



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
Twenty-first session

Summary record of the 441st meeting

Held at Headquarters, New York, on Monday, 21 June 1999, at 3 p.m.

Chairperson: Ms. González

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The meeting was called to order at 3.10 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined second and third periodic reports of Ireland (continued) (CEDAW/C/IRL/2-3; CEDAW/PSWG/1999/II/CRP.1/Add.3)

1. *At the invitation of the Chairperson, the members of the delegation of Ireland took places at the Committee table.*

2. **Ms. Corti**, speaking to the issue of women's political participation, congratulated Ireland on having had two women Presidents to date. She was glad to note that most of the political parties had developed quota systems or special measures to improve women's participation in their membership and lists of candidates. She would like to know how many women had been elected in the local elections scheduled for June or, if the elections had not yet been held, how many women were candidates. In addition, she would be grateful for confirmation of the numbers of women elected or nominated recently for the European Parliament and the latest figures for women seated in the national Parliament. She wondered whether women in the national Parliament sometimes united to lobby for women's issues that cut across party loyalties, and, in that case, on what issues.

3. She was pleased to note that women's participation in trade union membership and leadership was greater in Ireland than in many countries and was on the increase.

4. On the subject of special temporary measures, she would appreciate a clarification of the policy in public sector employment. Apparently quotas were illegal under the Employment Equality Act of 1977, although perhaps that had been changed in the 1998 Act. Yet it seemed that the Government had adopted special temporary measures in some areas, for instance, the health service. A more detailed description of the Partnership 2000 programme would be appreciated. She would like to know what portion of the funding provided to political parties under the Electoral Act of 1997 had been devoted to women's electoral campaigns. She was also interested in the voting composition of the board of the next national

Commission on the Status of Women and any provision for equal participation on it.

5. **Ms. Cartwright** thanked the delegation of Ireland for the wealth of information provided and said that she wished to raise some legal issues. She did not find wholly convincing the argument that direct incorporation of the language of the Convention into the Irish Constitution was undesirable because it would involve jettisoning the jurisprudence built up around the existing language, and one could not be sure that domestic tribunals would interpret the Convention language in the same way as the Committee. As to the optional protocol, parties bringing communications before the Committee would first have to exhaust domestic remedies, and any discrepancy in interpretation would therefore soon become obvious. At the very least, the proposal made by the Constitution Review Group to amend article 40.1 of the Constitution to include language expressly prohibiting discrimination on any ground such as sex, among others, would be a good start, and she was interested to know the status of the proposal. If the Constitution Review Group was still in existence, it was perhaps the appropriate body to consider incorporating other provisions of the Convention into Irish law. Article 41.2.2 of the Constitution on women's duties in the home was overdue for amendment.

6. Also of interest were the role and structure of the national Human Rights Commission. She wondered whether it would bring disputes before the courts or have its own tribunal. It should include highly qualified women, but there seemed to be few women judges and hence only a small pool for the Commission to draw from. That in turn raised questions about appointments to the judiciary: were vacancies filled by application or by personal approach to a suitable candidate? With due respect for the independence of the judiciary, there were ways of educating judges as to the needs of groups in their society, such as the problem of domestic violence for women. She would endorse the proposal that family law should be administered by specially selected and trained magistrates.

7. **Ms. Aouij** said that the Government of Ireland had shown praiseworthy commitment in its efforts to achieve women's equality, efforts which were reflected in new laws on divorce, parental leave and equal opportunity in employment and before the courts. It would be interesting to see what results those new laws would yield.

8. In the area of domestic violence, she was pleased to note that the recommendations of a task force on violence against women had led to the creation of a National Steering Committee and the establishment of regional planning committees covering the entire country. She would be interested to hear the conclusions of the National Steering Committee report concerning a publicity strategy on domestic violence. The difference between statistics provided by the police and those provided by women's support groups pointed up the need for a unified system of data collection on domestic violence classified by type; data could perhaps be funnelled by the regional committees to the National Steering Committee. Gender-specific data should also be collected on users of the services provided under the Civil Legal Aid Act of 1995, since almost all the cases involved family law. She would appreciate further information on the conditions of eligibility for legal aid. In addition, she wished to know if any provision was made for legal assistance to victims in domestic violence or sexual harassment cases.

