

A Roadmap to

A Strengthened Equality and Human Rights Infrastructure in Ireland.

**EQUALITY & RIGHTS
ALLIANCE**

Ireland can't afford cuts to
equality and human rights

This Roadmap is endorsed by:

Active Retirement
Age Action Ireland
AkiDwA
Amnesty International Ireland
Aontas
Banúlacht
Barnardos
Cairde
Carers Association
Carmichael Centre for
Voluntary Groups
Centre for Independent Living
Changing Ireland
Children's Rights Alliance
Choice Ireland
Comhlámh
Community Action Network
Community Platform
Community Workers Co-operative
Doras Buí
Dublin Rape Crisis Centre
EAPN (European Anti Poverty
Network- Ireland)
Feminist Open Forum
FLAC (Free Legal Advice Centres)
GLEN (Gay and Lesbian
Equality Network)
Greater Dublin Independent Living
Humanist Association of Ireland
Immigrant Council of Ireland
Inclusion Ireland
INOUE (Irish National Organisation
for the Unemployed)
Irish Association of Social Workers
Irish Family Planning Association
Irish Penal Reform Trust
Irish Rural Link
Irish Traveller Movement
Jesuit Centre for Faith and Justice
Kerry Deaf Resource Centre
Kilbarrack CDP
LGBT Noise
LGBTQ Pride
LIR Anti-Racism Training
and Education
Marriage Equality
Methodist Women of Ireland
Migrant Rights Centre Ireland
NASC- Irish Immigrant
Support Centre
NLGF (National Lesbian and
Gay Federation)
National Traveller Women's Forum
National Youth Council of Ireland
Northside Community Law Centre
Northwest LGBT Pride
Older Women's Network Ireland
One Family
One in Four
OPEN
Outhouse
Pavee Point Traveller Centre
People Before Profit Alliance
Ruhama
Sonas Housing Association
TASC
TENI (Transgender Equality
Network Ireland)
Treoir
Women's Aid

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Equality & Rights Alliance

Equality & Rights Alliance (ERA) is a coalition of over 155 civil society groups and activists established in 2008 to protest government cuts to the equality and human rights statutory infrastructure. Our mission is to defend and strengthen equality and human rights in Ireland by building a strong alliance of civil society groups that will hold government and state bodies accountable for the Irish equality and human rights infrastructure.

Foreword

At the beginning of summer 2010, Equality & Rights Alliance (ERA) ran a campaign called It's About You. We invited people to share their thoughts on what equality and human rights mean to them. We have included a number of these personal comments throughout this roadmap. Of the hundreds who took the time to share their views and their pictures there was, perhaps, one that stood out for its simplicity and its directness. Steve from Wexford wrote 'equality and human rights mean that I'm as good as the next person.'

This belief is at the heart of this roadmap. The case for equality and human rights rests on the inherent dignity and worth of every human being: knowing and experiencing that you are as good as the next. Here, Equality & Rights Alliance presents the practical steps required to envision and build a new generation equality and human rights infrastructure that can help ensure the fulfillment of this goal.

The goal for greater equality and human rights cannot be a wishful or ethereal goal – something that we will get around to once our current economic crisis is over. Investing in equality and human rights is a way out of this economic recession and of consolidating our future.

While the short lived economic boom did enable limited investment in our equality and human rights infrastructure, the economic crisis quickly served as a cover for the systematic undermining of key institutional elements of this infrastructure. Within 24 hours in late 2008, the work to develop what was still a fragile equality and human rights architecture, was abruptly pulled down. The Equality Authority was cut by 43%, the Irish Human Rights Commission was cut by 28% (in reality 32%), the National Consultative Committee on Racism and Interculturalism was abolished.

Perhaps the Government thought that nobody would notice or care. Well, Equality & Rights Alliance did. Ironically, the Government's move to dismantle the equality and human rights infrastructure only served to galvanise and strengthen the ERA campaign.

Since September 2008, we have grown from 40 to over 155 civil society organisations and activists.

Collectively, we want to strengthen political commitment to an effective and resilient equality and human rights infrastructure, ensuring in the short term that it is not eroded further. We also want to provide strategic leadership in protecting, strengthening and critiquing that

infrastructure as an essential element of sustainable development and growth. The completion of this roadmap is a major step towards achieving these objectives.

The roadmap draws from the work of the National Economic and Social Forum in defining an equality and human rights infrastructure that is composed of four elements or pillars; laws, institutions, policy instruments and policy strategies. These four elements are interlinked and must all be progressed if the exercise of equality and human rights is to be achieved. Changes in legislation alone will not achieve the progress we need to ensure the fulfillment of individual dignity and worth.

Likewise neither institutions nor policy strategies alone can ensure that there is progressive change in the way certain groups are treated. A strategic framework for action across all four pillars is required if real progress is to take place.

Our document is structured to examine each of these four elements or pillars as separate sections. Each section is then further defined and interlinked on the basis of five underlying concepts: ambition, co-ordination, integration, civil society advocacy and civil society participation.

Putting this vision on paper is just one part of the work involved in achieving our ambition for a world-class equality and human rights infrastructure. It must be supported and endorsed by people for whom the recommendations and guidelines will make a lived difference. ERA members and stakeholders throughout the country were consulted in developing this roadmap.

Their thoughts, ideas and feedback have been incorporated in the recommendations, steps and guidelines outlined. At the other end of the process, we have sought widespread endorsement for the roadmap from a wide range of civil society organisations.

This roadmap is truly a vision of the people. That's what makes it unique and that is what makes it realistic. To recall the words of Martin Luther King 'our lives begin to end the day we become silent about things that matter'. This document is testament to the many people who have not remained silent about the need to put in place a fresh, strong and resilient equality and human rights infrastructure that matters now more than ever.

Joanna McMinn

Chairperson
Equality & Rights Alliance

*For me, equality and
human rights mean
I'm as good as the
next person.*

Steve, Wexford }

For me, equality and human rights mean difference being seen as an asset not a difficulty to be overcome.

Siobhan, Dublin }

Key Recommendations

This roadmap to a strengthened equality and human rights infrastructure is developed on the foundations of the infrastructure already in place. It is based on the learning gleaned from the work done to promote equality and human rights over the last decade. It identifies a series of new foundations to reflect the need for a new generation of equality and human rights infrastructure.

It seeks to strengthen existing mechanisms and its implementation should not result in any regression in the progress achieved to date by groups experiencing inequality, poverty and human rights abuses. These new foundations encompass the following key recommendations:

Laws

- 1. Ratification of further outstanding international human rights instruments,**
- 2. Constitutional change to underpin the commitment of the state to equality and human rights,**
- 3. Inclusion of a socio economic status ground in equality legislation,**
- 4. Inclusion of positive duties in the equality legislation on public and private sector organisations to be proactive in promoting equality human rights and in preventing discrimination on the grounds covered under the equality legislation.**

Institutions

- 5. Creation of an Oireachtas Committee on Equality, Human Rights and Women's Rights,**
- 6. Reconstitution of the Equality Authority to include the mandate of the Combat Poverty Agency, the National Disability Authority and the National Consultative Committee on Racism and Interculturalism,**
- 7. Accountability of the Irish Human Rights Commission and the Equality Authority to the Oireachtas,**
- 8. Allocation of adequate resources to the Irish Human Rights Commission, the Equality Authority and the Equality Tribunal,**
- 9. Protection of, and support for, the advocacy work of civil society organisations.**

Policy Instruments

- 10.**
Investment in, and the development of supports for, equality and human rights impact assessment in legislation, policy making and programme design in the public sector,
- 11.**
Preparation of a civil society participation strategy by all government departments, local authorities and state agencies to enable participation in decision making by civil society organisations articulating the interests of groups experiencing inequality and disadvantage,
- 12.**
Investment in, and initiatives for, gathering and analysing equality and human rights data.

