take rights seriously. And to enforce the fundamental rights provided for under the Covenant on Economic, Social and Cultural Rights – rights to which our state has committed itself to respect, protect and promote – access to civil legal aid is vital. ■

Civil Legal Aid is necessary to truly uphold ICESCR Rights

blog



Liz O'Malley, FLAC Legal Aid intern, January 2015

While there is no specific right to access justice in the International Covenant on Economic, Social and Cultural Rights (ICESCR), without it the ability to enforce rights becomes meaningless.

The Optional Protocol to ICESCR provides individuals with a complaints mechanism under the Committee on Economic, Social and Cultural Rights. However, like the Committee Against Torture and the Human Rights Committee, while their decisions are persuasive as they can censure the governments, they are not binding and they cannot force the state to comply with the Treaty.

The ICCPR (International Covenant on Civil and Political Rights), the parallel agreement to ICESCR, requires that States must provide an effective remedy to the violation of rights and freedoms. Article 2(3)(b) then specifies that this remedy should preferably be judicial.

The courts are one avenue for the enforcement of rights where a country enjoys rule of law. Courts are seen as independent and objective arbiters compared to governments and other State bodies who might otherwise adjudicate. They consider not only national sources of law, but international treaties and norms.

They also have the ability to enforce their decisions and make the Government accountable.

For this right of access to justice to exist in any meaningful sense there is a requirement that its access not be prevented by a monetary threshold that is too high for the average person to access. Ideally economic status should not be a consideration at all.

However, access to courts is not cheap or simple. Legal representation can be incredibly expensive. If a person cannot afford to hire legal representation, but can still technically bring the case him or herself, the issue of access to justice is still central. The court system can be hugely intimidating. Trying to figure out how to get a case off the ground in the first instance can seem like a mammoth task all by itself before the legal process even really begins.

Then the litigant is required to file certain types of evidence, to submit arguments based on legal precedent and know what relief they are seeking. Even small things like knowing what to call the judge and when to stand or sit make a big difference. Fundamentally, our legal system fails to cater for those who do not have the

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An bhfuil cead agam dul go dtí na tithí cúirte, le do thoil?

Natasha McAleese, Feabhra 2015. Is mac léinn Dlí agus Gaeilge ó Coláiste na hOllscoile Corcaigh í

Cearta Teangain sa Dlí

Tagann ceartanna teangain taobh istigh de théarmái tagartha Airteagal 15 den Cúnant Idirnáisiúnta ar Chearta Eacnamaíocha, Sóisialta agus Cultúrtha. Clúdaíonn Airteagal 15 cearta cultútha, agus de bharr an Airteagal sin caithfidh an Stát gach bheart a chur i bfheidhim chun an chultúr sin a chaomhnú, a fhorbairt agus a scaipeadh. (*)

B'iad na príomh moltaí maidir leis an Gaeilge a tháinig as an Tuairisc Comhuan-each a rinne na heagrachtaí den sochaí sibhialta ná mar seo a leanas;

- ▼ Cinnigh go bhfuil cainteoíri Gaeilge in ann úsáid a bhaint as a chuid cearta bunreachtúil agus cearta reachtúil i dtaobh rochtain ar seirbhísí trí mheáin na Gaeilge
- ▼ Déan machnamh ar Stráitéis Cultúrtha don Phobail agus é a glacadh
- ▼ Cuir achmhainní leormhaith ar fail d'Oifig an Coimisinéar Teanga

Tagann ár gcearta bunreachtúil chuig rochtain ar seirbhísí trí mheáin ó Airteagal 8 den Bhunreacht na hÉireann 1937, ina leagtar síos Gaeilge mar an teanga náisiúnta agus an chéad teanga oifigiúla den Stát, ag glacadh leis an Béarla mar an tarna teanga oifigiúla. Is faoi Acht na dTeangacha Oifigiúla 2003 a fhraigimíd ár gcearta reachtúil i leith an Gaeilge. Tá an acht seo faoi bhráid i gcomhair leasú. De réir Alt 8 den Acht tá sé de cheart ag an bpobal an Ghaeilge a úsáid in aon chuírt nó i gnótháí círteanna .

Giúiréithe Lan-Gaelach

Ní fhéidir le duine ar bith a shéanadh gurb é rochtain ar cheartas ceann dosna cearta is bunúsáit atá agaínn i sochaí sibhialta. Ach de bharr cíuseanna stairiúil, polaitiúil agus cultúrtha tá dúshláin ullmhór ag cainteoir Gaeilge nuair a déanann said iarracht úsáid a bhaint as an ceart seo ós chomhair na círte. Sin in ainneoin do chosaint dlíthiúil atá ag an Gaeilge, ar bhonn náisiúnta agus ar bhonn idirnáisiúnta.

I 2014 tháinig an cinneadh mórchúiseach amach ón Chúirt Uachtarach, ag leanúint an cinneadh Ard-Chúirt i 2010, sa chás Ó Maicín (*Ó Maicín v Ireland, The Attorney General, The Minister for Justice Equality and Law Reform, His Honour Raymond Groarke and the Director of Public Prosecutions [2014] IESC 12*).

Lean an Chúirt Uachtarach an cinneadh ón Ard-Chúirt, agus ní raibh muintir na Gaeilge róshásta ar chor ar bith. An cheist a bhí le phlé sa chuírt ná an raibh ceart bunreachtúil ag an tUasal Ó Maicín chun trial a rith trí mheáin na Gaeilge gan cabhair aistritheoirí.

Tharla an ionsaí liomhnaithe sa Ghaeltacht Conamara agus b'iad Ó Maicín, an iosparrach liomhnaithe agus an chuid is mó dosna finnéithe cainteoíri dúchasach. Diúltaigh an chuírt chun an trial Gaeilge a thabhairt dó ar an bunús nach mbeadh giúréil lán Gaelach ionadach don sochaí, ag leanúint an cinneadh i de Búrca (*De Búrca v Attorney General [1976] I.R. 38*, cás maidir leis an eisiamh de mná as giúréithe). D'admhaigh an chuírt go raibh an ceart chun do chuid gnó oifigiúil leis an Stát a rith trí Ghaeilge ach nach raibh an ceart sin ina cheart ionmán.

Dúirt an Breitheamh Hardiman, ina bheithiúntas ag easaontú, go raibh Éireann ina dlínse dhátheangach gan aon dabht de réir Airteagal 8 den Bhunreacht. Chuir an Breitheamh Hardiman ar aghaidh an moladh chun réigiún giúréil a dhéanamh as Conamara. Tá an moladh sin i líne leis an fianaise a thug an saineolaithe soch-teangeolaíochta, Dochtúir Colm Ó Giollagáin. Mar a deireann an seanfhocal, ní féidir an dubh a chur ina gheal, ach seal.

An Chás I Láthair na hUaire

Níos déanaí i 2014, rinne an Rialtas an cinneadh gan cumasc a dhéanamh idir Oifig an Choimisinéara Teanga agus Oifig an Ombudsman. Rinneadh an cinneadh sin de bharr brústocaireacht leanúnach de grúpaí ar nós Conradh na Gaeilge agus a leithéid.

De réir an Tuairisc is déanaí choimisiúnaithe ag an Chomhchoiste um Chomhsaol, Cultúr agus Gaeltacht ba cheart go mbeadh 10% de státseirbhísigh oilte sa



Natasha McAleese, Legal Intern

Ghaeilge. Beidh an Tuairisc ag teacht amach i mí Feabhra.

D'fhógair an Seanadóir Labhrás Ó Murchú an Tuairisc ar Raidió na Gaeltachta ar an 27ú Eanáir. Is é an An Seanadóir Labhrás Ó Murchú Leas-Chathaoirleach an Chomhchoiste um an Stráitéis 20-Bliain don Ghaeilge 2010 – 2030.

De réir an Phríomh-Oifig Stáitrimh tá méadú 7% tagtha ar an méid cainteoíri Gaeilge idir 2006 agus 2011.

Tá sé de dhualgas ar an Stát an Gaeilge a cosaint faoina oibligéad CICESC i ngach orgán den Stát. Is ceann dosna orgán den Stát sin na an córas círte agus caithfidh an córas sin rochtain ar cheartas a chaomhnú i gcomhair gach cuid den sochaí. Cén céimeanna atá an Rialtas chun a thógaínt maidir leis na moltaí san tuairisc *Our Voice Our Rights* agus na cinn atá thusa? Bhuel fan go bhfeicimí.

* Tá sé le fail ar an suíomh idirlion trí Béarla. Is Natasha a chum an aistríúcháin seo agus tá sí freagrach as aon butúin atá le fail san gramadach.

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A Matter of Survival: Ireland's Health System in the Age of Austerity



Kevin McCague, FLAC Social Welfare Intern, February 2015

Article 12 of The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the human right to the 'highest attainable standard of physical and mental health.' As part of the full realisation of these rights, States Parties should create conditions 'which would assure to all medical service and medical attention in the event of sickness'.

The highest attainable standard of physical and mental health denotes a right of access that is based on need and that sees the best outcomes possible for patients. However, the question must be asked whether Ireland, in implementing both a health policy and a fiscal policy of austerity, has vindicated patients' rights to access adequate, affordable, quality healthcare with the most efficient use of available resources at one of the toughest periods in Ireland's recent economic history. Since 2008, Ireland's austerity project has reduced the health budget by 22%. At the same time, high unemployment and an ageing population has meant that reliance on the public health system has increased. Public patients have not been able to avail of privatised healthcare to mitigate the effect of these cuts and as a result there is a clear lack of parity of access to healthcare. Austerity has seen the two-tier health system become further entrenched, just in time for the delayed response by the Government by taking steps to

introduce universal healthcare and equality of access to under sixes irrespective of income. In reality, if you are a medical card patient or someone who cannot afford health insurance, you may not be able to access healthcare in a way that vindicates your human rights as a result of the cost restrictions and/or delay due to lengthy public waiting lists.

The coalition's commitment in its Programme for Government to introduce free GP care for all was a key facet of its proposed reform of the primary care system. Primary care in Ireland is very underdeveloped and Ireland is the only EU health system that does not offer universal coverage of primary healthcare. In a Working Paper published by the Resilience Project of the Centre for Health Policy Management in Trinity College Dublin in March 2014, Ireland was described as an 'extreme outlier' in terms of the user charges that patients must pay in order to access treatment. Many people on modest incomes are subject to significant GP visit fees, and evidence suggests this is seen as a deterrent to accessing care.

Another corollary of austerity has been the transfer of the cost of healthcare from the public exchequer to public patients. Since the recession began, for example, prescription charges and monthly drugs charges have increased significantly. Designed as a blunt cost cutting tool, these measures disproportionately affect poorer



patients and move Ireland further away from equality of access that Universal Health Insurance purport to address.

The Resilience Project Working Paper tracks

how a health system under pressure did less with more in the initial years of the recession, but this trend was reversed from 2013 onwards. Continuing austerity has seen access to healthcare restricted through lower productivity and higher individual charges. The Working Paper suggests that the long term cost and health ramifications of restricting access to healthcare have not been properly considered.

It is clear that the agenda of austerity is impairing outcomes for those patients who are reliant on the public health system. The Government's failure to implement universal healthcare and remove patient charges means that certain groups do not have unfettered access to healthcare. The right to enjoy the highest attainable standard of health cannot be vindicated until the disparity of access between public and private patients is addressed, and service provision based on need as opposed to an individual's financial position is prioritised.

The numbers clearly indicate that the mantra of 'doing less with more' may have initially yielded some efficiencies at the expense of service users, but it is now undermining the quality of healthcare and patient safety, and also impeding reforms that would support the development of primary health care. The right to health, one of the most fundamental and important human rights, must be a special focus for the Irish State in its response to the UN Committee in June. ■

An abdication of duty: How State policy sacrifices public health for corporate wealth

Cliona Loughnane, Policy & Research Manager,
 Irish Heart Foundation, February 2015



Achieving the 'highest attainable standard' of health, as laid down in Article 12 of the International Covenant on Economic, Social and Cultural Rights, requires the Irish state to make political decisions and introduce health policies which provides the conditions for healthy lives.

The chronic diseases which kill most people in Ireland – cardiovascular disease, cancer, respiratory and diabetes – share four risk factors, tobacco, alcohol, poor diet and lack of physical activity. So the conditions for healthy lives require Government to tackle these risk factors head on.

Further, there is a pressing need to address these risk factors given the very unequal burden of disease in Irish society. Health inequity, or more starkly put – poverty – means that Irish people on lower incomes are sicker and die earlier than those with higher incomes. If you live in a deprived area of Ireland you are 2.5 times more

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likely to have coronary heart disease than a citizen living in an affluent area (see Baland, K. et al. (2010) Making Chronic Conditions Count: Hypertension, Stroke, Coronary Heart Disease and Diabetes from the Institute of Public Health in Ireland). No surprises then that people living in the most deprived areas of Ireland have the lowest life expectancy.

In short, political decisions about whether to reduce healthy inequity or tackle obesity rates, or reduce alcohol consumption, have life or death consequences.

The failure to adequately address these factors is demonstrated by the fact that more Irish children are overweight than in most European countries (see Layte and McCrory's 2011 paper on 'Growing up in Ireland - Overweight and obesity among 9-year olds'); 75% of alcohol consumed in Ireland is done so as part of a binge session; and only 12% of secondary students are physically active for an hour a day (see Research Report No 1 by Woods, Tannehill, Quinlan, Moyna & Walsh on 'Children's Sport Participation and Physical Activity Study (CSPPA).

Yet we continue to see the reluctance of government to introduce policies, such as banning alcohol sponsorship of sports, or introducing large-scale bans on junk food advertising to children, which could reduce people's exposure to and attraction to unhealthy products.

