

# Irish Human Rights and Equality Commission (Designate)

**Towards Indivisibility – The role of national human rights and equality institutions in protecting economic and social rights**

16 October 2014

# National Human Rights Institutions and ESC Rts

**United Nations Paris Principles** - National Human Rights Institutions (NHRIs) are established pursuant to the 1993 *Paris Principles* – which recognises that their mandates should cover the full spectrum of rights and freedoms – both esc and c&p

**1993 Vienna Declaration and Programme of Action** – confirmed the indivisibility, interrelatedness and interdependence of human rights

**ICESCR General Comment No. 10** – Specifically outlines the diverse range of functions NHRIs can undertake in the context of ESC rights

**International and Regional Networks of NHRIs** – provide opportunities for NHRIs to share best practice in this field and to collaborate on specific themes, for eg. ENNHRI and Human Rights of Older Persons in Long-Term Care

# IHRC Policy Work of relevance to ESC Rights

- **2006 ESC Rts Discussion Document and International Conference** — analysed the status of ESC rights under Irish law and highlighted the structural and normative gaps in the protection of ESC rights in Ireland
- **2009 Policy Statement on Procedural Safeguards for Eviction from Local authority housing -** safeguards surrounding evictions from Local Authority housing do not conform with ECHR – recommended preferable to amend Housing Act 1966 to allow DC judge to determine substance of case or extend remit of PRTB
- **2012 Submission on Mental Illness and the Criminal Justice System** — right to highest standard of health within prisons

# IHRC Legal/Enquiry Work of relevance to ESC Rights

- **3<sup>rd</sup> Enquiry on a Residential, day care and respite centre for Persons with Intellectual Disability**
  - Highlighted deficits in the system of budgetary allocation for disability services and accountability for the delivery of those services
  - Recommendations to Dept. Health, HSE and Education with specific resource allocation implications
- **IHRC provided legal assistance in a number of cases involving local authority housing, eviction and repossession orders**
  - *Eg. EC v. Cashel Town Council, Ireland and the A.G.*

# IHREC and 3<sup>rd</sup> Periodic Report under ICESCR

- Submission to List of Issues stage IHREC focussed on structural issues:
  - **Impact of Austerity** on Human Rights and Equality – questions raised under principles of non-retrogression, progressive realisation, non-discrimination and minimum core obligations
  - **Equality and Human Rights Infrastructure**
  - **Failure to incorporate ICESCR into Domestic Law** – claims of ESC rights violation difficult to pursue under domestic law
  - **Accountability and remedies** – limitations of administrative remedies and privatisation of public functions
  - **Discretion in Decision-Making and Access to Justice**
- IHREC aims to explore more substantive rights in its full report, in consultation with civil society and other actors

# IHREC and ESC Rights Going Forward

- **IHREC 2014 Act** – due to be commenced on 1<sup>st</sup> November
- **IHREC committed to advancing ESC rights** within the full spectrum of rights and freedoms – Commission has stated austerity measures raise pressing questions of human rights
- **Strategic planning process** will begin upon commencement and this will set the priorities for the Commission for the coming 3 years

# IHREC and ESC Rights Going Forward

- Opportunities in New statutory framework:
  - **Positive Duties Obligation** (S. 42 2014 Act) – a public body shall eliminate discrimination, promote equality of opportunity and protect the human rights of staff and public to whom providing service
  - **Legal and other assistance and *Amicus Curiae* functions** apply a broader range of human rights and equality legislation (Employment Eq Act, Equal Status Act, Intoxicating Liquor Act, ECHR Act and the Constitution)
  - **Legislative Review, Policy and Awareness Functions** – combine the legal frameworks of human rights and equality which will include ESC Rights