Policy Strategies

- 13.**
Full implementation of the 'National Disability Strategy' and the 'Report of the Task Force on the Travelling Community' and the publication and implementation of the Carers' Strategy. Independent assessment of the 'National Women's Strategy' with a view to ensuring the timely and effective implementation of a comprehensive strategy for women's equality,
- 14.**
Preparation and implementation of a national strategy to advance equality, social inclusion and human rights, and preparation and implementation of local plans to advance this strategy.

Introduction

Starting point

The late 1990s and the early 2000s witnessed a significant development in the promotion of equality and human rights in Ireland. New institutions were established including: the Equality Authority, the Equality Tribunal, the Irish Human Rights Commission, the National Consultative Committee on Racism and Interculturalism, and the National Disability Authority. New legislation was enacted including: the Employment Equality Acts 1998 to 2008, the Equal Status Acts 2000 to 2008, and the European Convention on Human Rights Act 2003. A broader human rights infrastructure also emerged with the establishment of the Ombudsman for Children's Office under the Ombudsman for Children Act 2002, and the opening of the Garda Síochána Ombudsman Commission in 2007, building on the pre-existing Office of the Ombudsman, established in 1984. A new equality and human rights infrastructure emerged.

Progress was made in combating discrimination, challenging human rights abuses and advancing equality and human rights.

This experience created a platform from which to seek the further advancement of equality and human rights.

Despite this progress, however, Ireland is a society that is characterised by persistent and significant inequalities, and remains host to a range of human rights abuses.

Economic boom enabled a greater level of investment in the equality and human rights infrastructure. Economic crisis has served as a cover for the systematic undermining of this infrastructure.

This is, therefore, a context of:

- » Opportunity offered by the established equality and human rights infrastructure,
- » Learning from the experience of the operation of the infrastructure over the last decade,
- » Crisis due to the undermining of the equality and human rights infrastructure.

This context requires a response that goes beyond defending what remains of the equality and human rights infrastructure.

Such an approach would represent a reversal of gains made and progress achieved to promote equality and protect human rights. It is a context that requires a response that takes advantage of the learning from the progress made over the last decade and that further develops the opportunities that were opened up by this equality and human rights infrastructure. In this way a new generation equality and human rights infrastructure could emerge.

This new generation infrastructure would:

- » Achieve new gains in the search for greater equality and the further realisation of human rights in Ireland,
- » Address the diverse needs of people experiencing inequality, poverty and human rights abuses, and to recognise the diversity of identities that make up Irish society and the fact that women constitute over fifty percent of the population,
- » Build on and take advantage of the progress achieved over the past decade,
- » Contribute to new routes out of crisis and recession that are tailored to the changed circumstances that prevail in Irish society.

This roadmap seeks to guide and shape the steps required to envision and build this new generation of equality and human rights infrastructure. The implementation of these steps seeks to move Ireland to greater equality and inclusion, where all members of our society enjoy the fulfillment of their human rights. It aims to have particular benefit for individuals and groups experiencing inequality, discrimination, social exclusion and human rights abuses including: women; people living in poverty; children; lone parents and unmarried parents; older people; people with disabilities; lesbian, gay and bisexual people; trans people; Black and minority ethnic groups including members of the Traveller community; workers; migrants; young people; carers; prisoners and ex-prisoners, people who have been trafficked, refugees and asylum seekers, people from minority religions and people living in institutions.

An Infrastructure

The concept of an equality and human rights infrastructure reflects the reality that a strategic framework for action on equality and human rights is required if progress is to be achieved. Legislation alone, for example, will not achieve the progress required to promote equality and protect human rights. Likewise, neither institutions alone nor policy strategies alone will achieve this progress. However, an inter-linked framework of different elements to promote equality, eliminate poverty and defend human rights holds the potential to achieve the necessary progress.

The concept of a strategic framework for action on equality was first advanced by the National Economic and Social Forum¹. The Forum identified a number of different elements which make up this strategic framework including: legislation and institutions to protect rights and promote equality; equality mainstreaming and targeting; and participation in decision making.

This roadmap draws from the work of the National Economic and Social Forum in defining an equality and human rights infrastructure composed of:

- » Laws
- » Institutions
- » Policy instruments
- » Policy strategies

¹ 'A Strategic Policy Framework for Equality Issues', Forum Report No. 23, March 2002

The elements of this equality and human rights infrastructure are interlinked:

Laws

Laws establish the necessary statutory institutions to promote equality and human rights. Laws could require policy instruments such as equality and human rights impact assessment, and policy strategies such as a targeting of resources through positive action to benefit groups experiencing inequality. Laws could provide for the participation of civil society organisations articulating the interests of those who experience inequality and disadvantage in decision making processes.

Policy Instruments

Policy instruments could bring the objectives enshrined in the laws into other legislation, policy making and programme development. Policy instruments such as equality and human rights impact assessment could ensure that all public sector policy and practice are coherent with these objectives.

Institutions

Institutions seek to ensure that the laws are effectively enforced. They could support the implementation of equality and human rights impact assessment instruments and targeting strategies through positive action. They could be structured on, and operate on, the basis of participation of civil society organisations.

Policy Strategies

Policy strategies could bring the objectives enshrined in legislation into the deployment of resources available to the state. Policy strategies based on positive action for groups experiencing inequality and disadvantage could expand the scope and reach of the political commitment to equality and human rights beyond what is required in law.

A New Generation Infrastructure

A new generation equality and human rights infrastructure will;

- » Build on what has already been established,
- » Take advantage of the learning from the operation of the infrastructure already in place,
- » Set out to achieve further advances in promoting equality and realising human rights.

This new generation equality and human rights infrastructure is defined in this roadmap on the basis of five key concepts:

1. Ambition

The new infrastructure would seek to:

- » Move beyond the current emphasis on protection and promotion in relation to human rights. It would hold a capacity to secure the fulfillment of human rights,
- » Move beyond the current goal of securing equality of opportunity. It would hold a capacity to achieve equality of outcome to secure real change in the situation and experience of groups experiencing inequality and disadvantage.

2. Coordination

The new infrastructure would seek to secure a greater coordination between the promotion of equality and the promotion of human rights. It would ensure that the promotion of human rights respects diversity and is underpinned by the goal of equality and that the promotion of equality is rights based and underpinned by the fulfillment of human rights. It would acknowledge and maintain the distinct focus currently accorded to equality and the specific approaches required to achieve equality, as well as acknowledging and developing the inter-relationship between equality and human rights.

3. Integration

The new infrastructure would seek to secure an integrated approach to equality that addresses the four equality objectives of:

- » Redistribution and equality in access to, and enjoyment of, resources.
- » Representation and equality in access to, and enjoyment of, influence and power.
- » Recognition and equality in access to, and enjoyment of, status and standing for diversity.
- » Respect/care and equality in access to, and enjoyment of, sustaining relationships of love, care and solidarity.

The new infrastructure would draw together previously fragmented strategies that sought to address poverty and to eliminate discrimination, behind a broad goal of equality encompassing these four objectives. This integration would reflect that while poverty and discrimination are two distinct forms of injustice they are interlinked and often experienced simultaneously, and they both create barriers to participation in society.

4. Civil Society Advocacy

The new infrastructure would seek to strengthen and advance civil society advocacy for equality and human rights and for individuals and groups experiencing inequality, disadvantage and/or human rights abuses. This advocacy work has been pursued by a wide range of organisations including trades unions, community groups, citizen information centres and public interest legal centres, and law practitioners. The new infrastructure would ensure that this advocacy work is recognised, supported and protected.