Why then, given the scale of disease and the unequal impact on Irish citizens, has the Government been slow to tackle public health threats?

One explanation which continues to gain ground is that several of the risk factors, particularly alcohol, junk food and tobacco, are represented by strong lobbies. And these industries have a vested interest in policy decisions which are not compatible with people achieving the highest attainable standard of health. This has led people to refer to 'industrial epidemics', that is ill-health caused by corporate strategies which stimulate the over-consumption of unhealthy products (see the 2007 paper by Jahiel & Babor on 'Industrial epidemics, public health advocacy and the alcohol industry: lessons from other fields' in *Addiction Journal*).

Take the example of childhood obesity, which the Government's Rapporteur on Child Protection, Dr Geoffrey Shannon has called 'a vital child protection issue and a challenge to implementation of the right of children to the highest attainable standard

of health in Ireland'. The public health community recognises that rising obesity is a normal response by people to an unnatural environment caused by widespread availability of high-calorie foods and reductions in physical activity. To put it plainly, previous generations wouldn't recognise much of the food consumed in Ireland today.

Yet up to now, the policies developed to address obesity in Ireland have focused on what individuals can do to reduce their own risk of obesity, through media campaigns and short-term programmes in schools. Much less attention has been paid to address the drivers of obesity, including the intense marketing of food to children by large food companies.

In the obesity area we can clearly see that

market forces can have a significant impact on the conditions which affect people's health.

What should the Irish Government do?

The Irish Heart Foundation believes there is strong justification for Government to introduce legislation and regulations which would help reduce the demand for, and availability of, unhealthy products. At the moment, the State is failing in its duty of care to protect public health, and particularly the health of children, to the advantage of vested interests, whose remit is to maximise the wealth of a small number of shareholders.

It is long past time for Government to place the right to health of citizens above the right to profit of businesses. ■

Enabling older people to attain their basic rights

blog

**Naomi Feely, Senior Policy Officer,
Age Action, March 2015**



Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights recognise the rights to an adequate standard of living and to health respectively. At Age Action, we hear on a daily basis that for many older people, austerity has meant that these rights are moving further and further out of reach.

Firstly, let's look at Article 11. This focuses not only on an adequate standard of living, but also on the continuous improvement of living conditions. The last increase to the State Pension was in January 2009. While the Government has maintained this rate in the intervening time, the erosion of secondary income supports, price inflation and the introduction of new taxes and charges on property and water have decimated the value of the State Pension for older people. Our booklet on *Growing Older in Ireland*, published as part of the United Nation International Day for the Eradication of Poverty in 2014 highlighted that the abolition of the telephone allowance and cuts in the electricity and fuel allowance have meant that between January 2009 and January 2014, the pension's value fell by €9.87 per week. For those who must pay the property tax, an

annual sum of €250 can mean another €4.80 is taken from an older person's small fixed income each week.

The retention of the weekly rate of the state pension has led many political and media commentators to comment that older people have remained untouched by austerity. However, we increasingly hear that older people are making choices between heating their homes and purchasing food or medicine. For some this means dipping into savings held for a rainy day or even for their funeral.

The impact on older people is not just a depletion of savings but has consequences for their mental health and wellbeing as well. Older people we speak with talk about the fear of getting sick, the terror of what will 'come through the letterbox next' and that the imposition of cutbacks and new charges is effectively 'euthanasia by stealth'.

Secondly, Article 12 seeks to ensure that everyone has the right to enjoy the highest attainable standard of physical and mental health. As we grow older, access to adequate health care services is increasingly important in realizing this right. But the recession has made this more and more difficult for many older people.

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Successive budgets have focused on achieving savings through the reduction of funding to services at primary care level. Cuts that have had a particular impact for older people have included:

- ▼ Increasing the threshold for the Over-70's medical card.
- ▼ Reducing the number of health and social care professionals providing services to older people.
- ▼ Increasing prescription charges for medical card holders.
- ▼ No increase in home help hours or home care packages to meet the increase in the older population, which in real terms represents a cut in provision.
- ▼ Reducing the number of long term

care beds funded under Fair Deal.

- ▼ Additional fees introduced for nursing home residents.

Aside from these cuts there are also many hidden health situations experienced by older people that are not captured in published statistics. For instance, we do not know how many older people must now find the money to pay for a taxi fare to the hospital due to cuts in free transport for medical appointments.

It is evident from Age Action's work with and on behalf of older people that the Government is not meeting its obligations in terms of these two Articles. We call on the Government to live up to its duties under ICESCR in order to ensure that Ireland is the best country in which to grow old. ■

no formal action in regard to their experiences of discrimination in Ireland.

A range of barriers prevent people from reporting and seeking access to justice. The key barriers can broadly be grouped as support-related and those that are more systemic in nature.

Support barriers

Research on discrimination highlights a number of related and overlapping barriers to reporting that collectively point to a sense of disempowerment experienced by the victim. This sense of disempowerment can be most acute among groups that experience higher levels of discrimination. The key issues cited in this regard are: the perception that reporting the incident will do nothing to change the situation; fear of negative consequences of reporting and a lack of trust in statutory bodies. Another key barrier is the lack of awareness and knowledge about rights and systems of redress. One study by the EU FRA found that 51% of Sub-Saharan Africans and 29% of Central and East Europeans living in Ireland were unaware of any law protecting them from discrimination in the three areas of employment, goods and services, or housing. The research also found that 61% of Sub-Saharan Africans and 90% of Central and East Europeans had never heard of the Equality Authority, and 63% of Sub-Saharan Africans and 88% of Central and East Europeans had never heard of the Equality Tribunal.

Resource barriers are also an impediment to seeking justice. While, in theory, legal representation is not required to take a case to the Equality Tribunal, in reality, respondents to a claim of discrimination are likely to have legal representation to defend their case which can put claimants at a disadvantage if they do not equally have the means to be legally represented.

Structural barriers

Equality legislation offers partial protection and to a limited number of groups. The absence of a socio-economic ground leaves a significant gap in protection from discrimination and the lack of justiciable economic, social and cultural rights leaves a significant gap in human rights protection.

The lack of speedy, effective and dissuasive remedies through the Equality Tribunal is also a systemic block. The Equality Tribunal has consistently suffered from a significant backlog of cases, with cases taking up to three years from the time the complaint is lodged to the hearing date. In addition, the

Access to justice and discrimination in Ireland



Rachel Mullen, Coordinator of Equality and Rights Alliance, March 2015



Any discussion of the protection and fulfilment of economic, social and cultural rights must consider the backdrop of significant levels of discrimination, together with significant levels of under-reporting of discrimination in an Irish context.

Access to key public services and employment are central to the fulfilment of social and economic rights. Our equality legislation prohibits discrimination in access to employment, goods and services for those groups protected under equality law. There is, however, a significant gap between the lived experience of people who are regularly discriminated against in accessing services and employment, and the ability to vindicate their rights in this regard.

The incidence of discrimination was examined by the Central Statistics Office (CSO) in 2004 and again in 2010. On both occasions the CSO found that 12% of the Irish population over the age of eighteen had experienced discrimination in accessing employment, goods and services. This equates to over three hundred and fifty thousand people. The CSO data do not provide information on the experiences of Travellers and LGBT

people, however, other national data samples provide information on the experiences of these groups. The Traveller All Ireland Health Survey, published in 2010, of over five thousand

Travellers in the Republic found that 42% reported that they 'often' or 'very often' felt discriminated against. The EU Fundamental Rights Agency (FRA) 2013 study on LGBT people's experience of discrimination in the previous twelve months found that: 47% of Irish LGBT people had experienced harassment or discrimination (18% in seeking employment and 35% in accessing goods or services).

Equally as concerning as the high levels of discrimination, however, is the high levels of under-reporting of discrimination. The CSO data indicates that 90% of people who experienced discrimination took no formal action. The EU FRA LGBT survey found that 90% of the people who experienced discrimination in Ireland in the previous year took no formal action. Similarly, an EU FRA 2009 survey on the experiences of people with an ethnic and minority background found that 84% of Sub-Saharan Africans and 79% of Central and East Europeans living in Ireland took

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ceilings on awards that can be made under equality legislation are not considered to be sufficiently dissuasive or effective.

Institutional capacity to address the scale of the problem has also been a consistent issue. The key institutions charged with addressing discrimination and human rights abuses – the IHRC and the Equality Authority (now the Irish Human Rights and Equality Commission) and the Equality Tribunal – have, since their establishment,

suffered from under-resourcing. Resources to run public awareness campaigns to inform peoples of their rights under law have not been available to the bodies, nor have there been adequate levels of staffing or financial resources to assist and hear cases and conduct enquiries.

Under-reporting of discrimination poses a significant threat to any aspiration for the fulfilment of economic, social and cultural rights. It is a key challenge to statutory

agencies and to NGOs working to address inequality, discrimination and poverty. Under-reporting will only be addressed where there is an adequately resourced equality and human rights statutory and voluntary infrastructure. This infrastructure must be supported to enable a critical mass of cases to be taken and to contribute to the cultural change required to enable people to report discrimination and human rights abuses. ■

How is the Government shaping up on key human rights?

By Noeline Blackwell, Director General of FLAC.

First published in *The Irish Times*, Friday 24 April 2015



A consultation taking place in Dublin today marks another step in a long drawn-out but important legal process: this June Ireland will face a United Nations expert committee in Geneva to account for how it has respected, protected and promoted the fundamental human rights of its people in vital areas like health, housing, education, work, family life, social security, cultural life and living standards.

Today's gathering, organised by the Department of Foreign Affairs and Trade, is to allow the government to explain its submissions to the UN for assembled civil society organisations. These groups have also submitted crucial evidence and experiences to the UN expert committee, mainly through a 'parallel' report co-ordinated by FLAC called *Our Voice Our Rights*.

The June examination will be an intense debate between a committee of UN experts on economic and social rights and the Irish government. In this legal process, the debate will rest not just on government testimony, but also on evidence from civil society bodies and from the Irish Human Rights and Equality Commission. The committee will not just hear the government accounting for its actions, but will have a plethora of alternative information from a wide range of people working on the ground on these issues. Its conclusions and recommendations will take all of that into account.

Unlike a court hearing, both government and non-government groups do their best to avoid making this a point scoring exercise; they will try to highlight how (the government will say) human rights have been protected and promoted or how (non-governmental organisations will say) there are truly enormous gaps in how the state has met that duty. Failures to adequately uphold human rights are failures by Ireland to comply with its solemn legal obligations in a treaty, the International Covenant on Economic, Social and Cultural Rights, ratified by the Oireachtas on behalf of the Irish people in 1989.

Under this treaty, Ireland has a duty to respect, protect and fulfil basic obligations in economic, social and cultural rights. By law, it must take whatever legal, budgetary or administrative measures it can to fulfil those rights for the people of Ireland, without discrimination. If the state attempts to reduce these basic rights below a minimum level, it has the burden of proof to show how this was absolutely essential and unavoidable.

This is where the UN expert committee will likely hear very different views. The Irish government will try to argue that the recession justified failure to protect and progress rights. Having collaborated on painting a realistic picture of life for people in our society over the last 7 or 8 years, civil society organisations will say that, in our view, the Irish government did not make choices which took its human rights

obligations into account.

We will say that banks and sovereign debt were prioritised, even where that meant disproportionate cuts to health, education and housing. We will say that some vulnerable groups were not sufficiently protected – like lone parents, disabled people, children, Travellers, older people. Ireland is now the most unequal country in the EU, according to TASC in its recent report, *Cherishing all Equally*. Deprivation and consistent poverty have increased annually since 2008, evidenced by the 12% of children living in poverty in Ireland in 2013. Yet the most recent State Response to the Committee, quoting the ESRI, claims that "social transfers are equally effective in reducing child poverty and that the performance has increased since 2004".

On housing, strategies and future plans dominate the State Response, aiming "to increase the supply of social housing and reduce the number of people on waiting lists". The government talks about a Housing Assistance Payment to replace Rent Supplement, which itself was only ever intended as a short-term support. But the recession turned Rent Supplement into an essential prop for people in long-term housing need. Almost no investment was prioritised for building and providing adequate accommodation. The Mortgage Interest Supplement was abolished. *Our Voice Our Rights* highlights unrealistically low threshold limits for rent supplement, but also contextualises it: in the current

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private rental sector, there is a limited and sub-standard supply of private rented accommodation, with many landlords refusing to accept tenants on rent supplement. A change of payment will not alter that reality. With over 90,000 people on the housing list and the looming threat of repossession for many thousand more households in deep mortgage arrears,

housing supply is an urgent problem for this government.

This examination process is important. Human rights are not optional extras to be remembered when an election is looming or when there are a few extra Euro in the kitty.

The reporting process has already led us

to assemble a wealth of information on what happened to people during the recession. This is a rare if not unique chance for an overview of the damage that ignoring human rights does in society. We will get an objective assessment of government performance to date and strong guidelines for the future. We need them. ■

Is Ireland ensuring the right to education for all?



**Kevin McCague, FLAC Social Welfare Intern,
May 2015**



Article 13 of the International Covenant on Economic, Social and Cultural Rights guarantees a right of everyone to education, emphasising that education should be made available and accessible, and that there should be a progressive introduction of free access to secondary and higher education.

However, in many ways Ireland has moved away from this commitment to cost free access over the last number of years. New costs and charges have been introduced at all stages of the education system; at the same time, supports for children and young adults from low income families have been cut.

At primary and secondary levels, the most vulnerable students have been particularly affected by education cuts. Funds for traveller education projects have been reduced drastically. Support for students with disabilities and those who do not speak English as a first language have also been restricted. It is hard to see how educational outcomes for these students will not be negatively impacted by these policy decisions.

