

Committee on Economic, Social and Cultural Rights

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Item 6 of the provisional agenda

**Replies by the Government of Ireland to the
list of issues(E/C.12/Q/IRE/2) taken up in connection with the consideration of the Second
periodic report of IRELAND concerning the rights referred to in articles 1-15 of the
International Covenant on Economic, Social and Political Rights (E/1990/6/Add.29)**

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I. GENERAL INFORMATION

1. Please provide up to date information on the status of implementation of the Good Friday agreement.

Since its achievement on 10 April 1998, the Government has worked intensively with the British Government and the political parties in Northern Ireland to secure full implementation of the Good Friday Agreement. Considerable progress, across the full range of issues, has been achieved.

On 2 December 1999, the British-Irish Agreement (the international agreement in which the Government pledged itself to give full effect to the Good Friday Agreement) entered into force, and the amendments to the Constitution, endorsed by the people in the referendums of 22 May 1998, took effect. On the same date, political institutions established under the Agreement - an Assembly and Executive in Northern Ireland, a North/South Ministerial Council, a British-Irish Council and a British-Irish Intergovernmental Conference - came into being.

In keeping with its commitments under the Agreement, on 7 May 1999, the Government ratified the Council of Europe Framework Convention for the Protection of National Minorities. In May 2000, the Human Rights Commission Act, providing for an independent Human Rights Commission (which, in keeping with its mandate under the Agreement and with the Paris Principles, works towards the promotion, protection and development of human rights, including in a Joint Committee with the Northern Ireland Human Rights Commission) was signed into law. On 25 July 2001, the Minister for Justice, Equality and Law Reform signed an Order formally establishing the Commission. On 8 November 2001, the first meeting of the Joint Committee took place.

In June 2001, legislation was introduced in the Dáil which will give effect to the provisions of the European Convention on Human Rights in Irish law. The Government

has also enacted enhanced Employment Equality and Equal Status legislation.

The Government is demonstrating its continuing respect for the different traditions in the island of Ireland, including through development of the site of the Battle of the Boyne and through contributing to the Messines memorial to commemorate the Irish soldiers who died in World War One. It has also increased by eightfold funding available through its Reconciliation Fund.

General legal framework within which human rights are protected

- 2. When does the State party intend to repeal its reservations on articles 2(2) and 13(2)a of the Covenant, concerning non-discrimination and free and compulsory primary education respectively?**

Article 2, paragraph 2

In the context of Government policy to foster, promote and encourage the use of the Irish language by all appropriate means, Ireland reserves the right to require, or give favourable consideration to, a knowledge of the Irish language for certain occupations.

Article 13, paragraph 2(a)

The Constitution of Ireland guarantees that the State will provide for the free primary education of every child in the State. The Constitution also guarantees the right of parents to choose the form of primary education their children receive. This may include education at home; accordingly attendance at a recognised school cannot be compulsory.

The Constitution and the Education Welfare Act, 2000 require that the State ensure that all children receive a certain minimum education, though without prescribing the form of that education. The State cannot compel parents to send their children to a school but it can and does oblige them to ensure an education for their children between the ages of 6 and 15. From July 2002, the age will be raised to 16 (other than in the case of a child who has not completed 3 years of post-primary education; in that case the age is 18).

- 3. Please indicate whether the new Human Rights Commission’s mandate extends to economic, social and cultural rights. If so, what priority does it attach to economic, social and cultural rights in its programme of work? Please give some examples of how it endeavours to fulfil its economic, social and cultural rights mandate. What mechanisms are in place to ensure the independence of the Commission? (Para 303)**

The human rights mandate of the Human Rights Commission is established by Section 2 of the Human Rights Commission Act 2000 which defines human rights as “the rights, liberties and freedoms conferred on, or guaranteed to, persons by any agreement, treaty or convention to which the State is party”. Since Ireland is party to the International Covenant on Economic, Social and Cultural Rights, these rights are included in the Commission’s broad mandate.

Under the establishing legislation, and in accordance with the Paris Principles, the Human Rights Commission is a statutorily constituted independent body. Mindful of this independence, which extends to all Commission matters, both policy and administrative, the only statutory reporting obligation on the Commission to the Minister for Justice, Equality and Law Reform is the preparation of an annual report on its activities in the preceding year. The Commission is also separately statutorily obliged to report to a Parliamentary Committee on general administrative matters and on the disbursement of its funds. Given the nature of these reporting relationships, it will be appreciated that it is not possible for the Minister for Justice, Equality and Law Reform to comment on the Commission’s current prioritisation of any particular rights, including economic, social and cultural rights, or the manner in which it implements such priorities.

It should also be noted that under the establishing legislation, the Human Rights Commission may also consult with such national and international bodies or agencies having a knowledge or expertise in the field of human rights as it sees fit. The Commission may, if it considers it appropriate to do so, make contact with any international body operating in the human rights area.

4. Please provide information on the measures taken by the State party to inform the public at large, and civil servants, in particular judges, lawyers, administrators, and those associated with economic policies, of the provisions of the Covenant. Please give examples of when the Covenant has been relied upon in court.

The first and second national reports were circulated to all public bodies, a wide range schools and universities, libraries and NGOs. The reports include the text of the Covenant. Information on the reports is also available through links with the website of the Human Rights Unit of the Department of Foreign Affairs. The Committee's concluding observations on the initial report were circulated to all Government Departments and other public bodies.

Public officials are made familiar with the provisions of the Covenant and its Optional Protocol in meetings of the Standing (Governmental) Interdepartmental Committee on Human Rights which considers issues arising out of Ireland's obligations under those instruments. At the second annual Department of Foreign Affairs/NGO Forum on Human Rights held in Dublin on 26 June, 1999, shortly after the examination of the first report, a panel session was devoted to the operations of the UN Treaty-Monitoring Bodies and the role of NGOs and public officials in facilitating the implementation of their mandates. The UN International Service for Human Rights participated in the panel session which was attended by more than 100 NGO representatives, government officials and members of other statutory bodies

It is a function of the recently established Human Rights Commission to "promote understanding and awareness of the importance of human rights in the State and, for those purposes to undertake, sponsor or commission, or provide financial or other assistance for, research and educational activities" (section 8(e) Human Rights Commission Act, 2000). "Human Rights" are defined in section 2 of the Human Rights Commission Act, 2000 to include "the rights, liberties or freedoms conferred on, or guaranteed to, persons by any agreement, treaty or convention to which the State is a party" and thus includes

any rights conferred under the International Covenant on Economic, Social and Cultural Rights.

II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)

Article 2.1: Progressive realisation of the rights enshrined in the Covenant

- 5. Does the State party intend to increase its international co-operation assistance to 0.45 per cent of its GNP by 2001? Given the UN target is 0.7 per cent of GNP, what is Ireland's target for international co-operation assistance after 2002?**

The Government decided in September 2000 to move progressively to the UN target for overseas development of 0.7% of GNP. The intention is that this target will be met by 2007 and that an interim target of 0.45% of GNP will be achieved by the end of 2002. Following this decision, agreement was reached between the Ministers for Finance and Foreign Affairs on a 3-year allocation for the period 2001-2003. The amounts agreed were as follows:

Table 1: Allocations of overseas development aid

Year	Total Allocation €m	Increase on previous year €m
2001	238.7	66.0
2002	372.0	133.3
2003	440.6	30.5

6. When Ireland is acting within an international organisation, and the matter in hand bears upon the Covenant, do Ireland's representatives take into account Ireland's obligations under the Covenant, such as those arising from the international co-operation provisions?

In general when Ireland is acting within an international organisation, and the matter in hand bears upon the Covenant, steps are taken individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant. For example when Ireland Aid provides funding to the UN to programmes (e.g. HURIST Programme in UNDP) which aim to integrate the rights based approach to development.

Article 2.2: Non-discrimination

- 7. The Employment Equality Bill was enacted in 1999 (par. 59). What is the State party's assessment of its impact and has it generated any significant case law?**

Background

The Employment Equality Act, 1998 came into operation on 18 October 1999. It outlaws discrimination in relation to employment on nine distinct grounds, namely: gender, marital status, family status, age, religion, race, disability, sexual orientation and membership of the Traveller Community. The scope of the Act is comprehensive and deals with all areas relevant to employment including access to employment, remuneration, conditions of employment, promotion and vocational training. It also applies to certain vocational bodies namely organisations of workers or employers and organisations which control entry to or the carrying on of a profession, vocation or occupation. The Act defines sexual harassment for the first time in Irish law and prohibits both sexual harassment and harassment on the nine grounds covered by the Act in the workplace, or in the course of employment, whether by an employer, another employee or by clients, customers or business contacts of the employer.

The Act provides for the establishment of the Equality Authority whose brief is to combat discrimination and promote equal opportunity in relation to the provisions of the Act. The Act also provides for the establishment of the Office of the Director of Equality Investigations, which is the main locus of redress of first instance in equality cases. Complaints under the equality legislation (except dismissal cases) may be referred to the Director for investigation or mediation. Either party may appeal a decision to the Labour Court, and a case may be referred to the High Court on a point of law. Dismissal cases are referred to the Labour Court in the first instance. In addition, gender cases may be referred directly to the Circuit Court.

Impact of the 1998 Act

There has been relatively little case law issued under the 1998 Act to date, making it difficult to assess the impact of the Act in the first two years of its operation. At the same time, there has been some significant case law on the “new” grounds (other than gender and marital status). 322 cases have been referred to the Director of Equality Investigations up to end August 2001. The most frequently cited “new” grounds are race, age and disability. 48% of cases referred are in relation to the “new” grounds.

The Director has published 11 decisions under the Employment Equality Act, 1998 to date (8 November 2001). One of these cases (*Martinez*) was brought partly under the 1998 Act on the grounds of disability and race. Of the 10 other decisions, two refer to the age ground (*Ryanair* and *Perry*) and one to the disability ground (*Gorry*). One case (*Geasley*) was partly referred on the family status ground. There are no decisions as yet regarding the sexual orientation or religion grounds, which have attracted relatively few complaints.

The 1998 Act’s provisions for voluntary mediation leading to a legally-binding but confidential agreement have also had impact. This service has only recently become available in the Director’s Office due to the need to train staff, but a number of mediation agreements have now been concluded.

There have been five decisions issued by the Labour Court under the 1998 Act up to 25 September 2001. The decisions cover discriminatory dismissal in relation to gender, age, sexual orientation, disability and marital status.

Significant case law to date

Age ground: The *Ryanair* case held a job advertisement to be discriminatory on the age ground where it sought “young and dynamic” applicants. The *Perry* case found that aspects of a voluntary early retirement scheme discriminated on grounds of age because their design incentivised retirement most strongly for employees aged under 60. However, as the Act requires that such schemes already in existence need not be brought

to an end until 18 October 2002, the equality officer could not find that the employer had discriminated in this case. However, the provisions of the scheme would have to be brought into line with the requirements of the Act after this date.

Victimisation: Two decisions under the Act (*McCarthy, Kennedy*) relate to victimisation for having previously taken a claim in good faith under equality legislation. In *McCarthy* for example, the claimant had succeeded in an earlier claim against her employer of discriminatory treatment (under the 1977 Employment Equality Act), both before an Equality Officer and on appeal. The Equality Officer found that she was subsequently ignored and marginalised by her manager over a three year period. The employer published in its in-house magazine a report that it, rather than the claimant, had won her case, and refused to publish any correction. The claimant was then threatened with disciplinary measures following an internal investigation which the Equality Officer judged to have been unfair and inconsistent with natural justice.

Traveller Community ground: The decision on the Traveller Community ground found that a young Traveller woman was discriminated against when she was not offered further employment following a trial day working as a cleaner in a hotel.

Redress: The levels of compensation awarded so far under the 1998 Act, while within the statutory limits, are on average considerably increased from those prevailing under previous legislation. They range from €1,900 for discriminatory questioning at interview to €25,000 for prolonged victimisation.

Summary: The decisions to date also illustrate that extensive use is being made of the new and flexible powers under the Act to make a range of appropriate orders, other than the obvious ones for compensation, equal pay or equal treatment. Respondents have been ordered so far, for example, to draw up equal opportunities policies in conjunction with the Equality Authority, to circulate the policy to all staff and affix it prominently in their premises, to train their staff in equality issues, publish advertisements confirming their commitment to equal opportunities, to equality-proof their recruitment practices, and to retain interview notes in future.

