



Human Rights and One-Parent Families

*An introduction to human rights and how they
can be used to advance the rights of one-parent
families in Ireland*

Foreword by Mary Robinson

A **can*** publication

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Foreword

In the prosperous and vibrant Ireland of today it is easy to believe that equality for all is a given. Yet, in reality, one in six families in Ireland still remain disadvantaged – legally, financially and socially. When I became President of Cherish (now One Family) in 1972, one-parent families were voiceless, relegated to a role of silent and much maligned underclass, overlooked by policy-makers. Things were about to change. With a unique ethos of self-help and self-empowerment, One Family has always understood that the key to systemic and long-term change is to empower people to change the world around them for themselves. I am impressed with the sustained commitment to these principles over thirty four years, and the knowledge and experience which has been built up.

This booklet marks an important step towards acknowledging that the structural inequality and disadvantage faced by one-parent families is not merely a problem of circumstance, but a denial of basic human rights.

Human rights are often spoken about in global terms, something that people in other countries are denied. Yet, one of the central concepts of human rights is that they are universal – applicable to all. Ireland must grapple with its

responsibility to ensure that all Irish citizens are equal under the law and have an equal right to access to a fair standard of living and opportunities for development and growth. As I write this, one-parent families in Ireland are three times more likely to live in poverty than other families and the definition of the family in law still remains that of a two-parent, married family. In Ireland, as in many parts of the world, a lack of basic human rights is often experienced by those who are already the most marginalised in society, women and children, and those living in poverty. It is only when we as individuals and as a nation take responsibility for ensuring that all in our society experience basic human rights that we will truly be an example to the world.

By providing accessible information on how international human rights conventions can best be used to advance the rights of one-parent families, particularly in relation to poverty and social exclusion, this booklet advances the work of One Family in providing one-parent families and those working with them with a powerful voice to call for change.



Mary Robinson

Introduction

Aim of the booklet

This booklet is an introduction to key international human rights conventions that have been ratified by the Irish Government. It aims to provide easy to understand information on how such conventions can best be used to advance the rights of one-parent families, particularly in relation to poverty and social exclusion.

Although individuals in one-parent families will find this booklet useful, it is specifically aimed at one-parent family groups and professionals working with one-parent families.

What are international human rights?

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

- **universal** – they apply everywhere and to every human being;
- **indivisible** – political and civil rights cannot be separated from social and cultural rights; and

- **inalienable** – they cannot be surrendered or given away, and they cannot be denied to any human being.

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

What are the key United Nations human rights treaties?

The primary human rights treaty is the Universal Declaration of Human Rights, adopted by the United Nations (UN) in 1948. Since then, the UN has adopted a large number of treaties in the area of human rights. The UN human rights treaties that have been ratified by the Irish government include:

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

Other international treaties include the UN Convention Against Torture (CAT) and the Covenant on Civil and Political Rights (ICCPR). Further details on these

can be found on the websites listed under 'Further Information' on page 30.

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

What are European conventions?

The European Convention on Human Rights (ECHR) was adopted by the Council of Europe in 1950 and is the main human rights treaty for Europe. The Council of Europe is an organisation of 46 European States and predates the EEC or EU. The ECHR is the only convention that is directly enforceable in the Irish courts. The European Convention on Human Rights Act was enacted in 2003 to give effect to the

ECHR, although at a level below the Constitution. Cases taken under the European Convention on Human Rights are heard in the European Court of Human Rights in Strasbourg.

How are conventions enforced?

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

Often, information from NGOs takes the form of **Shadow Reports** that provide a counter-balance to the state report. NGOs can submit individual shadow reports or can produce joint reports through networks and

alliances. For example, in relation to the most recent national report under CEDAW, the Women's Human Rights Alliance coordinated and presented the Irish shadow report. In the case of the UNCRC, the Children's Rights Alliance coordinated the shadow report. The Irish Human Rights Commission also presents reports to the various committees as do other organisations, for example, the Ombudsman for Children in the case of the UNCRC.

The relevant UN Committees also produce a number of what are called **General Recommendations** on issues that they consider need to be elaborated on in more detail than is possible in the convention itself. For instance, the CEDAW Committee has produced general recommendations on violence against women, statistical data concerning the situation of women,

equal remuneration for work of equal value, and equality in marriages and family relationships. ICESCR has produced **General Comments** on the equal right of all men and women to the enjoyment of all economic, social and cultural rights, the right to adequate housing, and the economic, social and cultural rights of older women.

CEDAW, CERD and ICESCR also have a procedure whereby individuals and groups can submit claims of violations of rights protected by the conventions to the committee. The committee can also initiate an enquiry procedure in cases of grave or systematic violations of rights under these conventions.



PART 1

A Human Rights-based Approach

What is a human rights-based approach?