Already, there is evidence to suggest that some students are losing out: Children with disabilities are being turned away from mainstream schools because these schools lack the supports to cater for them; Traveller children are disproportionately affected by the withdrawal of extra school transport assistance, as they often

have to travel long distances to school due to discrimination.

There is evidence that failing to finish school may lead to lifelong disadvantage. The DEIS school programme was designed to combat educational disadvantage by providing supports to students in disadvantaged areas. The need for such a programme encompassing some 852 public schools at primary and secondary levels is indicative of the fact that Ireland has a two-tier educational system where inequality of educational outcome is the norm. However, the success of this scheme in delivering equality of opportunity in education is being undermined by cuts to programmes such as the Student Completion Programme and third-level student grant supports.

Ensuring that children receive a good quality education that leads successfully to higher education and training for all students should always be at the centre of policy decisions if the Government is intent on realising its human rights obligations.

For third-level students, the rise in registration fees has been substantial and has meant a greater transfer of education costs to individuals. At the same time, eligibility for the student grant scheme has been restricted. These changes have major implications for the ability of students from poorer backgrounds to access third level. Delays in approving students for the grant

scheme also appear to be forcing them to drop out of third-level courses.

Furthermore, the disparity in rates of progression to third level for students from different socio-economic backgrounds indicates that equality of access has not been achieved. The current dispensation most favours students from better-off backgrounds whose parents can invest in school fees or extra tuition to achieve optimum exam results. Current education policy is not in keeping with Ireland's human rights obligations to make education generally available and accessible to all by every appropriate means. The net result of discouraging people from disadvantaged backgrounds to attend third level is a human rights failure and means that one of the core purposes of our education system is not being realised. This group is being locked out of higher education, calling a halt to one of the most effective means of social progression.

To fully vindicate human rights in the context of the right to education under Article 13, Ireland needs to remove financial barriers to education that are disproportionately affecting students from disadvantaged backgrounds. The State must provide adequate supports to families to cover the cost of a new school year, or to young people who for financial reasons cannot progress to third level and realise their potential. ■

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Holding Ireland to account for violations of basic human rights

Dr Liam Thornton

First published in *The Irish Times*, Monday 8 June 2015



Today and tomorrow, Ireland's record on protecting human rights will be considered by the United Nations Committee on Economic, Social and Cultural Rights in Geneva.

In 1989, Ireland agreed to be bound by the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to work, just conditions of employment, the right to social security and social assistance, protection of children and families, the right to health, housing, food and water, and the right to respect for and protection of culture encompass the core rights protected under the covenant.

When Ireland agreed to be bound by this international rights treaty in 1989, the State was fully aware of its core obligations. Ireland has legal duties to respect, protect and fulfil these rights.

Along with civil and political rights such as freedom from torture, the right to a fair trial and freedom of expression, economic, social and cultural rights place the inherent dignity of the human being at its core.

All human rights involve certain aspects of non-state interference: procedural guarantees to ensure respect for rights, remedying breaches of human rights, and ultimately, ensuring human rights are fulfilled by positive action on the part of the State.

Through agreeing to be bound by the protection of core socioeconomic and cultural rights, Ireland also agreed to have its compliance with the treaty supervised by the UN Committee on Economic, Social and Cultural Rights. This chiefly involves the committee considering periodic country reports, along with dialogue between Ireland, the Irish Human Rights and Equality Commission, and civil society organisations.

Concerns

To date, Ireland has had two periodic

reports considered by the UN committee, in 1999 and 2002. On both occasions, it has expressed concern that Ireland has not incorporated the covenant into domestic law, and at the lack of reference and utilisation of the covenant by the superior courts. Ireland has failed to adopt rights-based frameworks in areas of anti-poverty, rights of persons with disabilities, provision of healthcare, rights of members of the Traveller community, housing and the low rate of social assistance payments.

In December 2014, the UN committee set down some key issues on which Ireland must provide information in this week's examination of how it has met its obligations under the covenant.

Many of these issues were specifically addressed by civil society organisations in their shadow reports. The ill treatment of persons with disabilities in residential care, the low level of the minimum wage, the failure of the State to recognise Traveller ethnicity, the rights of those in poverty, such as lone parents, and the necessity for all in society to have access to an affordable and quality water supply.

The UN committee has not had an opportunity to consider Ireland's record in protecting economic, social and cultural rights for 13 years. Since Ireland's last evaluation, there has been a sustained economic recession, coupled with a prolonged period of austerity.

A recent ESRI report, *The Great Recession, Austerity and Inequality*, has produced strong evidence that the poorest in society suffered the greatest decline in income and living standards, when compared with other groups. The homelessness crisis that has affected many people shows no sign of abating. Families are condemned to spend extended periods in temporary accommodation in hotels and B&Bs.

As part of the UN's review of Ireland's human rights record on economic, social

and cultural rights, the Public Interest Law Alliance, a project of the Free Legal Advice Centres (FLAC) has provided a co-ordinated civil society response in its report, *Our Voice, Our Rights*. More than 80 representative organisations contributed to this report, highlighting the violations of economic, social and cultural rights occurring each day in Ireland.

Key findings

Some key findings of *Our Voice, Our Rights* include: the need to adopt structural reforms to State budgetary processes to ensure compliance with socioeconomic rights obligations under the covenant; the lack of equal enjoyment of socioeconomic rights for vulnerable members of society including Travellers and asylum-seekers; fulfilment of the right to education, in particular for minorities in society; equitable access to physical and mental healthcare for all persons in the State; the need to ensure that the right to a home is realised, with so many of our fellow citizens' lives condemned by a lack of housing or wholly inadequate housing; and the right to enjoy fair and just working conditions, including a minimum wage that is sufficient to ensure a decent standard of living for workers and their families.

Over the last number of years, significant numbers of people in Ireland have suffered grave deprivations due to the recession. Political decisions taken by the Oireachtas on resource allocation have had enormous negative impacts on people on the margins of our society.

We are often reminded by certain quarters in Leinster House of our international obligations to the IMF and European Commission. It is now time to remind them of other international obligations under universal human rights law. It is time for Ireland to be held to account for its violations of economic, social and cultural rights. ■

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Poverty in Ireland has a child's face: Children's economic, social & cultural rights

Edel Quinn, Senior Legal and Policy Officer, Children's Rights Alliance,
 first published in TheJournal.ie, June 2015



Every day in Ireland, almost 60,000 children wake up hungry, in households struggling to survive, in families without the means to provide for them. This is happening today, in 2015. It is to our collective national shame that our children have been – and continue to be – the victims of the recession. While the country's economy recovers for some, children of poor families still bear the brunt of the decisions of those who had the power to help them.

Every child has the right not to grow up in poverty.

Since 2008, the Government has failed to adequately protect the most vulnerable children, young people and families from the force of the recession and subsequent austerity measures. This has had a devastating impact. How do we know this? Children in Ireland are 1.4 times more likely to live in consistent poverty than adults. Almost

20 per cent are at risk of poverty. The child poverty rate has almost doubled since the recession began. One in six children does not have breakfast on weekdays. Poverty in childhood can have a damaging and lasting effect on a child's life, their education, their future job opportunities as well as their mental and physical health. Teachers across the country have reported that children coming to school hungry have lost up to six weeks of learning as a result. Given the high cost of quality food, poor families are unable to buy healthy, nutritious food for their children setting them down a path of a lifetime of bad food choices and potentially poor health and obesity.

There has been a dramatic rise in homelessness amongst families with children over the past year. Some 40 families became homeless each month in 2014, double the number per month in 2013. These families find themselves in emer-

gency accommodation, often with just one room for the entire family, no cooking facilities and no place to play or do homework. Children living in the state's direct provision centres for asylum seekers face similar difficulties. In 2015, we have reached a tipping point. Children must be prioritised in the economic recovery, for they were neglected in the boom and in the recession. Families with children must have the opportunity to earn a 'living wage' and to afford healthy food. The Government must implement a plan that places responsibility on all departments and agencies to work together to address child poverty in all its guises, and to ensure a future worth striving for, for all our children.

Poverty in Ireland has a child's face. We can't afford to do nothing. ■



Economic, Social & Cultural Rights of Travellers & Roma

**Siobhan Curran, Roma Project Coordinator,
Pavee Point Traveller & Roma Centre,**
 first published in TheJournal.ie, June 2015



Since Ireland's last examination under the International Covenant in 2002, we have experienced boom and bust. Despite the boom, Travellers and Roma remained marginalised in Irish society. In 2008, after an unprecedented period of economic growth, suicide in the Traveller community was six times the national average.

We were then told that we all had to share the pain of the recession. The 2013 report by Brian Harvey, Travelling with Austerity, shows an extraordinary and disproportionate level of disinvestment in the Traveller community by the State since 2008. It states that 'one can think of no other section of the community which has suffered such a high level of withdrawal of funding and human resources.'

Travellers are still striving to have their ethnicity acknowledged by the Irish State. Some 55% of Traveller children have left school by the age of 15. Many Roma live in

Ireland in a constant state of insecurity, with little access to employment, social protection or access to health care. These are issues Pavee Point Traveller and Roma Centre will raise with the UN Committee on Economic, Social and Cultural Rights in Geneva. The examination is an opportunity to look at issues facing Travellers and Roma through a human rights lens, rather than a political lens or through stereotypes. This is important, as we saw recently how stereotypes about Roma, reinforced through negative reporting, provided a context in which two Roma children were removed from their families in 2013, just for not looking like their parents.

An issue Pavee Point would like to see advanced is Traveller ethnicity. Travellers throughout Ireland have identified this as a key part of progressing Traveller cultural, social and economic rights. Recognition would be an acknowledgement that racism is core to the situation of Travellers' exclusion and symbolise a move by the

State to respect Travellers' cultural rights.

For Roma families, a lack of access to social supports, including Child Benefit, means that many Roma children are living in poverty as their parents struggle to provide for them. At a minimum, Ireland should ensure that children are not experiencing poverty due to the status imposed on their parents.

Underpinning all of these areas is the need for comprehensive data to monitor the extent to which Traveller and Roma human rights are being fulfilled. The Government's recent response to questions raised by the Committee in December 2014 states that, 'It is not possible to accurately measure the impact of specific interventions on the health outcomes of different groups as ethnic or cultural identifiers are not used to identify service users.'

This is true for accommodation, social protection, education and other areas. The absence of this data undermines accountability. It means we cannot identify when things actually are working and thus we fail to identify positive outcomes. It also means we cannot identify discriminatory policies and practice. Travellers and Roma need to be counted, the question is, can they count on the Irish Government? ■

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The Economic, Social and Cultural Rights of Disabled People

Jim Winters, Advocacy & Rights Officer, Inclusion Ireland, first published [TheJournal.ie](#), June 2015



Next week, Ireland faces the UN to answer questions about the situation of the 600,000 disabled people in Ireland, around 13% of our population. Let's ask some questions ahead of that examination:

International human rights standards recognise that disability "results from the interaction between persons with impairments and the environmental barriers that hinder their full and effective participation in society." This identifies disabled persons as rights-holders with entitlements, as opposed to passive recipients of care.

Disabled people are not a homogenous group. Disabled people are women. They are also gay, lesbian and transgender. Disabled people are children and older people. As a consequence, many disabled people experience discrimination on multiple grounds.

If you are a disabled woman you are twice as likely to experience sexual violence as a non-disabled woman. If you are a mother with an intellectual disability you are far more likely to have your children removed by the State. As a victim of a crime, you

face significantly more barriers to accessing justice if you have a disability. You could be one of thousands of disabled people denied the right to make decisions about your health, to marry or to leave the country. Under current Irish law you could be treated as a lunatic, a person of unsound mind or mentally impaired.

As a disabled person in Ireland, you are twice as likely to experience deprivation. It is very expensive to have a disability: It is estimated to represent 35% of disposable income.

You could be in the lucky 30% of disabled people of working age to have a job. Then again, you might be working in a sheltered workshop, without pay or employment rights, and not regulated or inspected by the State.

You could be one of the 3,000 disabled people that continue to live in large institutions, segregated from mainstream society. You might live in a residential centre found to be non-compliant with basic standards of care. In residential care, you will have little choice over where or with whom you live. Your personal finances are likely to

be controlled by the service provider.

As a disabled person, you probably rely on public transport. But the government's cutting of two transport support schemes means you're stuck at home.

If you are an intellectually disabled person in a consensual sexual relationship, you could be charged with a criminal offence under present Irish law.

You could be the parent of one of over 20,000 children and young people on a waiting list for speech and language therapy. You could be the parent who must choose between heating your home or paying for private therapy. Your disabled child may not be able to attend pre-school with other children because the HSE does not support this need.

As a disabled citizen, you're likely to ask why Ireland remains one of the few EU Member States which has not ratified the UN Convention on the Rights of Persons with Disabilities.

No doubt the Irish government will have some solid answers to these questions in Geneva next week. ■



The right to housing

Barra Lysaght, Legal Officer, Threshold, first published [TheJournal.ie](#), June 2015



Housing is not a commodity. It is a basic, perhaps the most basic, of human rights.

International human rights law recognises the right to housing as part of the right to an adequate standard of living – not just the right to have a roof over your head, but the right to live in security, peace and dignity. What do we mean by 'adequate' housing? Affordability, habitability, freedom from forced eviction, and access to local employment, education, and healthcare services are just some of the essential components of the right. Adequate housing is crucial to the enjoyment and exercise of other human rights, in particular the right to private and family life, and is vital to meaningful participation in the economic, social and cultural life of the community.

Threshold works to secure the right to housing, particularly for those experiencing poverty and exclusion, adopting a rights-based and solution-focussed approach to housing issues.