All decisions issued by the Director of Equality Investigations are published on the Director's Office website at www.odei.ie.

8. Please provide information on the measures taken, if any to address the concern expressed in para. 11 of the Committee's previous concluding observations.

At para. 11 of the Committee's previous concluding observations, the Committee noted "with regret that article 40.1 of the Constitution contains provision which appear to be inconsistent with the principle of non-discrimination as set out in articles 2 and 3 of the Covenant." Article 40.1 reads as follows:

40.1 All citizens shall, as human persons, be held equal before the law.

This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

The Report of the Constitution Review Group (1996) recommended that this be amended along the following lines (Appendix 1):

40.1.1 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.

40.1.2 No person shall be unfairly discriminated against, directly or indirectly, on any ground such as sex, race, age, disability, sexual orientation, colour, language, culture, religion, political or other opinion, national, social or ethnic origin, membership of the travelling community, property, birth or other status.

An All-Party Oireachtas Committee was established in October 1997 with terms of reference which include establishing the areas where Constitutional change may be desirable or necessary and having regard to a number of matters including the Report of the Constitution Review Group. Up to mid-November 2001, the All Party Committee on

the Constitution had drawn up and submitted to the Taoiseach five reports in relation to recommended Constitutional amendments. In these five reports, the Committee has recommended 55 items for Constitutional amendment, of which 16 are of a minor nature. Certain of the five Reports have been referred to relevant Government Departments for examination, while other of the All-Party Committee's recommendations have been acted upon, for example, those in relation to the Referendum Commission, local government and the abolition of the death penalty. In the latter case, the amendment concerned the removal of remaining references in the Constitution to the death penalty and the necessary referendum was passed by the People in June 2001.

9. Has the Equal Status Bill now been enacted (paras. 307 - 308 and 324)?

Background

The Equal Status Act, 2000, which was initiated by the Minister for Justice, Equality and Law Reform in 1999 and enacted in April 2000, was brought into full operation from 25 October 2000. This Act gives protection against discrimination in non-workplace areas and thus complements the Employment Equality Act, 1998. The Act prohibits direct and indirect discrimination on the grounds of gender, marital status, family status, sexual orientation, religion, age, disability, race, colour, nationality, national or ethnic origin and membership of the Traveller community. "Victimisation" - where an individual is treated less favourably as a result of having participated in processes under the legislation - is also prohibited by the measure.

General scope of Equal Status Act, 2000

The Act covers all goods and services which are available to the public, whether on payment or not and irrespective of whether provided by the public sector or private sector. "Services" are defined broadly to include access to public places, banking and insurance services, entertainment, travel, transport, professional services, education, disposal of premises and provision of accommodation and private registered clubs. The provisions of the Act are subject to some exemptions.

Roles of the Equality Authority and of Director of Equality Investigations

Under the equality legislation, there are two independent bodies with statutory roles:

- The *Equality Authority*, which has the roles of promoting equality and working towards the elimination of discrimination, provides information and advice to any person who feels that he/she has been discriminated against on any one or other of the nine specified grounds, whether in an employment or non-employment area.
- Where a complaint of discrimination is made, the *Office of the Director of Equality Investigations* is the independent statutory office which has the task of investigating and deciding on complaints of unlawful discrimination. Under the Act, it is also open to the Director to refer a complaint for mediation, if both parties agree.

From the commencement date of the Equal Status Act, both bodies had their remits broadened to include equal status matters.

Summary information on anti-discrimination cases under the Equal Status Act

The number of claims registered with the Office of the Director from its inception on 25th October 2000 until 21st November 2001 is 739. The most common grounds cited by complaints so far are membership of the Traveller community (76% of all claims to date) and to a much lesser extent age and disability.

As regards complaints of discrimination based on the Traveller ground, the sectors concerned are primarily access to public houses and hotels but also access to service providers, to shops and a small number concerning access to education. The disability-based complaints are spread fairly evenly across access to service providers, to pubs, hotels or other public buildings, and to education. The age-based complaints relate primarily to access to pubs and hotels or to the provision of motor insurance.

Detailed information about the activities of the two equality institutions in promoting equality and redressing discrimination, as well as statistical information on the number of cases brought by individuals alleging discrimination, is contained in the Annual Reports of the Equality Authority and of the Office of the Director of Equality Investigations.

10. When does Ireland expect to ratify the International Convention on the Elimination of All Forms of Racial Discrimination (paras. 306 - 308)?

Ireland's Instrument of Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination was deposited with the United Nations on 29 December 2000. The Convention entered into force for the State on 28 January 2001.

Ireland signed the Convention in 1968 but was not in a position to ratify until its domestic law was in conformity with the requirements of the Convention. The terms of the Convention require the State parties to have in place at domestic level an effective means of redress for those who may experience racial discrimination.

With the coming into operation of the Employment Equality Act, 1998 on 18 October 1999 and of the Equal Status Act, 2000 on 25 October 2000, Ireland had put in place a comprehensive anti-discrimination legal code and equality institutions in the form of the Equality Authority and the Office of the Director of Equality Investigations. The Office of the Director of Equality Investigations is the first forum for redress under the Acts for individuals who have experienced racial discrimination.

On ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, Ireland opted to accept the right, conferred under Article 14 of the Convention, of individuals or groups of individuals who have exhausted all available domestic remedies to petition the UN Committee about any violation by Ireland of rights set forth in the Convention. Ireland will be expected to submit its initial National Report to the UN Committee by early 2002, detailing the legislative, judicial, administrative or other measures which it has adopted to give effect to the provisions of the Convention.

11. Please provide statistical information on asylum seekers and refugees in the State party, disaggregated by age and sex. Please indicate what measures the State party has adopted to raise public awareness about multiculturalism and tolerance.

In accordance with its international obligations as a signatory to the 1951 United Nations Convention relating to the Status of Refugees, Ireland maintains an asylum process which is both fair and transparent and which is geared towards providing protection to those in genuine need of such protection as quickly as possible.

All applications for refugee status are decided strictly in accordance with the Refugee Act, 1996 (as amended). The processing of applications is by an independent adjudication and independent appeals system, namely, the Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal. The scope of the Refugee Act is wide-ranging, dealing in a comprehensive manner with first instance decisions, appeals, right to legal representation, right to interpretation and providing specifically for a direct contribution to be made by the UNHCR to the determination process.

Considerable resources are expended annually to ensure that Ireland's procedures are in line with the best international practice and the highest standards and the application of these procedures have been affirmed by the Courts on several occasions. Additional resources are being provided to the various parts of the asylum process with a view to speeding up processing times and strengthening the Refugee Legal Service which provides legal advice to asylum seekers at all stages in the process.

In 2000, refugee status was granted in 7% of cases where decisions were taken (3.1% at first instance and 19% at appeal stage). The total recognition rate was 16%; includes those granted refugee status and leave to remain on humanitarian grounds on the basis of an Irish-born child or on the basis of marriage to an Irish or EEA citizen.

The Government established in February 2001 an independent agency called the Reception and Integration Agency, under the aegis of the Department of Justice, Equality and Law Reform. This Agency has responsibility for planning and co-ordinating the provision of services to both asylum seekers and refugees. Pending the enactment of legislation, the Agency is operating on a non-statutory basis with an interim board.

As regards the Committee's request for statistical information, the annual numbers of

applications for declaration as a refugee since 1998, together with age and gender breakdowns of outstanding applications (as at 31 October 2001), are given in the following tables:

Table 2: Number of applications for declaration as a refugee

Year	Number of applications
1998	4,626
1999	7,724
2000	10,938
2001 (to 31 October)	8,461

Table 3: Breakdown of outstanding cases by gender

Year of application	Totals outstanding as at 31 October 2001	Male	Female	*n/a
1998	21	15	6	
1999	436	272	148	16
2000	2,410	1,515	884	11
2001 (to 31 October)	6,470	3,560	2,910	

Table 4: Age Profile of Outstanding Cases As Per Date Of Application

Year of application	17 and under	18-25	26-35	36-45	46-55	56-65	Over 65	*n/a	Totals
1998	6	4	8	2	1				21
1999	103	94	160	49	7	2		21	436
2000	753	523	801	257	31	3		42	2410
2001 (to 31 October)	1,785	1546	2388	601	100	8	2	41	6471
Totals	2647	2167	3357	909	139	13	2	104	9338

* n/a - information not available

As regards the processing of applications by the Office of the Refugee Applications Commissioner (ORAC), it is expected, by end-2001, that all outstanding cases from 1998 to the end of 2000 will have been scheduled for interview with the overwhelming majority processed to finality. Thus, from end-2001, the ORAC will effectively be focussing mainly on applications submitted in 2001. In relation to appeals, the Refugee Appeals Tribunal

expects to complete 3,600 appeals in 2001.

The Government's strategy is starting to make a real impact on the backlog of cases on hands and is helping to reduce progressively processing times on an incremental basis. It is expected that the processing arrangements which are in place will lead to the achievement, at an early date, of the Government's declared aim of a six months processing target for applications for asylum.

As regards the Committee's query concerning the State's approach on multi-culturalism and tolerance, the position is that, in October 2000, the Government agreed to implement a public awareness programme to address racism and to promote a more inclusive, intercultural society. A core budget of €5.7 million was allocated to the programme over a three-year period. In February 2001, a High Level Steering Group, with an independent chairperson, was established to implement the programme in partnership with the Department of Justice, Equality and Law Reform. The 21 member Steering Group is broad-based and includes representatives of ethnic minority communities, the four social partners, national bodies such as the Equality Authority and the National Consultative Committee on Racism and Interculturalism, relevant Government Departments and the Garda Síochána.

On 24 October 2001, the National Anti-Racism Awareness Programme was officially launched by the Taoiseach. The approach of the Programme is based on partnership and seeking to develop initiatives that have the potential to have a real and sustainable impact. The Programme consists of actions and initiatives in the area of media and communications, education, community and local development, the statutory sector, political parties and other elements, such as the workplace, policing, sport and the role of religious organisations.

The key messages of the Programme are:

- Ireland is increasingly a multicultural society. This is a strength.
- Racism is a denial of human rights.

- Minority ethnic groups are a positive and integral part of Irish society.
- Racism is a specific form of discrimination.
- Racism is against the law.
- Inward migration to Ireland is not the cause of racism.
- We all have a responsibility to tackle racism.
- Irish people have been victims of racism themselves.
- Celebrating Difference - We should be open to the benefits of cultural diversity.

Initiatives already underway as part of the Programme are:

- Two grant schemes to assist community groups (including minority ethnic groups) other NGOs in anti-racism initiatives. Under the first scheme, a total amount of €254,000 was paid out in October 2001 to 134 groups and organisations for a range of diverse projects ranging from multicultural events to policy-informing and research work. Payment of grants under the second scheme is expected to take place in December 2001.
- A major partnership initiative of participation in the Anti-Racist Workplace Week held from 5 to 9 November 2001. The Week was organised by the Equality Authority in partnership with the Irish Business and Employers Confederation, the Irish Congress of Trade Unions and the Construction Industry Federation. Funding of €190,000 was provided under the Awareness Programme for two national advertising campaigns to accompany the Workplace Week.
- The gathering together and reviewing of existing research into attitudes and opinions of people in Ireland on racism and minority groups. The results of this review were published in September 2001. The Steering Group is currently considering its recommendations, particularly with regard to the need for further surveys.

The Steering Group will monitor all elements of the Programme to measure its impact and success and will publish an annual report. Full details of the Awareness Programme are

available from its website at www.knowracism.ie. An Information Leaflet in relation to the Awareness Programme is attached (Appendix 2).

Ireland is determined that our society will not be blighted by racism. Among broader actions taken by the Government which will contribute to the response to the challenges presented by the emergence of a multi-ethnic and multi-cultural Ireland are the following:

- The setting-up and funding of the National Consultative Committee on Racism and Interculturalism (NCCRI). The NCCRI was established following on from European Year against Racism 1997 and is a partnership of non-Governmental organisations, State agencies, the social partners and Government Departments. The objective of this body is to develop an integrated approach against racism and to promote a more participative and intercultural society which is inclusive of persons such as refugees, Travellers and minority ethnic groups in Ireland. A Progress Report 1998 - 2001, summarising its many initiatives to combat racism, was published by the NCCRI in June 2001.
- Enactment of comprehensive anti-discrimination national legislation and establishment under that legislation of our equality institutions, namely, the Equality Authority and the Office of the Director of Equality Investigations. See our responses to questions Nos. 7 and 9 in relation to these bodies.
- The Human Rights Commission which, arising from the Good Friday Agreement, was established under the Human Rights Commission Act, 2000. The Commission is a powerful new independent body charged with the task of keeping under review the adequacy and effectiveness of our national laws in relation to the protection of human rights in their widest sense. See also our response to question No. 3.

