

Situation report on discriminations against women in Ireland

March 2023

INTERNATIONAL AND REGIONAL INSTRUMENTS

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Optional Protocol

1985

CEDAW Ratified

2000

Optional protocol ratified

Council of Europe Convention on preventing and combating violence against women and domestic violence (known as Istanbul Convention)

2019

Ratified

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

Not Applicable

International Covenant on Civil and Political Rights

1989

Ratified

International Covenant on Economic, Social and Cultural Rights

1989

Ratified

MAIN OBSTACLES TO GENDER EQUALITY DE JURE AND DE FACTO



The legal restriction of women to the home: Article 41.2 of the Constitution recognises a woman's life in the home and requires the State to endeavour to ensure that mothers are not forced by economic necessity to engage in labour to the neglect of their duties in the home.



There are currently no gender quotas in place for local elections or for the Seanad (the Upper house of the Oireachtas).



The limited availability of affordable childcare, notwithstanding the increased funding for childcare services and the introduction of the Early Childhood Care and Education Programme. Failure to recognise diverse family forms in relation to acknowledgement of unpaid labour and inheritance.



The extra challenges women in rural areas and from marginalised backgrounds face in accessing abortion varying from transportation to public shame. Patriarchal mindsets that prevent women from accessing the safe abortion and labour market.

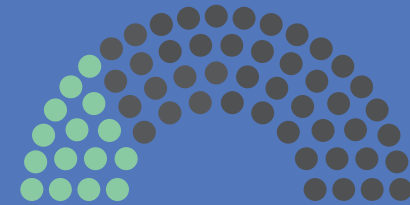
Did you know?

Recommendations

- **On Gender Quotas:** the commitment to extend the gender quota for party candidates at general elections to local elections, to the Seanad and the European Parliament elections and review every 5 years, with increasing penalties that do not reach the quotas.
- **On a referendum on Article 40.1 and 41 of the Constitution:** The Articles should be amended to include language that is not gender specific and obliges the State to take reasonable measures to support care within the home and wider community ; along with two other recommendations on constitutional change to refer explicitly to 'gender equality' in the equality guarantee, and to make the definition of family more inclusive in Article 41.
- **On Gender-Based Violence:** All Government action to prevent and counter domestic, sexual and GBV should be co-ordinated by a Cabinet Minister with direct responsibility for implementation of a national strategy; Eliminate tolerance in our society of domestic, sexual and GBV by developing and implementing awareness, prevention and education campaigns; support justice for survivors by reviewing and reforming the courts system to better protect and support survivors and remove barriers to justice; develop guidelines and specialist training for judges/lawyers regarding the treatment of survivors; introducing tougher sentences and rehabilitation programmes for perpetrators; ensure sufficient funding for shelter and accommodation for survivors (in line with the Istanbul Convention); Recognise FGM as a grounds for seeking asylum.
- **On Gender Equality Principle in law and policy:** Anti-discrimination and equality legislation should be regularly reviewed to ensure effective monitoring, investigation, reporting and enforcement, and a standard part of employee training (Recommendations 42-45).

23.10%

Proportion of seats held by women in national parliaments



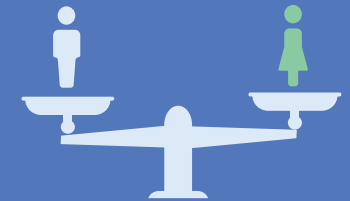
5.17%

Gender pay gap



Equal rights

Inheritance rights for widows and daughters



56.63%

Female labour force participation



Prevalence of gender violence in lifetime (% women)

15 %

*Source: Gender global gap report 2022:
<https://www.weforum.org/reports/global-gender-gap-report-2022/>

Legislative Framework

International conventions

Ireland acceded to CEDAW in 1985 and to its Optional Protocol in 2000. In 1990, 1999 and 2005 CEDAW examined Ireland's progress and made recommendations for improvement. In 2015, the Irish Human Rights and Equality Commission (IHREC) and civil society met with CEDAW to highlight areas of concern. In 2016, CEDAW produced a list of questions for the Irish government to report on. Issues such as violence against women, employment, health, education, participation and stereotyping were raised. Ireland's most recent report and examination by the CEDAW Committee was in 2017 – it's first examination since 2005.