There is a growing housing crisis in Ireland, and its impact is not limited to the increasing numbers of people who are becoming homeless. Migrants, students, mortgage holders, landlords, tenants – these are just some of the groups that have been impacted by factors which include a decrease in supply, an increase in demand, and the unresolved legacy of mortgage arrears.

Increasingly, discrimination is a feature of our housing market. Those of Threshold's clients who rely on social welfare and housing assistance to pay their rent face significant obstacles in accessing private rented accommodation. The repossession of mort-

gaged properties is resulting in the eviction not only of homeowners, but of tenants in mortgaged properties. Difficulties in accessing homeownership and rising rents, particularly in urban areas, mean that housing-related costs are outstripping incomes. For many, this means that the ability to meet other basic needs, such as food, clothing and childcare, is undermined. An unprecedented increase in the number of homeless families is the inevitable consequence of a housing affordability crisis. In Geneva, a civil society delegation, including Threshold, will be holding the Government to account before the UN on its obligation to secure the right to adequate housing for everyone in the State. We will be calling on the Government to make good on its promise to increase the supply of social and affordable housing. We will be calling for the recognition of the right to adequate housing within our Constitution. We will be calling for the introduction of rent certainty measures. We will be calling for action to end discrimination in the housing market. We will challenge the Government to take steps to ensure that the right to housing becomes a reality. ■

Section 1 : Blogs and news articles

The right to social security

Jane O'Sullivan, Solicitor & Policy Officer, Community Law & Mediation, first published [TheJournal.ie](#), June 2015



Austerity has had a significant impact on the social welfare system and on people's lives, particularly within vulnerable and disadvantaged groups – the UN's examination of Ireland under the International Covenant on Economic, Social and Cultural rights in June provides a unique chance to assess the damage done and propose ways to address it.

Since the State's last examination in 2002, the Government has engaged measures which have reduced the accessibility of the social security system. For example, the Habitual Residence Condition means many people are deemed ineligible for payments like Child Benefit. Instead of being defined in law, the meaning and application of the Condition must be interpreted by public servants. It disproportionately impacts on immigrants, including asylum seekers, and on victims of domestic violence. Yet a government-appointed working group to review conditions for asylum seekers will not include the Condition.

Another example: New rules have restricted access for one-parent families to social protection. About 215,000 families in Ireland – one in four – are headed up by a single parent. This means that almost a fifth of all children in Ireland live in a one-parent family, and more than half of those families live in deprivation. One Parent Family Payment is designed to support lone parents on low incomes while allowing them back into the workforce. But the big stumbling block is childcare. Many lone parents simply cannot afford to return to work given the cost of childcare, yet recent changes to this payment went ahead without increasing childcare supports, such that more than 9000 recipients lost their entitlement to the payment in 2012 and 2013 alone, and thousands more will lose it in July 2015 when the child age eligibility limit is lowered again to 7.

In recent years, rights have been overruled by economic expediency. There is serious concern about the railroading of social welfare legislation through the Oireachtas.

This law affects the lives and basic living standards of so many in the State – including the most vulnerable. Laws are being passed in haste and, unfortunately, repented at leisure.

The new Social Welfare (Miscellaneous Provisions) Act makes it more difficult for carers to access income supports; you will be presumed ineligible for a payment unless you can prove otherwise, a serious shift in the burden of proof. Further, the regulations meant to give effect to legislation sometimes do not work as intended: While the Department insists that rent supplement limits will not be increased, the gap between rent supplement rate and actual market rate cannot realistically be bridged. People are being priced out of the rental market in the midst of a housing and homelessness crisis.

In the context of social welfare recipients being increasingly demonised in the media and the government's refusal to-proof budget decisions for human rights or equality impact, the resulting unfairness looks set to deepen. The UN's scrutiny of how the government has fulfilled the right of people in Ireland to social security should shed light on how to address these issues. ■



Right to a cultural life

Ed Carroll, Project Leader, Blue Drum,
first published, [TheJournal.ie](#), June 2015



Ireland loves community. Community is a place of meaning-making, represented by objects, artefacts and cultural spaces as diverse as the hearth and knitted sweater.

Ireland loves art and culture. Culture scrolls us backwards to connect to the inhabitants of Newgrange, Knowth and Dowth and fast forwards to the future creativity of the new Irish. Like an iceberg, culture shifts largely in ways that are unseen and unheard.

The UN Committee on Economic, Social & Cultural Rights has acknowledged the importance of how we define cultural life: "Culture reflects a way of being and feeling, in short, the community's way of life and thought". Similarly, the National Economic and Social Forum defined the cultural life of citizens not simply as "consumers (audiences), but also creators, producers, distributors, commentators, and decision-makers".

But very significant cohorts of the population do not receive publicly subsid-

ised funding for arts and culture. The distribution of public funds is out of balance with our evolving cultural iceberg and the changing demographics of our communities.

The Department of Arts, Heritage and the Gaeltacht has excluded community and art (a distinctive language of culture) from public funding of culture, explaining in 2014 that "[m]uch of the programmes aimed at community arts fall outside the remit of this Department and the Arts Council."

Niall O'Baoill's recent blog input is one voice from the ground of community arts practice that never trickles-up to government: "I make no apology for choosing to talk of an unacceptable cultural apartheid that persists in my country."

Because spending on the Arts in Ireland is a transfer of resources from the less well-off to the better-off. In 2010, the Arts Council received €68 million of which over €65 million came from the National Lottery. Lottery revenue is gathered disproportionately from lower socio-

economic groups and available data indicate that public funding for the arts is regressive, meaning it is a transfer of resources from the less well-off to the better-off. In this light, does it not seem reasonable to demand an inclusive culture?

We're promised Culture 2025, a new cultural policy, and a new Arts Plan. The previous 1987 White Paper identified "the encouragement of opportunities for dynamic participation in the creation of culture and personal engagement for meaning and purpose in life". We know that the right to a cultural life is the Cinderella of the rights framework – but is a site for experimentation and innovation.

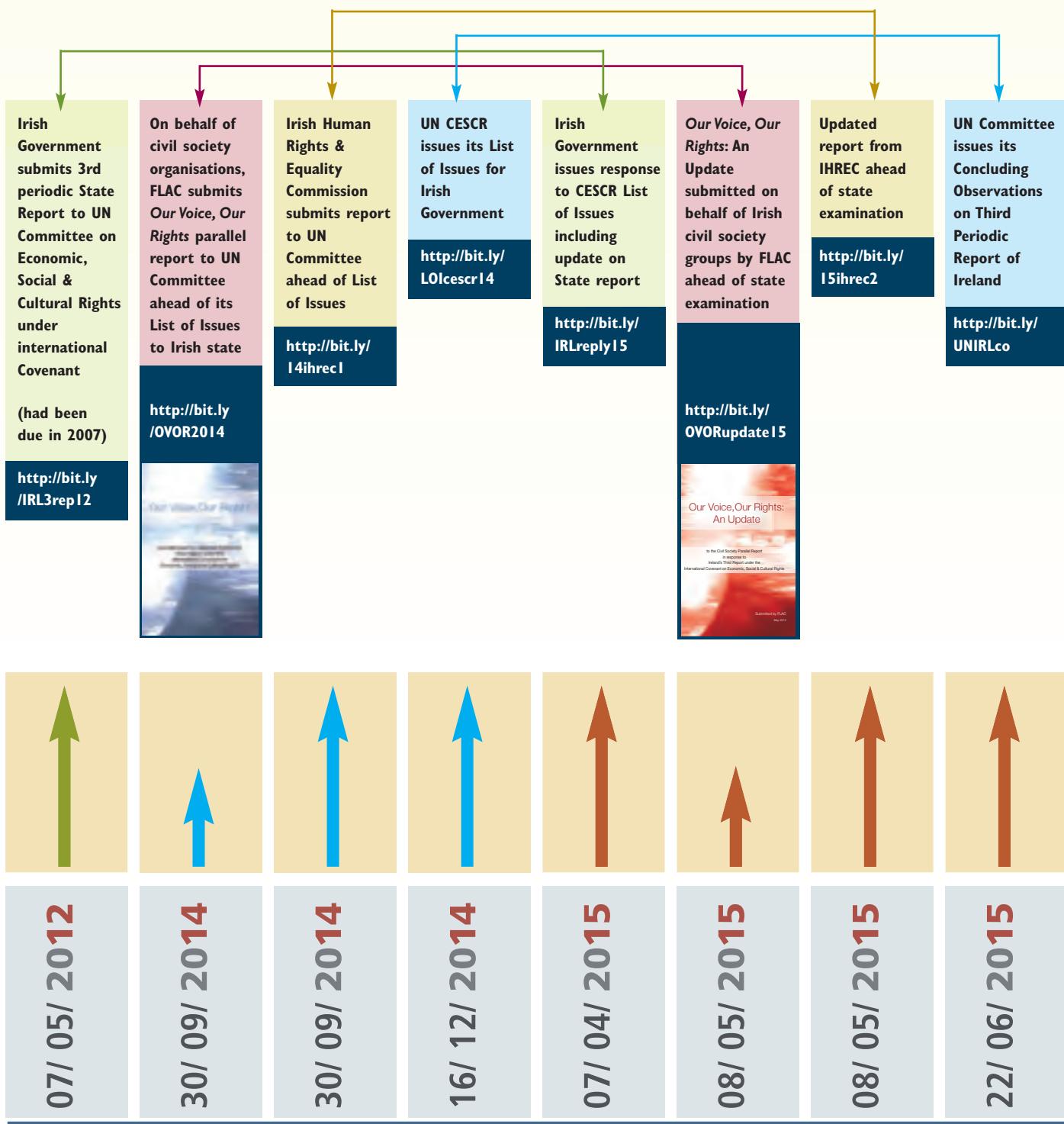
One year ago, in preparation for the civil society Parallel Report, Blue Drum and others organised a five-year Community Culture Strategy, an action to support the cultural rights of people and place. By engaging over 250 activists and artists across Ireland over the last year, it became clearer that community culture is a right that trickles-up.

Promoting it will require a unique level of locally-led cooperation, but it can stimulate and support long-term programme development, exchange of know-how and show-how, and a new model of practice in the field of community arts – one based on cultural rights and values. ■

Timeline



Timeline of reporting process under International Covenant on Economic, Social & Cultural Rights



Note - other civil society organisations also submitted reports available on the UN website.

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Section 2: Speaking notes



Civil society delegation to Geneva meeting before the trip: (L-R) Maeve Taylor (IFPA), Bernadette Bushe (Tallaght Trialogue), Noelene Blackwell (FLAC), Fiona Walsh (Tallaght Trialogue), Jane Donnelly (Atheist Ireland), Grace Wilentz (ARC), Dr Katherine O'Donnell & Maeve O'Rourke (JFMR), Michael Nugent (Atheist Ireland), Dr Liam Thornton, Barra Lysaght (Threshold), Hilary Harmon (Pavee Point), Jane O'Sullivan (CLM)

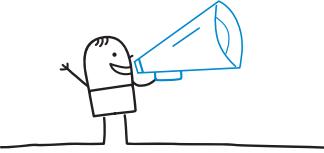
Introduction: Speaking notes

The following series of articles are the speaking notes from the civil society delegation that went to Geneva. The delegation was present to provide an alternative perspective to the state report and to express an outside view on how the government has actually protected economic, social and cultural rights. PILA's Eamonn Tansey provides an overview of the Geneva experience. The delegation consisted of representatives from civil society organisations: Threshold, Irish Family Planning Association, Atheist Ireland, Justice for Magdalenes Research, FLAC, Pavee Point Traveller & Roma Centre, Abortion Rights Campaign, Tallaght Trialogue, Community Law and Mediation and Dr Liam Thornton of UCD Human Rights Network who spoke in a personal capacity and had been on the parallel report Advisory Committee.



Section 2: Speaking notes

Collaboration and solidarity at the heart of ICESCR reporting process



Eamonn Tansey, PILA Project Officer & Coordinator of Our Voice, Our Rights delegation

On 8 and 9 June 2015, the *Our Voice, Our Rights* ICESCR reporting process culminated in Geneva. Here, the UN Committee on Economic, Social and Cultural Rights questioned a 22-person strong Government delegation, led by Minister of State Sean Sherlock, on what the Irish State has been doing since 2002 to protect a basic level of rights in areas such as education, health, social security, family life and adequate living standards, especially for more vulnerable groups.

Over the course of the two days, the Committee, comprising 17 legal and human rights experts, asked the Government over 100 questions in this regard under the careful watch of a strong Irish civil society delegation.

Given the 13-year interval between the last State report to the Committee and the seismic economic and social shift that took place in the intervening years, this most recent reporting process was of utmost importance. To gather the mass of information and evidence required to present the true story of economic, social and cultural rights on the ground in Ireland, FLAC through its PILA project worked with over 80 civil society organisations since May 2014 to develop a parallel report on how the Government is meeting its human rights obligations. This remarkable showing of civil society collaboration and solidarity led to the development of two reports; the *Our Voice Our Rights* parallel report submitted to the UN Committee in November 2014 and the supplementary updated report submitted to the UN Committee in May 2015.

The State examination in Geneva provided further opportunity for civil society organisations to supplement the collaborative reporting process by making formal representations before the Committee on a number of rights areas and issues. FLAC and PILA were privileged to coordinate and be part of this civil society delegation which included representatives from Threshold,

Community Law & Mediation, Atheist Ireland, Tallaght Trialogue, Justice for Magdalenes Research, the Abortion Rights Campaign, Pavee Point, the Irish Family Planning Association and Dr Liam Thornton of the UCD Human Rights Network, who had been on the Advisory Committee for the parallel report and spoke in a personal

It was clear from proceedings that the Committee relied heavily on civil society evidence when formulating their questions for the Government delegation

capacity. Despite the huge range of issues to be tackled between the different groups, it's fair to say the presentation process went extremely smoothly and the delegation could cover vast amount of ground in outlining complex issues to the Committee members.