12. How effective is the “Government Strategy on Travellers”? (par. 43) How might it be strengthened?

Role of Department of Justice, Equality and Law Reform

It is one of the high-level goals of the Department of Justice, Equality and Law Reform, as set forth in its Strategy Statement 2001 - 2004, to promote the development of a more equal society by promoting, monitoring and implementing the right to equal treatment and the accommodation of diversity, having regard to the nine specified grounds in the equality legislation which include membership of the Traveller community. Several initiatives in relation to Travellers in which the Department is involved - as part of its equality and anti-discrimination remit - are detailed in the following paragraphs.

Monitoring Committee on the Report of the 1995 Task Force

In June 1998, the Minister for Justice, Equality and Law Reform established a Committee to Monitor and Co-ordinate the Implementation of the Recommendations of the Task Force on the Traveller Community. The Committee is representative of Traveller organisations, social partners and relevant Government Departments. A Progress Report from the Monitoring Committee on the implementation of the recommendations of the Task Force was submitted to Government and was published on 11 April 2001.

The Progress Report pointed out that improvements on the ground in the position of Travellers had been disappointing. However, the Report welcomed the major steps which Departments had taken over the five years since the Task Force Report was published in establishing the administrative and legislative measures necessary to implement the Task Force recommendations. The Report concluded that progress had, however, been made in acknowledging Traveller culture in a number of areas including Traveller accommodation provision, anti-discrimination legislation, through the work of Traveller organisations and in the Citizen Traveller programme.

A total of 85 recommendations of the Monitoring Committee are listed in the Progress Report under the following headings: Relationships between Travellers and the Settled Community; Traveller Culture; Discrimination; Accommodation; Health; Education and Training; Traveller Economy; Traveller Women; Travellers with a disability; Sport and other Recreations; Equality Proofing; Monitoring of Progress. These 85 recommendations are additional to the original Task Force recommendations and are necessary to take into

account changes in circumstances since the publication of the Task Force report in 1995. The Monitoring Committee has undertaken to follow through on these recommendations over the course of its continuing work programme.

Citizen Traveller programme

2001 is the third year of the Traveller Communication Programme, entitled "Citizen Traveller". A number of projects and activities are taking place as part of the campaign, including a market survey, a Traveller focus week, media skills training for Traveller organisations, outdoor advertising, radio advertisements, media workshops and the circulation of information packs.

The Programme is in receipt of funding of €380,000 per year from the Department of Justice, Equality and Law Reform over the three year period, 1999 to 2001. The objective of the programme is to address the underlying causes of mistrust between Travellers and the settled community and to promote a greater understanding between both communities. Its overall strategy is divided into a number of distinct programmes, i.e. market research, lobbying, media relations, advertising/promotions, appropriate training and ongoing community activities involving settled and Traveller communities.

Traveller Mediation Service

€127,000 was provided by the Department of Justice, Equality and Law Reform to the Traveller Mediation Service operated by Pavee Point Traveller Centre. The service provides a mechanism for responding constructively to the various conflicts and disputes which arise between Travellers and members of the settled community.

Article 3: Equality between men and women

13. In relation to equal pay for women, a study was commissioned and expected to report in the autumn of 1999. (Para. 84-6) What were its findings? Did they generate any policy initiatives?

Publication of ESRI report - October 2000

The Economic and Social Research Institute (ESRI) study, *'How Unequal? Men and Women in the Irish Labour Market'*, was launched by the Minister for Justice, Equality and Law Reform on 9 October 2000. This research updates the 1994 study by the ESRI on male/female wage differentials using data from the 1994 Survey of Income Distribution, Poverty and Usage of State Services and the 1997 Living in Ireland Survey. This data includes all economic sectors and benefits such as pensions.

Findings of Report

The research quantified the wage gap and records a narrowing of the gap in hourly earnings between men and women. The 1997 data shows that women earn 84.5% of the average male wage as compared with 80% in 1987 and 82% in 1994. The report suggests that most of the remaining gap of 15.5% arises from the fact that women currently in the labour force are, on average, younger and have less labour market experience over their working lives than their male counterparts. It also highlighted the positive effects of equal opportunity legislation on women's wages and advised further efforts to promote equality in the workplace including more intensive monitoring of equal opportunity issues.

Government's response to Report

In accordance with a commitment in the Programme for Prosperity and Fairness, the Department of Justice, Equality and Law Reform has established a consultative group, including representation from the Department of Enterprise, Trade and Employment and the social partners to:

- consider the recommendations of the ESRI research including the case for a

sectoral analysis in both the public and private sectors; and

- develop proposals for actions to address issues identified in the Report for consideration by Government.

The Department is in the process of awarding a contract for studies on the gender pay gap in the following sectors: Information Technology (including electrical and electronic), Retail, Food and Local Government. A comparative study covering Finland, Sweden and Northern Ireland and Ireland is also being commissioned.

Other policy developments

In addition, the need to address the gender pay gap informed a number of other policy developments in particular:

- Investment of €437 million in childcare under the National Development Plan 2000 to 2006;
- Increasing the statutory entitlement to maternity leave to eighteen weeks paid and eight weeks unpaid;
- The establishment of a National Framework Committee on the Development of Family Policies at the level of the enterprise;
- The adoption of a strategy of gender mainstreaming within the National Development Plan, particularly in relation to education and training;
- The creation of a new initiative, the Equality of Women Measure, to help achieve greater equality for women in the labour market, in business and in decision making. The Measure has a budget of over €29 million over the period 2000-2006.

III. ISSUES RELATING TO SPECIFIC RIGHTS RECOGNISED IN THE COVENANT (arts. 6-15)

Articles 6-8: Labour Rights

- 14. One of the objectives of Partnership 2000, which ran between 1997-2000, was to ensure an “equitable distribution of the benefits of growth” (para 79). Please explain who were the beneficiaries of the programme. How will the objectives of the programme be pursued in the future?**

The social partnership agreement, *Partnership 2000* (P2000), provided for improved living standards through a combination of measures on pay and personal taxation, social welfare and public services. The Agreement aimed to significantly reduce social disparities and social exclusion, especially by reducing long-term unemployment. It was considered that the most effective strategy for greater social inclusion would focus across several fronts on increasing employment and reducing unemployment.

It is generally accepted that social partnership has contributed very significantly to Irish economic growth. The performance of the economy in recent years, including the period of P2000, has been one of exceptional economic growth and it has brought many benefits to Irish society. During the period 1997-2000, GNP increased by an annual average of almost 9% and Irish living standards continued to converge with those of our more prosperous EU partners.

This exceptional economic performance has yielded dividends in terms of employment. The unemployment rate was reduced from 10% in 1997 to below 4% in 2001 (3.7% in November). The number in employment is now about 1.7 million, an increase of about half a million since 1988. Changes in personal taxation have ensured that approximately 176,000 low earners were removed from the tax net in the period 1997-2000.

The *Programme for Prosperity and Fairness* (PPF) 2000-2002, the successor agreement to P2000, continues the priority attached to social exclusion. The PPF addresses the needs of people on low incomes by providing for significant improvement in their living standards.

The key measures under PPF provide for:

- significant minimum pay increases under each phase of the PPF;
- the introduction of a National Minimum Wage (in April 2000);
- significant increases in real terms in all rates of social welfare;
- improvements in the level of State old age pensions;
- tax packages and improvements intended to produce substantial increases in take-home pay at all income levels (up to 25% or more) over the period of the PPF;
- the introduction of a range of training measures to upskill the workforce generally and which will have particular impact on those on low incomes and those returning to the workforce.

- 15. Have the provisions of the Merchant Shipping Act (1894), which provided that seafarers absent without permission could be forcibly conveyed on board ship, and that certain disciplinary offences by seafarers were punishable with imprisonment, been repealed or amended?**

Section 2 of the Merchant Shipping (Miscellaneous Provisions) Act, 1998 (Appendix 3), removes, inter alia, out-of-date constraints on, and penal sanctions for, merchant seamen, contained in the Merchant Shipping Act, 1894.

- 16. What is the percentage and categories of the workforce not covered by the statutory minimum wage arrangements set out in paras 81-83? What is the wage differential between those workers covered by the statutory minimum wage arrangements and those falling outside those statutory arrangements?**

Following the recommendations of the Irish National Minimum Wage Commission in 1998, and submission of the Final Report of the Inter-departmental Group on Implementation of a National Minimum Wage in June 1999, Ireland introduced a national minimum wage on 1 April 2000 at a rate of €5.59 per hour for an experienced adult worker. On 1 July, 2001 the minimum wage increased to €5.97 per hour and on 1 October, 2002 it will increase again to €6.35 per hour.

The national minimum hourly rate of pay, currently €5.97, is the sum which must be paid, by way of a minimum hourly average rate of pay, to experienced adult employees. Hourly rates of pay of lesser amounts than €5.97 may be paid to certain categories of employee – as, for instance, to persons under 18 years of age, to first-time job entrants over the age of 18 or to those engaged in training or study.

The National Minimum Wage Act applies to all employees except the following categories of employees who are excluded from its provisions:

- close relative of the employer such as a spouse, father, mother, son, daughter, brother and sister;
- apprentices within the meaning of the Industrial Training Act, 1967 and Labour Services Act, 1987 (other apprentices are covered).

A recent survey which looked at the structure of employment before and after the introduction of the minimum wage found that the percentage of workers who earned €5.71 per hour or less fell from 21% in 1999 to just over 4% in 2001.

If the employment of an employee is covered by a Joint Labour Committee (JLC) the employee may be entitled to a higher minimum rate of remuneration than under the National Minimum Wage Act. While JLCs are established by means of a statutory order made by the Labour Court, they are independent bodies which determine minimum rates of pay and conditions of employment for workers in their respective sectors. JLCs are

composed of representatives of employers and workers in a particular sector and they meet periodically to discuss and agree terms and conditions to apply to specified workers in that sector. The pay and conditions agreed by the JLCs are given the force of law in Employment Regulation Orders made by the Labour Court. At present there are 18 Joint Labour committees.

Under the Act, an employee means a person of any age who has entered into, or works or has worked under, a contract of employment. A contract of employment means a contract of service or apprenticeship or any other contract whereby an individual agrees with another person to do or perform personally any work or service for that person or a third person (whether or not the third person is a party to the contract).

An experienced adult worker must be paid an average hourly rate of pay that is not less than €5.97 per working hour in a week, a fortnight or no longer than a month (known as a pay reference period). A reduced rate of 70% of the national minimum hourly rate of pay applies to employees under age 18, and sub-minimum rates of the national minimum hourly rate of pay apply to employees entering employment for the first time on reaching the age of 18. Sub-minimum rates also apply to employees who undergo a prescribed course of study or training authorised by the employer. The course of study or training must satisfy certain criteria as set by Regulations made under the Act.

- 17. Please explain why only those trade unions and employers associations holding “negotiation licences” may enter into negotiations on pay and other conditions of employment. (para 91) Please provide data on the number of “negotiation licences” that have been in existence in recent years. Over the last five years, how many such licences have been sought but not granted?**

The 1941 Trade Union Act makes it unlawful to engage in negotiations on pay and conditions of employment without a negotiating licence. This measure, which is fully supported by the wider trade union movement in Ireland, is designed to ensure strong and stable trade union structures and promote orderly industrial relations. The following table provides data on the number of negotiation licences held in the past five years.

Table 5 : Number of negotiation licences held

Year	Number of licences
1996	56
1997	56
1998	55
1999	47
2000	46

No application for a negotiation licence was refused in the past five years.