A human-rights based approach is an approach to lobbying and policy development work that draws on agreed international human rights. This approach works from the position that these standards place an obligation and duty on governments to ensure

that their plans, policies and processes uphold and promote these rights.

Such an approach places the focus on rights rather than on need. The relationship between the government and those seeking rights is no longer based on depending on the good will of the government to meet peoples' needs. Rather, the government agrees that it has a responsibility to ensure that all can realise their rights and that no person can be discriminated against or experience inequality based on their gender or membership of a minority group etc.

The government thus recognises that all human beings have economic, social cultural and political rights which it is their duty to protect and promote.

What is a rights-based approach to development?

A rights-based approach to development is a framework for human development based on international human rights standards that focuses on promoting and protecting human rights. Essentially, a rights-based approach integrates the standards and principles of the international human rights system into the plans, policies and processes of development. The principles include equality and equity, accountability, empowerment and participation. A rights-based approach to development includes the following elements:

- a clear link to rights;
- accountability;
- empowerment;
- participation; and
- non-discrimination and attention to vulnerable groups.

Source: Derived from UN Office of the High Commissioner for Human Rights



Two of the UN conventions specifically focus on the rights of children and the rights of women, and are geared towards eliminating discrimination and inequality experienced by these groups.

Why are human rights important in anti-poverty lobbying work?

The United Nations Committee on Economic, Social and Cultural Rights defines poverty as 'a human condition characterised by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.' This treaty, which Ireland ratified in 1989, contains a number of obligations on the State to address poverty and related rights issues.

By viewing poverty as a human rights issue, those involved in anti-poverty work can focus their lobbying on reminding the government of its responsibility to ensure that no human being is deprived of the resources required to enjoy an adequate standard of living and related rights. The government must also ensure that particular groups cannot be discriminated against in the achievement of their rights.

The links between human rights and poverty can be demonstrated as follows, in relation to women and poverty:

- Poverty is a denial of human rights.
- A human rights concept of poverty asserts respect for the dignity of all human beings.
- It positions women in poverty as citizens capable of directing their own lives with political, civil, social and cultural rights, including the right to a voice with influence.
- Rights are not only about claims but are also about relationships.

Source: Combat Poverty Agency, 2006

Sometimes laws, policies and processes affect one group more than others or affect them in a different way. The discriminatory effect of these policies can be highlighted in order to show that this is in breach of that group's or individual's convention rights. The denial of economic and social rights also impacts on civil rights such as political participation, the enjoyment of the right to education and

access to the legal system. For example, the lack of affordable childcare facilities affects one-parent families more than others because it impacts more heavily on their ability to choose to enter the labour market or to stay at home. This policy can therefore be said to be discriminatory in this way.

SUPPORTING ONE-PARENT FAMILY ISSUES

What is the Relevance of Human Rights to Lobbying on Behalf of One-Parent Families?

One-parent families face inequalities, particularly in relation to poverty and social exclusion, relative to other groups in society. International human rights conventions can assist one-parent family groups to strengthen their work in claiming the economic, social and cultural rights of such families and of individual members within them.

One Family has identified a set of issues that impinge on the rights of one-parent families. These are:

- high child poverty levels in one-parent families that prevent certain children and groups of children from achieving their full potential;
- inequalities in relation to one-parent family poverty;
- inequalities in relation to accessing economic well-being by lone parents, particularly those who are carers;

One-Parent Families and Poverty

- One in eight people in Ireland live in a one-parent family (CSO, 2002).
- There are roughly 153,900 one-parent families in Ireland (CSO, 2002).
- Approximately 85 per cent of one-parent families are headed by a woman, and 15 per cent by a man (CSO, 2002).
- Between 1996 and 2002, the number of households containing a solo parent with children increased by nearly 25 per cent (CSO, 2002).
- One-parent families are at greater risk of poverty than other families (CSO, 2002). You are three times more likely to live in poverty if you live in a one-parent family (EU-SILC, 2005).

- inequalities in relation to children in one-parent families accessing the resources needed for their development and education; and
- discrimination in relation to access to services such as education and training, childcare and housing.

The next section spells out some of the key human rights standards contained in the three UN conventions of most direct relevance to one-parent families – CEDAW, CRC and ICESCR, as well as the ECHR. CERD is also then briefly covered.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

*'Women in Ireland are at a higher risk than men of living in poverty. Twenty-one per cent of women are in danger of suffering from poverty. Specific groups at a particularly high risk include older women, women engaged in home duties, female lone-parents, disabled women, Traveller women and rural women. Female poverty is largely a result of women's dependent economic status and women's unequal access to economic resources.'*¹

¹ Irish Human Rights Commission, submission to CEDAW.