Following these formal presentations, the Irish civil society delegation was granted exclusive access to Committee members to provide and present further evidence to support their earlier submissions.

Throughout the two-day hearing, the Committee repeatedly expressed huge gratitude to the Irish civil society delegation in attendance as well as the 80-plus organisations that contributed to the *Our Voice Our Rights* parallel reports, as well as the many organisations that submitted individual reports. It was clear from proceedings that the Committee relied heavily on civil society evidence when formulating their questions for the Government delegation. During the examination, Committee members openly inter-



Eamonn Tansey

acted with members of the civil society delegation seeking clarification on elements of Government representative's responses to further hone the Committee's line of questioning.

Departing Geneva, it was hoped the Committee would consider the huge quantity of evidence presented to it by Irish civil society when formulating its concluding observations. When the Committee published these observations on Monday 22 June, it was abundantly clear it had indeed relied heavily on the evidence presented by Irish civil society through reports and impassioned presentations. Indeed, the Committee's recommendations mirrored those contained in the *Our Voice Our Rights* reports in large part.

In addition to highlighting the steps the Irish Government must take to further protect and promote economic, social and cultural rights in Ireland, the concluding observations and recommendations illustrate the necessity for civil society collaboration and solidarity in pursuit of a fairer, more just Ireland. ■

Section 2: Speaking notes

Presentation to the UN Committee on Economic, Social & Cultural Rights by Noeline Blackwell on behalf of FLAC and the *Our Voice Our Rights* Civil Society consortium

(References to 'First Report' indicate *Our Voice, Our Rights* submitted by FLAC in September 2014, and 'Update' refers to *Our Voice Our Rights: An Update*, submitted in May 2015.)

My organisation FLAC is an independent organisation which promotes equal access to justice for all. We run a Public Interest Law Alliance which aims to match social justice and human rights organisations in Ireland with the legal expertise that they need. We have produced the *Our Voice, Our Rights* report and Update following consultation with over 80 organisations and individuals. I will highlight a few areas from *Our Voice, Our Rights*.

Structures

The recession brought about deep suffering for many living in Ireland. They were denied access to their fundamental rights through reduced access to basic services, less accessible remedies and increased poverty. The poorest 10% of the population suffered the most as a result of the measures taken during the recession. The damage happened because of the crisis but also due to the choices made by Government during the crisis. The focus of Government and its external funders – the EU and IMF – was on protecting the banking system and state finances. The people were told there was no choice.

This points to a structural gap in our decision making systems. There is no framework within which human rights must be formally considered and accounted for. During the recession and now, there are no domestic mechanisms to hold the State accountable for the rights guaranteed by the covenant. While ESC rights are mentioned in our constitution, they are guiding principles only. There is no obligation to take account of them in decision-making in the courts or in government. Budget processes became more opaque with less consultation during the recession. Ireland did not ratify the Optional Protocol to the Covenant to allow individual complaints to this Committee. Institutional supports against poverty and racism were shut down. Recommendations of a constitutional convention that ESC rights should be incorporated



Noeline Blackwell, addressing UN Committee members at the civil society hearing

into the constitution have not been acted on. (section A1 both reports and A2, First Report).

Civil Society believes that such structures are necessary and would welcome recommendations from the Committee that the principles of the Covenant be incorporated into domestic law; that Ireland ratify the Optional Protocol and that the State conducts an urgent and thorough audit which tests our current legislation against the obligations of the Covenant.

Across all areas, civil society complains of the lack of disaggregated data including in relation to ethnicity, gender and incidents of domestic violence which make it impossible for the State itself to measure the current state of rights or progress made and make it difficult for civil society to monitor respect for rights. [First Report – p.23, p35, p.54, para 1, p.61 (domestic violence)]

The *Our Voice, Our Rights* consortium would welcome recommendations for more thorough data collection and its use to

mark baselines and progress in promoting human rights.

Work

The Parallel report highlights a number of areas of concern in relation to work.

- ▼ Women's unequal place in the labour force and the increasing gap in pay between men and women are highlighted. (First Report 7.2) Women with children are significantly less likely to work – particularly if they are the sole parent (Update 10.3). Childcare costs are amongst the most expensive in the EU. (First Report 10.3)
- ▼ There is a rise in the numbers of young people not in employment, education or training. Emigration is often the only option. (First Report 6.1, Update 6.1)
- ▼ People with disabilities continue to be much more likely to be unemployed than the general population. Most people with disabilities are not even registered as jobseekers. (First Report 6.1, Update 6.1)
- ▼ Over 20% of workers are in low paid employment. Some – particularly migrants – are at risk of being forced into deeply exploitative work conditions. Access to remedies for victims of trafficking are not considered to be effective, accessible or adequate. A recently agreed low pay commission has an unnecessarily narrow focus. (Update 7.1.1)

- ▼ In 2002, this committee in 2002 was concerned about the treatment of disabled people in sheltered workshops. People still work in these environments, without employment rights and where any payment is at the discretion of the operator (First Report 7.1, Update 6.3).

Civil society groups believe that it is necessary for the State to prioritise gender

Section 2: Speaking notes

equity, to provide robust legislation for the victims of trafficking and others at risk of exploitation and to extend the remit of the Low Pay Commission to redress serious imbalances.

Family

Since the first *Our Voice, Our Rights* report, there have been significant improvements in future family law legislation, including the recently passed popular referendum recognising the right of same sex couples to marry but also to allow progressive transgender identity recognition and several other aspects of family law. Civil society is anxious that all of these laws be implemented and brought into force without delay. (First Report & Update – Section 10)

Adequate standard of living

The most recent statistics (at p.31 of Update) highlight that 15.2% of the population was at risk of poverty while 7.7% lived in consistent poverty in 2013.

- ▼ Children, unemployed people, lone parents, Travellers and Roma and those not able to work through illness or disability had the highest rates of consistent poverty.
- ▼ Some 13.2% of the population experienced food poverty in 2013. There is no National Food and Nutrition Policy or strategy that ensures affordability, accessibility and availability of healthy food and nutrition to all members of society. (Update 11.2)
- ▼ Access to water remains a highly debated topic with current charges lower than previously intended but the charges take no account of income nor do they provide for any exemptions. (Update 11.3)

Health

Health services expenditure fell by 16% between 2009 and 2014. While initial cuts produced greater efficiencies, continuing austerity has resulted in rising waiting lists, fewer public beds and increased costs for patients. (Update s.12, Context p.43)

Those who can afford private health insurance have better access to care but the cost of insurance has risen and many had to discontinue it for reasons of cost. (First Report 12.1)

Waiting times have increased significantly for inpatient and outpatient care including services such as physiotherapy and mental health services. Costs are increasingly transferred on to patients. Ireland is the

only EU country not to offer universal access to free or heavily subsidised GP care though a start is proposed with GP care to children under 6. (Update 12.1)

Civil Society would welcome recommendations from the Committee which recognise the need for targeted resources to provide timely and appropriate physical and mental health care respecting people's dignity. Particular care should be taken to improve care to vulnerable groups. A number of suggestions from civil society are set out for Article 12 rights at p.9-10 of the First report and p.6 of the update.

Education

- ▼ A range of government measures taken during the recession negatively affect access and affordability of quality education including: reduction in teachers, rationalisation of support services, abolition of school grants, increase in transport charges, reduction of clothing and footwear allowance. (Update 13.1)
- ▼ Children with special needs face particular obstacles. English language support to migrant children was cut in 2012 by 19% despite these children having the lowest reading scores. At third level, costs increased while student grants were cut. (First Report 13.1 and 13.2)

Civil Society would like to see a clear, practical long term strategy, with resources, to address educational disadvantage including specific plans for people with disabilities, migrants, Travellers and Roma.

Cultural rights

There is no national cultural policy, though one was promised in 2014. There is evidence that people from disadvantaged socio economic backgrounds with lower levels of educational attainment are much less likely to participate in cultural events than their better off counterparts. (Update 15.1, First Report 15.1)

Despite a number of commitments, those living in rural Ireland continue to be denied access to public services, education and the other advantages of the internet through a lack of access to adequate quality broadband. (First Report and Update 15.4)

Civil Society would welcome recommendations to promote culture throughout a wider community as well as recognition by government of the need for speedy action to end exclusion of rural communities through lack of broadband access. ■



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FOR HUMAN RIGHTS



Noeline Blackwell and Eamonn Tansey of FLAC outside the UN Office of the High Commissioner for Human Rights in Geneva



Representatives of reproductive rights groups at Geneva hearing: (L-R) Maeve Taylor, IFPA; Sharon Davis, Sinead Corcoran & Grace Wilentz, all of Abortion Rights Campaign

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Speaking notes by Barra Lysaght, Threshold

Threshold is a civil society organisation that works to secure the right to housing, particularly for those experiencing poverty and exclusion, adopting a rights-based approach to housing issues. Threshold is grateful to the Committee on Economic, Social and Cultural Rights for affording it the opportunity to contribute to the examination of Ireland in respect of its third periodic report.

Ireland is experiencing a housing crisis, characterised by three main features: (a) the unresolved legacy of mortgage arrears, (b) an increase in demand for housing, and (c) an insufficient supply of housing.

The State party has not taken appropriate measures, subject to the maximum of its available resources, with a view to realizing the right to adequate housing. The acute shortage of social and affordable housing within the State, as identified by the Committee in its list of issues in response to Ireland's third period report, has had a disproportionate impact upon disadvantaged social groups.

This impact may briefly be analysed having regard to the elements of the right to adequate housing as identified by the Committee, including legal security of tenure, affordability, habitability, and accessibility, together with the principle of non-discrimination.

For a more detailed analysis the Committee is referred to the parallel reports submitted in response to the State's third periodic report by FLAC to which Threshold has contributed.

Legal security of tenure

[*Our Voice, Our Rights* (November 2014) pp.66 - 67, *Our Voice, Our Rights: An update* (May 2015) pp.36 – 37]

The mortgage arrears crisis has put tens of thousands of people at risk of losing their homes, and has impacted not just on mortgage-holders, but on tenants in mortgaged properties. Mortgage-holders faced by repossession proceedings are subject to a flawed mortgage arrears process and are not afforded access to civil legal aid, while tenants faced with eviction on foot of an order for repossession are not afforded access to effective legal remedies before a court or tribunal of competent jurisdiction.

Affordability

[*Our Voice, Our Rights* (Nov 2014) pp.69 – 70]

Increasing house prices and unregulated increases in rents are undermining the financial capacity of individuals and families to meet other basic needs.

Habitability

[*Our Voice, Our Rights* (November 2014) pp.70 – 72, *Our Voice, Our Rights: An Update* (May 2015) p.39]

The failure on the part of Local Authorities to monitor and enforce minimum housing standards is impacting on the health and welfare of tenants in both social and privately rented housing.

Accessibility

[*Our Voice, Our Rights* (November 2014) pp.68 – 69, *Our Voice, Our Rights: An Update* (May 2015) pp.37 – 39]

An acute shortage in social and affordable housing is undermining the ability of disadvantaged social groups to access adequate housing. This has resulted in a marked increase in the number of homeless families. Welcome legislative and policy measures introduced by the State party, including the Construction 2020 Strategy, the Social Housing Strategy 2020, and the Housing Assistance Payment Scheme largely remain unimplemented.

Non-discrimination

[*Our Voice, Our Rights* (November 2014) pp.72 – 76, *Our Voice, Our Rights: An update* (May 2015) pp.40 – 41]

Members of the Traveller community continue to face obstacles in accessing cultur-

ally adequate accommodation, and remain at risk of poverty, discrimination and eviction.



'Direct provision' accommodation centres for asylum seekers fail to provide an adequate standard of living for residents. Residents in direct provision centres are subject to house rules which have been found to amount to a disproportionate interference with the right to private and family life. Asylum seekers are precluded from accessing social welfare payments, including rent supplement payments. The State Party has refused to opt in to Directive 2013/33/EU laying down standards for the reception of applicants for international protection.

The housing needs of disabled persons have been undermined by cuts and restrictions imposed on mobility allowances, personal assistant supports, and housing adaptation grants. Many disabled persons live in substandard residential centres, and are not provided with the support needed to live independently in the community. ■

Speaking notes by Fiona Walsh, Tallaght Trialogue

Mental health

Tallaght Trialogue made direct submissions under ICESCR and also contributed to *Our Voice Our Rights*. We receive no state or philanthropic funding. Tallaght Trialogue advocates for an end to all coercive practices frequently used in Mental Health System, primarily by members of Irish Psychiatry or those under their direction. We advocate for:

1. End to Involuntary Detention/ hospitalization in mental health facilities
 2. End to forced treatment including forced drugging with mind-altering drugs including neuroleptics, psychosurgery, Electroshock, seclusion & restraint (physical & chemical), forced psychotherapies, Community Treatment Orders & depot injections, attendance at day hospitals & possibly 'recovery' colleges.
 3. Genuine informed consent (giving honest information on side effects of medication) and freedom of autonomy
- to choose from a range of supports / approaches including adopting emerging international best practice such as Open Dialogue, Hearing Voices and Trialogue, which are both empowering and respectful of Human Rights. Tallaght Trialogue advocates that Advanced Healthcare Directives should be legally binding for all categories of patients including 'involuntary' as well as for substantial amendment or repeal of the Mental Health Act 2001.
4. The appointment of a Confidential Recipient by the Health Services Executive (HSE) to deal with complaints as well as an Ombudsman to deal specifically with the mental health system.