Article 9: The right to social security

18. **Various measures have been introduced to ensure equality between men and women in relation to social welfare (e.g paras 125 and 140-42). In practice, does the contemporary social welfare system have the effect of treating men and women equally?**

Equal Treatment Directive

In practice the Social Welfare system does have the effect of treating men and women equally. A series of measures were introduced in 1985 and 1986 to ensure that the social welfare code fully complied with the terms of EC Directive 79/7. In addition, other measures were introduced to address discrimination in the area of survivors' benefits and family benefits which were not specifically covered by the Directive and to address possible indirect discrimination against women.

Survivors and Family Benefits

In the area of survivor's benefits, a means tested social assistance payment for widowers with children was introduced in 1989 and a contributory social insurance pension for widowers, both with and without children, was introduced in 1994.

In the area of family benefits, a means tested payment for deserted fathers with dependent children was introduced in 1989. This was subsequently incorporated into the Lone Parents' Allowance (subsequently renamed the One-Parent Family Payment) which caters for all lone parents, irrespective of whether they are male or female or of the circumstances which gave rise to the lone parenthood.

Addressing indirect discrimination against women

Formerly, women who took time out from the workforce to care for young children found that the gap in their social insurance prevented them from qualifying for a pension. A scheme, introduced in 1994, provides that time spent in the home rearing children up to 12 years of age or caring for incapacitated people is disregarded for the purpose of calculating the yearly average condition in determining entitlement to contributory old age

pension. A maximum of 20 years may be disregarded.

This scheme is now being reviewed with a view to changing the emphasis from disregarding those years for the purposes of pension entitlement to awarding credited contributions in respect of those years which would be more beneficial in determining a person's entitlement.

A wide range of atypical workers, including those job-sharing and work-sharing had difficulty in qualifying for short term benefits such as unemployment benefit or disability benefit because they failed to satisfy the contribution conditions for the relevant benefits. In 2001, in a measure designed to make access to the benefits involved more flexible, an alternative condition was introduced which meant that a person who has 26 contributions in each of the two previous contribution years can qualify for benefits.

Article 10: Protection of the family, mothers and children

- 19. Please provide statistical data in relation to the Domestic Violence Act 1996 (number of “barring orders”, either ex parte or final, “new-type safety orders” and arrests made without warrant). Has the Act been effective? What non-legislative measures, such as public information campaigns, are presently taken in relation to domestic violence?**

Tables containing the detailed statistics specified in Question 19 relating to the various orders issued by the District Court under the Domestic Violence Act, 1996, for the three most recent ‘legal years’ (1997/98; 1998/99; and 1999/2000), are at the end of this response.

The Garda Síochána have reported that in 1999 there were 10,110 domestic violence incidents, representing an increase of 20% when compared with 1998. More detailed statistics for 1999 as regards ‘incidents’, ‘arrests’ etc., are set out in a tabular statement also at the end of this response. Comparable figures for 2000 are not yet available. In relation to the 1999 figures, the persons arrested by the Gardaí were predominantly male although some 8% were female. The complainants were predominantly female and 11% were male. It should be noted that the Garda figures relate to those incidents of domestic violence where there was a Garda intervention. The table supplied contains a figure for all arrests, and not just those arrests on foot of breach of a barring order, interim barring order, protection order or safety order. Separate figures for ‘arrests without warrant’ under the Domestic Violence Act, 1996 are not compiled.

The Domestic Violence Act, 1996 has been successful in dealing with the issue of domestic violence. Public acceptance of the remedies provided for in the Act has been demonstrated by the number of court applications increasing yearly.

A review into the implementation of the Act was carried out in 1999. The review, ~~entitled~~ “*Safety and Sanctions - Domestic Violence and the Enforcement of the Law In Ireland*”, was commissioned by Women’s Aid. The organisation received independent funding to

carry out the research and it was undertaken by Patricia Kelleher, Researcher from Kelleher Associates and Monica O'Connor, a Researcher from Women's Aid. A number of recommendations were contained in the report, including the development of an Intervention Model, which would cater for victims and perpetrators of domestic violence.

The Department of Justice, Equality and Law Reform is currently conducting research into the development of such an Intervention Model. This work is to be finalised around end 2001, following which an evaluation of the research will take place in 2002 before a decision to implement same will be taken.

In relation to non-legislative measures, a National Steering Committee on Violence Against Women, which is chaired by Minister of State at the Department of Justice, Equality and Law Reform has undertaken a number of awareness raising initiatives since it was established in December 1997. These initiatives include:

- The launch of the National Steering Committee which included awareness-raising in relation to:
 - *the victims*: to inform them that there is help available
 - *the perpetrators*: to state that violence is a crime and it must stop; and
 - *society generally*; to state that society should not do anything that condones violence and that it should support victims.
- An Information leaflet entitled "*Important Information for Women*" which was produced for each of the eight regions around the country and contained information on the range of services available in the particular region.
- An Emblem, which was specially designed and geared towards society generally to wear, to show support for women experiencing violence. The Emblem was

sold throughout a major retail chain in Ireland.

- A National Directory of Services for Women Experiencing Violence was produced and distributed to all General Practitioners, Libraries, Citizen Information Centres, Women's Services, Police Stations, and Accident & Emergency Departments in Hospitals and also Maternity Hospitals.

The National Steering Committee is currently working on the development of an information campaign directed at victims of rape and sexual assault.

Statistics accompanying response to Question No. 19

Table 6 : Protection Orders, issued by the District Court

Legal Year (1 August to 31 July)	Applications dealt with	Granted	Interim Barring Orders granted in lieu	Refused	Withdrawn/ Struck out
1997/1998	4,409	3,474	755	35	145
1998/1999	3,619	3,390	6	57	166
1999/2000	4,256	3,528	383	82	263
Totals	12,284	10,392	1,144	174	574

Table 7 : Safety Orders, issued by the District Court

Legal Year (1 August to 31 July)	Applications dealt with	Granted	Refused	Withdrawn/ Struck out
1997/1998	1,179	837	63	879
1998/1999	2,039	970	74	995
1999/2000	2,336	988	87	1,261
Totals	6,154	2,795	224	3,135

Table 8 : Barring Orders, issued by the District Court

Legal Year (1 August to 31 July)	Applications dealt with	Granted	Refused	Withdrawn/ Struck out
1997/1998	4,792	2,004	236	2,525
1998/1999	4,668	2,219	179	2,270
1999/2000	4,908	2319	228	2,361
Totals	14,368	6,542	670	7,156

Table 9 : Interim Barring Orders issued by the District Court

Legal Year (1 August to 31 July)	Applications dealt with	Granted	Refused	Withdrawn/ Struck out
1997/1998	733	677	19	37
1998/1999	1,120	1,002	54	64
1999/2000	506	415	28	63
Totals	2,359	2,094	101	164

Table 10 : Garda Síochána Crime Report 1999 - domestic violence

Garda Region	Incidents	Arrests	Persons charged	Persons injured	Persons convicted
Eastern	818	232	214	236	173
Dublin Metropolitan	6,628	782	618	366	386
Northern	281	161	132	136	56
South Eastern	529	196	163	211	85
Southern	1,373	188	235	254	189
Western	481	171	139	131	102
Totals	10,110	1,730	1,501	1,334	991

20. Please provide data on the incidence of child labour in Ireland since the enactment of the Protection of Young Persons (Employment) Act, 1996. Please discuss problems, if any, in the enforcement of the 1996 Act.

The Protection of Young Persons (Employment) Act, 1996, which came into force on 2 January 1997, is designed to protect the health of young workers and to ensure that work during school years does not put a young person's education at risk. The Act sets minimum age limits for employment, sets rest intervals and maximum working hours, and prohibits the employment of under 18s on late night work. Employers must keep specified records of their workers who are under 18. In July 2001, the Minister for Labour, Trade and Consumer Affairs by way of Regulation and Code of Practice provided for the employment of young persons (16 and 17 year olds) up to 11.00 p.m. (rather than 10.00 p.m. as was the law) on general duties in licensed premises, including licensed restaurants but excluding off-licences, throughout the State, provided the day is not before a school day where such young person is attending school. The Regulations also provide for the employment of bar apprentices (generally 16 and 17 year olds) in licensed premises (public houses only) throughout the State up to midnight (rather than 10.00 p.m. as was the law) provided they are supervised by an adult.

Responsibility for the enforcement of the Protection of Young Persons (Employment) Act, 1996 rests with the Labour Inspectorate of the Department of Enterprise, Trade and Employment. Breaches of the Act come to the attention of the Inspectorate either by way of complaint by an individual employee or other concerned person or by routine or targeted inspections. Targeted inspections, by way of out-of-normal-office-hours-inspection activity, throughout various employment sectors, including fast food outlets, restaurants, licensed premises and hotels are a regular feature of the work of the Inspectorate.

Where it appears that an employer has failed to comply with the legislation, the matter is referred to legal advisers to consider whether legal proceedings may be instituted. The Department has received legal advice to the effect that "in all cases involving a child or

young person, in order to prove the age of that person, it will be necessary to call the parent or guardian of that person to give evidence as to his/her date of birth and also to vouch for their birth certificate (long form) which must be produced". This particular requirement could be problematic for the Inspectorate but to date successful prosecutions have been achieved, through the Inspector giving evidence in court, and the requirement for a parent or guardian has so far not proven necessary.

The following table outlines inspection activity, breaches and prosecutions/convictions under the Young Persons (Employment) Act, 1996 from 1997 (date from which Act became effective) to date.

Table 11 : Activity, breaches and prosecutions/convictions under the Young Persons (Employment) Act, 1996

Year	Inspections	Irregular/ Breaches	Referred for Prosecution	Convictions
1997	692	11	0	0
1998	841	16	3	1
1999	1145	462	1	1
2000	2624	725	7	6
2001 (to date)	906	159	8	7

(Note: Many of the irregularities/breaches identified were technical in nature (not having abstract of Act on display) and did not warrant the initiation of legal proceedings)

Article 11: The right to an adequate standard of living

21. Please provide information on how the National Anti-Poverty Strategy (NAPS) is monitored and whether it is effective in reducing the incidence of poverty.

The National Anti-Poverty Strategy (NAPS) is a cross-Departmental initiative which provides a framework for action to help achieve the objective of eliminating poverty in Ireland and highlights the national priorities for Ireland. The ten-year NAPS was developed following wide-ranging consultation with the Social Partners and launched by the Government in 1997, arising from commitments made at the World Summit for Social Development in Copenhagen in 1995. The NAPS is based on the shared understanding that: “people are living in poverty if their income and resources (material, cultural and social) are so inadequate as to preclude them from having a standard of living which is regarded as acceptable by Irish society generally. As a result of inadequate income and resources, people may be excluded and marginalised from participating in activities which are considered the norm for other people in society.” The NAPS is designed to be fully consistent with the key objectives of the National Development Plan 2000-2006:

- continuing sustainable national economic and employment growth;
- consolidating and improving Ireland’s international competitiveness;
- fostering balanced regional development;
- promoting social inclusion.

The progress of the NAPS is the subject of independent evaluation. The first such report, *Planning For a More Inclusive Society: An Initial Assessment of the National Anti-Poverty Strategy* by the Combat Poverty Agency, was published in May 2000. It noted a number of key strengths of the NAPS to date, including the strengthening of political and societal consensus that there is a need to reduce levels of poverty in Ireland, the establishment of institutional structures to underpin the NAPS process, the adoption of specific poverty reduction targets, the introduction of poverty proofing, increased awareness of poverty and improved cohesion and co-ordination and consultation around poverty issues.

However, the report also recognised that the NAPS had some weaknesses, such as a difficulty in translating objectives into operational measures, which can work towards the achievement of NAPS targets. The report stated the need to strengthen the involvement of the Community and Voluntary Sector in the implementation of the NAPS.

The “National Economic Social Forum Opinion on the National Anti-Poverty Strategy”, published in August 2000, is the first of a series of annual opinions focusing on Departmental plans under the NAPS, as well as poverty proofing assessments. Recommendations made by the NESF included the need to review and extend the targets, and to increase transparency in relation to poverty proofing. The NESF also made a number of suggestions in relation to the extension of the NAPS to local level.