5. Civil Society Participation

The new infrastructure would seek to strengthen and advance the participation in decision making of those civil society organisations articulating the voice, interests and perspectives of groups experiencing inequality, disadvantage and/or human rights abuses. It would require and enable such participation in:

- » The workplace, in particular through trade unions,
- » The operation of statutory bodies established to promote equality or human rights,
- » Implementation of public sector impact assessment processes in legislative design, policy making and programme development,
- » Decision-making of government departments, local authorities and state agencies,
- » Devising national strategies for the promotion of equality and human rights,
- » Developing and implementing local plans for the promotion of equality and human rights.

For me, equality and human rights mean all people having real choices about their lives and having the capacity to make and realise their choices.

Niall, Dublin }

*For me, equality
and human rights
mean equity in all
things for everyone
according to need.*

Billie, Limerick }

Context

The Context For Equality And Human Rights

1.

Ireland has developed a significant equality and human rights infrastructure over the past decades. This encompasses legislation including: the Employment Equality Acts 1998 to 2008, the National Disability Authority Act 1999, the Equal Status Acts 2000 to 2008, the Human Rights Commission Act 2000, the European Convention on Human Rights Act 2003, and the Disability Act 2005.

Institutions were established such as: the Equality Authority, the Equality Tribunal, the National Disability Authority, the National Consultative Committee on Racism and Interculturalism, the Combat Poverty Agency and the Irish Human Rights Commission. National strategies were developed including the Report of the 'Task Force on the Travelling Community 1995', the 'National Disability Strategy 2004' and the 'National Women's Strategy 2007-2016'.

2.

Ireland remains a deeply unequal society:

- » Wealth is highly concentrated with 1% of the population holding 34% of the wealth, when home ownership is excluded²,
- » Women's hourly earnings are around 87% of men's³,
- » The labour force participation rate of people aged fifteen and over with a disability is 26% compared with 62.5% of the population at large⁴,
- » 78.8% of 25-44 year olds are in employment in 2006 compared to 63% of 45-64 year olds⁵,
- » 0.8% of Irish Travellers aged 15 and over has attained third level education in 2006 compared with 30.5% of the overall population⁶,

2 O'Sullivan (2006), 'The Wealth of the Nation: How Ireland's wealthy will invest in the next decade', Bank of Ireland Private Banking, Dublin.

3 Central Statistics Office (2009) 'Women and Men in Ireland', CSO, Dublin.

4 Central Statistics Office (2007) 'Equality in Ireland', CSO, Dublin.

5 CSO ibid

6 CSO ibid

- » The percentage of lone parents with third level education (23.2%) is lower than the 34.4% of other parents⁷,
 - » There were 452,882 people on the live register in June 2010 of whom a disproportionate 17.4% were non-Irish nationals⁸,
 - » In 2004, 12.5% of people aged 18 and over reported that they had experienced discrimination in the preceding two years on the nine grounds covered by equality legislation and on other grounds⁹.
- » Child protection issues,
 - » Immigration and asylum policies and procedures,
 - » Health care systems for mental health patients and people with intellectual disabilities.

4.

The equality and human rights infrastructure has been systematically undermined in recent years with the closure of key agencies and disproportionate cuts to the budgets of the Equality Authority and the Irish Human Rights Commission. The National Action Plan Against Racism has not been replaced since its conclusion in 2008 and the proposed National Carers' Strategy has not been published.

3.

A range of significant human rights issues have been highlighted in recent years in the Irish context, for example:

- » Prison conditions and the increasingly restrictive criminal justice regime,
- » Human trafficking,
- » Significant levels of domestic and sexual violence against women,

7 CSO *ibid*

8 CSO, *Live Register 2010*

9 Central Statistics Office (2005), *Quarterly National Household Survey, Equality Module*, CSO, Dublin.

Island of Ireland

5.

The Multi-Party Agreement signed in Belfast in April 1998 states that *'there will be a joint committee of representatives of the two Human Rights Commissions, North and South'*, which *'will consider, among other matters, the possibility of establishing a charter, open to signature by all democratic political parties, reflecting and endorsing agreed measures for the protection of the fundamental rights of everyone living in the island of Ireland'*. The joint committee of the two Human Rights Commissions has operated with great difficulty in the absence of resources for a secretariat. It has been impossible to advance the Charter of Rights for the Island of Ireland in the absence of agreement on a Bill of Rights in Northern Ireland.

This proposed Charter of Rights for the Island of Ireland could add value to the equality and human rights infrastructure set out in this roadmap.

6.

The Multi-Party Agreement requires the Irish Government to *'further strengthen the protection of human rights in its jurisdiction'* by, among other measures, ensuring *'at least an equivalent level of protection of human rights as will pertain in Northern Ireland'*.

This requirement has not been fully implemented and serves as an important stimulus to implement the proposals in this roadmap¹⁰.

10 O'Connell, Colm (2005) 'Equivalence in Promoting Equality', Equality Authority and Equality Commission for Northern Ireland.

Understanding Equality and Human Rights

Human Rights

7.

Human rights derive from the inherent dignity and worth of each person and cover a broad spectrum of civil and political rights, and economic, social and cultural rights. They are aimed at ensuring that everyone enjoys dignified living conditions. Civil and political rights include the right to life, to liberty and to freedom of thought, conscience and association. Economic, social and cultural rights include the right to work, to social security, to an adequate standard of living, to physical and mental health, to education and to take part in cultural life. These rights are interdependent and indivisible.

8.

Human rights are set out in a range of international instruments to which the Irish Government is a party. Some of these rights are set out in the Constitution. The Irish State has assumed a range of obligations under these instruments to respect, promote, protect and fulfill human rights. **Respect** requires the Irish State to refrain from interfering with the enjoyment of these rights. **Promote** requires the Irish State

to take steps to ensure people are aware of, and confident in exercising, these rights. **Protect** requires the Irish State to prevent other parties from violating these rights. **Fulfill** requires the Irish State to take positive measures towards full realisation of these rights.

9.

Human rights based approaches to governance, institutional practice and community development are important in advancing human rights. A human rights based approach involves:

- » Advancing the *needs* of communities experiencing inequality and disadvantage as *rights*,
- » Holding government and public bodies to account in relation to rights,
- » Empowering people experiencing inequality and disadvantage to assert their rights,
- » Enabling people experiencing inequality and disadvantage to participate in identifying their issues and how best to address them.

10.

This roadmap seeks to ensure that the Irish State addresses these four challenges to respect, promote, protect and fulfill human rights. This roadmap places a particular emphasis on the fulfillment of human rights, a challenge that has yet to be adequately addressed by the Irish equality and human rights infrastructure. It seeks to promote the further development of human rights based approaches in policy making, in organisational practice and within communities experiencing inequality and disadvantage.

Equality and Human Rights

11.

Equality and non-discrimination form a specific field within human rights as well as being principles that underpin the enjoyment of human rights.

12.

Article 1. of the Universal Declaration of Human Rights states that *'All human beings are born free and equal in dignity and rights'*.

13.

The international instruments to which Ireland is a party require that the rights enumerated are to be enjoyed without discrimination. Article 14 of the European Convention on Human Rights, for example, prohibits discrimination on a wide range of grounds in relation to the enjoyment of the rights enumerated.

14.

The European Court of Human Rights has valuably expanded the role of Article 14 of the European Convention on Human Rights by finding that there does not have to be a breach of the substantive right involved to apply the article 14 prohibition on discrimination, provided that the discrimination is experienced within the field of that substantive right (E.B v France (2008) ECHR 55). The prohibition on discrimination, therefore, has a wide and significant reach.

15.