Ireland has ratified or acceded to the following international conventions and protocols:

- The Istanbul Convention, signed 2015, ratified 2019
- The International Covenant on Civil and Political Rights in 1989
- The Optional Protocol to the Convention of the Rights of the Child on a communications procedure in 2014
- The Domestic Workers Convention, 2011 of the International Labour Organisation, in 2014.

In addition, Ireland meets its obligations under Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, through two main Acts: The Criminal Law (Human Trafficking) Act 2008 and the Criminal Law (Human

Trafficking)(Amendment) Act. Under these Acts, courts can impose penalties of up to life imprisonment and unlimited fines on those convicted of trafficking people for labour or sexual exploitation, removing a person's organs, forced criminality or forced begging.

A number of reservations have been withdrawn by the Government of Ireland made upon accession to CEDAW (summary detail on why each of these were withdrawn [is available here](#)):

- On 19 December 1986: articles 9 (1) and 15 (4) of the Convention and article (11) (1) and 13 (a). This contains that "Ireland reserves the right to regard the Anti-Discrimination (Pay) Act, 1974 and the Employment Equality Act 1977 and other measures taken in implementation of the European Economic Community standards concerning employment opportunities and pay as sufficient implementation of articles 11,1 (b), (c) and (d). Ireland reserves the right for the time being to maintain provisions of Irish legislation in the area of social security which are more favourable to women than men".
- On 24 March 2000: withdrawing its reservation to article 15 (3).
- On 11 June 2004: articles 13(b) and (c)

Constitutional equality

There are five Articles in the 1937 Constitution which make specific statements regarding gender:

- Article 9.1.3 states that no one can be excluded from Irish citizenship based on their sex.

- Article 16.1 provides for running the Dáil (Irish House of Representatives) and voting in Dáil elections; it prohibits any distinction as to sex.
- Article 40.3.3 provides to the right to life of the unborn with due regard to the life of the mother.
- Article 41.2 recognises a woman's life in the home and requires the State to endeavour to ensure that mothers are not forced by economic necessity to engage in labour to the neglect of their duties in the home. This is a gender discriminatory law stating that women have specific duties at home. There are demands for a referendum to be held on this section of the constitution¹.
- 45.4.2 provides that all citizens shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength.

Since its adoption in 1937, there have been 38 attempted amendments to the Constitution, 11 of which were defeated by referendum. Of those amendments, 10 directly impacted women:

- In October 1983, Constitutional recognition was given to the equal right to life of the unborn to entrench the statutory prohibition of abortion. This was repealed in September 2018.
- In June 1986, a referendum was held to propose to remove the constitutional ban on divorce. It was defeated at that time, but the ban was eventually lifted in 1996.
- In November 1992, it was proposed to specify that a pregnancy may be terminated in the case of real and substantial risk of life to the mother, but not in the case of the risk of suicide. This would have reversed part of the 1992 Supreme Court judgement in the X Case², which held that abortion was permissible in the

case of a risk of suicide.

- In December 1992, it was specified that the prohibition of abortion would not limit freedom of travel in and out of the state and, specified that the prohibition of abortion would not limit the right to distribute information about abortion services in foreign countries. Both of which were repealed in September 2018.
- In June 1996, the constitutional ban on divorce was removed, but retained certain restrictions on its occurrence.
- In March 2002, a second attempt was made to strengthen the constitutional ban on abortion and to prevent risk of suicide being invoked as grounds for abortion.
- In April 2015, a general statement of children's rights was written into the Constitution, and a provision intended to secure the power of the state to take children into care who are at risk of abuse or neglect from their parents.
- In August 2015, any restriction on civil marriage based on sex (civil partnership had been established under a 2010 statute), is prohibited.
- In September 2018, legislation for the regulation of termination of pregnancy is allowed.
- In June 2019, the requirement of a period of separation before divorce proceedings are initiated, is removed and allowed for foreign divorces to be recognised.