Ireland was the first EU country to formally adopt an official global poverty target. Initially, the global target of the NAPS, over the period 1997-2007, was to aim at considerably reducing the numbers of those who are “consistently poor” from 9-15% of the population to less than 5-10%, as measured by the Economic and Social Research Institute (ESRI). Data published in the 1999 ESRI report “Monitoring Trends in Poverty for the National Anti-Poverty Strategy” showed that, by 1997, the numbers of “consistently poor” had shown a sharp fall to 7% from 10%. In 1999, the Minister for Social, Community and Family Affairs announced a new global target to reduce consistent poverty to below 5% by 2004. The most recent poverty data available relates to the 1998 Living in Ireland Survey, the Irish element of the European Community Household Panel, analysed by the ESRI. It shows that the number of households experiencing consistent poverty had fallen to 6-8% by 1998 - well on the way to attaining the consistent poverty target announced in 1999. Information from the Living in Ireland Survey in relation to 2000 will be available later this year.

Consistent poverty is defined as being below 50%-60% of average household income and experiencing enforced deprivation. Basic deprivation is the presence of at least one of a list of eight indicators, e.g. not having two pairs of strong shoes, getting into debt to meet ordinary living expenses. Independent research by the ESRI has shown that the

combination of income and deprivation allows the impact of resource depletion and life experiences to become inherent in the measurement of poverty. This measure retains the “relative” concept of poverty as basic deprivation indicators are likely to change over time as living standards in the community rise.

While NAPS examines poverty in the global context, it also set targets under key themes which are supported by particular policy responses. The original NAPS themes were unemployment, income adequacy, educational disadvantage, urban disadvantage, and rural poverty. These themes were selected in recognition of the multi-faceted nature of poverty, which goes beyond income and cuts across various aspects of participation and experiences in society.

Ireland has also submitted a National Action Plan against Poverty and Social Exclusion (NAPSincl) to the Commission of the European Union. The aim of the National Action Plans is to translate the Community level objectives of tackling social exclusion, endorsed in December 2000 by the Nice European Council, into each Member State, taking into account national circumstances and policy priorities. NAPSincl draws on the National Anti-Poverty Strategy and was developed in close collaboration with the European Commission, through bilateral meetings and seminars with Commission officials. Ireland submitted its first report on NAPSincl to the Commission in June 2001, and this will run for two years up until 2003, when Ireland will submit its second report. A Joint report on social exclusion containing an overall evaluation of the process and of each national report was endorsed by the European Council in Laeken and will be published shortly.

22. In light of the Statement of Poverty, adopted by the Committee on Economic, Social and Cultural Rights as its 25th session (April-May 2001), does the State party envisage integrating the rights approach to its National Anti-Poverty Strategy (NAPS)?

The National Anti-Poverty strategy at national level is developed and its implementation monitored in the context of the Partnership process under which consensus on economic and social policies, and the measures and resources to give effect to these policies, is achieved between Government, the social partners and the voluntary and community sector (mainly NGOs). A system of poverty proofing of relevant proposals to Government is also being implemented. The latest Agreement under this process is the Programme for Prosperity and Fairness which runs from February 2000 to November 2003.

It has also been agreed that the further development and implementation of the strategy will be aligned with the EU NAPIncl process which will provide an evaluation of Ireland's national action plan by the EU other Member States through peer review and by the Commission. Indicators are being developed by the EU which will enable progress in achieving agreed objectives to be measured and good practice identified for the information of other Member States. These processes testify to the priority being given to combatting poverty and social exclusion and the seriousness with which it is being tackled through the setting of clear objectives, the development of strategies to meet these objectives and the commitment of specific measures and resources to give effect to the strategies. The monitoring at both national and EU levels provides a focussed system of accountability for meeting the commitments made.

Rights to the full range of social and health services are enshrined in legislation. The Equal Status Act and enhanced Employment Equality legislation have further extended and strengthened the rights of citizens, especially those at risk of poverty and social exclusion.

A wide range of rights are specifically provided for in the Irish constitution, specifically in Articles 40 to 44. A distinction, however, is drawn in the Constitution between what

are termed “Fundamental Rights”, which are mainly in the civil and political sphere, and further rights, which included social, economic and cultural rights. A number of these latter rights are recognised in Article 45 of the constitution as ‘Principles of Social Policy’. The article specifically states that these provisions are guidelines for the legislature and do not provide the basis for striking down laws for being unconstitutional, and further, that these provisions are non-cognisable by any court of law.

The right to earn a livelihood, however, is one of the unenumerated personal rights identified in article 40. No one should be allowed to fall below the minimum standard of subsistence so as to suffer from a lack of food, shelter or clothing. A Constitution Review Group in its report in 1996 stated that the Constitution also appears to offer ultimate protection through judicial vindication of fundamental rights such the right to life and the right to bodily integrity. The Review Group went on to recommend that in a redraft of Article 40.1 poverty would be included as a ground on which discrimination would be prohibited and the right to work and earn a livelihood would be inserted as enumerated rights in Article 40.3. It also recommended for consideration the inclusion in article 45 as non-justiciable rights of the right to just and favourable working conditions, the right to an adequate standard of living including food, clothing, housing and the continuous improvement of living conditions.

The issue of justiciability in relation to social, cultural and economic rights, as incorporated in the Constitution, was addressed by the Review Group in its report. It pointed out that solving economic and social problems are an integral part of any political system, and that the degree to which a solution can be found must depend on the resources which the community is prepared to make available at any given time. Therefore, in the view of the group, it would not accord with democratic principles to confer absolute personal rights in the Constitution in relation to economic or social objectives and to leave the legislature with no option but to discharge the cost, whatever it might be, as determined by the judiciary.

The various recommendations of the Constitution Review Group are being considered by the All Party Oireachtas (Parliament) Committee and by the Government at the end of the

process.

In 24-25 October, 2000 Parliament debated a Bill proposed by the opposition Labour Party the stated intention of which was to amend the fundamental rights provisions in Article 40 of the Constitution so as to provide for the recognition, defence and vindication of social, economic and cultural rights. Specific rights in these areas such as those relating to health, nutrition, and an adequate standard of living, were specifically referred to in the Bill. The type of rights identified in the Bill were loosely based on the UN International Covenant on Economic, Social and Cultural Rights. It was considered that the Bill reflected the wishes of the UN Committee in its suggestions and recommendations on the first report on Ireland's observance of the Convention, for the rights contained in the Convention to be incorporated in the Irish Constitution.

The Minister for Justice, Equality and Law Reform on behalf of the Government and referring to the Report of the Constitution Review Group stated that honouring economic, social, and cultural rights is the ultimate prerogative of democratically elected and accountable politicians whether in the Executive or the Legislature. A transfer of these powers to an unelected judiciary would disturb the delicate checks and balances between the three independent pillars of the state.

The Supreme Court by a majority decision, in upholding the principle of the separation of powers, appears to have taken a similar view. In its most recent ruling on the issue (decision on *Children at Risk*, 17 December, 2001), which related to the provision in a timely manner of appropriate accommodation and care for these children, a Supreme Court judge stated that, 'If the courts expand their powers beyond their constitutional remit, this expansion will necessarily be at the expense of the other organs of government'. The same judge noted that, 'if citizens are taught to look to the courts for remedies for matters within the legislative or executive remit, they will progressively seek further remedies there, and progressively cease to look to the political arm of government.'

In addition to the protection afforded such rights at national level and by the International

Covenant on Economic, Social and Cultural Rights, Ireland has also ratified the Revised European Social Charter and the Social Security Code of the Council of Europe, various ILO Conventions and has agreed to the adoption of the EU Community Charter of the Fundamental Social Rights of Workers, and the Charter of Fundamental Rights of the European Union.

The majority consensus in Ireland, therefore, appears to be that honouring social, cultural and economic rights is the proper remit of the elected representatives in the legislature and the government. It is for these bodies to make policy in this area, which requires the prioritisation of scarce resources having regard to all economic and social circumstances. A rights based system under which the full range of economic, social and cultural rights would be incorporated in the Constitution and justiciable would, therefore, not be appropriate. Irish Governments, however, are accountable in a detailed way for policy on combatting poverty and social exclusion through Parliament, the National Anti-Poverty Strategy in the context of the partnership process, the EU NAPincl, and the other relevant international instruments which it has ratified or is a party to.

23. Please provide up to date statistical information regarding the right to housing. In recent years, what has been the annual percentage increase in rents, and house prices, in Dublin and elsewhere? Is data available on housing-related costs as a percentage of income?

The legislation governing social housing in Ireland are the Housing Acts, 1966-1992. While the legislation does not confer any Statutory right to housing, the range and extent of measures implemented under the Housing Acts demonstrates the State's long standing commitment to ensuring that housing needs, especially social housing needs are adequately addressed. The Housing Acts provide a statutory framework for measures relating to:

- assessing overall housing requirements and social housing needs (including the needs of homeless persons);

- the provision of social housing (including local authority and voluntary housing) for letting;
- assisting people to gain access to owner occupied housing.

Official information concerning rents is not available at present, however, according to the IAVI (Institute of Auctioneers and Valuers of Ireland) Annual Property Survey 2001,

the annual percentage increase in rents in the 12 months to 1 November 2001 is 14% in Dublin and 12% nationally.

Departmental information indicates that in the twelve months to the end of September 2001, house price increases for new and second hand houses rose nationally by 5.6% and 3.4% respectively. Figures for Dublin during the same period indicate an increase of 6.7% and 4.8% respectively. This is in comparison with the all time high of 1998, when, in the twelve months to the end of September, house price increases for new and second hand houses rose nationally by 19.6% and 36.2% respectively and in Dublin, by 32.8% and 41.3% respectively. The Department's Housing Statistics Bulletin for 2001 will be published in 2002.

The cost of housing represents 9.6% of average weekly household expenditure according to the Household Budget Survey 1999-2000 (Preliminary Results) published by the Central Statistics Office. In this survey, housing-related costs are taken to include (i) Mortgage Repayments; (ii) Repairs and Decorations; and (iii) other charges, such as Rent and Water Charges and Owner Occupied Dwellings. A more detailed report concerning the results of the 1999-2000 Household Budget Survey is currently being finalised by the Central Statistics Office and should be published in 2002.

24. What has been the incidence of homelessness in Ireland over recent years? Please elaborate on the measures being taken to address homelessness.

The most recent assessment of local authority housing needs, including homeless persons, was carried out in March 1999. The assessment of the number of homeless persons was

based on a broader definition of homeless persons which includes those with no accommodation, those in hostels and in health board accommodation and those staying with friends. Under this assessment, there were a total of 5,234 persons categorised as homeless in the country. Not all persons identified as homeless in the assessment of housing needs are in need of emergency accommodation i.e. they are not roofless. Some of them would be staying in temporary accommodation with family or friends until suitable accommodation becomes available.

Under the 1999 assessment there were 5,234 persons categorised as homeless compared with 2,501 persons in 1996. It should be noted however that the 1999 assessment used a much broader definition of homeless persons to include those who have no accommodation, those in hostels and those in Health Board accommodation. The next statutory assessment of housing needs is due to be undertaken by local authorities at the end of March 2002.

Hostel accommodation is the main source of accommodation for homeless persons. The description "hostel accommodation" is a broad one and includes long-term, transitional or medium-term accommodation where people can stay for varying periods and over-night accommodation which may be vacated during the daytime although in some cases the same persons might come back nightly.

The Government's Integrated Strategy on Homelessness (Appendix 4) was launched in May 2000, and it offers a new approach to the way in which services for the homeless are to be planned, funded and provided. The Strategy was based on the Report of the Cross-Department Team on Homelessness whose remit included health, education, employment as well as accommodation. The Team was established in 1998 to examine the problem of homelessness and to formulate a comprehensive strategy to tackle it. They consulted, and received written submissions from, statutory authorities and voluntary bodies who provide accommodation and services for homeless people.

One of the key requirements of the Strategy was that homeless fora, with representatives of the local authority, health board and voluntary sector, would draw up local three year

action plans to detail how accommodation, health, settlement and welfare services will be provided to homeless persons by all of the agencies involved. The Dublin Action Plan was launched by the Taoiseach in May 2001. The adoption of this three year action plan for the Dublin Area was an important step as there is now a clear framework for the planning and delivery of support and services to the homeless. The long-term vision of the Plan is that by 2010 long-term homelessness and the need for people to sleep rough will be eliminated in Dublin.

A key element of the Government Strategy is also the recognition that additional accommodation, both transitional and sheltered is needed, to allow people who are living in emergency hostel accommodation to move to accommodation that is more suitable to their needs. Settlement programmes are being established to encourage and support hostel residents in their move to alternative accommodation and this will also help to free up spaces in emergency hostels.