A number of international human rights instruments such as the Convention on the Elimination of all forms of Discrimination against Women, the Convention for the Elimination of all forms of Racial Discrimination and the Convention on the Rights of Persons with Disabilities are specifically designed to eliminate discrimination.

Equality

16.

Equality encompasses a broad range of economic, political, cultural and affective objectives. It is concerned with:

- » The distribution of resources, and access to, and benefit from, wealth, income, employment, and public goods such as education, health and accommodation,
- » The distribution of power, and access to, and exercise of influence and having a say in decisions that affect one,
- » The distribution of status and standing, and access to a recognition for, and accommodation of, one's particular identity, experience and situation,
- » The distribution of respect and care, and access to, and enjoyment of, sustaining relationships of love, care and solidarity.

Inequality is a complex phenomenon comprising a range of intersecting injustices and experiences of discrimination. In a context where women constitute over half of the population it is a gendered phenomenon as women make up over half of all groups experiencing inequality and discrimination.

17.

The full realisation of equality requires movement beyond the goal of equality of opportunity. Equality of opportunity is an inadequate goal in being limited to achieving fairness for individuals in the competition for advantage in all areas of society. The pursuit of equality of opportunity, therefore, often co-exists with significant and persistent inequality. This goal only requires change in individual behaviours and attitudes, rather than structural changes to societal institutions.

18.

A focus on achieving equality of outcome for groups experiencing inequality and disadvantage is needed.

This goal for equality needs to be set out in terms of eliminating the disparities and inequalities that exist between groups in society. This goal requires change in societal structures and institutional systems.

The Case for Equality and Human Rights

19.

The case for equality and human rights rests on the inherent dignity and worth of every human being. There is also a significant body of evidence indicating that effective responses to economic recession require a particular focus on equality.

This evidence demonstrates that:

- » More equal societies do better. Societies characterised by income equality demonstrate higher levels of life expectancy, educational attainment and social mobility, and lower levels of mental ill health, violence and rates of imprisonment¹¹.
- » Gender equal labour markets stimulate GDP. Achieving gender equality in the labour market would contribute an increase in GDP of between 15% and 45% in EU Member States¹².
- » Organisations that invest in equality and diversity systems perform better. These organisations achieve higher productivity, greater innovation and improved employee retention¹³.

11 Wilkinson, Richard and Pickett, Kate (2009) *The Spirit Level: Why more equal societies almost always do better*, Allen Lane.

12 Lofstrom, Asa, (2009) *Gender equality, economic growth and employment*, Department of Economics Umea University, Sweden.

13 Flood, Patrick, et al, (2008) *New Models of High Performance Work Systems, The business case for strategic resource management, partnership and equality and diversity systems*, the Equality Authority and the National Centre for Partnership and Performance, Dublin.

Defining an Equality and Human Rights Infrastructure

Elements

20.

There are four key elements that constitute an equality and human rights infrastructure. These are:

- » **Laws** – to establish the standards that Irish society needs to achieve in relation to equality and human rights and to enable accountability for these standards. These laws encompass national and international instruments,
- » **Institutions** – to monitor, enforce, champion and advocate for these equality and human rights standards. These institutions are located in both the statutory sector and in civil society,
- » **Policy Instruments** – to mainstream equality and human rights, by implementing an approach in all legislation, budgetary policy, policy making, programme design and organisational practice that is coherent with the equality and human rights standards established,

- » **Policy Strategies** – to advance the full realisation of equality and human rights for all individuals and groups in Irish society. These strategies make use of positive action to achieve full equality in practice.

Purpose

21.

The purpose of, and potential in, this equality and human rights infrastructure is to:

- » Enable dialogue about, and participation in, establishing equality and human rights standards and devising strategies for their full realisation, in particular by individuals and groups experiencing inequality and disadvantage,
- » Drive and advance respect for, and promotion and protection of, the full realisation of equality and human rights,
- » Champion, make the case for, and build public commitment to, a society based on equality and human rights,
- » Stimulate and support organisational practices and public policy-making that advances equality and human rights.

*For me, equality
and human rights
mean freedom from
poverty and economic
exploitation.*

Alan, Meath }

*For me, equality
and human rights
mean constitutional
protection of my right
to equality and human
dignity, which is
denied at present.*

Katherine, Dublin

}

Laws

International Instruments

22.

Ireland is party to a broad range of international human rights and equality instruments. This provides a valuable foundation for the advancement of human rights and equality in Ireland. Ireland should be a party to the full range of such international instruments. There are key deficits that need to be addressed in this regard. Ireland needs to ratify and implement:

- a) **The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.**
- b) **The Convention on the Rights of Persons with Disabilities.**
- c) **Protocol 12 to the European Convention on Human Rights,** which creates freestanding rights against discrimination.
- d) **The optional protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,** which establishes a mechanism for the inspection of places of detention.

23.

National Human Rights Institutions can play a valuable role, depending on their mandate and powers, in supporting individual complaints under some of the international instruments. It is important for the effectiveness of these international instruments that individuals are enabled to advance their complaints effectively under these instruments. **Ireland needs to ratify the optional protocols that enable individual complaints mechanisms under the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities.**

24.

A number of these international instruments require periodic reporting from the Irish Government to an international committee that in turn makes recommendations to Government. Civil society organisations and the Irish Human Rights Commission have engaged in a valuable process of shadow reporting to accompany and inform this reporting process.

A mechanism needs to be established to ensure that the recommendations made by the international committees are fully considered and implemented by the Irish Government. This could be achieved by a dedicated Oireachtas committee working on equality, human rights and women's rights which would, among other tasks, consider these recommendations and monitor their implementation.

25.

Ireland has not incorporated the provisions of all the international instruments to which Ireland is a party into domestic law. **The Department of Community, Equality and Gaeltacht Affairs needs to conduct a review of the international instruments to which Ireland is a party with a view to identifying, and addressing, whatever is required to fully and directly incorporate these into domestic legislation.**

The Irish Constitution

26.

The Irish Constitution provides for a number of 'Fundamental Rights' which encompass personal rights, including equality before the law, and rights in the areas of family, education, private property and religion. The Constitution does not use the term human rights and pre-dates all significant human rights instruments.

27.

The guarantee of equality in the Constitution is narrowly worded and has not been widely relied on to promote equality. The Constitutional Review Group report in 1996 recommended that the equality guarantee would be reworded as *'All persons shall be held equal before the law. This shall not be taken to mean that the state may not have due regard to relevant differences.'* and *'No person shall be unfairly discriminated against, directly or indirectly, on any ground such as sex, race, age, disability, sexual orientation, colour, language, religion, culture, political or other opinion, national social or ethnic origin, membership of the Travelling community, property, birth or other status'.*

This recommendation pre-dated the enactment of the equality legislation in 1999.

28.
Constitutional change is required to address deficits in the Constitution in relation to equality and human rights. Provisions that undermine equality and human rights should be removed or amended, for example, Article 41.2. Specific commitments are required in the Constitution to underpin:

- » Respect, protection, promotion and fulfillment of civil, political, economic, social and cultural rights as established in international instruments,
- » Protection against discrimination and promotion of equality in relation to resources, recognition of diversity, participation in decision-making and enjoyment of affective equality.

Irish Equality Legislation

29.

The Employment Equality Acts 1998 to 2008 and the Equal Status Acts 2000 to 2008 marked a significant evolution in Irish equality legislation in broadening:

- » The grounds covered by the equality legislation beyond gender and marital status to include family status, age, disability, sexual orientation, race, religion and membership of the Traveller community,
- » The scope covered by the equality legislation beyond the workplace and vocational training to include the provision of goods, services, education and accommodation.

30.

