

National Women's Council of Ireland

SUBMISSION TO THE DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM

In preparation for its 6th Report to the CEDAW Committee

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Introduction

We welcome this important opportunity for women's groups and organisations working on women's equality to feed into the government's 6th report to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee), and to ensure that our concerns are included. CEDAW is of great importance internationally in promoting women's rights and linking with other human rights covenants, particularly those concerning economic, social and cultural rights.

In the CEDAW Committee Concluding Comments and Recommendations July 2005 the Committee expressed the view that the concerns and recommendations identified required Ireland's priority attention by the submission of the next periodic report. Consequently, the Committee called on the government to "focus on those areas in its implementation activities and, in its next periodic report, to report on action taken and results achieved". In addition, the Committee called on the government to "submit the present concluding comments to all relevant ministries and to the Oireachtas so as to ensure their full implementation."

The purpose of the NWCi submission is to draw attention to the recommendations made by the CEDAW Committee in 2005, to make recommendations and to seek information on progress since the Irish government was last examined against these recommendations.

The submission is arranged following the CEDAW Concluding Comments and Recommendations, and the numbering of the Concluding Comments has been followed, under the following headings.

1. Definition of Discrimination
2. Gender stereotyping
3. National Women's Strategy
4. Violence Against Women
5. Trafficking of Women
6. Women and Decision Making
7. Poverty
8. Participation in Employment
9. Reproductive Rights
10. Irish Government reservations re CEDAW
11. Political discussion of CEDAW
12. Migrant Workers
13. Dissemination of CEDAW Concluding Comments
14. Issues not addressed by the Committee in its concluding comments

1. Definition of Discrimination

22. The Committee is concerned at the absence of a detailed **definition of discrimination** covering all areas of life in accordance with article 1 of the Convention, the principle of

equality between women and men, as set forth in article 2 (a) of the Convention and other specificities of the Convention, such as article 5 (a) that requires States to address social and cultural patterns that lead to discrimination and stereotyped roles for women and men and article 14 on rural women.

23. The Committee recommends that the Irish government take appropriate **measures to incorporate all the provisions of the Convention into domestic law** and to ensure that effective remedies are available to women whose rights are violated. It also recommends **inclusion of a definition of discrimination against women in line with article 1 of the Convention**, and the principle of equality of women and men as set forth in article 2 (a) of the Convention in the Constitution or other appropriate legislation. It also recommends **campaigns to raise awareness of the Convention**, including its interpretation by the Committee through its general recommendations aimed, inter alia, at parliamentarians, government officials, the judiciary and the legal profession.

The NWCI recommends the government report:

- includes information outlining its efforts to incorporate all provisions of the Convention into domestic law, which was also recommended by the Irish Human Rights Commission. If there are no plans to do so, can the Government explain the rationale for not making progress on this recommendation?
- includes information demonstrating how it has updated its definition of discrimination against women, and incorporated a definition of substantive equality, to bring it in line with Article 1 of the Convention, for example in the National Women's Strategy. If not, can the Government explain the rationale for not making progress on this recommendation?

2. Gender stereotyping

24. The Committee is concerned at the persistence of traditional stereotypical views of the social roles and responsibilities of women and men in the family and in society at large which are reflected in article 41.2 of the Constitution and its male-oriented language, as recognized by the All-Party Oireachtas Committee on the Constitution, in women's educational choices and employment patterns, and in women's low participation in political and public life.

25. The Committee recommends that the State party take additional **measures to eliminate traditional stereotypical attitudes**, including through sensitization and training of all educational actors and **sustained awareness-raising campaigns directed at both women and men**. It recommends that the All-Party Oireachtas Committee on the Constitution take the Convention fully into account in considering any amendments to article 41.2 of the Constitution as well as including a **provision to underline the obligation of the State to actively pursue the achievement of substantive equality between women and men**. The Committee also suggests that the State party consider

replacing male-oriented language with gender-sensitive language in the Constitution to convey the concept of gender equality more clearly. Considering the important role of the media in regard to cultural change, the Committee furthermore recommends that the State party encourage the media to project a positive image of women and of the equal status and responsibilities of women and men in the private and public spheres.

