

**Irish Human Rights and Equality Commission Strategy Statement
2016-2018**

A Submission by the Citizens Information Board (October 2015)

A: Creating a Culture of Human Rights and Equality

Q.1 What do you think is needed to promote human rights and equality in Ireland?

There is a need to highlight and promote the intrinsic relationship between rights and citizenship (broadly understood). Citizenship is, perhaps, better understood as a concept than 'rights' in that people who do not have a particularly informed understanding of what the term human rights means are generally conscious of being fellow citizens and thus feel equally entitled to certain basic goods, services and protection under the law. The notion of citizenship and related social solidarity suggests mutual obligations.

There is a crucial difference between rights 'talk' and rights 'action'. To possess a right, an individual or group must be able to claim or enforce it, to make it happen, e.g., right to adequate housing, right to equal treatment before the law, right to live independently, the right to self-determination (and a related right to have supports to enable autonomous decision-making) as well as access to education, health and adequate housing.

Rights that are not enforceable because of underdeveloped enforcement mechanisms may in effect be meaningless. Therefore, rights implementation should become a key area of discussion and debate and included as a core component of the IHREC Strategy.

The approach taken to rights enforcement should be governed by the following principles:

- A need to transform economic, social and cultural processes which result in specific social groups, e.g., people with disabilities, older people, Travellers, ethnic minorities, being treated less favourably than other groups
- A focus on the rights of both individuals and specific population sub-groups/minorities
- The availability of full and transparent information about the implementation (or not) of existing law and the monitoring of same

- Access to independent advocacy

Q.2 What do you think are the key barriers / obstacles to achieving progress on human rights and equality?

The primary barriers are likely to be:

- Policies that channel assistance and support to marginalised groups but leave intact the structures that result in inequality and exclusion in the first instance
- The failure to allocate resources for the proactive development of rights-based social supports and services in accordance with policy statements and legal provisions - this refers in particular to people with disabilities
- An underdeveloped understanding in society generally of the concept of human rights (and their component parts) and what the term 'rights' means
- A failure to move beyond an approach based on non-discrimination to one based on equality of opportunity and equality of status for all individuals and groups
- A tendency to focus more on the rights of specific groups than on the rights of people as individuals
- A heavy reliance on Government discretion in respect of the provision of 'rights-based' services
- A focus on difference rather than on shared citizenship

Q.3 How do you think a stronger public awareness of human rights and equality issues could be promoted?

- More active public debate on our shared citizenship
- A stronger focus in public discourse and debate on the inherent dignity of every person, irrespective of capacity, character or social class
- A move from a focus on 'vulnerable groups' to a focus on shared citizenship and social solidarity

- **B: What do you think we should do?**

Goal 1: Leadership

IHREC acts as an independent, authoritative and influential institution in the promotion and protection of human rights and equality

Have you any feedback on this proposed goal?

This is a critically important goal and one which should be central to the IHREC's strategic development.

How do you believe that we can most effectively deliver on this goal?

- Develop mechanisms to monitor (on the part of the public) the implementation of legislation and policy, including, in particular, at this juncture
 - The ratification of the UN Convention on the Rights of Persons with Disabilities
 - The full implementation of the provisions of the UN Convention on the Rights of the Child
 - The full implementation of the provisions of the Disability Act 2005
 - The enactment of the Assisted Decision-making (Capacity) Bill
 - The Housing Strategy for People with a Disability
 - The Recommendations of the *Time to Move On* (from Congregated Settings) Report
 - The *Migration Integration Strategy*
 - The *Social Housing Strategy 2020*
- Consider the recommendations contained in *Our Voice, Our Rights*¹, prioritise these recommendations in the context of the Concluding observations on the third periodic report of Ireland by the Committee on Economic, Social and Cultural Rights² and report to Government accordingly;
- Carry out research to establish empirically the full nature and extent of
 - Basic rights infringements, e.g. the rights of parents with an intellectual disability and/or mental health difficulties to be supported in caring for their children
 - Inequalities in access to core services – health, housing, education
 - Any discriminatory practices relating to people with mental health difficulties, people with a disability (physical/sensory or intellectual), members of the