Whilst some people feel they benefit from services and treatment, many others feel

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abused, tortured, suffer severe damage to physical health and are left without a shred of human dignity and sadly have to recover from diagnosis and 'treatment' in addition to the original distress or trauma. This is a perversion of healing. In accordance with the recommendation in *Our Voices Our Rights* (page 82 point 4), in reference to Article 12.

We urge the Committee to ask the State Party to resource empowering mental health supports respectful of Human Rights and prioritise non coercive forms of help, and alternative pathways to recovery based on peer support.

Under 'Vision for Change', statutory legislation and UN Covenants, the Irish State Party has signed up to uphold Human Rights. It is now time to put in place sustainable long-term funding to facilitate realising these rights as a priority and strengthen the regulatory functions and funding of the Mental Health Commission and IHREC.

Intellectual disability

With respect to disabled persons, Ireland has failed to repeal 19th century law, which continues to deny thousands of people their human rights and fundamental freedoms. In addition, Ireland remains one of only three EU Members States not to have ratified the UN Convention on the Rights of Persons with Disabilities.

Following on from the Aras Attracta exposé of Human Rights abuses, we need to prioritise the needs of one of the most vulnerable groups in society, those with an intellectual disability, and their families.

The State should:

1. Require an end to pathologising and medicating distress and use of Psychotropic Medication to restrain.
2. Require an end to the bullying, harassment and in some cases threatening of

individuals & loving caring families with legal proceedings to ensure compliance to what the HSE and/or private companies deem 'appropriate care'.

3. Appoint a specific Ombudsman for Intellectual Disability in addition to role of Confidential Recipient.
4. Agree policy and funding for individualised solutions for Intellectual Disability based on assessed needs, including those with complex medical needs requiring 24-hour nursing and medical care in the community.

Under Article 12, we urge the Committee to request the State Party to take urgent action to allow individuals attain the highest standard of Physical and Mental Health as outlined above and in our detailed submissions, and facilitate immediate progressive realisation of rights. ■

Speaking notes by Jane Donnelly and Michael Nugent of Atheist Ireland

Education system

Ireland repeatedly ignores UN recommendations to respect the rights of atheists and non-Christians, in the treaties on Civil and Political Rights, Rights of the Child, Racial Discrimination and ESC Rights.

This Covenant obliges Ireland to guarantee the rights within it without discrimination. Ireland repeatedly fails to do this, particularly in the education system.

Ireland still has no non-denominational schools, at primary or secondary level. Primary schools are still publicly funded private bodies, almost all Christian, with a near-monopoly on a vital public service, and no effective remedy to vindicate Covenant rights.

These State-funded private schools can still demand Christian baptism certs for admission. The new Admission to Schools Bill retains the right to discriminate against atheist, Muslim and other minority faith families.

If you do get your child into a school, you still face two problems. If you want to opt your child out of formal religious instruction classes, there are no non-discriminatory exemptions or alternatives.

And the Education Act and Rule 68 of National Schools integrate a religious ethos throughout the entire curriculum,

thus depriving your child of a neutral studying environment, even outside of the formal religious instruction classes.

If you are a teacher, your school can discriminate against you based on your atheism. The new Bill to protect LGBT teachers retains the right to discriminate against atheist teachers.

Systemic discrimination

The education system is not an isolated case. Ireland systemically breaches the Covenant rights of atheists and non-Christians, in the Education Act, Admissions to Schools Bill, Equal Status Act, Employment Equality Act, Civil Registration Act, religious oaths for political and legal jobs, our blasphemy law, our abortion law, and the lack of an effective remedy.

Ireland has no plans to adopt comprehensive anti-discrimination laws to include all the grounds referred to in article 2, paragraph 2, of this Covenant.

Ireland has told this Committee that our equality laws protect the rights in the Covenant. But our Minister for Education, and our Minister of State for Equality, have both recently said that a Constitutional Referendum would be needed to remove discrimination against atheists in our education system.



Jane Donnelly and Michael Nugent
of Atheist Ireland in Geneva

So not only are Ireland's anti discrimination laws incompatible with the Covenant, our Constitution itself is also incompatible with the Covenant, and there is no effective remedy through the courts to vindicate the rights guaranteed by the Covenant.

Even though Ireland accepted here, last year, that majority votes cannot be used to derogate from Covenant rights, including on abortion law, Ireland continues to rely on majority votes to defend breaches of these rights. ■

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Speaking notes by Jane O'Sullivan, Community Law & Mediation



Austerity has had a significant impact on the social welfare system in Ireland and on people's Article 9 right to social security, particularly when viewed through the prism of the protection against discrimination. Vulnerable and disadvantaged groups have been hit hardest. I note the Committee's concern for these groups, emphasised in the List of Issues. Since austerity measures have commenced, rights have been overruled by economic expediency. I want to focus on the policy decisions being made today and which are outlined in detail in the *Our Voice, Our Rights*¹ report and the update thereto.

Since the State's last examination under the International Covenant in 2002, the Government has engaged measures which have reduced the accessibility of the social security system. For example, new rules have restricted access for one-parent families to social protection. About one in four families in Ireland are headed up by a single parent and more than half of those families live in deprivation. One Parent Family Payment is designed to support lone parents on low incomes while allowing them back into the workforce. But many lone parents simply cannot afford to return to work given the limited and privatised childcare available. Nonetheless, recent changes to the payment went ahead without increasing childcare

supports, meaning that more than 9000 recipients lost their entitlement to the payment in 2012 and 2013 alone. The most severely impacted by cuts to public expenditure since 2008 are families, as the *Our Voice, Our Rights* report reveals.²

Another example of a current policy which is eroding the right to social security is the manner in which the new Social Welfare and Pensions Act 2015 makes it more difficult for carers to access income supports; you will be presumed ineligible for a payment unless you can prove otherwise. This is a serious shift in the burden of proof on an applicant.

On a broader level, we are seriously concerned about the manner and speed at which social welfare legislation moves through the Oireachtas.³ It affects the lives and basic living standards of so many in the State – including the most vulnerable – and yet, precious little time is allocated to review and debate it. The right to social protection is often infringed due to poor decision-making by welfare officers on initial applications⁴. The consistently high rate of success at appeal⁵ indicates that often appellants have to endure long delays⁶ to get a payment that they were entitled to in the first place. We recommend that better first instance-decision making and better information to applicants would be a much more efficient use of limited resources.⁷

These are the real effects of austerity. In the context of social welfare recipients being increasingly demonised in the media and the government's refusal to proof budget decisions for human rights or equality impact, the resulting unfairness looks set to deepen. I urge the Committee to adopt our recommendations. ■

1. *Our Voice, Our Rights*, pp. 44-55; *Our Voice, Our Rights: An Update*, pp. 22-26,
2. *Our Voice, Our Rights: An Update*, para. 9.1.2.Table I
3. Irish Parliament.
4. The social welfare appeals system has come under considerable strain since the beginning of the recession. The number of live appeals has trebled since 2007. As a result, appellants are experiencing long delays in having their claim decided. In 2013, appellants had to wait an average of 34 weeks for an oral hearing.
5. In 2013, 55 per cent of appeals were decided in favour of the appellant while 21 per cent of the total number of appeals did not go to an Appeals Officer but were instead revised by the original decision-maker once an appeal was lodged. Social Welfare Appeals Office (2014) Annual Report 2013, Dublin: SWAO, p8.
6. Social Welfare Appeals Office (2014) Annual Report 2013, Dublin: SWAO, p.6. Waiting times peaked in 2011 when an oral hearing took 53 weeks on average and 25 weeks for a summary / written decision.

Speaking notes by Dr Katherine O'Donnell and Maeve O'Rourke, Justice for Magdalenes Research

Justice for Magdalenes Research draws the Committee's attention to continuing rights violations affecting women imprisoned between 1922 and 1996 in Catholic church-run institutions known as Magdalene Laundries.

Many of the 10,000 girls and women were sent to Magdalene Laundries from State schools, courts, child protection agencies and public health authorities. Magdalene Laundries confined women and girls perceived to contravene Catholic doctrine on female chastity, including girls who had been sexually abused.

Survivor testimony is unanimous that the girls and women were forced into heavy, unpaid labour for many hours every day and denied any education. State Departments held contracts with Magdalene Laundries, while aware that the girls and women were locked up and unpaid. The police returned girls and women who escaped.

There were punishments for refusal to work.

The economic, social and cultural rights violated are detailed at page 8 of our report to the Committee. All amount to

gender-based discrimination. They include systematic denial of education, erasure from the social and cultural life of the nation and inhumane conditions of work and living..

Current issues for the Irish government to address

Today, the average age of Magdalene Laundry survivors is just under 70 years.

In 2013, the government established an ex gratia redress scheme. The government prioritised the administration of money payments and delayed the healthcare and

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other elements of the promised scheme.

To receive their money payments, survivors were required to sign away all legal rights against the State. Now they are disempowered to insist that the government implements the remainder of the Scheme fully.

The government now refuses to provide some of the healthcare services it promised in 2013, including counselling for immediate family members.

There is still no healthcare for women outside Ireland who have entered the scheme.

Further un-implemented aspects of the scheme include support and advocacy services, educational and housing assistance.

- (1) We ask the Committee to recommend that the government immediately implements the scheme in full.
- (2) Secondly, we ask the Committee to recommend an independent, thorough investigation into the Magdalene Laundries abuse.

The Human Rights Committee and Committee against Torture have repeatedly requested this investigation. But the government refuses, claiming 'no torture or criminal treatment' occurred in the Laundries.

The government says women were not held against their will for long periods. This is not true; please see our carefully

referenced report.

The government claims it has already investigated the abuse. It has not.

The government pursued an internal, inter-departmental inquiry into State interaction with the institutions. There were no terms of reference to investigate abuse, no findings regarding abuse and no authority held responsible for abuse. Now, the government claims no abuse worth investigating occurred. Hundreds of women who died and their burial places remain unidentified.

Please ask the Irish state to give dignity to these women in the present, so as not to repeat the past. ■



Speaking notes by Maeve Taylor, Irish Family Planning Association

will address the Committee on Ireland's abortion laws in the context of Article 12 of the Covenant, in conjunction with Articles 2 and 3.

Under the Protection of Life During Pregnancy Act 2013 abortion is permitted only where there is a risk to a pregnant woman's life.

Depending on the circumstances, it may require up to three doctors to certify that the abortion can proceed. A review procedure can take up to 10 days and require assessment of the woman by up to three additional doctors.

These procedures introduce significant barriers to accessing a lawful abortion. They discriminate against women with mental health problems.

Neither the Act nor the July 2014 guidance issued to doctors on its operation bring Ireland into compliance with the Covenant: pregnant women can be denied care; abortion remains criminalised. The guidance document makes no reference to the women's right to health or to bodily integrity or autonomy in medical decision-making.

The threat of 14 years imprisonment hangs over pregnant women whose health is at risk, where there is a foetal anomaly, where

pregnancy is the result of a crime, or in any other circumstances.

Women are discriminated against in their enjoyment of the right to health: the right to life of the foetus takes precedence over the right to health of a pregnant woman; doctors are prevented from making clinical decisions in the interests of women's health; the health outcomes for women are irrelevant in cases of conflict with the foetal right to life.

Five referendums have been held on abortion in Ireland, but the Irish people have never been offered the opportunity to broaden the grounds for legal abortion, and have rejected attempts to further restrict the law. Yet opinion polls consistently show strong support for decriminalisation and for broadening the grounds for lawful abortion.

The State justifies its restrictive laws by permitting travel to and information about abortion in other jurisdictions. This abdication of State responsibility to treat women with dignity by providing necessary health care discriminates against women, who must carry the entire financial, practical and emotional burden of accessing services abroad.

This burden falls most heavily on minors, women on low incomes, and women who

cannot travel freely to another state. These women disproportionately experience delays in accessing services.

We ask you to urge the State to make the necessary changes to the law and the Constitution to bring Irish abortion law into compliance with the Covenant.

This statement is delivered on behalf of the following civil society organisations:

- ▼ Abortion Rights Campaign
- ▼ Amnesty International
- ▼ Association for Improvements in the Maternity Services (AIMS) Ireland
- ▼ Centre for Reproductive Rights
- ▼ Doctors for Choice
- ▼ Irish Council for Civil Liberties
- ▼ Irish Family Planning Association
- ▼ Justice for Magdalenes
- ▼ Lawyers for Choice
- ▼ National Women's Council of Ireland
- ▼ Repeal 8th Campaign
- ▼ Termination for Medical Reasons Campaign. ■

Section 2: Speaking notes

Speaking notes by Dr Liam Thornton

ESC Rights of Asylum Seekers

Asylum seekers in Ireland are subject to a prolonged period of core ESC rights violations in Ireland. In general barred from all social assistance payments, and denied the right to work, asylum seekers are placed in an administrative system known as direct provision. Direct provision is a system whereby asylum seekers are accommodated in communal centres; meals are provided, limiting asylum seekers ability to prepare their own food. Asylum seekers are provided with an allowance of €19.10 per week per adult and €9.60 per week per child. There is no entitlement to child benefit due to the habitual residence condition. Asylum seekers can spend a lengthy period of time in these centres, sometimes up to 7 years. There are significant concerns as regards mental health of those in the system. As is outlined throughout the *Our Voice, Our Rights* report, there are serious concerns that this system may violate the ESC rights of asylum seekers, in particular as regards:

- ▼ The right to work (p. 31, *Our Voice, Our Rights*; p. 17, 2015 Update)
- ▼ The right to access social assistance (p. 45 & p. 54 *Our Voice, Our Rights*)
- ▼ The right to adequate food (p. 63-64, *Our Voice, Our Rights*)

- ▼ The right to adequate housing and shelter (pp. 75-76 *Our Voice, Our Rights*; pp. 40-41, 2015 Update)

Habitual Residence Condition

The habitual residence condition impacts on the right to social security and social assistance. Victims of domestic violence, asylum seekers, returning Irish immigrants, Irish Travellers in Ireland all face risks of destitution, through non-access to core social assistance payments such as child benefit, one parent family payment, supplementary welfare allowance (See, pp. 45-49 & p. 54, *Our Voice, Our Rights*; pp. 22-24, 2015 Update).