The NWCI recommends the government report:

- includes information on additional funding made available for programmes aimed at eliminating stereotypical attitudes, and the type of stakeholders that would need to be included, e.g. media, schools / universities, advertisers, and businesses,
- details what action it has taken to address the sexist language in the Irish Constitution. Are there any plans to hold a referendum on this issue?
- details any plans to amend Article 41.2 of the Constitution to include a provision that underlines the obligation of the State to actively pursue the achievement of substantive equality between women and men.

3. National Women's Strategy

26. The Committee is concerned that, in spite of a large variety of measures and programmes envisaged or already in place, including under the Equality for Women Measure, there seems to be no comprehensive strategic view and framework for the achievement of gender equality in all areas of life and with the involvement of all sectors and all social actors.

27. The Committee recommends that an effort be made to **speed up the completion and adoption of the National Women's Strategy** and to **take a comprehensive and integrated approach to women's human rights** under which all current gender inequalities and problems faced by different categories of women, including women of the most **vulnerable groups** in Irish society, may be considered and effectively addressed. The Committee further recommends that the national machinery for gender equality be fully empowered, staffed and funded to effectively pursue coordination and monitoring of the National Women's Strategy, while promoting **gender mainstreaming** into all areas and sectors of governance and maintaining at the same time women-targeted projects aiming at gender equality.

The NWCI welcomes the publication of the National Women's Strategy; the comprehensive data on women's inequality at the current time; and the establishment of a Co-ordinating committee to oversee its implementation.

The NWCI recommends the government report:

- details the expected outcomes of the Strategy,
- provides information on how the most vulnerable groups of women will benefit from the Strategy,
- provides information on the amount of funding it has made available for the National Women's Strategy,
- provides information on how it plans to systematically monitor and regularly evaluate gender inequality in relation to marginalized and vulnerable women, including Traveller women, migrant women, asylum seeking and refugee women, lesbian women and women with disabilities,
- gives consideration to the position of women with disabilities and detail steps to be taken to improve the employment and education levels of women with disabilities,
- includes details of its plans for a National Carers' Strategy which is part of the *Agreed Programme for Government (2007)*, detailing in particular the needs of women as carers,
- clarifies the timescale for actions to address women's health outlined in the National Women's Strategy and how they meet the recommendations of the Committee on Economic, Social and Cultural Rights that states "develop and implement a comprehensive national strategy for promoting women's right to health throughout their life span. Such a strategy should include interventions aimed at the prevention and treatment of diseases affecting women, as well as policies to provide access to a full range of high quality and affordable health care, including sexual and reproductive services." CESCR General Comment 14, para. 21. They specifically highlight the need to remove "barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health." *ibid.*
- includes details of its plans to bring a gendered approach to mental health services, and clarifies the timescale for actions to address women's mental health outlined in the National Women's Strategy
- clarifies the reasons for closing the current Dochas prison for women; provides information on how it will replicate that unique Centre, and all the advances in terms of women's imprisonment it represents; and provides information on its plans to review the position of women within the criminal justice system, particularly the most vulnerable group of women who are suffering poor physical or mental health, or substance abuse, or both, and who constitute the majority of women in prison.

4. Violence Against Women

28. While acknowledging the efforts made to address violence against women, including legislative measures, refuges and rape crisis centres, research and awareness-raising

initiatives, the Committee is concerned about the prevalence of violence against women and girls, low prosecution and conviction rates of perpetrators, high withdrawal rates of complaints and inadequate funding to organizations that provide support services to victims. The Committee is also concerned that insufficient information was provided on the question of sexual harassment as requested in the previous concluding comments (A/54/38/Rev.1). The Committee is furthermore concerned about violence suffered by women from marginalized and vulnerable groups, including Traveller women, migrant women, asylum-seeking and refugee women and women with disabilities.

29. The Committee urges the State party to take all necessary measures to combat violence against women in conformity with the Committee's general recommendation 19 **to prevent violence, punish offenders and provide services for victims**. It recommends that the State party adopt without delay its strategic plan and systematically monitor and regularly evaluate its components, particularly in relation to **marginalized and vulnerable women including Traveller women, migrant women, asylum-seeking women and refugee women and women with disabilities**. The Committee recommends that sustained **training and awareness-raising initiatives be carried out for public officials, the judiciary, health professionals and members of the public**. The Committee also recommends that the State party closely **monitor the incidence of all forms of violence against women, including sexual harassment**.