Lastly, under equality legislation discrimination based on any one of the following distinct grounds is unlawful. These grounds are: Gender, Civil status, Family status, Sexual orientation, Religion, Age (does not apply to a person under 18), Disability, Race, Membership of the Traveller Community.

Civil and familial rights

Familial Rights are ensured under the [Family Law Act 1995](#), which covers marriage, age of marriage, divorce and more. In May 2015, 62% of people in Ireland voted in favour of the referendum on marriage equality. In an historic referendum for Ireland, in August 2015, **any restriction on civil marriage based on sex was prohibited**. The legal age of marriage is from 18 years old.

Under the Family Law (divorce) act married couples could legally divorce. In the Guardianship of Infants act in 1964 it is stated that the biological mother is the “natural guardian” and custodian of the child, which the father can acquire as well if married to the mother. It is found that mothers more often acquire the custody after a divorce due to their widely acknowledged guardianship. That is, as stated on the website of the Irish Department of Justice, “in general, the courts tend to consider it is in the child’s best interests to live with its mother.” Taking into consideration same-sex marriages and gender minorities such as gender-nonconforming people, the automatic guardianship law appears restricted in its applicability.

Equality budgeting was introduced across all Government departments in 2022. Despite positive pronouncements by the Superior Courts and positive legislative and policy developments, the definition of family within the Constitution (in particular that contained in Article 41.3.1) is based on a narrow understanding of the family that prioritises married families and fails to recognise and protect the diverse range of family forms that exist in modern Ireland. It expressly denies protection to, and has been used to discriminate against, unmarried parents and their children,

LGBTQI+ parents, non-biological parents and non-nuclear families. Failure to recognise diverse family forms means that the care work of many people is unrecognised and devalued. While the rights of ‘de facto families’ are protected by the European Convention on Human Rights, it is submitted that there can be real and practical consequences for those who cannot avail of Article 41.

Political rights

To vote in any election and referendum, you must be entitled to vote. Your entitlement is based on your nationality, and there are rules about the nationalities that are allowed to vote in elections and referendums in Ireland. The vote and eligibility as candidate is guaranteed regardless of gender.

You must also be: 18 years or over on the day of the vote, resident in Ireland, and registered to vote. Even if you are eligible to vote because of your nationality, you cannot vote unless you are registered on the Register of Electors.

There was a Constitutional amendment in 1984 which permitted legislation to be enacted to allow citizens of other countries to vote in the elections for Dail Eireann.

In 2012, the Oireachtas (the national Parliament) adopted a **law obliging political parties to select at least 30% women candidates**. It seems there is only one political party (Sinn Féin) which has specifically designated seats as being female only. There does not seem to be an order on the list. The quota is due to be raised to 40% this year (2023).

Sexual and reproductive rights

Abortion in Ireland is regulated by the Health (Regulation of Termination of Pregnancy) Act 2018. **Abortion is permitted in Ireland during the first 12 weeks of pregnancy**, and later in cases where the pregnant woman's life or health is at risk, or in the case of fatal foetal abnormality. See section 1b for the history of the Constitution affecting women. Lastly, homosexuality was decriminalised in Ireland in 1993.

Laws on gender-based violence/violence against women

Although there is no specific law on violence against women in Ireland, domestic violence and sexual violence (including trafficking) are considered serious criminal offences. This is covered by the [Domestic Violence Act 2018](#) and the [Criminal Law \(Sexual Offences\) Act 2017](#). Rape within marriage is also a criminal offence. Female Genital Mutilation is illegal, including when it takes place outside of Irish territory. Women victims of domestic violence in Ireland have legal access to protection measures. A court may grant protection, barring and/or safety orders against a violent spouse or partner. A breach of any order under the domestic violence legislation is a criminal offence. The Domestic Violence Act 2018, which became law 1 January 2019 recognises the effects of emotional abuse as a result from coercion.

38 Council of Europe member states have committed to a 'Dublin Declaration' outlining a series of steps to promote gender equality in order to help prevent domestic, sexual and gender-based violence. The Dublin Declaration was adopted in Ireland in September 2022, which is aimed primarily at tackling cultural norms that perpetuate domestic violence, something the current Minister for Justice is bringing in new legislation on at the time of writing.