The Government made substantial current and capital funding available to ensure that the measures outlined in the Strategy are implemented. Capital spending over the next five years has been doubled from €25 million to €50 million to provide suitable accommodation. An extra €7.6 million per annum in current funding has been made available from the Department of the Environment and Local Government to fund voluntary bodies, to increase payments for the provision of hostel accommodation and to establish settlement and outreach services. Additional funding is also being made available from the Department of Health and Children to fund the provision of in-house care in hostels providing accommodation for homeless persons. Voluntary bodies will also continue to avail of capital funding under the Capital Assistance Scheme and the Rental Subsidy Scheme operated by the Department of the Environment and Local Government.

In addition, €6.3 million was made available to Dublin City Council in the 2000 Budget for the provision of two high support hostels in Dublin for homeless people suffering from drug and alcohol addictions. A site has now been secured for a high support hostel to deal with homeless people with alcohol addictions. The hostel should be fully operative in late 2002. A site has not yet been secured for a high support hostel to deal with homeless who

have drug addictions. Efforts are continuing to locate a suitable premises for this hostel.

As part of the overall Homeless Strategy, the Government agreed that preventative strategies would be prepared by key Government Departments to tackle groups at risk of homelessness and to build upon the considerable development work already underway in the quality of institutions and step-down/re-integration services. Preventative strategies have been prepared to target key groups, particularly those leaving institutional care, whether custodial or health related and young people leaving care. These plans have now been prepared by the Departments and have been co-ordinated into an overall strategy by the Department of the Environment and Local Government. The Strategy has been approved by the Cabinet Committee on Social Inclusion and was approved for publication by the Cabinet on 30 January 2002. It will be launched shortly and is designed to ensure early intervention before people at risk actually become homeless.

Article 12: The right to the enjoyment of the highest attainable standard of physical and mental health

- 25. Please provide information on the State party's application of paras 43 and 44 of General Comment 14 on the right to health, and in particular of paras 43(f) and 44(e) concerning a national public health strategy and plan of action, and training for health personnel respectively.**

This note is provided to accompany the recently published Health Strategy and Primary Care: A New Direction documents (Appendices 5 & 6). The Department's recently published Strategy sets a strategic direction for services for the next 7-10 years. The "Vision" for the Strategy is as follows.

- A health system that supports and empowers you and your family and community to achieve your full health potential;
- A health system that is there when you need it, that is fair, and that you can trust;
- A health system that encourages you to have your say, listens to you, and ensures that your views are taken into account.

This is very much in line with the Article 12. Therefore, all of the actions in both documents are ultimately relevant to delivering this Vision and include the specific steps set out under Article 12.

In relation to item 43(e) I would draw your attention to the following :

Part 1 of the Strategy (Appendix 5 - chapters 1, 2 and 3) provides the analysis which shaped the devising of the Strategy. These chapters show the evidence from which the Strategy goals and objectives emerged, including key epidemiological and demographic data relating to the Irish population vis-à-vis its EU counterparts.

The Introduction (page 9), Chapter 1 (page 15) and Appendix 3 (The consultation process for the Health Strategy) outline in some detail how the strategy was devised and, in particular, the role played by voluntary and community groups and the NAPS and health group in the consultation process. This ensured wide participation in the process and particular attention was paid to making contact with “hard-to-reach” and disadvantaged groups.

Part 2 of the Strategy sets out the priority goals and the means of achieving them. The goals set out in Chapter 4 (beginning page 58) are particularly relevant – broadly speaking they focus on population health, eligibility and entitlement to health services, better and more equal access to services (by providing more responsive services and building capacity in key service areas) and quality/accountability issues.

- The first goal “Better health for everyone” – as well as setting out a range of population health based actions to improve everyone’s health, deals specifically with the issue of health inequalities and describes a series of actions to improve the health status of marginalized and disadvantaged groups.
- The second goal describes eligibility/entitlement to services and makes specific provision to provide greater support for low income families, families with children, people with disabilities and dependent older persons to ensure that they are adequately provided for in terms of eligibility for services.
- The third goal “Appropriate and responsive care delivery” is also relevant. It includes a series of actions which are aimed at making the health system far more responsive to people at both individual and community level. This includes building capacity in key areas to ensure that services are available to meet needs. It acknowledges the need to recognise diversity in the way in which services are delivered in the future. It also makes specific reference to the need for professionals working in the service to respond more sensitively to the needs and preferences of individual patients.

- The fourth goal “high performance” endorses health research and the need generally to ensure decisions in relation to strategic planning and the delivery of services are evidence-based. It also makes specific provision for improved service planning at regional health board level including the development of more consistent and user-friendly service plans based around shared health performance indicators.

Actions to achieve these goals are set out in Chapter 4. These actions are augmented by actions under the frameworks for change set out in Chapter 5 (page 92).

- These outline a detailed programme of development and capacity-building in the areas of acute hospital services and primary care. The primary care section is augmented by a detailed document Primary Care : A New Direction (Appendix 6) which sets out a 10 year programme for significant investment and development of primary care services in Ireland.

In addition

- Human resources are specifically dealt with in a framework which includes the need for additional staff and the ongoing management, training and development of staff.
- The information framework includes the establishment of a Health Information and Quality Authority which will be charged with setting quality standards across the health system and measuring outcomes against those standards.

Part 3 of the Strategy describes the programme for implementing the Strategy. This includes a detailed action plan listing strategic actions with targets and timeframe (Chapter 7 – page 160) as well as a programme for monitoring the implementation of the Strategy and evaluating outcomes on an ongoing basis (Chapter 8 – page 174).

The above provides some signposts for the key elements of the Strategy which have relevance to the Convention’s articles. As can be seen from the above, all of the actions

of the Strategy are ultimately aimed at achieving what is set out in Article 12 of the Convention.

26. Please provide information on what happened to the legislative proposals referred to in paragraph 673 of Ireland's initial report concerning the new mental health legislation.

The Mental Health Act, 2001 was signed into law in July 2001. It will be brought into effect on a phased basis over the next few years. This Act will significantly improve safeguards for mentally disordered persons who are involuntarily admitted for psychiatric care and treatment and will bring Irish mental health law in this area into conformity with the European Convention on Human Rights and Fundamental Freedoms.

The Mental Health Act, 2001 provides for the establishment of an independent agency to be known as the Mental Health Commission. The primary function of the Commission will be to promote and foster high standards and good practices in the delivery of mental health services and to ensure that the interests of detained persons are protected.

Each decision by a consultant psychiatrist to detain a patient for psychiatric care and treatment on an involuntary basis and each decision to extend the duration of such detention will have to be referred to the Commission. The Commission will arrange for an independent review of all such decisions by one or more Mental Health Tribunals which will operate under its aegis and will operate a scheme of legal aid for involuntarily detained patients. The Mental Health Tribunal will comprise three people - a consultant psychologist, a legal assessor and a lay person. A tribunal will be empowered to order the release of a patient if it considers that he/she does not require to be detained involuntarily.

The Commission will be the registration authority for all hospitals and in-patient facilities providing psychiatric care and treatment. The existing office of the Inspector of Mental Hospitals will be replaced with the office of the Inspector of Mental Health Services. The Inspector will be required to visit and inspect all approved centres at least once a year. The Minister will be empowered to make regulations specifying the standards to be

maintained in all approved centres and the Commission will be responsible, through the Inspector, for ensuring that these standards are adhered to. The Inspector's annual review of the mental health services will be published along with the Commission's annual report.

27. What are the legal safeguards for those detained in connection with the Mental Treatment Act 1945? Are there plans to review the Act with a view to modernising it? Does the Act extend to all parts of all psychiatric accommodation? (Para 288) If not, what legal regime protects those in psychiatric accommodation not covered by the Act?

Under the provisions of the Mental Treatment Act, 1945, where the chief medical officer of an institution extends the period of detention of a temporary patient (chargeable or private), he/she must advise the patient and the applicant for the original reception order that either can send, to the Inspector of Mental Hospitals, an objection to the extension. On receipt of an objection, the Inspector will have to take such steps as he/she deems to be necessary to be satisfied of the propriety, or otherwise, of the continued detention of the patient. If the Inspector feels that the patient should not be detained further, that fact will be reported to the Minister who may order the discharge of the patient.

There are several other safeguards contained in the Mental Treatment Acts against wrongful detention of patients. The principal ones are:

- Every patient has a right to have a letter forwarded, unopened, to the Minister, the President of the High Court, the Registrar of Wards of Court, the Mental Hospital Authority, a visiting Committee of a district mental hospital or the Inspector of Mental Hospitals. The Minister may arrange for an examination of a patient by the Inspector of Mental Hospitals and may direct the patient's discharge where justified. The President of the High Court may require the Inspector to visit and examine any patient detained as a person of unsound mind and report the outcome to the President.
- Any person may apply to the Minister for an order for the examination, by two

medical practitioners, of a patient detained and the Minister may, if he/she thinks fit, on consideration of their report, direct the discharge of the patient.

- The Act specifically requires that a patient who has recovered must be discharged.
- Penalties are imposed by the Act for detention otherwise than in accordance with the provisions of the Act.
- The Inspector of Mental Hospitals must visit all mental institutions, at stated intervals. The Inspector has a duty to give special attention to the state of mind of any detained patient where the propriety of the detention is in doubt, or where requested by the patient, or by any other person, to do so. The Inspector must also ascertain whether any extensions of the periods of detention of temporary patients have been made since his/her previous visit. If there have, the Inspector must give particular attention to the patients concerned.
- Any relative or friend of a person detained may apply for the discharge of a patient and, if the medical officer of the institution certifies that the patient is dangerous or otherwise unfit for discharge, an appeal lies to the Minister.
- Every mental hospital authority must appoint a visiting committee, whose duties include a requirement to hear the complaints of any patient, and, if requested to do so, to see the patient in private.

The 1945 Act has been reviewed and a new Mental Health Act was enacted in July, 2001.

Under the 1945 Act, the Inspector of Mental Hospitals is only obliged to inspect those premises that are approved by order of the Minister under Section 158 of the Act as an approved institution for the reception of voluntary and/or temporary patients. This means that much accommodation in community settings and some de-designated units in psychiatric hospitals are not covered by the Act. No legal regime protects those in psychiatric accommodation not covered by the Act but many are visited on an annual basis

by the Inspector and in the context of these inspections of the hospitals are commented upon in the annual reports of the Inspector.

Under the new Mental Health Act, all inpatient facilities for the care and treatment of persons suffering from mental illness will have to be registered with the Mental Health Commission as approved centres. The existing office of the Inspector of Mental Hospitals will be replaced with the office of the Inspector of Mental Health Services. The Inspector will be required to visit and inspect all approved centres at least once a year. The Minister will be empowered to make regulations specifying the standards to be maintained in all approved centres and the Commission will be responsible, through the Inspector, for ensuring that these standards are adhered to. The Inspector's annual report and review of the mental health services will be published along with the Commission's annual report.

28. Please describe the mandate, status and functions of the office of the Inspector of Mental Hospitals. What have been the Inspector's major recommendations in the last five years and have they been implemented?

The role of the Inspector of Mental Hospitals in relation to standards in psychiatric hospitals and acute units is of great importance. The Inspector is required under the Mental Treatment Act, 1945 to visit each public psychiatric hospital and inpatient unit one a year and the Central Mental Hospital and private psychiatric hospitals twice a year. A detailed report of each inspection is forwarded to the Chief Executive Officer of the responsible health board for verification of information in the report and for a response to the recommendations of the Inspector. Very significant improvements in the quality of accommodation and care have taken place in the psychiatric hospitals in recent years as a result of the Inspector's reports and subsequent discussions between the Department of Health and Children and the health boards.

The Inspector is obliged under the Act to submit an annual report on the inspections to the Minister of Health and Children. The Inspector's annual reports emphasise the need to provide more rehabilitation for long-stay patients and for health boards to take a more active role in the management of the hospitals. Separate services for older persons

and people with intellectual disability have been recommended by the Inspector and these recommendations are being implemented.