9. Her other main concerns were the few programmes available for older women and the multiple sources of discrimination to be overcome in the case of rural women, especially in terms of earning power and property ownership. Since the Government of Ireland was now committed to improving the situation of women, the time was ripe to move forward in those areas as well.

10. **Ms. Acar** said that in view of the internationally recognized, pioneering work done in Ireland on women's studies, she was surprised at the cursory treatment given to the subject in the report. She would welcome information on the current status of women's studies, including the number of universities offering degree programmes and efforts to mainstream women's studies into other programmes. In a society where traditional stereotypes still played a defining role, as in Ireland, the mainstreaming of women's studies was highly important.

11. She would also like to see far more information on women employed in academia, including numbers and percentages of women teaching in the various disciplines, in part-time or full-time posts, and at the various levels; also of interest would be data on salaries and pay disparities, and any improvements since the first report.

12. **Ms. Abaka** commended the Government of Ireland for its many women's health programmes and said she was pleased to see that the Department of Health was planning to institute a large-scale mammography programme. However, the delays sometimes experienced in receiving test results, of cervical smears, for example, suggested that, given the possibility of a fast-moving cancer, more resources needed to be allocated to screening programmes to ensure their effectiveness. She was also pleased that Ireland was promoting breast-feeding and had adopted the baby-friendly hospital initiative. In the light of new studies suggesting that HIV/AIDS might be communicated through breast milk, she hoped that the Government of Ireland would put in place a programme to alert carriers of the virus.

13. With regard to termination of pregnancy, the particular concern she wished to raise was that the option open to Irish women to go abroad for abortions was denied to female asylum seekers, who were prohibited from leaving the country. She urged a review of that policy. In addition to statistics on abortions out of country, the next report should present data on illegal abortions within Ireland. Improved family planning services could help to reduce the scope of the problem.

14. Another praiseworthy programme was that on education in relationships and sexuality in the schools. She would urge that a secular sex education programme should be required in all schools.

15. **Ms. Kim Yung-chung** asked whether trafficking in women was an issue in Ireland. In higher education, the low representation of women in technology and engineering was a matter of concern. The Committee also wished to know whether any non-governmental organizations had been consulted during preparation of the reports.

16. **Mr. McDonagh** (Ireland), responding to a variety of questions, said that a major difficulty affecting implementation of the Convention was the time it took for attitudes to change. Currently, some 40 per cent of the labour force was female. The majority of women above the age of 50 did not work, which was a reflection of the days when women retired upon marriage. Most women in the 20 to 40 age group were, however, employed. Funding was a further problem area. Now that the national GDP per capita was approaching the European average, Ireland would soon

no longer be eligible for European Union structural funds; that assistance would have to be replaced with State funds.

17. The Committee had requested various statistics. Ireland's population was currently estimated at 3.6 million. Traveller families numbered approximately 5,000, namely some 25,000 people of whom at least 7,000 were adult women. Ireland also had some 7,000 asylum seekers. Altogether, however, vulnerable groups accounted for less than one per cent of the female population. Nor did Ireland have a significant migrant population in low-wage employment.

18. As for child-care statistics, there were currently some 146,000 child-care places benefiting 17 per cent of all children and 38 per cent of those under five. Twenty per cent of children under five whose mothers were at home benefited from paid childcare, compared with 73 per cent of those whose mothers worked full-time and 53 per cent of those whose mothers had part-time jobs. Children started school at age four or five. The Government was committed to tackling the problem of child-care provision, which was linked to the rise in female employment.

19. Employment equality legislation did not provide for quotas as such, however the new Equality Authority would be conducting audits in the public and private sectors and setting targets for affirmative action. As to enhancing women's participation in politics, the deputy leader of the larger of the two main political parties, Fianna Fáil, was a woman, as was the leader of the smaller party. Given that decision-making in Parliament took place by consensus, women could thus be said to have considerable influence in government. In the most recent local elections, 16.2 per cent of candidates had been female, and all parties, apart from the largest party, had run female candidates; 14.5 per cent of the latter had proved successful. The Second (National Commission on the Status of Women had stressed that women's participation would need to be greatly enhanced before women had a real say in Ireland's political life.

20. Ireland's second and third reports had been drafted with the close cooperation of civil society, as had the State party's replies.