Economic and social rights

Employment equality legislation provides for equal pay for like work. Like work is defined as work that is the same, similar or work of equal value. It is one of the terms that must be part of the contract of employment as a result of laws passed by the Dáil.

A review of existing policies in Ireland by the Economic and Social Research Institute (ESRI) [in 2022](#) found limited crossover between migrant integration strategy and gender equality strategy. Migrant women were not specifically addressed in the national Migrant Integration Strategy 2017 to 2021, nor did it adopt a gender mainstreaming approach, which would incorporate a gender dimension into each stage of policy-making and implementation. There are two distinct pieces of legislation in place which set out equality rights for people and specifically outlaw discrimination when it occurs. The Employment Equality Acts 1998–2015 and the Equal Status Acts 2000–2015 outlaw discrimination in employment, vocational training, advertising, collective agreements, the provision of goods and services. Specifically, goods and services include professional or trade services; health services; access to accommodation and education; facilities for banking, transport and

cultural activities.

Vulnerable and/or marginalised populations

Taking into consideration the previous sections, vulnerable groups such as migrant women and the LGBTQI+ population are not fully legally addressed nor protected. Also, a narrow understanding of the family hinders LGBTQI+ rights as described in section 1c. Furthermore, people applying for asylum in Ireland that are accommodated in the Direct Provision System, are denied the right to work in the first six months³. This system of accommodation for asylum seekers in Ireland is heavily criticised for its shortcomings in terms of meeting their needs, and giving rise to inhumane and degenerating circumstances.

De facto discrimination

Civil and familial rights

There are multiple avenues for making a claim under equality legislation through the Irish Human Rights and Equality Commission, Workplace Relations Commission etc. However, not all have access to justice due to a lack of resourcing and legal aid also.

The adoption of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act in 2010 is in force, which prevents one spouse or civil partner from selling, mortgaging, leasing or transferring the family or shared home without the consent of the other spouse or civil partner. However: (1) There are no data on the

economic consequences of divorce on women and girls in the light of reports of increasing rates of poverty among single mothers; (2) There is no statutory maintenance authority and no amounts are prescribed by legislation, which compels women into litigation to seek maintenance orders.

Political rights

In 2012, the Oireachtas adopted a law obliging political parties to select at least 30% women candidates and 30% men candidates to contest general elections. The threshold rises to 40% from 2023 onwards. If the quota is not met, political parties will lose 50% of the State funding they receive on an annual basis to run their operations. There are currently no quotas in place for local elections or for the Seanad (the Upper house of the Oireachtas).

To date, all political parties have met, or in [most cases exceeded the 30% gender quota threshold.](#)

Sexual and reproductive rights

In theory, women can freely access family planning centres, however, **there remain barriers** due to the facts that: only 1 in 10 General Practitioners offer abortion services; just over half of National Maternity Hospitals offer abortion services; women in rural areas and from marginalised backgrounds face extra challenges in accessing abortion; transport issues and access to facilities that offer abortion services, as well as shame and stigma affect pregnant persons. Further difficulties are encountered for women or pregnant people

in need of access to abortion in cases of fatal foetal anomalies, with some still travelling abroad in order to access the service.

Ireland currently has a subject called Social, Personal and Health Education (SPHE), and Relationships and Sexuality Education (RSE) is part of this. It is taught from the age of 4 to 15. However, the overwhelming involvement of the Catholic Church in Irish schools has prevented appropriate education on sexuality for many years, and still does, given that over 90% of primary schools are run by the Catholic Church.

Laws on gender-based violence/violence against women

There is relevant **gender-disaggregated data and statistics** on the incidence of violence against women available, from a wide variety of sources. Such as [Women's Aid](#), [Rape Crisis Network Ireland](#) and [An Garda Síochána PULSE data](#) (Irish police force data system).

There are a number of existing programmes for perpetrators of gender-based violence most noticeably from [MOVE Ireland](#) and the [Men's Development Network](#).

The Minister for Justice announced an additional 6 million EUR from the 2022 budget for measures to tackle domestic violence, sexual and gender-based violence through awareness raising programmes and targeted intervention programmes to hold perpetrators accountable and work to prevent future reoffending.

