



**SUBMISSION:
IRELAND'S THIRD NATIONAL REPORT
UNDER THE UNITED NATIONS
UNIVERSAL PERIODIC REVIEW**

OXFAM IRELAND

Oxfam is a global development and humanitarian organisation that mobilises the power of people against poverty. We believe all lives are equal and that everyone has the right to a just and sustainable world in which they can thrive. Our approach to poverty reduction is grounded in tackling systemic inequality and injustice. Poverty arises from the violation of people's basic human rights. Our work is grounded in our commitment to the universality of human rights and respect for protective legal frameworks.

INTERNATIONAL PROTECTION FOR REFUGEES

The right to family life and the protection of the family is enshrined in international human rights law and is a shared value that cuts across cultures. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights prescribe that the family is a fundamental unit in society and one which is entitled to protection by society and the State. The Irish Constitution, *Bunreacht na hÉireann*, mentions the value of the family as 'the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law'. Despite these clear and accepted international standards, Ireland has failed to take adequate steps to protect the right to family life for refugees.

Forced migration separates many families, wrenching children from their parents and grandparents, separating siblings, forcing partners to live apart, and destroying extended family networks. In 2018, Oxfam Ireland produced a report *A Family Belongs Together*¹ which detailed the human consequences of the Irish government's policy on refugee family reunification – the impact on refugee families and on their ability to integrate into Irish society.

The report shows that family separation has a destabilising effect on refugees living in Ireland and contributes to deteriorating mental health and wellbeing, including anxiety and depression. When families are reunited, the presence of relatives can accelerate integration for both new arrivals and family members already in Ireland. A family provides nurturing and coping strategies, helps to anchor a loved one in a new place, and contributes to building cohesion, as well as boosting their ability to engage with social institutions outside of the family unit. The Irish government's current policy on refugee family reunification is too restrictive and only allows a very narrow group of family members to apply to be reunited – essentially spouses, children under the age of 18, and parents of children under 18.

As part of Ireland's third national report under the UN's Universal periodic review consideration should be given to recommendations to:

- Amend the International Protection Act (2015) to expand the definition of family to include young adults who are dependent on the family unit prior to flight, parents, siblings, in-laws and any other dependent relative. At the very least, the Minister's discretionary power to reunite dependents should be reinstated as per the 1996 Refugee Act.

¹ https://www.oxfamireland.org/sites/default/files/upload/pdfs/3678-OxfamRefugeeReport_FINAL.pdf

- Introduce legal aid for people seeking refugee family reunion through increased funding to the Legal Aid Board by the Department of Justice.
- Waive the income requirements for those who have received international protection who apply for family reunification through non-EEA general administration mechanisms

BUSINESS AND HUMAN RIGHTS

Exploitative working conditions, including modern slavery and child labour; gender discrimination and violence; violations of trade union and workers' rights; corruption and tax evasion; toxic pollution; rampant destruction of forests; the climate crisis, land-grabs and evictions of indigenous peoples and local communities, and violent attacks on human rights, environmental and land defenders are widespread in the global value chains of companies conducting business in Ireland and the EU. Women, children, indigenous peoples, workers and their unions, human rights defenders and marginalised groups tend to be particularly affected.

Oxfam's Ripe for Change report² exposed the economic exploitation faced by millions of small-scale farmers and workers in food supply chains. Our surveys of people working in supermarket supply chains in a range of countries found that a large majority struggle to adequately feed their own families. Women bear the heaviest burden. Overwhelmingly concentrated in the least secure and lowest paid positions in food supply chains, shouldering most of the unpaid work on family farms, and routinely denied a voice in positions of power, our modern food system is built on squeezing women's labour hardest of all.

All enterprises have the same responsibility to respect human rights within their activities, wherever they operate. Although some businesses and financial institutions are already taking steps to meet their responsibility to respect human rights and the environment in their global operations, too many others are linked to serious abuses. At present, there is no legally binding business and human rights regulation in Ireland to stop this exploitation and abuse. Voluntary implementation of initiatives, alone, is low and slow. Initiatives such as the UNGPs have undoubted value, but no legal accountability attaches to non-compliance. From the outset, the UNGPs envisaged a 'smart mix' of both legislative and voluntary measures to achieve lasting change. A recent report published by the Centre for Social Innovation at Trinity Business School in Dublin, 'Irish Business and Human Rights A snapshot of large firms operating in Ireland'³ paints a very picture of low engagement from Irish companies with their human rights obligations.