The Position of Women in Irish Society

- One-parent families are mainly headed by women – 85 per cent (CSO, 2002).
- One-parent families currently make up 75 per cent of those on local authority housing lists (Combat Poverty Agency, 2005).
- Women earn 17.5 per cent less than men (CSO, 2004).
- The risk of women in Ireland falling below the 60 per cent poverty line was 21 per cent in 2004, compared with 18 per cent for men (CSO, 2005).
- 1 in 7 women have experienced severe abusive behaviour from a partner at some time in their lives (ESRI/National Crime Council, 2005).

What is CEDAW?

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

- Discrimination is defined and governments are required to



condemn discrimination and to implement laws to protect women against it (Articles 1&2).

- Special temporary measures to speed up equality for women must be implemented (Article 3).
- State action is required to guarantee women's rights (Article 4).
- Equality in education (Article 10), employment (Article 11), health (Article 12), economy – such as family benefit and bank loans (Article 13), rural life (Article 14), law (Article 15), family relations and marriage rights (Article 16) is required.

The Irish Government has committed itself to eliminating consistent poverty

for women. Through its National Action Plan against Poverty and Social Exclusion (NAPS, 2002) it seeks to '...improve access for women to appropriate healthcare, education and employment, thus reducing the risk of poverty for such women and their families'. The CEDAW articles can be used to strengthen the case to the government to implement these commitments to women.

What is its status in Ireland?

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

What relevant recommendations have been made by the United Nations?

The UN Oversight Committee has recommended the following:

- CEDAW should be made part of Irish law so that it can be used in the Irish courts.
- Stereotypical attitudes towards women should be eliminated and equality between men and women should be taken into account in any amendment to the Constitution.²
- A National Women's Strategy should be implemented to ensure an integrated and comprehensive approach to women's equality and to securing women's human rights.

2 The Irish Constitution sets out the principles and rules by which Ireland is governed and no law can be enacted that conflicts with it.

- Effective measures should be implemented to protect those vulnerable to poverty and social exclusion.
- Affordable childcare and other measures should be provided to allow women to access employment and training.
- Discrimination in pay between men and women should be eradicated and equal opportunities in the labour market created.
- A national debate on women's reproductive health should be held and full access to family planning services for adult and teenage women and men should be ensured.
- Violence against women and the trafficking of women should be addressed by putting in place strategies backed up by law, resources and training for service providers.

What other areas are of concern in Ireland?

Additional areas of concern in relation to CEDAW in Ireland are:

- the persistence of traditional stereotypical views of the social roles and responsibilities of women, reflected in Article 41.2 of the Constitution where women are described as homemakers;

- lack of access and supports for women’s educational choices and lack of full participation for women in employment, and in political and public life;
- the prevalence of violence against women and girls in Ireland, low prosecution and conviction rates of perpetrators, high withdrawal rates of complaints; and
- inadequate funding for organisations that provide support services to victims, and the failure to address the trafficking of women and children into the State.

SUPPORTING ONE-PARENT FAMILY ISSUES

How can CEDAW be used to support one-parent family issues?

The following are some examples of how CEDAW articles can be used in lobbying work by one-parent family groups.

Currently, the family based on marriage is the only family form recognised and protected under Irish law. Therefore, many family forms are not considered equal in the eyes of the law. Family diversity describes the range of family types and the various situations in which families live in modern society:

‘A family diversity approach would fully recognise the inequality of the position of many one-parent families and would provide a framework for service, policy and legal provision which would seek to address that inequality in a way which respects the validity of the one-parent family and seeks to support it.’³

Article 5: Requires measures to change social and cultural patterns of conduct of men and women, to eliminate practices based on stereotyped roles, as well as the need for family education to recognise the social function of motherhood and the common responsibility for raising children.

Article 16: Requires all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations.

Articles 5 and 16 can be used to strengthen the case for law reform to ensure the recognition of the diversity of family forms that exist in Ireland today.

³ *One Family, Policy Position Paper Number 2: Recognising the Realities of the Diversity of Family Life in Ireland.*

The UN Oversight Committee has recognised that Irish women are still seriously disadvantaged in the labour market. The lack of affordable childcare and other measures such as family friendly work policies seriously impedes one-parent families' access to employment opportunities. Access to affordable childcare in the community and other measures are needed to address this. The level of the One Parent Family Payment plus the presence of serious poverty traps has created a situation whereby work for many does not pay, particularly if the parent has to pay for childcare:

*'Despite increases in amounts and levels of child benefit and social welfare payments, the costs of living for one-parent families are exceeding the incomes provided and in many cases one-parent families are trapped in income poverty. Action is needed to remove continuing poverty traps experienced by solo parents in making the transition from social welfare dependency to the labour market.'*⁴

Article 11: Requires measures to eliminate discrimination against women in employment in order to ensure the same rights, and additional rights such as the right to work, on a basis of the equality of men and women.

Article 13: Requires measures to eliminate discrimination against women in other areas of economic and social life, for example, the right to family benefits and the right to bank loans, mortgages and other forms of financial credit.