Travellers

The Irish Government has not recognised Travellers as an ethnic group. Travellers in Ireland suffer significantly from societal discrimination (p. 23, *Our Voice, Our Rights*). For Travellers, there are significant concerns as regards the protection of ESC rights across all of the rights grounds. I wish to draw to the Committee's attention to the following:

- ▼ Travellers face significant barriers to accessing the employment market (pp. 30-31 *Our Voice, Our Rights*).
- ▼ Health indicators highlight the inequity of outcomes for Travellers (p. 85, *Our Voice, Our Rights*; pp. 50-51, 2015 Update).



- ▼ Issues pertain as regards the lack of legal realisation of culturally appropriate accommodation for Travellers. (pp. 72-73, *Our Voice, Our Rights*; p. 40 2015 Update).

- ▼ Child Travellers have significant issues as regards realising fully their right to education (pp. 93-94, *Our Voice, Our Rights*; pp. 54-55 2015 Update). ■

Dr Liam Thornton is a lecturer in law in University College Dublin and a member of UCD Human Rights Network. Liam spoke in a personal capacity



IHREC Chief Commissioner Emily Logan addresses civil society groups and UN Committee members at the civil society hearing

Section 3: Questions & Answers

Summary: Questions & Answers during UN Examination

The following summarises questions from the Committee on Economic, Social and Cultural Rights to the Irish government delegation, led by Minister for State Sean Sherlock, over the two days of examination (8-9 June 2015). As there was not enough time to answer all the Committee's questions, the delegation pledged to provide further responses in writing within 48 hours of the hearing. These are not currently available to the public.

Incorporation & justiciability of ESC Rights

Minister Sherlock stated that Ireland had done its best to ensure it lived up to the spirit of the Covenant, with government policy now conducted in a more collaborative way; he said the state is "compliant with and adherent with" international obligations. He reaffirmed the state's intention to progressively realise economic, social and cultural rights.

The Committee inquired why Ireland hadn't incorporated economic, social and cultural rights in the Constitution, as proposed by the Constitutional Convention. The state delegation said such rights had been incorporated primarily through legislation – social welfare acts, housing acts, health acts – and these laws are justiciable before the Irish courts. On whether Ireland will allow its citizens to bring complaints before the UN Committee using the Optional Protocol to the Convention, the reply was Ireland will only ratify it after screening of obligations and appropriate government consultation, in order to be certain that the State is able to comply.

The Committee queried why the Irish Government cannot incorporate the UN Covenant into domestic law in the same way as the European Convention on Human Rights (using the ECHR Act 2003), and whether the state values ALL human rights, including socioeconomic rights, Article 45 of the Irish Constitution. The response was that Ireland does not distinguish between civil & political rights and economic, social & cultural rights; it was not able to assess the resource implications of making economic, social and cultural rights justiciable.

On what State mechanisms are in place to ensure implementation of UN human rights treaty bodies recommendations and address concerns as regards meeting UN human rights treaty obligations, Minister Sherlock said the Law Reform Commission is examining the extent to which Irish government departments comply with international human rights obligations. Committee Chair Walid Sa'di reminded the delegation that while the Covenant provides for progressive realization, it also imposes obligations that are of immediate effect and asked the government delegation to please keep this in mind (under General Comment No 3 & 9). A spokesperson for the Attorney General's office agreed that there must be access to redress for discrimination that is not subject to progressive realization and that there is explicit statutory protection under the Employment Equality Act & Equal Status Act that complies with the Government's obligations under the Covenant.

Structural issues

The Committee asked what training is provided to the judiciary on economic, social and cultural rights issues. The state delegation explained that Irish judges are trained and expert in such issues. The Committee asked how data, especially disaggregated data, is collected to assess whether minority groups have equal enjoyment of rights. There was no response on this issue.

Legal Aid and Access to Justice

The Committee asked about strengthening the civil legal aid scheme as regards employment, social welfare appeals, housing and eviction support. It also queried why certain legal areas are excluded from legal aid and how the system deals with this issue. The state clarified that legal aid is not available outside the courts except for the Refugee Appeals Tribunal, but legal advice could be provided for social welfare appeals because such tribunal settings are more informal and people did not require legal advice and aid to use them.

Austerity

The Committee inquired if Ireland's austerity measures are temporary. The

state delegation said the crisis was one of unemployment and that the social welfare system acted as an "automatic stabiliser" in preventing poverty and growing economic inequality: the "bottom line" was that "we spent more money."

On what lessons can be learned from Ireland's approach to austerity, the State said that the social protection system had played a key role in preventing poverty. On how the State protected the areas of education and health from austerity, the delegation said that spending on social protection increased by 33%.

The Committee asked if the Memorandum of Understanding was seen as coercion and how the failure to move towards a common EU corporate tax rate impacted the enjoyment of socio-economic rights. The State responded by explaining that Social Impact Assessments are utilized throughout budgetary decision-making processes, and trimmings of expenditures had to take place.

Non-Discrimination

The Committee asked if the national action plan on racism was to be renewed, and the government delegation said it is still being implemented, but Ireland is not necessarily in favour of an over-arching human rights plan. It also asked what measures the government has taken to ensure that the principles of non-retrogression, minimum core obligations, non-discrimination and so on are considered and respected by State, in particular for asylum seekers, Roma, Travellers, women, persons living in poverty. The government response was that inclusion plans are being introduced and passed in an open way. The Committee also wondered if the rights of non-citizens were protected; there was no response to this inquiry; nor to the query on what measures had been taken to ensure that the Irish Human Rights and Equality Commission is adequately resourced.

On direct provision, the Committee questioned the mental health ramifications of the system on asylum seekers but also how it breached basic rights across several areas – cultural rights, family life, social security, work, health & adequate standard

Section 3: Questions & Answers

of living. The Government stated that a working group has been set up to address this issue, and that direct provision was never intended to be a (permanent) solution. As to plans to prohibit discrimination on further grounds (socio-economic status), the government delegation said there were none.

Work

The Committee asked about the impact of “activation measures” and what has been done to protect employees on low or zero-hour contracts. It also asked about the level of and exemptions to the minimum wage. The state delegation said that Ireland’s minimum wage was high by international standards, that there are no plans to reduce exemptions, and that the Low Pay Commission will address any further issues.

The Committee questioned steps being taken to allow asylum seekers in direct provision to have access to their right to work. A Department of Justice spokesperson stated he has “no doubt” a forthcoming direct provision report will deal with the right to work. Asked about how the government was combating the gender pay gap and higher rate of female unemployment, the delegation responded that the gender pay gap has not changed from 20% in the private sector and that it has continued to decrease in the areas of defence, social work, and administration. There is a 29% gender pay gap in the education sector which the State is currently examining.

Gender

The Committee queried how the socio-economic rights of women are respected and protected in Ireland. It asked how the State ensured that child-care is provided. In particular:

Abortion: The Committee asked how Ireland’s abortion regime is compatible with the right to sexual and reproductive health, in particular for victims of rape or in cases where a foetus is not viable. It questioned why the Government doesn’t hold a referendum on abortion. It asked how women who are poor, unable to travel or who in the asylum system can access reproductive services. The state delegation said there are free services for post-abortion counselling but acknowledged that the law in Ireland regarding abortion is limited. It said that a referendum would be necessary to deal with abortion for rape, incest and fatal foetal abnormalities. It said for migrant & asylum-seeking woman, there were draft guidelines to ensure they are “aware of their rights in relation to the termination of their pregnancy”.

Magdalene Laundries: The Committee queried the adequacy of the state redress scheme, with the government party responding that funds had been provided regardless of whether any abuse took place. It said a substantial amount of money had been paid out in this redress scheme and that the “group working with the largest number of survivors” was not interested in either bureaucratic processes or further inquiries.

Domestic violence: The Committee asked for an update on the state’s commitment to review gaps in legislation and introduce a Domestic Violence Bill. The state delegation provided statistics on domestic violence prosecutions and said there would be legislation by the end of the

year, and that it was considering ratification of the Istanbul Convention. The Committee also queried why there had been significant cuts in domestic violence support services, to which the state gave no answer.

Health

On why Traveller health outcomes were so much worse than the general population, the state delegation said that the HSE has adopted strategies and plans to deal with Traveller health outcomes. Female Genital Mutilation was an issue that the State “does need to address”, but its management in the area was “as good as is possible in the circumstances”.

The Committee questioned the accessibility of inexpensive life-saving medical treatments through the card scheme; government representatives pointed to the Drugs Payment Scheme and claimed the HSE was able to negotiate with pharmaceutical companies to increase accessibility of drugs. They also mentioned that the state must be conscious of the best use of funding. Also regarding medical cards, the state delegation told how coverage of medical cards has increased “very substantially” in a time of economic recession. Asked about the effect of a two-tier system on waiting times and differences, the state referred to the Universal Health Insurance policy.

The Committee also asked why children were being cared for in adult settings.

Disability: Asked why Ireland had not yet ratified the UN Convention on the Rights of People with Disabilities, a Department of Justice spokesperson said Ireland will not ratify until the State is sure that it can comply with Convention obligations. Its objective is



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to bring a road map to government with time-scales to completing ratification. He said the State has achieved its targets for public sector employment of persons with disabilities. Disability services in Ireland are governed by a value for money report, the state delegation said; there were fewer people living in congregated settings with recommended reforms being implemented. The state claimed that the situation around Aras Attracta, with disabled people being abused by caregivers, was regrettable, but disability standards will be implemented in full.

Mental health: On reforms in this area, the state delegation said the real problem lay in the need to remove outdated language from legislation. It claimed the state had provided "very substantial funding" for mental health and referred to recent Assisted Decision-Making Capacity draft legislation to protect involuntary patients in psychiatric institutions.

Housing

The state was asked why the Code of Conduct on Mortgage Arrears had been

amended to the detriment of borrowers and whether the government would commit to provide borrowers with an independent mechanism to appeal decisions. The Committee also referenced the complaint to the European Committee on Social Rights on horrific local authority housing conditions. There was no response on any of these questions.

Tenant rights: The Committee asked what measures have been taken to protect tenants from disproportionate rent increases so that they are not in danger of eviction. It queried why the Government has kept rent allowance/supplement at 2013 levels when 450 families (including a thousand children) have resorted to homeless services support in recent months. The state delegation said the Private Residential Tenancies Act 2004 provides for secured tenure for four years. It said the Private Residential Tenancies Board had initiated an "extensive" advertising campaign informing landlord and tenants of their rights and obligations. It acknowledged that rents have been rising in Ireland, and said the core response of Government is to enhance supply. Issues of rent certainty were

under consideration.

Social housing: The Committees enquired how Government plans to increase social housing stock, in the face of inadequate current supply. The government delegation said Social Housing Strategy 2020 represents a fundamental effort to deal with the housing list; the government had added a further €2.2 billion in funding to the Budget 2015 for housing.

Education

The Committee queried the impact of austerity measures on education. Minister Sherlock responded that health, education and social welfare spending were "as best protected" as possible during the recession. The social welfare budget increased by €4 billion and the number of teachers increased throughout the period of the recession.

Church-State relationship: The Committee queried the 'fuzzy' separation between church and state. It asked why Ireland allows religion-based discrimination with regard to school admissions and whether the new School Admissions Bill will remedy this. The state delegation stated that between 2011 and 2016, some 20 multi-denominational schools were established. On intercultural education and secular schools, it said that a new Schools Admissions Bill will ensure fairness and inclusion.

Travellers: The Committee asked why there was such a high level of early school leavers among the Travelling community in comparison to the general population; the state responded that Traveller education now mainstreamed. The state delegation was to provide further information on why Ireland was reluctant to grant Traveller ethnic recognition for students and measures taken to combat racism and discrimination.

Cultural rights

Asked why the state had not yet recognised Traveller ethnicity, Minister Sherlock said although Travellers are acknowledged as having a distinct culture and identity, a process of examination was needed to see what issues remain around possible recognition. On the question of participation of refugees and asylum seekers in Irish cultural life, the government party did not answer. ■



Maeve Taylor, IFPA and Fiona Walsh, Tallaght Trialogue

Section 4: UN Concluding Observations

UN: ‘Disproportionate’ State focus on cuts during austerity

Continued from front page

on better protecting and ensuring the right to adequate housing so that people access their right to a secure home; these ranged from the state's duty to secure an adequate supply of social housing through to adequate rent controls to better regulation of banks in relation to mortgages – all part of the continuum of basic housing rights. These had been strongly presented in the civil society parallel report and its Update which FLAC had presented to the UN Committee prior to the examination.

The Committee reiterated its concerns at the current lack of capacity for people to raise issues under the Covenant in Ireland, via either domestic or international mechanisms, and called on the State to ratify the Optional Protocol which allows people to make complaints under the Covenant, and to incorporate the Covenant into domestic law.

As a human rights organisation promoting equal access to justice, FLAC was particularly happy to see strong recommendations from the Committee around measures that will help make state systems and access to remedies more accessible and transparent. These included expanding the remit of the civil legal aid scheme, more consistent and transparent decisions on social welfare appeals at first instance, an independent appeal mechanism for borrowers in mortgage arrears and an effective complaints mechanism for local authority tenants.