A further evolution of the equality legislation is necessary so that its provisions move beyond protection against discrimination, to include provisions that would require a proactive approach to promoting equality. These new duties would serve to prevent the occurrence of discrimination in the first instance. They would stimulate and enable the institutional change necessary to take diversity into account and to advance equality in the policies, procedures and practices of all organisations.

31.

The equality legislation needs to include:

- » A duty on public sector organisations to have due regard to equality and human rights in carrying out their functions. Public sector organisations would be required to prepare and implement an equality/human rights scheme that would set out how they would advance equality and human rights, adjust for diversity and prevent discrimination in their functions as employers, service providers and contractors of goods and services. They would be required to monitor and report on steps they have taken in this regard and the impact of such steps.
- » A duty on public sector organisations to implement positive action measures to achieve full equality in practice in employment and service provision. This duty would be triggered where significant imbalances in access to, participation in, and outcomes in relation to employment and service provision are identified for particular groups covered under the equality legislation.
- » A duty on private sector organisations to be planned and systematic in their approach to equality. A planned and systematic approach to equality involves organisations putting in place an equality policy, providing equality and diversity training to staff and implementing an equality action plan.

32.

Further grounds need to be covered by the equality legislation so that it can be more comprehensive in its coverage of the groups experiencing inequality and discrimination. In particular the ground of socio-economic status needs to be included in the equality legislation as this would enable an integration of the equality objectives in relation to the distribution of resources and of status and standing. **This expansion of grounds needs to encompass:**

- » **Socio-economic status,**
- » **Criminal conviction and political opinion,**
- » **Trans people, who require a more visible and comprehensive treatment in equality legislation as only some trans people are covered under the gender ground.**

33.

Some of the grounds already covered by the equality legislation need to be redefined to ensure that they adequately address the groups, within these grounds, that experience discrimination.

In particular, there is a need to:

- » **Expand the definition of ‘carer’ under the family status ground to encompass the full diversity of carers (resident and non-resident carers, and carers providing continuing or intermittent care).**
- » **Redefine the age ground, without age limits, to include people under eighteen.**

34.

The practical experience of implementing the equality legislation since 1999 has exposed a number of flaws that need to be rectified.

The following amendments are required:

- » Expand the scope of the Equal Status Acts 2000 to 2008 to explicitly include the functions of the state. The legislation would thus cover the role of the state in exercising its powers in areas such as policing, immigration controls, social protection, education and housing.
- » Remove the ceilings on compensation made in cases under the equality legislation so that sanctions could be effective, proportionate and dissuasive.
- » Remove the exemption in the Equal Status Acts for actions required under other legislation.
- » Amend the exemptions in relation to religious ethos in the equality legislation to ensure that they are not a source of discrimination on other grounds, in particular on the grounds of sexual orientation and family status.
- » Apply the provisions under the Employment Equality and Equal Status Acts, which require adjustments and reasonable accommodation for people under the disability ground, to all grounds covered by the equality legislation. An exemption in relation to these provisions, under both Acts, would ensure that they were not a source of disproportionate burden on the employer or service provider.
- » Amend the definitions of discrimination in the equality legislation so that they are based on prohibition of treatment that disadvantages a person on the basis of their membership of one of the grounds.
- » Extend the time limit within which a claimant under the Equal Status Acts has to notify the person they are making the claim against, from two months to six months.
- » Empower trades unions and non-governmental organisations to take cases in their own name.

Other Domestic Legislation That Could Advance Equality and Human Rights

35.

Statutory leave legislation has an impact on equality. There are significant inequalities in caring work. Men spend considerably more time in paid employment than women, while women spend substantially more time on caring and household work. Women's share of unpaid work is greater among parents than in couples without children¹⁴.

36.

Statutory leave legislation needs to be evolved to ensure that it contributes to greater equality in the caring domain. In particular there is a need to:

- » **Introduce paid paternity leave entitlements,**
- » **Introduce paid parental leave,**
- » **Extend the leave period allowed under the Parental Leave Act.**

37.

The Prohibition of Incitement to Hatred Act 1989 has some potential to contribute to equality. There has been a low usage of this Act and it has failed to address the issues for which it was enacted. **The Act needs to be revised to more clearly define what constitutes incitement to hatred, to include the Internet in its provisions, and to make its provisions more accessible to those who need its protection. The Act needs to allow for civil proceedings, and concomitant levels of proof, in relation to matters covered under its provisions.**

¹⁴ Flood et al (2008) op. cit.

38.

Participation in decision making is an important dimension to, and driver for, equality and human rights.

This participation needs to be addressed in legislation as follows:

- » **Introduce legislation to underpin the right of all workers to collective bargaining through their trades unions in line with the state's international commitments: International Labour Organisation Convention 98; article 11 of the European Convention on Human Rights; articles 12 and 28 of the EU Charter of Fundamental Rights; and recent judgements of the European Court of Human Rights,**
- » **Provide a legal basis to ensure gender equality and diversity in appointments to the boards of state agencies and semi-state companies. This legal basis needs to be implemented through an open and transparent system of selection for such appointments,**
- » **Provide a legal basis for gender quotas to increase women's participation in representative politics and measures to enhance the diversity of representation in this arena,**
- » **Provide a legal protection from victimisation for civil society organisations involved in advocacy work for equality and human rights and for groups experiencing inequality and disadvantage.**

39.

The Disability Act advances equality for some people with disabilities. The Act has the potential to support more effective and adequate service provision to some people with disabilities. The provisions in relation to needs assessment have only been commenced for people with disabilities between the ages of zero and five. **These provisions need to be commenced for all age groups.**

40.

The enforcement mechanisms of the Disability Act need to be improved and strengthened. **Individuals need to be accorded the right to challenge their needs assessment and subsequent decisions concerning service delivery before the Equality Tribunal instead of the current internal review system.**

41.

The international human rights legal principles of progressive realisation and non-regression need to be built into the Disability Act. This would mean that the level of service provision to people with disabilities covered by the Act would be continually enhanced where possible and would be protected from cutbacks.

42.

The provisions of the European Convention on Human Rights Act 2003 advance human rights. The Act requires institutions of the state to perform their functions in a manner that complies with the European Convention on Human Rights. **The Equality Tribunal needs to be empowered to hear cases alleging that an institution of the state has failed to perform its functions in such a manner. Individuals, trades unions and non-governmental organisations need to be empowered to take such cases.**

Institutions

Integration and Coordination

43.

Institutions that play a role in the equality and human rights infrastructure could usefully reflect a new integration and coordination. Such institutions encompass;

- » The Oireachtas,
- » Government departments with a coordination function in this field,
- » Statutory bodies with specific functions in this field, and
- » Civil society organisations advocating for equality and human rights.

44.

A more integrated approach to equality would allow the promotion of equality to encompass issues of poverty as well as issues of identity across the grounds covered by the equality legislation. This more integrated approach would enable equality to be addressed in a holistic manner that includes equality in relation to resources, power and influence, status and standing, and respect and care.

45.

A more coordinated approach to equality and human rights would ensure that equality and non-discrimination underpin the protection and promotion of human rights and that equality and non-discrimination are advanced through a rights based approach. Enhanced coordination would enable the promotion of equality to serve as a gateway to securing the full realisation of the wider spectrum of human rights.

Oireachtas

46.

The Oireachtas plays a role as part of the equality and human rights infrastructure. This is obvious in the enactment of necessary legislation by the Oireachtas, though it can be less visible and more fragmented in the work of Oireachtas committees.

47.

A more coordinated, visible and effective role should be developed within the Oireachtas in relation to equality and human rights.