The NWCI recommends the government report:

- notes the support of the NGOs working in the VAW sector for the establishment of the new Cosc office and its remit to include all forms of gender based violence against women,
- confirms that its definition of violence is in accordance with the definition in Article 1 in the UN Declaration of Violence Against Women,
- provides information on what it has done to address front line services funding crisis,
- provides information on its monitoring of all forms of violence against women, including prostitution and trafficking, pornography and sexual harassment, in addition to domestic violence, rape and sexual assault,
- provides information on the measures being taken to punish offenders and address among the lowest prosecution and highest attrition rates in Europe,
- provides information on training and awareness initiatives it has carried out for public officials, the judiciary, health professionals as well as for members of the public,
- provides information on when the Gardai will have the power of arrest in relation to the sex offenders register and when the probation service will have the ability to sanction offenders who break supervision orders,

- provides information on what has been done to link in with other jurisdictions regarding vetting and the sex offenders register,
- provides information on what it has done re VAW and migrant women, for example what has the government done to measures in immigration laws to protect migrant women experiencing DV (in the upcoming immigration bill) and measure to ensure they can access services (e.g. provision on interpreter costs),
- provides information on plans to develop interagency links and referral protocols, centrally and locally, between mental health (and other health) services and services that provide specialised expert counselling and support for women who experience violence, given the known impact of violence against women on their mental health,
- explains why the National Pension Reserve Fund has invested €500,000,000 in companies that produce weapons of mass destruction, whereby women who will draw public service pensions, and women who will be in receipt of social welfare payments, after the year 2025, will inevitably become dependent upon warfare for their income.

5. Trafficking of Women

30. The Committee is concerned about trafficking in women and girls into Ireland, the lack of information on the extent of the problem and on specific legislation in this area, and the lack of a comprehensive strategy to combat it.

31. The Committee recommends **the adoption and implementation of a comprehensive strategy to combat trafficking in women and girls**, which should include preventive measures, the prosecution and punishment of offenders and the enactment of specific legislation in the area. The Committee also recommends that measures be put in place to **provide for the physical, psychological and social recovery of women and girls who have been victims of trafficking, including the provision of shelter, counselling and medical care**. It further recommends that border police and law enforcement officials be provided with the requisite skills to **recognize and provide support for victims of trafficking**. The Committee requests the State party to provide in its next report comprehensive information and data on trafficking in women and girls and on the measures taken to combat the phenomenon.

The NWCI welcomes the range of actions that the government has taken to make progress in this area including:

- the signing of the Council of Europe Convention on Action against Trafficking in Human Beings,

- the publishing of the Criminal Justice Bill, incorporating the definition of Human Trafficking into the Irish Law and the introduction of significant penalties for convicted traffickers,
- providing for the anonymity of victims of trafficking involved in proceedings through the proposed Criminal Justice Bill, and
- exceeding international requirements by removing the relevance of consent in cases involving the exploitation of people with an intellectual disability or mental illness, and

The NWCI recommends the government report:

- provides information on what measures it has put in place to provide for the physical, psychological and social recovery of women and girls who have been victims of trafficking, including the provision of shelter, counselling and medical care,
- provides clarification of the powers and resources available to the specialised anti-trafficking unit within Crime Division of an Garda Síochána to combat the trafficking of women and girls for sexual exploitation,
- provides information on how it is addressing the issue of “consent” of exploited victims in such a way that the “consent” would not create a barrier to convict established perpetrators,
- provides information on when it will bring about the complete transposition of the Council of Europe Convention through the provision of protection and support for Victims of Trafficking in the upcoming Immigration, Residence and Protection Bill and in other legislative reforms,
- provides information on how it will ensure that the support for victims of trafficking does not depend on the consent to cooperate with the authorities in the first instance,
- provides information on its mechanisms for the appropriate funding for NGOs providing support to victims of trafficking,
- provides information on authorizing state funded establishments, such as Women refuges, Health centres etc. to extend existing support and to formally incorporate provision of support to victims of trafficking,
- provides information on its plans to establish an identification procedure for victims of trafficking with a clear set of criteria based on best international practices,
- provides information on its plans to secure the involvement of the NGOs supporting victims of trafficking in the identification process in line with best international practices,

- provides information on its plans to improve the knowledge of the nature and scale of human trafficking into Ireland by identifying gaps and developing targeted research strategies, with a central point for the collation of data and information on trafficking.