So far Ireland has supported the idea of human rights due diligence on a voluntary basis. However, as part of its *National Plan on Business and Human Rights 2017-2020*, the Irish Government commissioned a baseline assessment⁴ of the legislative and regulatory framework as it relates to business and human rights in Ireland. This assessment recommends mandatory human rights due diligence legislation in Ireland. Moreover, one of the key recommendations made to the Irish government by the UN Committee on the Elimination of Racial Discrimination⁵ in December 2019 was that Irish companies should be required by law to undertake human rights due diligence. For

² https://www-cdn.oxfam.org/s3fs-public/file_attachments/cr-ripe-for-change-supermarket-supply-chains-210618-en.pdf

³ <https://www.tcd.ie/business/assets/pdf/CSI-BHR-2020-Report.pdf>

⁴ <https://www.dfa.ie/media/dfa/ourrolepolicies/internationalpriorities/Baseline-Study---Business-and-Human-Rights.pdf>

⁵ <https://businesshumanrightsireland.wordpress.com/2019/12/17/un-committee-on-the-elimination-of-racial-discrimination-concerned-by-irish-business-involvement-in-rights-violations/>

several years, similar calls have been made for mandatory human rights due diligence in Ireland by bodies such as the Irish Human Rights and Equality Commission, the Irish Congress of Trade Unions and civil society organisations.

As part of Ireland's third national report under the UN's Universal periodic review consideration should be given to:

- The adequacy of Ireland's current support for a voluntary approach to business and human rights

And the appropriateness of:

- Legislation in Ireland on mandatory human rights and environmental due diligence
- Ireland's position in relation proposed legislation at the EU level related Sustainable Corporate Governance
- Ireland and the EUs position in relation to the UN binding treaty on business and human rights

CORPORATE TAX REFORM AND HUMAN RIGHTS

Tax policy is critical for the realisation of human rights. It shapes states' capacity to raise revenue, fund essential public services, and consequently to fulfil their human rights obligations. Academics, UN experts and civil society organisations have all emphasised this link, particularly in relation to economic, social and cultural rights – without fair and functioning taxation systems, efforts to deliver adequate housing, healthcare and education and to tackle poverty and inequality are badly undermined.

Crucially, this impact is not limited neatly within national boundaries. In a globalised economy, multinational corporations can exploit divergent domestic laws and a climate of competition, rather than cooperation, between states to dramatically reduce their tax bills. Through complex corporate structures, profits are shifted across borders into low or no tax jurisdictions, sheltering billions of euro every year, eroding tax bases and public budgets. These practices are particularly harmful for developing countries, which are more reliant on corporate income tax than higher income countries. Vital revenue is siphoned away, prolonging a country's reliance on aid, exacerbating inequality and keeping people trapped in poverty. In this manner, national laws which facilitate and encourage cross-border tax abuse can have a significant external impact.

Corporate tax policy has played a crucial role in the development of the Irish economy. It is one of a number of important factors that attract multinational investment, generating employment and significant tax revenue. However, it does come at a cost. Too often Irish tax policy is considered only from the narrow perspective of the benefits it can bring to Ireland – insufficient attention however is given to its negative impacts beyond our borders and how this policy area relates to Ireland's human rights obligations. Other countries' ability to raise badly needed revenue is undermined by tax avoidance, and in countries of the Global South, this can mean the difference between life and death. Ireland's role in the international tax avoidance landscape is well-documented, recognised by EU institutions, UN Commissions, bodies within the US Congress, and academics.