An Oireachtas Committee on Equality, Human Rights and Women's Rights needs to be established. The work of this committee would include:

- » Assessing and responding to the equality and human rights issues that arise in relation to all legislation before the Dáil and Seanad,
- » Reviewing and monitoring the implementation of all recommendations made to Ireland as part of the reporting process required by a number of international human rights instruments to which Ireland is a party,
- » Receiving presentations on, questioning and debating the strategic plans and annual reports of, the statutory bodies with mandates in the field of equality and human rights,
- » Providing political leadership for national debate on equality and human rights and the importance of equality and human rights for Irish society,
- » Monitoring and reporting on international standards for the establishment and resourcing of statutory bodies to advance equality and human rights and for the management and operations of these statutory bodies,
- » Continuing the work on women's rights already developed by the Oireachtas Committee on Justice, Defence and Women's Rights.

Government Coordination

48.

Equality and human rights were fragmented across the responsibilities of a number of departments until the creation of the Department of Community, Equality and Gaeltacht Affairs. This department should enable integration and coordination of policy and programmes in relation to equality and human rights. **The Department of Community, Equality and Gaeltacht Affairs needs to have access to specialist expertise in its staff complement and to have sufficient financial and human resources to ensure that equality and human rights are respected, protected, promoted and fulfilled. It needs to be accorded a coordinating role to ensure that all government departments contribute to respecting, protecting, promoting and fulfilling equality and human rights.**

Statutory Bodies to Advance Equality and Human Rights

49.

The Equality Authority, the Irish Human Rights Commission and the Equality Tribunal must be established and managed in a manner that fully respects the Paris Principles (Principles relating to the status of national institutions drawn up under the auspices of the United Nations), the European Commission against Racism and Intolerance (ECRI) of the Council of Europe General Policy Recommendations No. 2 (on specialised bodies to combat racism, xenophobia, anti-Semitism and intolerance at national level) and No. 7 (on national legislation to combat racism and racial discrimination), and the equal treatment Directives of the European Union. **The Oireachtas Committee on Equality, Human Rights and Women's Rights needs to monitor and report on such compliance.**

(i) Architecture

50.

The statutory infrastructure to advance respect, protection, promotion and fulfillment of equality and human rights needs to be further developed to:

- » Enhance its independence and effectiveness,
- » Address inadequacies identified over the past decade,
- » Develop a more integrated and coordinated response to equality and human rights that retains separate institutions - due to the different traditions in, approaches to and complexities of these two fields - while establishing mechanisms for a better coordination of activity in what are linked fields,
- » Develop a more integrated response to identity based discrimination and inequality due to poverty,
- » Bring all of the equality grounds (including the new grounds proposed here) under one equality body.

51.

Three such statutory bodies are necessary:

1. The Irish Human Rights Commission, with a mandate in terms of securing respect for and protecting human rights, promoting human rights and advancing the fulfillment of human rights. **The Irish Human Rights Commission needs to be particularly concerned with the issue and challenge of fully realising economic, social and cultural rights set out in international instruments.**
2. A reconstituted Equality Authority, with a mandate to secure protection against discrimination and to advance equality in access to resources, status and standing, power and influence, and respect and care for the groups covered under the equality legislation (including the additional grounds proposed in this roadmap). **It needs to incorporate the mandate of the current National Disability Authority, the previous Combat Poverty Agency and the previous National Consultative Committee on Racism and Interculturalism,**
3. The Equality Tribunal, with the role of mediating, investigating and making findings in cases taken under the equality legislation. **The provisions of the Intoxicating Liquor Act 2003 need to be amended to return jurisdiction for cases of discrimination involving licensed premises to the Equality Tribunal. Formal consideration needs to be given to an expansion of its mandate to include investigating and making findings in some cases taken to protect human rights and a reconstitution of the body as the Equality and Human Rights Tribunal.** This would not preclude people from taking such cases to the mainstream courts but would provide them with an accessible and expert venue for these cases.

52.

A coordination mechanism is required to enable joint planning between the Irish Human Rights Commission and the Equality Authority.

This would be deployed in the preparation of multi-annual strategic plans and annual business plans. It would ensure that:

- » Duplication does not occur,
- » Joint initiatives are taken where this is appropriate,
- » Equality underpins the approach to human rights,
- » A human rights based approach is pursued in relation to equality.

53.

The Equality Authority and the Irish Human Rights Commission need to have a local presence.

This is required for effectiveness in a context of high levels of under-reporting. Only 6% of those who experience discrimination make a formal response by making an official complaint or taking legal action¹⁵. This local presence would be developed jointly and would involve both bodies investing resources in a partnership with the Citizen Information Board.

As the Citizen Information Board has a statutory remit for the provision of information to the general public through local Citizen Information Centres, it is well placed to support the Equality Authority and the Irish Human Rights Commission in this regard.

54.

The joint committee between the Irish Human Rights Commission and the Northern Ireland Human Rights Commission needs to be given specific resources for an adequate secretariat.

The joint committee would advance the Charter of Rights for the Island of Ireland and secure political commitment for its implementation. The Equality Authority and the Equality Commission for Northern Ireland could usefully be involved in this joint committee to ensure an integration of equality and human rights in this work.

¹⁵ Russell et al (2008), *The Experience of Discrimination in Ireland*, Equality Authority & ESRI, Dublin.

(ii) Independence

55.

The Equality Tribunal, the Equality Authority and the Irish Human Rights Commission must be fully independent in the implementation of their mandates. This independence is both *de jure* and *de facto* in that it encompasses both the statutory basis of the bodies and the practice of the bodies. The practice of independence holds an importance whatever statutory basis has been established. This practice is particularly dependent on the leadership of these bodies. A review of independence in regard to the operation of specialised equality bodies concluded that *'Leadership has tremendous importance for the (practices of) independence of equality bodies. Leadership needs to be without fear and adamant in advocating the cause of equality'*¹⁶.

56.

The Boards of the Equality Authority and the Irish Human Rights Commission need to be appointed through an open and transparent process of interview and selection that is independent of government.

The legislation needs to establish a timeframe within which any vacancies on these Boards are filled and within which new Boards would be appointed when a board mandate ends. Selection criteria for their Boards needs to ensure that members have a knowledge of and commitment to equality and human rights and to ensure that they reflect the diversity of society across the grounds covered in the equality legislation.

57.

The Equality Authority, the Human Rights Commission and the Equality Tribunal need to be able to appoint and manage their own staff and to ensure the necessary skills complement through a recruitment process that is open, transparent and independent of government.

16 Yesilkagit et al (2008), *Between Impartiality and Responsiveness: Equality bodies and the practices of independence*, Equinet, Brussels.

58.

The manner in which the accountability of the Equality Authority and the Irish Human Rights Commission is structured should reflect their independence.

This accountability needs to be structured to encompass:

- » An accountability to the Oireachtas through the presentation of strategic plans, annual business plans and annual reports of both bodies to the Oireachtas Committee on Equality, Human Rights and Women's Rights for questioning and debate,
- » An accountability to the Comptroller and Auditor General for annual budgets to ensure public money is spent appropriately and is managed with all due and necessary financial controls,
- » An accountability to civil society stakeholder organisations working on equality and human rights issues, through the presentation and debate of strategic plans, annual business plans and annual reports.

59.

The budget of the three bodies must be protected against political interference so as to underpin the independence of the bodies. The budget is decided on, and made available through, the Department of Community, Equality and Gaeltacht Affairs. **The Minister for Community, Equality and Gaeltacht Affairs should be required to present any proposal for a reduction in budgets of these three bodies for approval to the Oireachtas Committee on Equality, Human Rights and Women's Rights.**

60.

The three bodies must be able to choose their geographical location to maximise accessibility to and for all stakeholders. **The decentralisation of the Equality Authority and the Equality Tribunal needs to be reversed.** The evidence suggests that decentralisation has been a source of inefficiency and unnecessary cost.