The UN Committee strongly recommends in its Concluding Observations that the State upgrade its infrastructure for implementing, promoting and monitoring its progress on realising rights, such as better and disaggregated data collection and a wider jurisdiction of the Irish Human Rights and Equality Commission on all areas of rights. In particular, it stresses that austerity measures must be temporary, proportionate and only implemented where strictly necessary; it says all state policies should be proofed for possible impact in terms of inequality and discrimination and to ensure compliance with human rights standards; and that the



CESCR members Prof Heisoo Shin (S. Korea) and Justice Ariranga G Pillay (Mauritius)
during the civil society hearings

state must identify a minimum social protection floor for all Covenant rights, to be protected at all times.

The Committee was particularly robust in its interrogation of the impact of austerity on basic rights in Ireland and advised the Government across all its departments to re-assess its policies and budgeting to gradually phase out austerity measures where possible, in line with its advice on rights under austerity issued in 2012.

The Concluding Observations reflect many of the issues raised in the *Our Voice, Our Rights Report* and *Update*; the more than 80 civil society groups and individuals who contributed evidence and information to these documents deserve much thanks for highlighting the problems facing people in accessing their rights in Ireland.

FLAC, as one of the groups that met with the Committee on Economic, Social & Cultural Rights and coordinator of the parallel report, is particularly grateful to the Committee members for the enormous work they have done in

considering the wealth of state and civil society evidence presented to them.

The Committee’s observations together make up a comprehensive blueprint for government action. Together with the other civil society groups, FLAC expects the government to take this objective assessment from the most important UN expert body operating in this area very seriously. Ireland has signed up to and agreed to the jurisdiction of these UN experts to consider such key matters. It is now incumbent on the state to consider and implement the recommendations – or in the alternative, to demonstrate why it is not suitable to implement them. ■

▼ We reproduce here the full list of recommendations to the state for action on pages 28-31. To view the entire document, please go to <http://www.ourvoiceourrights.ie/resources/un-concluding-observations/>

Section 4: UN Concluding Observations

UN Committee Concluding Observations



During Irish State examination in Geneva, 9 June 2015

This is the full list of observations and recommendations for action made by the UN Committee on Economic, Social & Cultural Rights following the third periodic examination of Ireland under the International Covenant. To see the entire UN document, visit www.ourvoiceourrights.ie/resources or see the UN website at <http://bit.ly/UNIRLco>

Data Collection

- ▼ Include detailed and updated information on economic, social and cultural rights in the next periodic report
 - ◆ Include statistical data disaggregated by year, sex, disability, ethnicity, and other relevant criteria

Domestic Application of the Covenant

- ▼ Take all appropriate measures to ensure the direct applicability of the Covenant provisions
 - ◆ Through the incorporation of the Covenant
 - ◆ In its domestic legal order
 - ◆ Enhance training for judges, lawyers, and public officials

Legal Aid

- ▼ Ensure the provision of free legal aid services in a wider range of areas, including through expanding the remit of the Civil Legal Aid Scheme.

Irish Human Rights and Equality Commission (IHREC)

- ▼ Review the Act with a view to ensuring that the IHREC covers and applies all rights enshrined in the Covenant in exercising its functions.

Consultation with Civil Society

- ▼ Make necessary efforts to consult on a regular basis with civil society and relevant stakeholders in the policy-making process, including through establishing an effective consultation mechanism.

Section 4: UN Concluding Observations

Maximum Available Resources

- ▼ Review, based on human rights standards, all the measures that have been taken in response to the economic and financial crisis and are still in place with a view to ensuring the enjoyment of economic, social and cultural rights.
- ▼ Ensure that austerity measures are gradually phased out and the effective protection of the rights under the Covenant is enhanced in line with the progress achieved in the post-crisis economy recovery
- ▼ Consider reviewing tax regime, with a view to increasing its revenues to restore the pre-crisis levels of public services and social benefits, in a transparent and participatory manner and
- ▼ Consider instituting human rights impact assessments in policy-making process, particularly relating to the Covenant rights.

Non-Discrimination

- ▼ Adopt comprehensive anti-discrimination legislation that includes all the grounds for discrimination set out in article 2, paragraph 2, of the Covenant.

Persons with Disabilities

- ▼ Take all the necessary steps to make available alternatives to institutionalization, including community-based care programmes
- ▼ Improve their living conditions in residential centres, including through regular inspections.
- ▼ Enhance the accessibility of persons with disabilities, including through cancelling the cuts on the social benefit programmes.

Asylum Seekers

- ▼ Expedite the adoption of the International Protection Bill with a view to introducing a single procedure to assess and determine without undue delay all forms of protection status for asylum-seekers as well as to strengthening the protection and promotion of their economic, social and cultural rights
- ▼ Improve the living conditions in Direct Provision centres, including through

the regular inspections of such centres and making the private actors accountable for their actions and omissions.

- ▼ Address mental health issues of asylum-seekers.
- ▼ Take necessary steps to improve the reception of asylum-seekers with a view to ensuring their economic, social and cultural rights and facilitating their integration into the society.

Gender Equality

- ▼ Amend article 41.2 of the Constitution with a view to rendering provisions in the Constitution gender-equal.
- ▼ Take effective measures to increase women's representation in decision-making positions in all areas, to close the gender pay gap and to eliminate the strong gender role stereotypes.

Unemployment

- ▼ Step up efforts to improve the employment situation, with targeted measures for Travellers, Roma, young persons and persons with disabilities
 - ◆ Introduce a quota system
 - ◆ Targeted professional training and employment support services.
- ▼ Improve the data collection on unemployment.

Employment

- ▼ Expedite the adoption of the National Minimum Wage (Low Pay Commission) Bill 2015 and the Industrial Relations (Amendment) Bill 2015.
- ▼ Review all relevant legislation to ensure just and favourable conditions of work for all workers, including the minimum wage, working hours and rest days, and improve data collection, particularly on zero-hour contracts.

- ▼ Take the necessary steps to ensure that the minimum wage applies to all employees and ensures a decent living for workers and their families.

Magdalene Laundries

- ▼ Conduct a prompt, thorough and independent investigation into these allegations, bring those responsible to justice and provide all victims with effective remedies.

Collective Bargaining

- ▼ Enhance collective bargaining rights of trade unions
- ▼ Do away with the requirement to obtain collective bargaining licences in new legislation.

Social Security

- ▼ Clarify the eligibility criteria regarding social welfare benefits as well as their application so as to avoid a large number of appeals.
- ▼ Make initial decisions on social welfare appeals in a consistent and transparent manner and provide appropriate training to the public officers who make such decisions.

Habitual Residence Condition

Review the HR Condition so as to eliminate its discriminatory impact on access to social security benefits, particularly among disadvantaged and marginalized individuals and groups.

Ensure the consistent application of the criteria by providing clear guidelines and training to the relevant officials.

Domestic Violence

- ▼ Take all necessary measures to combat domestic violence
 - ◆ Introduce a Domestic Violence Bill
 - ◆ Improve data collection on domestic violence
 - ◆ Strengthen support services, including shelters and legal aid, for victims of domestic violence

Maternity Benefits and Childcare Services

- ▼ Review the maternity benefits scheme with a view to ensuring that all women workers benefit from the scheme
- ▼ Expedite the enactment of the Family Leave Bill to ensure statutory entitlement to all family-care related leaves, including paternity leave.
- ▼ Take all necessary measures to meet the childcare needs of families, including through expanding affordable public childcare services.

Section 4: UN Concluding Observations

Poverty

- ▼ Step up efforts to reduce poverty, with a special attention to disadvantaged and marginalized individuals and groups, including through the adoption of poverty reduction programmes and strategies with concrete targets and a time-frame for implementation.
- ▼ Integrate a human rights based approach in all poverty reduction programmes and strategies, guaranteeing entitlements to individuals and ensuring accountability.

Food Insecurity and Malnutrition

- ▼ Take concrete measures to address the critical food and nutritional needs of disadvantaged families
- ▼ Expedite the adoption of a national action plan on food security and nutrition in line with the 2004 Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security.

Housing

- ▼ Committee draws the State party's attention to its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on the right to adequate housing: forced evictions and recommends that the State party:
 - ◆ Review policies with a view to making them more effective in responding to the real needs of the population, especially disadvantaged and marginalized individuals and groups;
 - ◆ Step up its efforts to increase the number of social housing units so as to satisfy the high demand and to reduce the long waiting list;
 - ◆ Consider introducing legislation on private rent and increasing the Rent Supplement levels;
 - ◆ Consider introducing banking regulations in order to strengthen protection for mortgage borrowers in arrears, including through the provision of an independent appeal system to assist such borrowers in negotiating, with legal and financial advice, an equitable arrangement with their lenders to address their arrears situations;

- ◆ Take all necessary measures to meet the critical needs of those who are, or at the risk of being, homeless; and

- ◆ Establish effective complaint mechanisms for local authority tenants on housing issues.

- ▼ Committee reiterates its previous recommendations (E/C.12/I/Add.77, paras. 32-33) that the State party take steps to provide Travellers and Roma with culturally appropriate accommodation in consultation with them and ensure that the funding allocated to Traveller housing at local level is fully and appropriately spent to this end.

Healthcare Services

- ▼ Take all necessary measures to improve, in both qualitative and quantitative terms, its public healthcare services
 - ◆ Increase public spending on healthcare
 - ◆ Introduce a common waiting list for treatment in publicly funded hospitals for privately and publicly insured patients
 - ◆ Expedite the introduction of a universal health services system and community-based health services.
 - ◆ Strengthen the Health Information and Quality Authority to ensure quality health services
- ▼ Take effective measures without delay to reduce the disparity between Travellers and Roma and the general public in health and access to health services

Mental Health

- ▼ Revise the Mental Health Act 2001, in light of the recommendations of the Expert Group Review of the Mental Health Act 2001
- ▼ Expedite the implementation of 'A Vision for Change' through the allocation of sufficient resources.
- ▼ Take immediate measures to separate child patients from adults in psychiatric facilities.

Sexual and Reproductive Health (Abortion)

- ▼ Take all necessary steps, including a referendum on abortion, to revise its legislation on abortion, including the Constitution and the Protection of Life During Pregnancy Act 2013, in line with international human rights standards.
- ▼ Adopt guidelines to clarify what constitutes a real substantive risk to the life of a pregnant woman.
- ▼ Publicize information on crisis pregnancy options through effective channels of communication
- ▼ Ensure the accessibility and availability of information on sexual and reproductive health.

Education

- ▼ Take all necessary measures to bring all relevant laws, including the Equal Status Acts 2001 and the Education (Admission to Schools) Bill 2015 in line with the international human rights standards
- ▼ Increase the number of non-denominational schools at the primary and post-primary education levels.
- ▼ Review admissions policies of all schools with a view to removing all discriminatory criteria for enrolment and establish a regulatory mechanism to monitor school policies, including admissions policies.
- ▼ Revoke the austerity measures which affect disproportionately disadvantaged children.
- ▼ Step up efforts to enhance the inclusive education for all, including the implementation of the 2004 Education for Persons with Special Education Needs Act, to ensure the equal opportunities of all children to quality education.

Travellers

- ▼ Expedite efforts to give legal recognition to Travellers as an ethnic minority and include them as an ethnic minority in anti-discrimination legislation.

Section 4: UN Concluding Observations



CESCR members Azzouz Kerdoun (Algeria), Lydia Ravenberg (Surinam), Maria Virginia Bras Gomes (Portugal)

Access to Internet

- ▼ Intensify efforts to expand broadband Internet access to rural areas.

conformity with the obligations of State parties under the Covenant.

Committee, in its next periodic report, about the steps taken to implement the present recommendations.

Other UN Recommendations

- ▼ Ensure that, before entering into any agreement with, or implementing any fiscal consolidation policy prescribed by international organizations, including international financial institutions such as the International Monetary Fund, such agreement or policy is in compliance with its obligations under the Covenant.
- ▼ The State party is further encouraged, as a member of international organizations, including international financial institutions such as the International Monetary Fund, to ensure that the policies of these organizations are in

- ▼ Achieve commitment to official development assistance of 0.7 per cent of its gross national product and pursue a human rights based approach in development cooperation policy.

- ▼ Submit the fourth periodic report by 30 June 2020 and, if necessary, update common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/-Rev.6, chap. I). ■

- ▼ Disseminate the present concluding observations widely among all levels of society, in particular among government officials, members of Parliament, judicial authorities and civil society organizations, and to inform the

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The road from Our Voice, Our Rights to Geneva



At Dublin launch of Our Voice, Our Rights in the Mansion House, L-R: Moya De Paor (CLM), Brid O'Brien (INOI), Mike Allen (Focus Ireland) & Eleanor Philips (Blue Drum), Nov 2014



Emily Logan, Chief Commissioner of IHREC, speaking at FLAC/FIDH Joint Conference on 'Protecting Human Rights in Austerity', May 2015



Presenting Our Voice, Our Rights in Leinster House, March 2015, Martin Collins (Pavee Point), Cliona Loughnane (IHF) and Mike Allen (Focus Ireland)



Leinster House presentation in March 2015 with FLAC Policy & Advocacy Officer Yvonne O'Sullivan speaking



Members of the Irish civil society delegation to the UN Committee on Economic, Social & Cultural Rights examination of Ireland: (L-R) Barra Lysaght, Threshold; Jane O'Sullivan, Community Law & Mediation; Noeline Blackwell, FLAC; Barbara Bushe, Tallaght Trialogue; Eamonn Tansey, PILA; Sinead Corcoran, ARC; Fiona Walsh, Tallaght Trialogue; Jane Donnelly & Michael Nugent, Atheist Ireland; Grace Willertz, ARC