6. Women and Decision Making

32. While acknowledging that the President, the Deputy Prime Minister and three members of the Cabinet are women, and that women occupy other visible decision-making positions, including three Supreme Court judges, the President of the District Court, the President of the Law Reform Commission and the Ombudsman, the Committee is concerned at the significant underrepresentation of women in elected political structures, particularly in the Oireachtas. The Committee is further concerned at the low representation of women in the civil service and in the Department of Foreign Affairs at the higher grades.

33. The Committee encourages the State party to take **sustained measures to increase the representation of women in elected bodies**, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25 on temporary special measures. It recommends that **research be carried out under the aegis of a parliamentary committee into the root causes of the lack of progress in this area.**

The NWCI recommends the government report:

- provides statistics on: (1) the number of women who stood for each political party in the last General Election for Dáil Eireann; (2) the number of women who were elected; and (3) the number of women who are part of the Cabinet,
- provides similar information on Seanad Éireann,
- provides similar details on women elected to local county councils,
- outlines what measures it has launched to increase political participation of women, including special temporary measures
- provides details on how it has progressed the recommendation of the CEDAW Committee that research, preferably by a parliamentary committee should look at the root causes of lack of progress in this area,
- provides information on an overall evaluation of the impact of temporary special measures such as the 'Equality for Women' Measure.
- outlines its plans for the publication of an Action Plan to implement UN Resolution 1325 Women, Peace and Security; as well as its plans a) to promote women's awareness of this crucial UN Resolution on the area of conflict

resolution, and b) to consult with civil society organisations across the island of Ireland in implementing the recommendations of Resolution 1325.

7. Poverty

34. While recognizing that the second National Action Plan against Poverty and Social Exclusion and the National Anti-Poverty Strategy provide for an integrated focus of addressing the needs of specific groups, including women, the Committee is concerned at the situation of vulnerable groups of women who are considered to be at high risk of consistent poverty and social exclusion, including rural women, older women, Traveller women, women who are single parents and women with disabilities. The Committee is particularly concerned at the barriers faced by those vulnerable groups in relation to access to education, employment, health care and other social services.

35. The Committee recommends that the State party closely **monitor the situation of poverty and social exclusion of women in the most vulnerable groups and implement effective measures and training programmes that will allow them fully to enjoy the benefits of the State party's prosperity.** The Committee also recommends that a **gender impact analysis of all social and economic policies and anti-poverty measures** be conducted regularly. It further recommends that the State party consider allowing for the **Homemaker's Scheme (1994) to be applied retroactively so as to benefit older women.**

The NWCI recommends the government report:

- provides information on the situation of women and poverty,
- gives details of measures and training programmes that are in place to target women and poverty,
- provides information on its gender impact analysis of all social and economic policies and anti-poverty measures, particularly those funded by the Irish Exchequer
- provides information on what consideration has been given to allowing for the Homemaker's Scheme (1994) to be applied retroactively so as to benefit older women; and for applying the Scheme retrospectively.

8. Participation in Employment

36. While acknowledging the initiatives taken by the State party to foster women's participation in employment, including the Equal Opportunities Childcare Programme, 2000-2006, the Committee is concerned that women remain disadvantaged in the labour market. It is particularly concerned that they are concentrated in part-time and low-paid work and that the pay gap between women and men, although recently reduced, is still

significant. The Committee is further concerned about the precarious situation of migrant domestic workers, the vast majority of whom are women, who are excluded from the protection against discrimination extended to employees under the Equality Act, 2004.

37. The Committee recommends that further **measures allowing for the reconciliation of family and professional responsibilities be adopted and implemented**, including the provision of **affordable childcare**, and that the **equal sharing of domestic and family tasks between women and men be promoted**. It also recommends that the State party adopt policies and concrete measures to accelerate the **eradication of pay discrimination** against women and to work towards ensuring de facto equal opportunities for women and men in the labour market. The Committee calls on the State party to ensure that women **domestic workers, including migrant women, are duly protected against discrimination**.