Some of the more egregious avoidance schemes have been addressed through the OECD's global tax reform initiative, BEPS, but there are fundamental gaps in that process, preventing it from achieving its objective of aligning taxable profits more closely with economic activity. While Ireland has engaged extensively with BEPS, crucially it has opted out of a key provision emerging from it (Article 12 of the Multilateral Instrument), which would have put an end to one of the most popular avoidance practices used by US multinationals based in Ireland.

In addition, countries of the Global South have long argued against the legitimacy of the OECD as the body tasked with leading the international reform process, instead calling for the establishment of an intergovernmental body on taxation under the UN. This call was endorsed by the UN's Financial Accountability, Transparency and Integrity (FACTI) panel report which recommended in February 2021 that "International tax norms, particularly tax-transparency standards, should be established through an open and inclusive legal instrument with universal participation; to that end, the international community should initiate a process for a UN Tax Convention"⁶. Ireland has resisted these calls, deferring instead to the OECD process which has been dominated by its powerful members and their priorities.

Ireland also continues to negotiate tax treaties with countries of the Global South in a manner that facilitates avoidance, and undermines other countries' capacity to raise revenue. In pursuing a recent tax treaty with Ghana, Ireland went against the advice of the Department of Foreign Affairs, who advised that the effect of such tax treaties between 'developed and developing countries is that capital flows from developing to developed nations'.

Growing public demand for tax justice has brought increased scrutiny on these practices, including by UN human rights monitoring bodies. In 2016, the UN Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern regarding Switzerland's financial secrecy and tax policies and how they impact other states' capacity to raise revenue and fulfil women's rights. Successive UN Special Rapporteurs on extreme poverty and human rights have called on governments to stop facilitating avoidance, and to recognise the impact this has on some of the world's poorest communities.

In October 2020 The UN Committee on the Rights of the Child took the decision to examine the impact of Ireland's international tax policy on the ability of countries of the Global South to raise revenue and fulfil their human rights obligations, in particular those that relate to children. This decision was promoted by a joint submission from Oxfam Ireland, Christian Aid, GLAN and others.⁷ This is the first time that the external impact of Irish tax policy will be assessed under an international human rights instrument.

⁶ <https://www.factipanel.org/>

⁷ https://www.oxfamireland.org/sites/default/files/crc_tax_submission_003.pdf

As the UN Committee on the Rights of the Child has created a clear precedent that Irish corporate tax policy should be assessed under the framework a key international human rights treaty, it is appropriate that as part of Ireland's third national report under the UN's Universal periodic review that consideration should be given to:

- The adequacy of human rights assessments and considerations undertaken as part of the development of corporate tax policy in Ireland.

ACHIEVING GENDER JUSTICE

At the onset of the COVID-19 pandemic in Ireland and across Europe, women sustained our societies through their paid and unpaid care labour and their work in essential services across the country. They continue to do so as we manage the aftermath of the public health pandemic and as the social and economic consequences unfold. However, there is a lack of attention to gender equality in much of the economic decision making that has taken place since the onset of the pandemic.

The COVID-19 pandemic exacerbated already existing gender inequities in the sharing of caring responsibilities. The CSO Employment and Life Effects of COVID-19 survey⁸ showed that almost a fifth of the population was caring for someone as a result of COVID-19. More women (21%) than men (15%) were caring for a dependent family member or friend. With schools closed, childcare issues were a significant life effect arising from the pandemic. Almost a quarter (24%) of those aged 35-44 reported experiencing childcare issues, with more women than men experiencing this life impact.

Many women in abusive relationships were under lockdown with their abusers. As reported by the United Nations⁹, the stressors of a pandemic, combined with close confinement during lockdowns, mean that women and girls are at a higher risk of violence from their partners and family members. Domestic violence reports to the Gardai increased by almost 25% after the lockdown period began, with higher spikes in some geographical areas¹⁰.

As Ireland develops more long-term recovery strategies, it is essential that a gender analysis is applied in the development of these and in decisions on the allocation of funding. The need to develop plans at speed, in times of crisis does not negate the need to gender and equality proof those plans. If anything, COVID-19 has further reinforced the importance of gender and equality proofing. Ignoring gender issues can multiply the effect of the crisis if not addressed as part of the initial response¹¹.