Economic and social rights

Women continue to be concentrated in low paid employment, which adversely affects women's career development and pension benefits. Concerns include: (a) The persistent gender wage gap, partly because women work part-time owing to family responsibilities; (b) The limited availability of affordable childcare, notwithstanding the increased funding for childcare services and the introduction of the Early Childhood Care and Education Programme; (c) Reports of the exploitation of women and girls in the au pair industry by unscrupulous recruitment agents; (d) The fact that although the Homemakers' Scheme⁴ allows up to 20 years out of the workforce to be discounted from pension assessment, the scheme does not apply to the period before April 1994.

Vulnerable and/or marginalised populations

Women living in the Direct Provision system experience challenges concerning access to society⁵. That is, they experience barriers to further education, are denied the right to work and are negatively impacted in terms of their general health, mental health and maternal health.

Recommendations

To the Irish State:

The Irish Government should follow through on the recommendations from the [Oireachtas Joint Committee on Gender Equality](#) from 2021, most especially:

- **On Gender Quotas:** the commitment to extend the gender quota for party candidates at general elections to local elections, to the Seanad and the European Parliament elections and review every 5 years, with increasing penalties that do not reach the quotas. (Recommendation 20)
- **On a referendum on Article 40.1 and 41 of the Constitution:** The Articles should be amended to include language that is not gender specific and obliges the State to take reasonable measures to support care within the home and wider community ; along with two other recommendations on constitutional change to refer explicitly to 'gender equality' in the equality guarantee, and to make the definition of family more inclusive in Article 41. (Recommendation 1)
- **On Gender-Based Violence:** All Government action to prevent and counter domestic, sexual and GBV should be co-ordinated by a Cabinet Minister with direct responsibility for implementation of a national strategy; Eliminate tolerance in our society of domestic, sexual and GBV by developing and implementing awareness, prevention and education campaigns; support justice for survivors by reviewing and reforming the courts system to

better protect and support survivors and remove barriers to justice; develop guidelines and specialist training for judges/ lawyers regarding the treatment of survivors; introducing tougher sentences and rehabilitation programmes for perpetrators; ensure sufficient funding for shelter and accommodation for survivors (in line with the Istanbul Convention); Recognise ,FGM as a grounds for seeking asylum. (Recommendations 37-41).

- **On Gender Equality Principle in law and policy:** Anti-discrimination and equality legislation should be regularly reviewed to ensure effective monitoring, investigation, reporting and enforcement, and a standard part of employee training (Recommendations 42-45).

To the European union, the United Nations or other international institutions:

- **On abortion:** Support projects aiming to fully implement CEDAW Article 12 in relation to the current challenges and lack of availability concerning abortion that pregnant people in Ireland face.
- **On migration:** Support projects aiming to fully implement article 60 no. 3 of the Istanbul convention concerning the gender sensitivity of the protection of asylum-seekers in Ireland in terms or reception, procedures and support services.

Endnotes

1 See <https://www.oireachtas.ie/en/press-centre/press-releases/20220713-gender-equality-committee-recommends-referendum-on-woman-in-the-home-section-of-constitution-should-be-held-in-2023/>

2 See <https://www.irishtimes.com/news/x-case-defined-state-law-on-abortion-1.1050769>

3 See https://www.citizensinformation.ie/en/moving_country/asylum_seekers_and_refugees/services_for_asylum_seekers_in_ireland/direct_provision.html#l9bf13

4 The Homemaker's Scheme makes it easier for people taking care of a child under 12 or an incapacitated adult to qualify for a higher rate of State Pension Contributory when the pension age is reached. The Homemaker's Scheme was introduced on 6 April 1994 to support people who give up work to take care of someone. See <https://www.gov.ie/en/service/e216c5-homemakers-scheme/>

5 "Direct provision is the name used to describe the accommodation, food, money and medical services you get while your [international protection application](#) is being assessed or while you are an asylum seeker, which means the same thing". See https://www.citizensinformation.ie/en/moving_country/asylum_seekers_and_refugees/services_for_asylum_seekers_in_ireland/direct_provision.html