Articles 11 and 13 further strengthen the case for such measures to be put in place.

4 One Family, *Pre-Budget Submission, 2005*.

The UN Convention on the Rights of the Child (CRC)

What is the CRC?

The CRC provides an internationally agreed framework of minimum standards necessary for the well-being of the child.⁵ The key principle underpinning the CRC is that the best interests of the child should always be taken into account (Article 3). Some of the main articles are as follows:

- Protection from discrimination (Article 2).
- Right to the highest attainable standard of health and access to health and medical services (Article 24).
- Right to benefit from social security and to an adequate standard of living (Articles 26 & 27).
- Right to primary education compulsory and free to all, and access to secondary education (Articles 28 & 29).

5 Children are defined as all persons under the age of 18 years (Article 1).

What is its status in Ireland?

The Government has ratified the Convention and is therefore obliged to take all necessary steps to ensure that the minimum standards set by the CRC in areas such as social services, legal, health and education are met. This may involve changing existing laws and policies or creating new ones. The Convention has not been made part of Irish law and, therefore, is not legally binding in the Irish courts.

The proposed new Social Partnership agreement refers specifically to Ireland's commitment to implement the CRC within Irish laws and policies. The document states that:

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

- *Every child should grow up in a family with access to sufficient resources, supports and services, to nurture and care for the child, and foster the child's development and full and equal participation in society.*
- *Every family should be able to access childcare services which are appropriate to the circumstances and needs of their children.*



- *Every child should leave primary school literate and numerate.*
- *Every student should complete a senior cycle or equivalent programme (including ICT), appropriate to their capacity and interests.*
- *Every child should have access to world-class health, personal social services and suitable accommodation.*
- *Every child should have access to quality play, sport, recreation and cultural activities to enrich their experience of childhood.*
- *Every child and young person will have access to appropriate participation in local and national decision-making’.⁶*

Where is Ireland in breach of the Convention?

The following are some of the areas where Ireland is in breach of the Convention:

- It has failed to bring in a law to make the CRC usable in the Irish courts.

⁶ *Towards 2016, Draft Social Partnership Agreement, 2006.*

- The number of children and young people still living in poverty after a period of unprecedented economic prosperity shows the level of persistent inequality in Ireland and is in breach of a number of the Convention's articles.
- The lack of access of children living in poverty to a range of services is a reality and is in breach of the Government's obligations under the Conventions.

Ireland's second progress report to the UN Committee was examined in September 2006. The Irish Government appeared at a plenary hearing in front of the UN Committee in September 2006 to account for its progress since 1998. From this, the Committee will make recommendations to the Government.

What other areas are of concern in Ireland?

The Children's Rights Alliance has made a number of recommendations in relation to the Second Shadow Report to the United Nations Committee on the Rights of the Child. These include the following:

- Hold a referendum without delay to amend the Constitution to give express recognition to children's rights.
- After Constitutional change is secured, bring in a comprehensive Children's Rights Act to enumerate the rights set out in the UN Convention on the Rights of the Child.
- Reform the family law system in the best interests of the child, moving the system from an adversarial to an inquisitorial model.
- Address increasing inequalities and ensure that children are enabled to grow up free from poverty.
- Introduce a new social welfare payment for children in low-income families, both in and out of work.
- Build quality social and affordable housing for families with children and ensure that emergency accommodation for families with children is appropriate to their needs.
- Ensure social services are adequate to meet statutory obligations to children, and establish a 7-day, 24-hour social work service for children at risk.
- Provide full medical cards (free healthcare) for all children living in low-income families.
- Develop a range of appropriate prevention, early intervention and treatment supports and services for children and young people with mental health difficulties.
- Develop an integrated, universal, high-quality early childhood care and education system.
- Adequately fund primary and second-level education to ensure the

education rights of all children, giving priority to addressing educational disadvantage, reducing class size, modernising school buildings, and providing tools for enrichment such as sports equipment, musical instruments and computers.

- Support the establishment of multi-denominational and non-denominational schools.⁷

SUPPORTING ONE-PARENT FAMILY ISSUES

How can the CRC be used to support one-parent family issues?

Article 27 The child has the right to an adequate standard of living; parents have the primary responsibility to provide this, and the State has a duty to assist parents, where necessary, in fulfilling this right.

Child poverty is a denial of the basic right of a child to an adequate standard of living, a right guaranteed by Article 27. The Government has committed to eliminating consistent child poverty by 2007 (National Action Plan, *Sustaining Progress and the National Action Plan Against Poverty and Social Inclusion*).