(iii) Effectiveness

61.

The effectiveness of the three bodies depends on: the powers and functions afforded to them by legislation, the resources allocated to them, and the quality of the strategic approach they adopt.

62.

The Equality Authority and the Irish Human Rights Commission currently have valuable powers and functions.

These need to be reviewed, and improved where necessary, to ensure they encompass:

A. Enforcement

The bodies need to have the powers and functions to make the legislation work for groups experiencing inequality, disadvantage and human rights abuses including powers and functions to:

- a. support those experiencing discrimination or human rights abuses to bring forward their cases,
- b. take cases in their own name,
- c. act as amicus curiae in relevant cases in any Court or Tribunal,
- d. seek interlocutory relief in urgent cases,
- e. take class actions,
- f. conduct inquiries on their own initiative and make legally binding recommendations on foot of such inquiries,
- g. form an opinion as to whether a human rights/equality concern exists and issue a direction to a state body on foot of this. The direction may be challenged in the Circuit Court or has to be complied with,
- h. monitor the implementation of duties on the private and public sector to advance equality and seek sanctions where these are not being implemented to standards established by the Equality Authority,

- i. monitor the implementation of equality/poverty/human rights impact assessment in public sector policy making and seek sanctions where this is not being implemented to standards established by the Irish Human Rights Commission and the Equality Authority.

B. Awareness Raising

The bodies need to have powers and functions to build a culture of rights in society and to develop a culture of compliance among duty bearers by raising awareness of:

- a. people's rights as set out in equality legislation and human rights instruments,
- b. the work done by the bodies and the supports provided by the bodies,
- c. the case for equality and human rights.

C. Good Practice Promotion

The bodies need to have powers and functions to advance equality and the fulfillment of human rights by:

- a. reviewing all legislative proposals before publication and reporting on any implications of such proposals for equality and human rights,
- b. keeping under review, laws and policies relating to advancing equality and human rights, and making recommendations in relation to strengthening these,
- c. guiding and supporting human rights based approaches by organisations,
- d. guiding and supporting organisations to develop and implement policies, procedures and practice to advance equality, adjust for diversity and eliminate discrimination.

D. Knowledge Development

- a. The bodies need to have powers and functions to conduct research and carry out surveys.

E. International Networking

- a. The bodies need to be enabled to engage and network with other equality and human rights bodies at international level.

63.

The procedures of the Equality Tribunal must be fair, efficient and consistent. A Rules Committee needs to be established, drawn from the legal professional bodies and other relevant interested parties, to draw up, monitor, and keep such procedures under review.

64.

The Equality Tribunal needs to be empowered to impose sanctions that are effective, dissuasive and proportionate. This would involve making orders to direct organisations found to have engaged in discrimination or human rights abuses, to implement specific courses of action to prevent any recurrence of the incidents. These orders should have reach beyond addressing the individual experience brought before the Equality Tribunal, to address the wider practices, procedures and policies of the organisation where this is relevant.

65.

An evidence based calculation of adequacy of resources for the three bodies is required. This would be based on measures of the scale of discrimination and human rights abuses in Ireland, measures of the level of under-reporting of experiences of discrimination and human rights abuses, and the level of demand on the three bodies. The scale of resources would also be based on ensuring the three bodies can exercise all of their powers and functions in a timely and strategic manner. In particular, the Equality Tribunal must have sufficient resources to ensure there is no backlog of cases and all cases are heard in a timely manner. The scale of resources would also be based on the three bodies being able to implement their powers and functions to a critical mass, and to a standard that enables their work to have a significant impact on the situation and enjoyment of equality and human rights in Ireland.

66.

The resources available to the three bodies need to be adequate. The resources currently available to all three bodies are inadequate.

67.

The Equality Authority and the Irish Human Rights Commission need to be strategic in implementing their mandate and using their resources.

The preparation of strategic plans by each body is valuable in this regard. The two bodies could usefully develop systems and indicators to measure, monitor and evaluate the impact of their work.

68.

This strategic approach would be evident in the litigation strategy of the body: *'Equality bodies, when assisting victims of discrimination, should have a strategic approach of taking into account not only the individual interest of the person whose rights were violated by unlawful discriminatory behavior, but also the public interest and how the individual case can contribute to bring more fundamental and structural social change'*¹⁷.

A strategic approach to litigation must also involve the bodies in supporting a sufficient number of cases to contribute to a culture of compliance among service providers and employers with the legislation. The strategic approach would be evident in a wider strategic enforcement approach that mobilises all the powers and functions of the bodies to maximise their impact on equality and human rights.

69.

Stakeholder participation needs to be a formal feature of the strategy of the Equality Authority and the Irish Human Rights Commission.

This participation would reflect the full breadth of civil society with particular emphasis on those organisations representing the interests of groups experiencing inequality and/or human rights abuses. This participation would be engaged in the planning, programme design and programme implementation of the bodies.

¹⁷ Equinet (Dec 2009) *Strategic Role of Equality Bodies*, Equinet, European Network of Equality Bodies, Brussels.

Civil Society Advocating for Equality and Human Rights

70.

Civil society organisations advocating for equality and human rights form an important part of the institutional infrastructure for equality and human rights. This advocacy work is carried out by a range of organisations including community organisations, trades unions, community information centres and public interest legal centres and law practitioners.

It involves:

- » Providing individual advocacy to people taking cases under equality legislation,
- » Articulating the needs and perspective of groups experiencing inequality and human rights abuses,
- » Serving to signpost people experiencing discrimination or human rights abuse towards organisations that can assist them and inform them of their rights,
- » Building public and political commitment to an effective and ambitious equality and human rights infrastructure,
- » Contributing to a culture of rights within society and to a culture of compliance among duty holders:

government, the state, employers and service providers.

71.

The relevance and importance of this advocacy work needs to be formally recognised in government policy and protected from victimisation under legislation.

72.

Adequate resources need to be made available, through the Department of Community, Equality and Gaeltacht Affairs to organisations and practitioners in these sectors to sustain and further develop this advocacy work. Organisations involved in this advocacy work need to be eligible for charitable status and further, should not be subject to restrictions regarding their advocacy role under the third-party funding provisions of the Electoral Acts 1997-2002.

73.

Civil society organisations need to be supported to advance human rights based approaches to addressing social problems.

This work involves support for, and skills development within, communities experiencing inequality and disadvantage to assert and advance their human rights.

Policy Instruments

Impact Assessment

74.

Poverty impact assessment has been developed and applied in Irish policy-making as part of the National Anti-Poverty Strategy. Gender mainstreaming has been developed and applied in Irish policy-making and programme implementation under the National Development Plan. Disability and equality proofing have been introduced into the Government Handbook on Memoranda to Cabinet. The former Department of Justice, Equality and Law Reform and the Equality Authority have piloted equality proofing in public sector planning and policy-making, which encompasses the nine grounds currently covered under the equality legislation. The former Departments of Justice, Equality and Law Reform, and Social and Family Affairs, the Equality Authority and the Combat Poverty Agency have piloted a template for equality and poverty impact assessment.

75.

These impact assessment instruments enable a coherence and coordination of public sector policies and programmes behind the objective of creating a more equal society. The work that has been done provides a valuable foundation of knowledge, expertise and experience for devising and implementing an equality and human rights impact assessment on all new public sector budgets, legislation, policy-making and programme development.

76.

Equality and human rights impact assessment is:

- » Anticipatory: implemented at the design stage of new budgets, legislation, policies and programmes,
- » Integral: implemented as an integral part of the design of new budgets, legislation, policies and programmes by those who are responsible for their design,
- » Participatory: implemented with the active participation of organisations that can articulate and represent the interests of groups experiencing inequality and disadvantage.

77.