The NWCI recommends the government report:

- provides information in its report on the additional measures it has launched allowing for the reconciliation of family and professional responsibilities, including the provision of affordable childcare,
- details how the government has made childcare more affordable since the concluding comments were received,
- provides information on measures it has taken to promote equal sharing of domestic and family tasks between women and men,
- details any concrete measures it has launched to accelerate the eradication of pay discrimination against women,
- details any special measures or programmes it has launched to protect domestic workers, including migrant women.

9. Reproductive Rights

38. While acknowledging positive developments in the implementation of article 12 of the Convention, in particular the Strategy to Address the Issue of Crisis Pregnancy (2003) that addresses information, education and advice on contraceptive services, the Committee reiterates its concern about the consequences of the very restrictive abortion laws under which abortion is prohibited except where it is established as a matter of probability that there is a real and substantial risk to the life of the mother that can be averted only by the termination of her pregnancy.

39. The Committee urges the State party to continue to **facilitate a national dialogue on women's right to reproductive health**, including on the very **restrictive abortion laws**. It also urges the State party to further strengthen family planning services, ensuring their availability to all women and men, young adults and teenagers.

The NWCI recommends the government report:

- details how it has facilitated a national dialogue on women's right to reproductive healthcare, in particular on Ireland's abortion laws, and if not, provides a rationale to the CEDAW Committee on why it has not responded to this recommendation,
- includes information relating to the recent Miss D case and its final outcome.

10. Irish Government reservations re CEDAW

40. While welcoming the fact that reservations to articles 11 (1) and 13 (a) and articles 16.1 (d) and (f) are being kept under regular review, the Committee notes that they remain.

41. The Committee calls upon the State party to study carefully the nature and thrust of the remaining reservations within the context of article 23 of the Convention on the Elimination of All Forms of Discrimination against Women and the Vienna Convention on the Law of Treaties with the aim of withdrawing them as soon as possible.

The NWCI recommends the government report:

- withdraws remaining reservations within the context of article 23 of the CEDAW and the Vienna Convention on the Law of Treaties

11. Political discussion of CEDAW

42. The Committee requests the State party to ensure the wide participation of all Departments and public bodies in, and to consult with non-governmental organizations during the preparation of its next report. It encourages the State party to **involve the Oireachtas in a discussion of the report before its submission to the Committee.**

The NWCI recommends the government report:

- provides information on what it has done to pursue these recommendations
- confirms that its next report will be scheduled for discussion in both Houses of the Oireachtas

12. Migrant Workers

45. The Committee notes that States' adherence to the seven major international human rights instruments [1] enhances the enjoyment by women of their human rights and

fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Ireland to consider ratifying the treaty to which it is not yet a party, that is, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The NWCI recommends the government report:

- provides information on what efforts have been made to ratify this Convention, or provides a rationale for not signing and ratifying

13. Dissemination of CEDAW Concluding Comments

46. The Committee requests the wide dissemination in Ireland of the present concluding comments in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

The NWCI recommends the government report:

- provides details of any training programmes provided on CEDAW for different organs of the State (the Attorney General's Office, Government Departments, State and Semi-State agencies)
- provides details of funding it has made available for public education on CEDAW and its Concluding Comments

14. Issues not addressed by the Committee in its concluding comments

CEDAW and Ireland's Overseas Development Programme

CEDAW is not limited in its application to measures having effect within the state: Ireland has a responsibility through its aid programme to support governments and civil society organisations that are working for the implementation of the Convention in the countries where Irish Aid operates.

Gender equality is one of four crosscutting issues identified in the White Paper on Irish Aid to be mainstreamed across the development programmes of Irish Aid.

The NWCi calls on the government in its sixth report to the CEDAW Committee to report on progress with regard to:

- the key decision in the White Paper on Irish Aid to increase our support for gender equality measures.
- details of Irish Aid's role in combating gender based violence and in particular the Irish government's plans for the publication of an Action Plan to implement UN Resolution 1325 Women, Peace and Security.
- details of ODA spending and Irish Aid staffing levels in relation to programmes aimed at women's empowerment and gender equality policies and programmes.
- details of mechanisms and procedures currently in place and those planned to ensure that gender equality commitments under international law and policy are delivered on.