The Children's Rights Alliance in its second Shadow Report to the UN Oversight Committee on the CRC states '...that the incidence of deprivation is substantially higher among one-parent families.'⁸

Almost 130,000 children live in one-parent families who are primarily dependent on social welfare. High numbers of these families are also on local authority waiting lists for social housing. The report highlights that the level of social welfare is not sufficient for these families to have a decent standard of living. The report calls for a series of measures to be implemented to eliminate child poverty. Ending child poverty includes the following set of demands:

1. *'Ensure that all children and young people have a minimum adequate income.*
2. *Ensure equal and affordable access to medical care for all children and young people regardless of income.*
3. *Implement the provisions of the National Children's Strategy that relate to poverty and social exclusion.*
4. *Provide decent accommodation for all children and young people.*
5. *Recognise and safeguard the rights of children and young people with disabilities.*

7 Children's Rights Alliance, *Shadow Report to the UN Committee on the Rights of the Child*, 2006.

8 Children's Rights Alliance, *Shadow Report to the UN Committee on the Rights of the Child*, 2006.

6. *Invest in education to reduce early school leaving and break the cycle of poverty.*
7. *Promote and protect the rights of all children and young people experiencing poverty or social exclusion, including children from minority ethnic and racial backgrounds.*⁹

All of these rights are provided for within the CRC but have not been implemented. The State is not meeting its commitments at an international level and the standard of human rights for children is falling far short of what is expected of Ireland.

9 *Children's Rights Alliance, Submission in Relation to the National Action Plan Against Poverty and Social Exclusion (NAPincl) Ireland, 2003–2005.*

PART 4

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

What is ICESCR?

ICESCR lists a set of rights and standards that governments are obliged to work towards. The ICESCR imposes immediate obligations on governments to take steps to bring about the full enjoyment of the rights contained in the ICESCR, particularly the adoption of legislative measures. The rights contained within the ICESCR include the right to work in good conditions, to form and join trade unions, to social security, to an adequate standard of living and to health, education and cultural life.

The ICESCR is the first human rights treaty to require states to reorganise and progressively realise the right to health. It covers rights relating to an adequate standard of living, the highest attainable standards of physical and mental health, social protection,

education and the enjoyment of the benefits of cultural freedom and scientific progress, as well as the right to work in just and favourable conditions.

What is its status in Ireland?

The Irish Government ratified the ICESCR in 1989 and is accountable to the UN Committee on Economic, Social and Cultural Rights (CESCR) on its progress in complying with the provisions of the treaty. It is not legally binding as it has not been incorporated into Irish law. The Irish Government is due to report on progress achieved in implementing ICESCR in June 2007.

Where is Ireland in breach of the Convention?

The CESCR issues general comments on articles of the Covenant from time to time. These comments are aimed at promoting the implementation of the Covenant. The General Comments issued to date include the following:

- No steps have been taken to incorporate or reflect the Covenant in domestic legislation.
- No steps have been taken to adopt a human rights-based approach to the National Anti-Poverty Strategy (NAPS).
- There is an absence of a human rights framework encompassing,



among other things, the principles of non-discrimination and equal access to health facilities and services in the National Health Strategy.

- The Disability Bill does not adopt a human rights-based approach.

The Committee in its last report recommended that the Irish Government:

- incorporate economic, social and cultural rights in the proposed amendment to the Constitution, as well as in other domestic legislation;
- adopt a human rights-based approach to the Disability Bill;
- integrate economic, social and cultural rights into NAPS;
- accelerate its social housing programmes in order to reduce the waiting time for social housing;
- revisit the recently published National Health Strategy with a view to embracing a human-rights framework in that strategy, in line with the principles of non-discrimination and equal access to health facilities and services; and
- The state should continue to involve non-governmental organisations and other members of civil society in the preparation of its third periodic report.

How can the ICESCR be used to support one-parent family issues?

The ICESCR provides strong protection for social and economic rights which could be used to lobby for equality of access to education, and economic and social rights for one-parent families. Article 13 contains a comprehensive right to education. Article 10 gives the widest possible protection for the family and places particular emphasis on supporting the family in its caring role for dependent children. The Committee has made it clear that the family should be understood in its widest sense. It also provides for special protection for mothers pre and post birth.

There are strong protections for physical and mental health contained in Article 12. Article 11 provides for the right to an adequate standard of living. The committee has commented that this right is not merely the right to shelter but rather the right to live somewhere in 'security, peace and dignity'. Article 3 provides that these rights should be enjoyed by men and women equally.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

What is ICERD?

ICERD seeks to eliminate all forms of racial discrimination. It is the main international instrument that deals with issues in relation to racism, racial discrimination, xenophobia and related intolerance.

It defines and condemns racial discrimination and includes a number of key rights such as:

- the right of everyone to equality before the law;
- the entitlement to political and civil rights, for example, freedom of movement, thought, conscience, religion, opinion and expression, peaceful assembly and association;

- the rights to a range of economic, social and cultural rights such as the right to work and favourable conditions of work, the right to housing, to public health, social security and to equal participation in cultural activities; and
- the right to redress when the above rights have been breached.

What is its status in Ireland?