¹ Parallel Report in response to Ireland's Third Report under the International Covenant on Economic, Social and Cultural Rights submitted by FLAC in 2014 to the UN Committee on Economic, Social & Cultural Rights, <http://www.flac.ie/publications/our-voice-our-rights/>

² <http://www.ourvoiceourrights.ie/resources/unces-cr-concluding-observations-2015/>

Traveller or Roma communities, people in need of social housing

- Establish a high national profile about the role and functions of the Commission
- Work collaboratively with Government agencies responsible for implementing rights-based and equality legislation
- Work collaboratively with NGOs that include the promotion of rights and equality as part of their remit

Goal 2: Pro-active approach to monitoring and compliance

Arrangements, opportunities and full range of powers for monitoring of and compliance with equality and human rights obligations are strategically utilised are strengthened

1. Have you any feedback on this proposed goal?

The Commission should adopt a witness/observer approach generally and specifically in relation to how legislation/policy relating to rights, equality, social inclusion is/is not implemented.

There is a need for the Commission to lead a move from the current practice in health and social care provision of focusing on meeting minimum standards to a focus on the right of individuals to exercise choice and act autonomously.

2. How do you believe that we can most effectively deliver on this goal?

There should be a phased targeting of specific areas where there are gaps, e.g., the basic right to adequate housing, the education system as it applies to children with an intellectual disability;

Goal 3: Interdependence of civil, political, economic, social and cultural rights

The interdependence of civil, political, economic, social and cultural rights is actively promoted and more widely recognised

Have you any feedback on this proposed goal?

People's lives do not fall into largely separate political and socioeconomic spheres. For example, economic, social and cultural rights in practice underpin the system of basic freedoms promoted by civil and political rights and give tangible expression to the principle of social solidarity. The connections between civil and political rights on the one hand and economic, social and cultural rights on the other become more clearly evident in the context of people with a disability since the removal of barriers through anti-discrimination measures is

insufficient to give them equality of status, equality of opportunity and equality of access to services and supports.

A related and important point is that a distinction needs to be made between subjective rights which are held by individuals and objective rights standards which are maintained and protected by governments and institutions. The subjective approach emphasises people as rights bearers and underpins the notion of individual personhood independent of the social groups to which people belong and the social roles they occupy.

How do you believe we can most effectively deliver on this goal?

The Commission could set out an understanding of rights at the outset which includes core principles of citizenship, including social inclusion, the recognition of all people as rights-bearing individuals, the importance of 'voice' and the need to support people in exercising their will and preferences in the context of existing social values and norms.

Goal 4: Making Rights Real

Greater awareness achieved of human rights and equality obligations and avenues of recourse amongst the public

Have you any feedback on this proposed goal?

- The Commission could re-inforce the role of independent advocacy as a core component in:
 - (a) Enabling people to assert their rights, including consumer rights
 - (b) Systematically identifying and challenging policies and practices that undermine people's rights
 - (c) Empowering people to self-advocate and assert their rights
- There should be some prioritisation of groups who are currently treated unfavourably and who may be unable to enforce their rights in a meaningful way, in particular, people in long-stay residential facilities and asylum seekers in direct provision.
- Develop linkages and joint working arrangements with redress and enforcement bodies – e.g. the Office of the Ombudsman, the Ombudsman for Children, the Competition and Consumer Protection Commission, ComReg, the Financial Services Ombudsman, Workplace Relations Commission and the Private Residential Tenancies Board.

How do you believe that we can most effectively deliver on this goal?

There is a need to develop a narrative which would reflect and create a stronger context for the development of rights-based social policies and the provision of services accordingly. This requires a stronger bottom –up approach and a re-statement of the motto ‘nothing for us, about us/ without us’, which was championed with some success during the 1990s by people with disabilities.