Equality and human rights impact assessment needs to be driven and sustained by forming part of the new duties to be imposed on public sector organisations under the strengthened equality legislation.

78.

The development of equality and human rights impact assessment needs to be invested in and adequately supported by:

- » **Developing templates, setting and monitoring standards jointly by the Equality Authority and the Irish Human Rights Commission.**
- » **Identifying and funding a support agency to train, practically assist, and provide guidance in the implementation of equality and human rights impact assessment to those responsible for developing new budgets, legislation, policies and programmes.**
- » **Applying sanctions where impact assessment has not been carried out or not carried out to the required standard.**

79.

The measures of success for equality and human rights impact assessment would encompass:

- » Increased awareness of equality and human rights dimensions to their work among senior civil and public servants responsible for the design of budgets, legislation, policies and programmes,
- » Enhanced systems and practices within public sector organisations that reflect a commitment to advancing equality and human rights,
- » Budgets, legislation, policies and programmes that reflect a coherent commitment and capacity to advance equality and human rights in all fields.

Community Sector Participation

80.

Participation by community organisations articulating and representing the interests of groups experiencing inequality and disadvantage in the decision-making of public sector organisations is a valuable policy instrument in advancing equality and human rights. There is some tradition in Ireland to underpin this type of participation at national and local level. This participation provides valuable information, knowledge and perspectives to public sector organisations and enhances their capacity to communicate effectively with communities experiencing inequality and disadvantage.

81.

Government departments, local authorities and state agencies need to be required to prepare and publish a participation strategy that would set out:

- » Their commitment to this participation by community organisations articulating and representing the interests of groups experiencing inequality and disadvantage,
- » The principles, including mutual respect, meaningful exchange and empowerment, that inform and shape this participation,
- » Their recognition of the advocacy roles to be played by these organisations,
- » The budgetary, planning, policy-making and implementation, and programme development and implementation areas within which this participation will be convened,
- » The mechanisms through which this participation will be organised and carried through,
- » The supports that will be made available to enable the effective participation of community organisations.

Data

82.

Equality and human rights data are necessary to support impact assessment and to enable effective budgeting, policy-making and programme development.

83.

There have been valuable developments in this regard. The Central Statistics Office (CSO) included a module on the experience of discrimination in the Quarterly National Household Survey in the final quarter of 2004. The CSO has produced reports on 'Women and Men in Ireland' on an annual basis since 2004, and in 2007 produced 'Equality in Ireland' that covered gender, marital status, family status, religion, disability, age, nationality and ethnicity, membership of the Traveller community and sexual orientation. In 2003, the National Statistics Board published 'Developing Irish Social and Equality Statistics to Meet Policy Needs', which emphasises the need for the further development and gathering of administrative data and sets out a strategy to respond to this need.

84.

Initiatives for, and investment in, the gathering and analysis of equality and human rights data are necessary. **This needs to include:**

- » **The application of, and reporting on, the discrimination module developed by the CSO for the Quarterly National Household Survey every five years,**
- » **The publication by the CSO, on an annual basis, of a data report on equality encompassing the grounds to be covered in the renewed equality legislation,**
- » **The ongoing and sustained implementation of the report of the National Statistics Board on 'Developing Irish Social and Equality Statistics to Meet Policy Needs', with particular attention to disaggregating data across the grounds to be covered in the renewed equality legislation.**
- » **Ongoing research by the Department of Community, Equality and Gaeltacht Affairs, the Equality Authority and the Irish Human Rights Commission to explore, refine and disseminate the societal, economic, business and moral case for equality and human rights.**

Policy Strategies

National Strategy

85.

National policy strategies for equality and human rights currently include the 'National Women's Strategy' and the 'National Disability Strategy'. The Report of the 'Task Force on the Travelling Community' has yet to be fully implemented. A National Carers' Strategy and an Active Ageing Strategy have been promised and proposals have been made for a renewed National Action Plan Against Racism. The experience to date, regarding the operation of these strategies, suggests there are issues of fragmentation by their very ground based nature and that there are issues in relation to securing their effective implementation.

86.

National policy strategies can play a valuable role in:

- » Creating and communicating a political commitment to advancing equality and human rights,
- » Establishing and pursuing an ambition for advancing particular equality and human rights issues that is shared across different government departments, different levels of government and between government and civil society,
- » Creating a coordinated commitment across different government departments, and different levels of governance behind specific equality and human rights objectives,
- » Identifying and implementing a planned and systematic approach to advancing equality and human rights issues and to the deployment of resources to achieve shared and agreed objectives,
- » Advancing necessary positive action to enable groups to overcome legacies of disadvantage and discrimination, and to secure equality outcomes for their members.

87.

The implementation of the ‘Report of the Task Force on the Travelling Community’ and the ‘National Disability Strategy’ needs to be achieved within a specified time-frame. The ‘National Carers’ Strategy’ needs to be published and implemented within a specified time-frame. The ‘National Women’s Strategy’ needs to be independently assessed in regard to its content, implementation and allocated funding with a view to ensuring the timely and effective implementation of a comprehensive strategy for women’s equality.

88.

A National Strategy to Advance Equality, Social Inclusion and Human Rights needs to be prepared, published and implemented. This would be the

responsibility of the Department of Community, Equality and Gaeltacht Affairs. The Department would ensure that:

» The preparation and implementation of this plan involves the participation of community organisations representing the interests of groups experiencing inequality and disadvantage,

- » The objectives for the plan are focused on action that will be taken to respect, protect, promote and fulfill equality and human rights,
- » The focus for the plan includes women, carers, unmarried and lone parents, trans people, older people, young people, children, gay, bisexual and lesbian people, people with disabilities, Black and minority ethnic people including Travellers, people of minority religions, people experiencing urban/rural disadvantage, people on low incomes, prisoners and people living in institutional care,
- » The plan advances positive action measures for groups experiencing inequality and disadvantage.

Local Planning and Implementaton

89.

Policy strategies devised at national level are implemented at local level. This gap can serve as an impediment to effective implementation. The policy thinking developed at national level might not be accepted at local level. The commitment that has evolved at national level might not be present at local level. The diversity of situations and conditions at local levels across the country might not be taken into account in national planning.

90.

A National Strategy to Advance Equality, Social Inclusion and Human Rights needs to set the context and parameters for the planning and implementation of action strategies at local level.

Interagency structures would enable and conduct this local planning and drive and monitor local implementation. These structures could be established as part of the County/City Development Boards.

91.

Local planning and local implementation need to be participative, in particular involving community organisations representing the interests of groups experiencing inequality and disadvantage.

Local planning requires local equality and human rights data and could make use of survey and research work conducted, or commissioned by, local communities experiencing inequality and disadvantage.

92.

Equality and social inclusion need to be central features of all programmes and structures that enable community development at local level, including the Local and Community Development Programme and the Family Resource Centre Programme.

Monitoring

93.

The objectives, targets and timescales set out in the National Strategy to Advance Equality, Social Inclusion and Human Rights should be monitored.

This monitoring would encompass the fulfillment of objectives and targets set in the plan, as well as the impact of the fulfillment of these objectives and targets. This monitoring would be developmental so as to shape an ongoing evolution of the national strategy to influence local planning and local implementation of the strategy.

94.

The Oireachtas Committee on Equality, Human Rights and Women's Rights needs to receive and debate an annual progress report on the implementation and impact of the National Strategy to Advance Equality, Social Inclusion and Human Rights.

This report would be prepared by the Department of Community, Equality and Gaeltacht Affairs. Independent reports would also be submitted by the Equality Authority and the Irish Human Rights Commission. Civil society organisations would be encouraged and supported to submit shadow reports to facilitate the debate of the Oireachtas Committee.

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