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

What relevant recommendations have been made by the United Nations?

The consideration of the Irish Government's reports on the implementation of ICERD resulted in a number of important concluding



comments by the UN Oversight Committee. These recommendations relate to all individuals, including members of one-parent families. It recommended that:

- ICERD should be incorporated into domestic law;
- the Irish Government should undertake to combat prejudice and xenophobic stereotyping, especially in the media;
- all necessary steps should be undertaken to avoid negative consequences of the direct provision and dispersal system for individual asylum seekers, and measures adopted to promote their full participation in society;
- the scope of the Equal Status Act should be expanded to ensure protection against discrimination by public authorities to cover the whole range of government functions and activities;
- Ireland should ensure full practical implementation of legislation prohibiting discrimination in employment and in the labour market to ensure greater protection for new communities;
- the police should undergo anti-racism training and a monitoring mechanism to investigate allegations of racially motivated police misconduct should be put in place;
- in recognition of the link between racial and religious

discrimination, the establishment of non-denominational or multi-denominational schools should be supported by the State. Also, existing laws should be amended so that no discrimination may take place as far as the admission of pupils (of all religions) in schools is concerned;

- the Irish Government should recognise Travellers as an ethnic group;
- the Irish Government should put in place measures with regard to the special needs of women belonging to minority and other vulnerable groups, in particular, female Travellers, migrants, refugees and asylum seekers;
- the Irish Government should ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families to ensure better protection for migrants and migrant workers; and
- adequate resources should be made available for bodies such as the Irish Human Rights Commission, the Equality Authority and the National Consultative Committee on Racism and Interculturalism, to enable them to exercise the full range of their statutory functions and to support the NGO community.

These recommendations mirror those put forward by the NGO Alliance¹⁰ who produced a shadow report and submitted it to the process. Ireland is due to submit its third and fourth periodic reports jointly, in January 2008.

SUPPORTING ONE-PARENT FAMILY ISSUES

How can ICERD be used to support one-parent family issues?

ICERD focuses on issues of racially based discrimination which can affect all groups in society, including one-parent families. As the numbers of one-parent families from new communities grows there will be an increasing need for them and for organisations that work for and with them to be aware of the rights of such families under this UN Convention.

This Convention can therefore be an important tool in campaigns to improve the rights of new communities living in Ireland.

10 The NGO Alliance consists of over 40 independent NGOs working in Ireland on issues such as anti-racism, community development and human rights. The reports produced by the NGO Alliance are available at www.immigrantcouncil.ie

The European Convention on Human Rights (ECHR)



What is the ECHR?

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

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

What is its status in Ireland?

In 2003, the Irish Government passed the European Convention on Human Rights Act. This Convention is now

enforceable in the Irish courts. This Convention, however, has been incorporated at a level below the Constitution. If there is a conflict between the Convention and the Constitution on any right, for example, the right of the family, the Constitution takes precedence.

The Act puts a duty on the **Organs of the State** to perform their duties in a way that is compatible with the Convention. Organs of the State include health boards and local authorities, for example. Under the 2003 Act, if these bodies fail to perform their functions in a way that is compatible with the Convention, a complainant can go to the courts in Ireland and damages can be sought. The Act also requires the courts to interpret domestic legislation in a manner consistent with the Convention. The courts must therefore pay attention to any relevant judgment or opinion of the European Court of Human Rights when making a decision. The Convention also gives the High Court or the Supreme Court the power to declare any statutory provision to be in breach of the Convention. This does not declare the law in question invalid but it does place an obligation on the Taoiseach to put that law in front of the Oireachtas within 21 days. The Oireachtas does not have to change the law but it is likely that it will.

How can the ECHR be used to support one-parent family issues?

While the Irish Constitution recognises the special position of the family based on marriage, the European Court of Human Rights takes a broad view of the definition of the family. Article 8 of the ECHR can therefore be used to lobby for an inclusive concept of family to be adopted in an Irish context and has already been used successfully.

Article 8: Right to respect for private and family life.

Article 14: These rights and freedoms are to be secured without discrimination on grounds of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The following are some examples of relevant decisions made by the European Court on Human Rights, following a complaint by an Irish litigant:

- The failure to provide legal aid for judicial separation cases was found to be a violation of Article 6 and Article 8 in breach of the Convention. The Civil Legal Aid Scheme was introduced as a result of this case.
- The father of a non-marital child whose mother attempted to place the child for adoption without his consent brought a case to Strasbourg. It was found that there was a breach of Article 8 (right to respect for family life) and Article 6 due to the lack of procedures available to him to claim his rights.

A key step in compliance with the ECHR in Ireland, therefore, is the inclusion of a wider definition of the family within Irish legislation and related government policies and actions. Given the higher levels of poverty and social exclusion experienced by one-parent families the ECHR can be used to lobby for policies that will reduce such inequality.