21. Trafficking in women was not a significant phenomenon in Ireland. There was only a very small amount of trafficking, mainly from Ireland's nearest neighbour. Recent legislation on sexual offences

targeted child sex tourism by making Irish citizens, or persons ordinarily resident in Ireland, who engaged in unlawful sex with children in other countries accountable to the Irish courts. It was also an offence to participate in the organization of sex tourism.

22. The bill to establish a national Human Rights Commission pursuant to the terms of the Good Friday agreement of 10 April 1998 had yet to come before Parliament.

23. Concerning legislative changes, he said that the all-party committee on the Constitution was currently considering a number of proposals from the Constitution Review Group, including a redrafting of the Constitution in gender-neutral language. Equality and gender issues were covered as an integral part of all university courses in law. Further details would be provided in the subsequent report.

24. **Ms. Bohan** (Ireland), responding to questions on education, said that the Department of Education and Science regularly published comprehensive statistics on primary and secondary education, which were disaggregated, inter alia, by sex. Despite a number of government initiatives to alter stereotyped attitudes, results had been disappointing, particularly among young males. One impeding factor was an already crowded school curriculum. A number of initiatives had, however, been successfully implemented in the "transition year" between the junior and senior cycles of education which was designed to give 15-year-old children the opportunity to develop their interpersonal skills. A more long-term assessment of education initiatives would be included in the mandate of the proposed gender equality unit.

25. Sexual harassment of teachers was dealt with by teacher unions and legal proceedings could be instituted. The Department of Education and Science had been assisting with the development of school policies on sexual harassment of students, including procedures for dealing with perpetrators and victims. One government initiative, which focused exclusively on boys, sought to challenge traditional macho values and explore the social construction of masculinity. Other programmes dealt, inter alia, with violence against women and the sharing of responsibilities in the home and community. Publishers of school textbooks were being encouraged to adhere to government guidelines on gender issues.

26. According to more recent surveys, 30 to 40 per cent of principals were female. The figure was still low in view of the large numbers of women in the teaching profession. The figure of 9 per cent on page 71 of the English version of the report referred to principals in the vocational sector.

27. Five universities had women's studies centres offering modules to students in a variety of disciplines. The research conducted by those centres also impacted on other areas of education. The proportion of women in academia decreased with increasing seniority: whereas there was a gender balance at junior lectureship level, women accounted for less than 5 per cent of professors. There was no discrimination, however, with respect to pay.

28. The participation of female students in technology and engineering was, indeed, disappointing, especially given that over 50 per cent of students at the higher level were female. An initiative to encourage young girls to consider careers in technology and science was at least beginning to show signs of success.

29. **Mr. Quirke** (Ireland) said that poverty was defined in Ireland's National Anti-Poverty Strategy as a level of income and resources such that people could not have a standard of living regarded as acceptable by Irish society generally and excluding them from participation in normal social activities. The Strategy focused on the 9 per cent to 15 per cent of Irish households that had been determined in a 1994 survey to be consistently poor. The survey had set benchmarks for poverty at 50 per cent and 60 per cent of average household income, combined with basic deprivation.

30. Further analysis of that survey's data had recently been published in a report on the incidence of poverty among women by the Combat Poverty Agency, a government body. The report showed that female-headed households, roughly a quarter of the total number of households, were at greater risk of falling below the 50 per cent benchmark than households headed by males or couples. In 1994, female-headed households had consisted mainly of women living alone and with children. Both those groups were now recognized as facing a higher risk of poverty than the population at large.

31. The proportion of the population living in consistent poverty had gone from between 9 per cent and 15 per cent in 1994 to between 7 per cent and 10

per cent in 1997. Unfortunately, the 1997 data had not been gender-disaggregated. However, an increasing percentage of women had been entering paid employment between 1994 and 1997 and had thus escaped poverty, and in 1997 the One-Parent Family Payment scheme had been introduced which allowed lone parents to earn up to £Ir 6,000 per year without reduction of basic income support.

32. Contribution-based social insurance pensions were available for people in paid employment and the self-employed. Women in the home who had not paid social insurance contributions had had to rely on means-tested social assistance pensions. Special arrangements had been designed to help people who worked in the home qualify for old-age social pensions: since 1994, up to 20 contribution years spent out of the workplace caring for children up to 12 or for incapacitated persons were disregarded in calculating the amount of pension. The qualifying conditions for social insurance pensions were currently under review by the Government, and the pension position of women in the home would be given particular attention.