Essential to this is a move ‘from benevolence to justice’ in the way social and health care needs are identified and addressed. For example, we need to move away from an approach where parents of children with disabilities and family carers of dependent older persons have to continuously ‘fight for’ therapies and supports essential to health and well-being.

There is also a need for a stronger emphasis on reflecting the will and preferences of people in the way social services are organised and delivered. There is a related need to move away fully from the treatment of persons with disabilities as ‘objects’ of charity, medical treatment and social protection towards viewing persons with disabilities as ‘subjects’ with rights that are claimable.

How to ensure that the principle of justice based on human rights as equal rights is applied across the board requires further and ongoing research in the Irish context, in particular, how rights-based supports can be configured within the ordinary structures of education, health, employment, housing and social services. This is an area that the IHREC could usefully address.

Goal 5: Intercultural Understanding

Positive intercultural relations are enhanced

Have you any feedback on the proposed goal?

How do you believe that we can most effectively deliver on this goal?

The IHREC should seek to develop a new impetus in identifying and addressing deficits in our response to the integration of migrant communities. There is a need to cater for the multi-faceted needs of those who remain excluded, including in particular, people who are undocumented, people who have applied for but have been unable to get Irish citizenship and asylum seekers.

A key question to be addressed is the social inclusion and the full participation of migrants in the economic, social, political and cultural life of the country. This requires:

- Fostering a sense of belonging in the broad sense of national identity, and in the everyday sense of identifying with the local neighbourhood and the community as a whole

- Optimising access to the wealth of skills and experience of migrants some of which has hitherto remained untapped due to language, cultural and attitudinal barriers
- Promoting education and public information campaigns to combat racism
- Providing additional mechanisms for responding to the specific needs of ethnic minorities and asylum seekers

C: Supplementary Questions

How can we best engage with you or your organisation to promote and protect human rights and equality?

The Citizens Information Board (CIB) and our service delivery partners – the nationwide networks of Citizens Information Services (CISs) and Money Advice and Budgeting Services (MABS), the Citizens Information Phone Service (CIPS), the National Advocacy Service for People with Disabilities (NAS) and the Sign Language Interpreting Service (SLIS) – base our approaches on the principles of equality, social inclusion and enabling people to assert their rights. CIB has a particular remit to support people with disabilities in identifying their needs and to support the provision of, or directly provide, advocacy services for people with a disability.

We would welcome opportunities to explore with the Commission how we might collaborate with particular reference to:

- 1) Enhancing the role of information and advocacy in advancing the implementation of rights-based services and supports – and, in particular, in relation to people with disabilities
- 2) Promoting active citizenship in the context of encouraging people to participate in shaping policies that affect them, and
- 3) Engaging with ‘hard to reach’ groups to enable them to assert their rights

Are there other areas not covered by the existing goals that you think we should focus on?

There would be merit in the Commission exploring the concept of citizen participation and how structures can be enhanced to facilitate this happening in a meaningful manner for all groups in society. Through participation (as distinct from consultation), people are afforded an opportunity to define themselves and their needs rather than have these defined solely by other requirements, e.g., administrative/organizational. The extent to which people share control over priority setting, policy-making, resource allocations and

outputs is a key component in ensuring long-term sustainability, transparency and accountability, and is thus at the heart of a rights-based approach.

Imagine yourself five years from now. Thinking about human rights and equality, what changes would need to happen to enable you to judge us as an effective organisation?

- A new narrative where much of the current 'rights talk' has translated into meaningful actions
- Equality of access to health, education and housing
- All people with an intellectual disability and people with dementia in residential care facilities accorded dignity and respect as is their fundamental right as human beings
- Supported decision-making the norm for people with cognitive impairment
- Changes in the way Ireland deals with and integrates migrants, in particular, :
 - The current 'direct provision' system for asylum seekers ended
 - Provisions made for integrating non-documented migrants currently in Ireland
 - Inclusive provisions for refugees who come to Ireland
- A society where any discriminatory practice relating to any of the 'nine grounds' is dealt with expeditiously and decisively
- The availability of legal and other supports to ensure that all people whose rights have been infringed in any way have access to effective remedy.