PART 7

Using the Conventions to Develop Strategies and Arguments

Conventions can be used in a number of ways to lobby for social change.

Conventions as lobbying tools

NGOs can mobilise and support people living in poverty to campaign against breaches of their rights under the conventions and, through this, create the political will to implement the rights contained within them. One-parent family and all anti-poverty organisations can undertake the following actions:

- Become familiar with the articles that affect one-parent families under the conventions and select articles that are most relevant to the issues that you are working on.
- Provide information to members about the conventions.
- Refer to the convention articles in policy documents and submissions

and/or representations to the government and other bodies.

- Identify gaps in the provision of services which will indicate the convention articles that are being breached. For example, a lack of provision of childcare services will breach CEDAW Article 11.
- Document any breaches in policy documents to show how one-parent family's rights are not being upheld in line with the conventions.
- Build a case. Collect accurate data on breaches of the conventions and case studies which can be of use to lobby effectively.
- Find out about the reporting processes under the conventions and prepare shadow reports or contribute to other shadow reports.
- Target local media to generate discussion on the issues concerning one-parent families.
- Undergo training on the conventions, where available.

Lobbying the political system

Elections represent an opportunity to lobby politicians and highlight the gap between what the government promised to deliver at an international level and what it has actually provided at national and local level for one-parent families. The following are some



sample questions that could be used to lobby politicians from government and opposition parties:

- The definition of the family in the Irish Constitution is at odds with the ECHR. What would your party do in government to address this situation?
- CEDAW gives a right to equality of access which includes access to childcare etc. How would your government enforce this right in relation to one-parent families?
- The government has an obligation under the CRC to address child poverty. How would your party in government remove poverty inequalities experienced by children living in one-parent families?
- ICESCR gives an explicit right to family friendly work practices and policies. What is your party planning to do to make these rights effective in relation to one-parent families?

- This Government does not promote a rights-based approach to poverty and social exclusion and this puts it in breach of Ireland’s obligations under the international conventions? What would your party do in government about this?

Using the UN reporting procedure

The UN Oversight Committees examine the Government’s reports in detail and prepare their own report, largely informed by non-governmental organisations. These reports can be extremely useful in highlighting the gap between national and international human rights standards. One-parent family organisations can provide inputs to the UN’s review of any of the conventions in the following ways:

- Find out about the reporting processes under the conventions and make shadow reports or contribute to other shadow reports, for example, Children’s Rights Alliance.
- Collaborate with the government on their report by sending information and informing government officials about the issues on the ground.
- Get involved in preparations for presentations to the UN committee with other groups.

One-parent family and all anti-poverty organisations can also use the Committees’ recommendations to:

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

Using the law to promote rights

The use of the legal aspect of the conventions can be promoted in one or more of the following ways:

- Lobby for legislation to incorporate the conventions into Irish domestic law.
- Encourage lawyers to use the convention in their legal arguments.
- Take cases under the European Convention on Human Rights and the European Convention on Human Rights Act to advance rights for one-parent families.

Conclusion

One Family has worked and lobbied on behalf of one-parent families for nearly 35 years. Many of the issues we've fought for in the past have become basic rights in Ireland, but there is still a long way to go. Life for many one-parent families remains a battle to overcome systemic inequalities, discrimination and poverty. As the numbers and diversity of one-parent families continue to increase, it becomes ever more crucial that we work towards an Ireland in which the rights of all families are protected.

Human rights-based approaches to tackling poverty and social exclusion are increasingly relevant in Ireland today. A human rights-based approach can provide sound and compelling arguments to demonstrate that one-parent families do experience inequalities and discrimination relative to other groups.

Such arguments can be used to lobby for change, much of which can only be achieved in the long term. However, a start can be made now. We hope that this booklet can help you to engage in such lobbying and to create real change for one-parent families. See 'Further Information' on page 30 for

more information and advice on the conventions described here.

can* One Family's Campaigning and Advocacy Network brings together those who want Ireland to be a place in which one-parent families no longer face inequality, poverty or discrimination. The network includes members of one-parent families, those who work with them and those who care about the rights of one-parent families.