33. **Ms. Kelly** (Ireland) said that discrimination against women in access to employment had been addressed in the Employment Equality Act of 1977, which outlawed it, and the Employment Equality Act of 1998, which superseded the 1977 Act and had made it easier to go to law against such discrimination. In the earlier statute, a woman had had to prove that she had been treated less favourably than a single woman would have been treated, whereas in the latter she needed to prove only that she had been treated less favourably than either a single woman or a man.

34. Concern had been raised about the need in the equal pay legislation for a male comparator. The possibility had indeed been raised of having a "hypothetical" comparator when the 1998 Act was being finalized, but it had been decided that no workable system could be found. However, the 1998 Act did incorporate a number of improvements: under the 1974 Anti-Discrimination (Pay) Act, the male comparator had had to work at the same workplace as the complainant. That was no longer the case in the 1998 Act, and a complainant could also select as a comparator a person employed at any time between three years before and three years after the alleged discrimination took place.

35. On the advice of the National Wage Commission, the statutory minimum wage was not to be introduced until April 2000, when an agreement covering wage levels which had been concluded between the previous Government and the social partners was due to expire.

36. The Employment Equality Act of 1998 defined sexual harassment for the first time in Irish law as all unwelcome, humiliating or intimidating actions that were offensive in sexual or gender-discriminatory terms and involved acts of physical intimacy, spoken words — including requests for sexual favours — or gestures or the production, display or circulation of offensive written material or pictures. The Act outlawed sexual harassment in the workplace and in the course of employment, whether by an employer, another employee or by clients, customers and business contacts of the employer, and it defined as gender discrimination different treatment of a person in the workplace consequent on rejection or acceptance of sexual harassment.

37. There was no statutory provision requiring employers to produce codes of practice on sexual harassment. However, an employer could be held liable for sexual harassment by employees, clients, customers or business contacts unless he or she made reasonable efforts to prevent it, and “reasonable efforts” could include having a code of practice. The 1998 Employment Equality Act did make provision for a statutory code of practice that could be taken into account in cases brought under it. The Employment Equality Agency had produced the code of practice for the 1977 Act; the new Equality Authority would produce a code for the 1998 Act. The Government recognized that the lack or limited availability of gender-disaggregated statistics to monitor and evaluate the success or failure of measures for the advancement of women needed to be addressed. The Monitoring Committee on the Implementation of the Recommendations of the Second Commission on the Status of Women also recognized the need for disaggregated statistics and enhanced monitoring of gender equality, and as a result the task of conducting a study on improving monitoring arrangements had been put out to tender. In the invitation to tender, the need for performance indicators, gender-disaggregated statistics, identification of gaps in statistical coverage and a comprehensive gender-disaggregated statistical base had been highlighted. Also, guidelines were being drawn up on gender mainstreaming for the National

Development Plan 2000-2006, and they too addressed the statistics issue. The guidelines also highlighted the need for consultation with specific groups which might help compensate for the dearth of official statistics. Further, proposals were being formulated to mainstream the issue of equal opportunities in all areas of Government policy. Indeed, the Equality Authority would have the power to develop plans of action and conduct equality reviews covering both the public and the private sectors.

38. **Mr. Fitzgerald** (Ireland) recalled that under the Irish Constitution the State acknowledged the right to life of the unborn and, with due regard to the equal right to life of the mother, guaranteed in its laws to respect and, as far as practicable, to uphold that right. In 1992, the Supreme Court had interpreted that provision, to mean that if there was a real and substantial risk to the life, as distinct from the health, of the mother, and that such risk could be averted only by the termination of her pregnancy, termination would be lawful.

39. In December 1997, the Government had established a Cabinet Committee to oversee preparation of an official discussion document, which, without setting out an official Government position on abortion, would reflect the Constitutional, legal, medical, moral, social and ethical issues surrounding the abortion issue and take into account the views of interested parties as determined through extensive consultations. When it was ready, the document would be submitted to the Oireachtas All-Party Committee on the Constitution.

40. Further capital investment had been made and additional staff had been recruited to reduce turnaround time in conducting cervical smear tests. The target was one month.