It is the Minister's intention to facilitate health boards in bringing about the necessary improvements and developments identified by the Inspector in the reports. Capital funding of approximately €190million has been provided for the development of mental health services over the lifetime of the National Development Plan (2000-2006). This funding will go towards the development of acute psychiatric units attached to general hospitals and the enhancement of community based residences and facilities.

Additional revenue funding of €24.447 is being provided in 2002 for improvements in mental health services. Priority is being given to the continued development of child and adolescent and old age psychiatry and other specialist psychiatric services; the further enhancement of community-based mental health services and the implementation of the recommendations of the Task Force on Suicide. Provision has also been made for the development of mental health advocacy services and for additional funding to voluntary bodies representing the interests of users of the mental health services and their families and carers.

29. Please provide information on mortality rates arising from illegal abortions, and please cite case law, if any, on the prosecution of such abortions.

There is no evidence of illegal abortions taking place in Ireland in recent decades and therefore the question of mortality does not arise. Abortion is illegal in Ireland under the Offences Against the Person, 1861, unless there is a real and substantial risk to the life of a woman during pregnancy. No prosecution has taken place under the Act since 1974. Irish women seeking abortions travel to jurisdictions where this is legal, primarily the United Kingdom. Figures provided by the Office for National Statistics, London show that in 2000, 6,391 abortions were performed in England and Wales on women who gave Irish addresses.

30. Please provide information about the incidence of suicide among persons between 15 and 18 years of age, disaggregated by sex.

Information about the incidence of suicide among persons between 15 and 18 years of age, disaggregated by sex is not available. Provided below is the information available for the 15 to 19 age group regarding the number of suicides between 1996 and 2000.

Table 12 : Number of suicides in the 15 to 19 age group between 1996 and 2000

	Number of Suicides	Rate per 100,000 of the population
Total	193	11.3
Male	158	18.1
Female	35	4.2

31. Please provide information about the measures taken by the State party to alleviate the problem of long waiting lists for medical service at public hospitals.

The Waiting List Initiative, which was introduced in 1993, is operated on a basis of dedicated funding from the Department of Health and Children to health agencies to enable public hospitals to carry out waiting list procedures. Since 1993, €201.88 million has been provided to health agencies under this initiative.

While the management of waiting lists is the responsibility of the respective health board or authority, the Department monitors and evaluates the performance of each agency in terms of numbers and also waiting times. The Department monitors the waiting times for the major target specialties. Information on public hospital in-patient waiting lists and times is collated and published by the Department on a quarterly basis. The Department issues guidelines to the agencies in relation to the effective operation of the Initiative and these guidelines are reviewed and updated on a regular basis.

The Waiting List Initiative has funded a large number of elective procedures and has enabled thousands of patients to receive treatment more quickly than would have been possible under normal hospital services.

The new Health Strategy – “Quality and Fairness”, which was launched in November 2001, outlines the measures which will be taken in the coming years to tackle waiting lists. The Strategy places a new focus on waiting times and sets out the following targets:

- By the end of 2002 no adult will wait longer than 12 months and no child will wait longer than six months following referral from an out-patient department.
- By the end of 2003, no adult will wait longer than 6 months and no child longer than 3 months to commence treatment following referral from an out-patient department.
- By the end of 2004, no public patients will wait longer than 3 months for treatment following referral from an out-patient department.
- A new Treatment Purchase Fund will be established for the sole purpose of purchasing treatments for public patients so that the above targets can be met. The Treatment Purchase Fund will remain in place until the target of treatment within 3 months is reached.

The new Health Strategy outlines further measures which are designed to address the issues of capacity and efficiency in the delivery of services. A strategic partnership will be developed with the private sector in providing services for public patients and a National Hospitals Agency will be set up to plan the configuration of hospital services.

Articles 13-15: Cultural Rights

32. **What are the child and adult literacy rates in Ireland? Please disaggregate the data by sex. Also disaggregated by sex, what are the child and adult literacy rates for travellers?**

Adult Literacy rates for Ireland

There are inherent difficulties associated with the concept of a literacy rate. There is now widespread consensus that literacy is a continuum of ability and there are difficulties associated with identifying a particular point along that continuum as a cut-off point at which an individual is deemed to be literate or illiterate.

Data are provided below from the International Adult Literacy Survey (IALS) – the Irish results of which were published in 1997. Table 13 outlines the overall results for Ireland and this data is disaggregated by gender in Table 14. The IALS examined three different domains of literacy – prose literacy, document literacy and quantitative literacy. Respondents were graded according to their level of performance within each domain. Level 1 refers to those with the lowest levels of literacy and levels 4 & 5 refer to those with the highest levels of literacy¹.

Table 13 : Percentage at Each Level for Each Literacy Domain: Results for Ireland

Literacy Domain	Level 1	Level 2	Level 3	Level 4/5
Prose	22.6	29.8	34.1	13.5
Documents	25.3	31.7	31.5	11.5
Quantitative	25	28.3	30.7	16

Source: IALS (1997)

¹ For a fuller explanation of the methodology and results of IALS, see: Morgan, M., Hickey, B., Kellaghan, T. et al. (1997), *International Adult Literacy Survey: Results for Ireland*, Department of Education & Science, Dublin.

Table 14 : Percentage at Each Level for Each Literacy Domain by gender: Results for Ireland

Literacy Domain	Level 1	Level 2	Level 3	Level 4/5
<i>Prose</i>				
Male	24.2	29.1	33.7	13
Female	21	30.4	34.6	14
<i>Documents</i>				
Male	23.6	30.7	32.8	13
Female	27	32.8	30.3	9.9
<i>Quantitative</i>				
Male	22	26.4	32.5	19.1
Female	27.7	30.3	28.8	13.2

Child Literacy Rates for Ireland

The OECD Programme for International Student Assessment (PISA) provides some indication of the literacy levels of 15-year olds in Ireland and in other OECD countries. The study was administered to students in 28 OECD countries and in 4 other countries in 2000. In Ireland, 3,854 students in 138 schools took part. The study assessed the literacy of students in three areas: reading literacy (a major domain), mathematical literacy and scientific literacy (minor domains). The results were reported on December 4, 2001. The data provided below focuses on the major domain of reading literacy.

In this area of reading literacy, Ireland achieved the fifth highest mean score among the 27 OECD countries that met agreed criteria on school and student participation levels. Just one country (Finland) achieved a significantly higher mean. The countries with mean scores not significantly different from Ireland's are Australia, Canada, Japan, Korea, Sweden, the United Kingdom and New Zealand. Ireland's mean score on the combined reading scale and on the three sub-scales are significantly higher than the corresponding OECD country average scores. The scores of Irish students at the national 10th and 90th

percentiles are also significantly higher than the corresponding OECD country average scores at these points.

The achievement of students on the PISA assessment of reading literacy is reported in terms of proficiency levels. The scale for combined reading literacy included five levels: Level 1 (the lowest) to Level 5 (the highest). An additional category, 'below Level 1', was added to accommodate students who did not meet the criteria for inclusion at Level 1. Table 15 below presents the percentages of students at each combined reading literacy proficiency level in Ireland. By way of comparison, Table 15 also provides equivalent data for all participating OECD countries combined.

Table 15 : Percentages of Students at Each Combined Reading Literacy Proficiency Level: Results for Ireland and OECD Country Average

Level	Ireland		OECD Country Average	
	Percent	SE	Percent	SE
<1	3	0.44	6	0.13
1	7.9	0.82	11.9	0.17
2	17.8	0.91	21.7	0.17
3	29.7	1.11	28.7	0.21
4	27.3	1.1	22.3	0.21
5	14.3	0.84	9.5	0.14

Source: Shiel, Gerry et al. (2001); Ready for Life?: the literacy achievements of Irish 15 year olds with comparative international data. Dublin: Educational Research Centre

Table 15 illustrates that smaller proportions of Irish students achieved scores at the lowest levels of proficiency on the combined reading literacy scale, and larger proportions achieved scores at the highest levels, compared to the OECD country average proportions. For example, 11% of Irish students achieved Level 1 or below, compared to an OECD country average of almost 18%.

Gender differences

Table 16 below outlines the percentages of Irish students at each combined reading proficiency level by gender. In Ireland, female students outperformed male students on the combined reading literacy scale (by about one-third of a standard deviation), and on each of the reading sub-scales. Male students are more strongly represented than females at the lowest proficiency levels and the reverse pattern is apparent at the highest proficiency levels. In Ireland, 4% of male students, but only 2% of female students, achieved 'below Level 1'. The corresponding OECD country averages were: 8.0% and 3.7%. The difference between the proportions of Irish males and females achieving 'below Level 1' was not statistically significant at the .05 level.

Table 16 : Percentages of Irish Students at Each Combined Reading Literacy Proficiency Level by Gender

Level	Males		Females	
	Percent	SE	Percent	SE
<1	4	0.64	2	0.49
1	9.5	1.05	6.3	0.96
2	21.3	1.49	14.3	0.97
3	29.9	1.54	29.6	1.31
4	24.1	1.45	30.4	1.36
5	11.2	1.1	17.4	1.18

Source: Shiel, Gerry et al. (2001); Ready for Life?: the literacy achievements of Irish 15-year olds with comparative international data. Dublin: Educational Research Centre

The gender differences observed in Ireland were similar to those observed in other OECD countries. Differences in reading literacy in favour of females were observed in all countries.

For more detail on the PISA results for Ireland, a summary of the Irish national report is posted on <http://www.erc.ie/pisa>. The international website for PISA is <http://www.pisa.oecd.org>.

Child and Adult Literacy Rates for Travellers

The Department of Education & Science does not have specific data on literacy rates for travellers.

33. Does human rights education, including issues such as respect for cultural diversity, form part of primary and secondary school curricula?

How are human rights ‘taught’? There are at least two ways: the first in a formal ‘timetable’ way and the other by the ethos and climate which permeates a school. Tolerance, democratic principles, respect for difference and equality of opportunity are all issues that can form part of the school curriculum. This is a great challenge for everybody involved in education. The Education Act, 1998 obliges all those involved in education to look again at what constitutes democracy in education. This historic piece of legislation formalises statutory duties in relation to issues of access, equality, accountability and partnership. In particular, section 27 of the Education Act, 1998 recognises the valuable role of a student council in promoting student involvement in the activities of the school and requires school management to facilitate and support their establishment in post-primary schools. A student council is a representative body for students which can make a significant contribution to school development in partnership with the board of management, parents and teachers. Ministerial Guidelines on the establishment and operation of student councils will be issued to schools in the near future. The focus on the rights of the child which has been a feature of the last decade, is the spirit which informs many of the provisions of this Act and the Education Welfare Act, 2000.

Primary level

At Primary level, human rights education including respect for cultural diversity is

provided for under Social, Personal and Health Education (SPHE). The Teacher Guidelines for SPHE make explicit reference to the UN Convention on the Rights of the Child, 1990 which states that "education of the child shall be directed to...the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin".

SPHE is one of seven curriculum areas (including twelve discrete subjects) being introduced into schools on a phased basis following a major review of the whole curriculum for primary schools. Training of teachers in SPHE commenced in the autumn of 2001 and will be completed by 2003 with SPHE a mandatory part of the school curriculum in all schools in 2003.

SPHE provides children with the opportunity to nurture self worth and self-confidence, to set and assess goals and to manage their own behaviour. As children progress through an SPHE programme, they will encounter a wide range of issues including prejudice, discrimination, human rights, citizenship and cultural diversity. The SPHE curriculum is structured in such a way that these issues are not explored in isolation; rather the emphasis is on building a foundation of skills, values, attitudes and understanding relevant to all these issues, with specific information provided where necessary and appropriate.

SPHE employs three strands: "Myself", "Myself and others" and "Myself and the wider world". The third strand places the child in the context of the world in which he or she lives. It aims to develop a respect for cultural and human diversity in the world and an appreciation for the democratic way of life. The child is encouraged to become an active and responsible citizen who understands the interdependent nature of the world in which he or she lives. The curriculum is drawn up in a spiral manner with similar content revisited at each level; the processes, approaches and information adopted reflect the needs of children at a particular time and at various stages of readiness.

Although discrete time is set aside for SPHE, the content is complemented by work in other areas of the curriculum such as Geography, History, Language, Music, Art, Drama

and Religious Education. The content is designed to provide the foundation for Civic, Social and Political Education (CSPE) in Post-Primary Schools.