Glossary of Human Rights Terms

- **ADOPT (A LAW OR RESOLUTION)** – vote to accept
- **CONTENT OF A RIGHT** – the meaning of a right; what it guarantees
- **CONVENTION** – in this context it means a treaty
- **DECLARATION** – in this context it means a statement by governments that is not legally binding on them
- **DEVELOPMENT** – a comprehensive process involving sustainable improvement in economic, social and political well-being of all individuals and peoples. Development aims for the realisation of all human rights and for the greatest possible freedom and dignity of every human being
- **HUMAN RIGHTS STANDARDS/ NORMS** – requirements in human rights treaties or declarations. Used to assess/measure how well a government's policies and practices comply with human rights
- **JURISPRUDENCE** – case law; rulings by national and/or international courts and treaty bodies
- **JUSTICIABLE** – capable of being brought within the legal framework and invoked as a cause of action before a court
- **LEGALLY-BINDING** – having the force of law
- **PROTOCOL** – in this context, it means a document or treaty related to an existing treaty
- **PROVISION** – an article or clause in a treaty or other legal document
- **RATIFICATION** – formal approval by a state, in this case of a treaty; has greater legal force than a signature
- **RESOLUTION** – formal expression of opinion of a body; not legally binding
- **SIGNATURE** – an expression of will from a state to a treaty; it is a step towards approval; subject to further ratification
- **TREATY** – a written contract between states; legally binding on states that ratify it
- **TREATY BODY** – in this context, a group established to oversee compliance with a treaty

Further Information

National Anti-Poverty Strategy (NAPS):

Combat Poverty Agency:
www.combatpoverty.ie

European Anti-Poverty Network:
www.eapn.org

Office for Social Inclusion:
www.socialinclusion.ie

One Family: www.onefamily.ie

United Nations Convention on the Rights of the Child (CRC):

Children's Rights Alliance:
www.childrensrights.ie

End Child Poverty Coalition:
www.endchildpoverty.ie

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

National Children's Office: www.nco.ie

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

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

UNICEF/ United Nations Children's' Fund:
www.unicef.ie
www.unhchr.ch/html/menu3/b/k2crc.htm

United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR):

Human Rights Education Associates:
www.hrea.org

Office of the High Commissioner for Human Rights:
http://www.unhchr.ch/html/menu3/b/a_cescr.htm

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

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Women's Rights Issues:

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

Equality Now: www.equalitynow.org

Human Rights Watch for Women:
www.hrw.org/women

International UN High Commissioner for Human Rights:
www.unhchr.ch and www.unhchr.ch/html/menu2/6/cedw.htm

International Women's Rights Action Group: www.iwraw-ap.org

Irish Human Rights Commission, CEDAW Submission: www.ihrc.ie

National Women's Council:
www.nwci.ie

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

UN Division for the Advancement of Women: www.un.org/womenwatch/daw

Women's Human Rights Alliance:
www.whra-ireland.org

Women's Human Rights Net:
www.whrnet.org

European Convention on Human Rights (ECHR):

Council of Europe: www.coe.int/

European Union: www.europa.eu.int

Irish Council for Civil Liberties:
www.iccl.ie

United Nations International Convention on the Elimination of All Forms of Racial Discrimination (ICERD):

European Committee on Racism and Intolerance: www.ecri.coe.int

European Monitoring Centre on Racism And Xenophobia: www.eumc.eu.int

European Network Against Racism:
www.enar-eu.org

Irish Human Rights Commission:
www.ihrc.ie

Irish Traveller Movement: www.itmtrav.com

National Consultative Committee on Racism and Interculturalism: www.nccri.ie

Office of the High Commissioner for Human Rights: www.ohchr.org and <http://www.unhchr.ch/html/menu2/6/cerd.htm>

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

Other relevant websites:

Amnesty International: www.amnesty.ie

British Irish Rights Watch: www.birw.org

Citizens Information Database: www.cidb.ie

Comhairle: www.comhairle.ie

Equality Authority: www.equality.ie

Equality Tribunal: www.equalitytribunal.ie

Front Line Defenders of Human Rights Defenders: www.frontlinedefenders.org

Human Right First (Formerly the Lawyer's Committee for Human Rights):
www.lchr.org or
www.humanrightsfirst.org

Human Rights Watch: www.hrw.org

Immigrant Council of Ireland:
www.immigrantcouncil.ie

International Federation for Human Rights:
www.fidh.org

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

The International Human Rights Network:
www.ihrnetwork.org

Key Government websites:

Irish Government: www.irlgov.ie

Department of Education and Science:
www.education.ie

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

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

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

Department of Health and Children:
www.doh.ie

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

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

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

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

'One Family has always understood that the key to systemic and long-term change is to empower people to change the world around them for themselves... This booklet marks an important step towards acknowledging that the structural inequality and disadvantage faced by one-parent families is not merely a problem of circumstance, but a denial of basic human rights.'

Mary Robinson

One Family provides voice, support and action for one-parent families through membership, professional services and campaigning. Our aim is to affect positive change and achieve equality and social inclusion for all one-parent families in Ireland.

can* One Family's Campaigning and Advocacy Network brings together those who want Ireland to be a place in which one-parent families no longer face inequality, poverty or discrimination. The network includes members of one-parent families, those who work with them and those who care about the rights of one-parent families.

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askonefamily – The National Helpline providing information and support to all one-parent families: Lo-Call 1890 66 22 12. Email: support@onefamily.ie

Email training@onefamily.ie or see www.onefamily.ie for information on One Family's Training & Consultancy Service for those working with one-parent families.

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