41. **Mr. McDonagh** (Ireland) said that the provisions of the Irish Constitution and the Convention were not inconsistent with each other. If they had been, Ireland could not have ratified the Convention. While the Constitution contained no specific provision on gender equality, it did have a general provision on equality: its article 40.1 provided for equality before the law and article 40.3.1 provided for the protection of personal rights. Those provisions had been instrumental in allowing the courts in Ireland to establish gender equality rights. Nevertheless, a specific provision on gender equality had been recommended by the

Constitution Review Group and was under consideration by the Oireachtas All-Party Committee on the Constitution, even though such an amendment was not required to implement, in full, the provisions of the Convention. Ireland was taking all appropriate measures. Indeed, no Constitutional amendment had been required to introduce the Employment Equality Act 1998 nor would one be needed for the imminent Equal Status Act.

42. His Government acknowledged that the complaints procedure under the Optional Protocol to the Convention would, like the Convention itself, necessarily require a domestic interpretation which was the same as the Committee's. His Government hoped to be able to sign the Optional Protocol as soon as it was opened for signature and to ratify it at the earliest possible date.

43. Unpaid parental leave had been introduced after consultations with the social partners, but it was almost certain that the matter would be raised again in the context of discussions on the National Development Plan 2000-2006: paid parental leave was far from being ruled out for all time.

44. Child abuse regrettably occurred in Ireland, as elsewhere. Statistics on it were maintained by the Health Boards and were not currently gender-disaggregated. A new group had been set up by the Government to report on the issue and on ways to reduce its incidence and treat both victims and offenders, there being evidence that abusers should not be left in the community without treatment. The group was already holding meetings, and it was expected that disaggregated statistics on child abuse would be available for the next report to the Committee.

45. Under the Partnership 2000 agreement, a time-use survey was to be conducted, which would include work in the home, as a step towards developing statistical methods of evaluating the contribution of unpaid work to the national economy. A pilot study had been conducted by the Central Statistics Office in 1997 to investigate the methodological, practical and resource implications of conducting a full-scale survey. In processing the results, it had become apparent that time-use surveys involved many complex issues and placed large demands on statistical and information technology resources. Ireland had participated in international reviews of national accounting methods, and the difficulty apparent in valuing unpaid family

work was that there was often no market equivalent. Current European Union and United Nations standards for national accounting methods specifically excluded from national accounts the value of unpaid work, including work done by members of a household for the household. Time-use surveys were also expensive, and the Government would consider what action to take in consultation with the social partners, including the National Women's Council of Ireland.

46. He explained that the figures in table 45.1 in document CEDAW/PSWG/1999/II/CRP.1/Add.3 were for the Scheme of Civil Legal Aid and Advice. Eligibility for Legal Aid was based on earnings, with outgoings taken into account. The vast majority of women seeking civil Legal Aid in connection with domestic violence received it, and Legal Aid in such circumstances was granted as a priority, with any waiting lists bypassed. The police — *An Garda Síochána* — and the courts dealt with the criminal aspects of domestic violence cases in the normal way under criminal law, so women victims of domestic violence needed no Legal Aid for that aspect of their situation.

47. **Ms. Kim Yung-Chung** said that Ireland had certainly moved forward, in terms of its legislation and policy and the status of its women, in the 10 years since its last report. She invited the delegation to incorporate the additional information which they had supplied in both written and oral forms in Ireland's next report to the Committee.

48. She expressed the hope that a solution would be found to the problem of lack of access to abortion. She was optimistic that the Convention would be implemented in full in Ireland, despite the manifold difficulties and negative attitudes which the representatives had described, so that the younger generations, particularly boys, could grow up with different attitudes.

49. **The Chairperson** agreed that the situation in Ireland had changed markedly since 1989, noting particularly that unemployment amongst women had dropped sharply and that participation rates had similarly increased. She expressed the hope that the positive trend in that area would continue and that similar progress would be made in areas which had proved less tractable. To that end, the Committee hoped that the outcome of the delegation's dialogue with it and the Committee's comments in its report

would be widely disseminated in Ireland, amongst non-governmental organizations in particular.

50. **Mr. McDonagh** (Ireland) assured the Committee that the Department of Justice, Equality and Law Reform would give the Committee's report wide circulation.

The meeting rose at 4.55 p.m.