Secondary Level

In terms of the formal timetable, Civic, Social and Political Education (CSPE) has been mandatory in all second level schools in Ireland since September 1997. CSPE aims to prepare students for active participatory citizenship. This is achieved through comprehensive exploration of the civic, social and political dimensions of their lives at a time when pupils are developing from dependent children into independent young adults.

The syllabus has been written in the form of unit descriptions rather than as a specified list of topics to be covered. It is based on seven concepts: Democracy; Rights and Responsibilities; Human Dignity; Interdependence; Development; Law; and Stewardship. This format allows teachers and pupils enough scope and flexibility to select and deal with issues such as gender equity, racism and xenophobia, interculturalism, the environment, development, work and unemployment, poverty and homelessness, minorities, and conflict situations such as that in Northern Ireland.

Students are invited to explore these concepts and values in a sequential manner – starting with the individual and moving on to the community, the State and the world. Through active exploration and study of citizenship at all levels (personal, local, national, global) in the context of contemporary social and political issues, this course aims to:

- make pupils aware of the civic, social and political dimensions of their lives and the importance of active, participative citizens to the life of the state and all people;
- encourage and develop the practical skills which enable pupils to engage in active, participatory social interaction, and to adopt responsible roles as individual, family member, citizen, worker, consumer, and member of various communities within a democratic society;

- develop knowledge and understanding of processes taking place at all levels of society which lead to social, political and economic decision-making.

The acquisition of skills and attitudes enables students to participate fully in the democratic process. This is something that CSPE fosters in a variety of ways. For example, the employment of active and co-operatively structured learning methodologies enables and empowers young people to become active and participative. The Inservice Training programme which is now in its fifth year has included much in the area of active methodology. This has been informed by work on Multiple Intelligences in University College, Cork, by the involvement of a number of NGOs and by the work of the Curriculum Development Unit of City of Dublin Vocational Education Committee.

The ‘active learning’ aspect of citizenship education is a central tenet of CSPE because it is in that context that the *skills* are developed and a *process* of human rights education truly engaged in. Commentators on human rights education have said that ‘we learn about human rights by thinking, feeling and doing’ and have stressed the affective dimension which ‘finds expression in action.’ In short, learning about human rights is not just a cognitive process. It is for this reason that an important part of the CSPE course is an Action Project undertaken by each student.

34. How is new “Relationships and Sexuality Education” (RSE) (para 211) being taught in schools? Has the initiative met with significant resistance from parents, teachers or the Catholic Church?

The Department of Education and Science continues to support ‘Relationships and Sexuality Education’:

- At Primary level, through the Social, Personal and Health Education (SPHE) curriculum which is a core element of the revised Primary School Curriculum. The delivery of Relationships and Sexuality Education is ongoing in schools and it is being integrated into SPHE as the new curriculum is being implemented in

Primary Schools. The implementation of SPHE in Primary Schools is being supported by the Primary School Support Service.

- At Second level, through the Social, Personal and Health Education (SPHE) curriculum at Junior Cycle. RSE has been incorporated into the Junior Cycle syllabus. Second level schools are required to have begun the implementation of Junior Cycle SPHE by September 2003 and are being supported in the delivery of SPHE by the Post-primary SPHE Support Service.
- At Senior Cycle, a National Co-ordinator and RSE Support Office has been established to support schools in the ongoing delivery of RSE at Senior Cycle. RSE will be integrated into the Senior Cycle SPHE syllabus when it is developed.

Parents and teachers have very strongly endorsed the approach taken in the delivery of the RSE, at primary and post-primary levels². The following principles, inter alia, which underline RSE were agreed with both teachers and parents:

- the role of the school is to complement the home with regard to relationships and sexuality education;
- parents should be consulted with regard to relationships and sexuality education for their children;
- it is entirely inappropriate that children should rely on the media for their information on sexual matters;
- information regarding relationships and sexuality should always be age-appropriate;
- RSE should not simply involve information but should be linked with attitudes and values;
- it is important that RSE should enable young people to form values with a moral and spiritual framework;
- a good education should involve preparation for relationships with the opposite

² Morgan, M., (2000) *Relationships and Sexuality Education: An Evaluation and Review of Implementation* Department of Education and Science, Dublin.

sex;

- some features of contemporary life make it essential to have an RSE programme in schools;
- RSE is an important feature of social, personal and health education;
- the development of a school policy is central to the organisation of an RSE programme;
- the management authorities of individual schools have the responsibility for developing policy in collaboration with parents, staff and, where appropriate, pupils. It is recognised that RSE will be determined and delivered in accordance with the ethos and core values of the individual school; and
- parents should have a say in the material and videos which are used in RSE

The Education Sub-Committee of the Irish Catholic Bishops' Conference met with the Minister of Education and representatives of the Department and were in agreement with Relationships and Sexuality Education as it is being implemented in schools.

35. Please summarise the objectives and effectiveness of the “special unit for the provision of language training for adult refugees”, referred to in paragraph 182 of the State party report.

The Refugee Language Support Unit was established in 1999 by the Department of Education and Science. In 2001 the unit changed its name to that of Integrate Ireland Language and Training (IILT). Its objectives have been identified as being

- to establish and maintain a database of the language experience of all non-national pupils and adult refugees and to track their English language training progress;
- to develop suitable English language programmes for non-nationals;
- to develop new English language training materials and identify sources of suitable existing materials;
- to provide training for English language support teachers and their principals at primary and post-primary school levels;
- to develop benchmarks of English competence at various levels; and
- to advise the Department of Education and Science on matters relating to the

English language provision for non-nationals, as requested.

Direct delivery classes are run by IILT in Dublin for adult refugees. Classes are also set up and monitored in different parts of the country where a need emerges. For adult learners, IILT has identified and defined a series of levels which correspond to the real needs of such learners.

Classes are run at four different levels:

- Reception 1 for those newly arrived or with very low levels of proficiency. This level includes those who are not literate in their mother tongue as well as those who are literate in a non-Roman script language;
- Reception 2 is for those learners with higher levels of language and cross-cultural awareness.
- Fast-track is a pre-vocational or pre-employment course for those preparing for entry into further training or the labour market; and
- Academic/professional classes are held for those with professional qualifications who wish to re-enter their profession and who are obliged to satisfy particular English language requirements in order to do so.

European Language Portfolios (ELP) have been developed for Reception 1, Reception 2 and Fast-track learners and a draft version of a university-level ELP is used with the academic learners. A considerable resource bank of materials has been developed over the past five years for use with all the above learners. The emphasis in materials development has been on the use of authentic sources and the 'real life' situations which apply to refugees.

In October 2001, the Department of Education and Science agreed to provide funding for the development of materials for use with adult asylum seekers. These materials are to be developed and disseminated through collaborative workshops.

36. Please explain the extent to which refugee and asylum-seeker children are educated in their mother tongue?

A limited amount of mother tongue and mother culture support is funded by the Department of Education and Science. Classes take place outside of the school day (usually at weekends), often on school premises. Otherwise, mother tongue and mother culture support is provided on a voluntary basis within ethnic communities.

37. Please discuss the state party's policy for minority groups in relation to their enjoyment of the right to take part in cultural life.

Multi-Cultural Initiatives

As with most countries in Europe, increased cultural diversity is now becoming a fact of life in Ireland. The Ireland of today is becoming multi-cultural and cultural policy will have to be inclusive and remain open to the richness of other cultures. Support for multi-cultural initiatives by the Arts Council is strategically linked to its three main aims which are:

- To promote excellence in Art;
- To build capacity; and
- To increase participation.

Arts Council support for multi-cultural arts

The changing demographic profile of Irish society due to current migratory trends (Irish nationals leaving and returning and foreign nationals resident in Ireland) provides an opportunity for existing arts practice to be informed and transformed directly through the influence and assimilation of other cultures.

Arts Council support for multi-cultural arts is addressed across the range of Arts Council programmes and projects, through direct funding and schemes (see examples below), through advocacy and partnerships such as support to Local Authority arts programmes, examples of which include:

- South Dublin County Council's 'Multi-cultural Day' - €4,000
- Dún Laoghaire/Rathdown County Council's 'Festival of World Culture' - first held in 2001.

The Arts Council also supports a range of arts organisations, such as the City Arts Centre and Calypso Theatre Company that provide support for multi-cultural arts activities through their programming and education and outreach programmes, and through arts resource organisations, such as CAFÉ (Creative Arts for Everyone), that provide support and advice in this area.

Arts in community contexts is one of the primary areas where issues of cultural diversity are explored and developed i.e. African Cultural Project in Dublin, United Africans Association, in Co. Clare, and Pavee Point in Dublin. Examples of multi-cultural projects funded by the Arts Council:

The African Cultural Project, Dublin

Funding in 2001: €5,000

The African Cultural Project has been in operation since 1994 and each year, except for 2000, they have been in receipt of Arts Council project funding towards their activities. The aim of this project is to provide a platform for contemporary African arts practice in Ireland. In 2000, they carried out research into the needs of Africans in Ireland and in particular the provision of cultural and arts events for the African population in Ireland.

United Africans Association (UAA), Clare

Funding in 2000-01: €3,850

The United Africans Association is a recently established organisation representing the African community living in Ennis, Co. Clare. It received funding in 2000-01 through the Arts Council's Artist in the Community Scheme to enable the artist Rite Wobbe to work with 5-10 family groups. The project was a follow-up to an exhibition of contemporary

art in Ennis and was set in the context of a number of other residencies/community arts projects that were run in the area. In terms of sharing experiences and information they were all being supported administratively by CAFÉ. This particular project aimed to involve family groups who have little previous experience of engaging in Irish cultural life.

Pavee Point

Funding in 2001: €5,000

This organisation has been in existence since 1985 and is concerned with promoting Traveller culture, heritage and arts practice. They are involved in a range of activities intended to promote Traveller culture and to increase participation in the arts on the part of young Travellers. In 2001, it was awarded a grant of €5,000 towards the costs of an initiative to encourage young Travellers to become involved in music, in particular traditional music associated with Travellers, such as the fiddle and uilleann pipes. The project was developed with the arts organisation Na Píobairí Uilleann.

The Department of Justice, Equality and Law Reform - as part of its remit for equality and anti-discrimination policies - has recognised that cultural life is a significant area where the participation of Ireland's minority groups can be advanced. The following are some of the initiatives taken:

National Anti-Racism Awareness Programme

One of the stated objectives of the National Anti-Racism Awareness Programme is to contribute to a range of policies that promote an inclusive approach to minorities, including ethnic groups, such as refugees and asylum-seekers, and members of the Traveller community. The response to the second part of Question No. 11 above gives expanded information on the Programme.

Citizen Traveller campaign

The Government has provided €380,000 each year for the past three years to fund a communications programme for Travellers. The aim of the Citizen Traveller campaign is to promote a greater understanding between Travellers and the settled community. The programme has had the added effect of informing the settled population about Traveller

culture.

Monitoring Committee on the Traveller Community

A Monitoring Committee was set up in 1998 to review progress on the Traveller Task Force report published in 1995. That report provided over 300 recommendations on all of the issues concerning Travellers, including accommodation, education, health and discrimination. It also specified that the distinct culture and identity of Travellers should be recognised and taken into account. A Progress Report outlining progress on the Task Force recommendations was published in April 2001.

Non-discrimination in relation to participation in cultural life

As regards the Committee's point about the enjoyment by individual members of minority groups (Travellers, ethnic groups etc.), it might be noted that discrimination in the relation to goods and services on grounds of race, religion and membership of the Traveller community (as well as on other specified grounds) is prohibited by the provisions of the Equal Status Act, 2000 (see earlier response to Question No. 9). The definition of 'service' includes: "facilities for . . . entertainment, recreation and refreshment [and] cultural activities" (see section 2(1) of Act).

List of Appendices

Appendix 1 : Report of the Constitution Review Group (pg 220 - 243) (1996)

Appendix 2 : Know Racism - The National Anti-Racism Awareness Programme - Information pack, Department of Justice, Equality and Law Reform, (2001)

Appendix 3 : Homelessness - An Integrated Strategy, Department of the Environment and Local Government (2000)

Appendix 4 : Quality and Fairness - A Health System for You - Health Strategy , Department of Health and Children (2001)

Appendix 5 : Primary Care - A New Direction - Health Strategy, Department of Health and Children (2001)