As part of Ireland's third national report under the UN's Universal periodic review consideration should be given to assessing the following proposals:

⁸ CSO (13th May 2020) Employment and Life Effects of COVID-19.

<https://www.cso.ie/en/releasesandpublications/er/elec19/employmentandlifeeffectsofcovid-19>

⁹ UN Policy Brief (April 2020) The impact of COVID-19 on women. <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>

¹⁰ Lally, C. (27th April 2020) 'Domestic violence reports up 30% in some areas since lockdown, says Garda'. The Irish Times. Retrieved from <https://www.irishtimes.com/news/crime-and-law/domestic-violence-reports-up-30-in-some-areas-since-lockdown-says-garda-1.4238362>

¹¹ https://www.nwci.ie/images/uploads/NWC_submission_to_DBEl_on_National_Economic_Plan.pdf

- The Irish Government should significantly increase investments in public services and social infrastructure, especially the care economy. For example, increase investment in early years education to bring overall expenditure in line with the UNICEF recommendation of 1% of GDP.
- Ensure care workers employed or funded by State programs are properly compensated
- Hold a referendum on Art. 41. 2 of the constitution to amend the language so it is gender neutral and recognises the value of carework in Irish society
- There is a need for integrated changes in social and employment policies that support carers, facilitate the combination of care and employment, at the same time encourage greater male participation in care.

For example, agree to more paid shared parental leave and more non-transferable paid parental leave for men. Move to a four day working week. Reform the pension system to ensure that women don't lose pension rights as a result of taking time off work due to care responsibilities.

- Ireland needs to comprehensively adopt gender budgeting approaches that systematically involve women's organizations and civil society to provide proper scrutiny of the impact of economic and taxation policies, as well as spending priorities, on women and girls. A requirement of for all Government departments to produce a equality budgeting impact statement should be put on a statutory basis.
- Ensure adequate sick pay arrangements for all workers.

GLOBAL VACCINE INEQUALITY

Global supply of Covid 19 vaccines is currently artificially restricted by the unwillingness of vaccine makers to temporarily waive their intellectual property rights and share vaccine technology and know-how with potential manufacturers around the world.

With global supply limited, many people in low- and middle-income countries around the globe will not have vaccine access until at least 2022, according to the British Medical Journal. While the Economist Intelligence Unit reports that most of the world's poorest countries will have to wait until 2024 for mass immunisation if current trends continue.

While Ireland has contributed to the COVAX program it has not supported the two mechanism that have been proposed to actually increase supply of Covid 19 vaccines, namely the World Health Organisation's Covid-19 Technology Access Pool and the Waiver from Certain Provisions of the TRIPS Agreement for the Prevention, Containment and Treatment of Covid-19¹² at the WTO. Thus, Ireland has failed to take a rights based approach to this issue and its position could be undermining the right to life and health of those impacted.

The World Health Organisation's Covid-19 Technology Access Pool sets up a system to share intellectual property rights, data, know-how, cell lines etc., in the spirit of solidarity, with the aim of increasing production capacity for Covid-19 vaccines, medicines and diagnostics globally. If

¹² <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669.pdf&Open=True>

sufficiently supported this would help increase supplies of such health-technologies, to address the vast current global inequalities.

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) requires WTO members to provide lengthy monopoly protections for medicines, tests and the technologies used to produce them. After a global campaign by public health and development groups, in 2001 the WTO issued a binding declaration about better balancing TRIPS intellectual property protections and public health needs. A temporary emergency Covid-19 waiver is in line with the WTO members' agreement that intellectual property rules cannot create barriers to health treatments for diseases that unnecessarily cost human lives and undermine the global economy.

As part of Ireland's third national report under the UN's Universal periodic review Ireland's position related to the World Health Organisation's Covid-19 Technology Access Pool and the WTO TRIPS Waiver should be assessed against Ireland's human rights obligations.

Contact

Michael McCarthy Flynn
Head of Policy and Advocacy (Interim),
Michaelmccarthy.flynn@oxfam.org

Oxfam Ireland
2nd Floor Portview House
Thorncastle Street
Ringsend
Dublin 4
t: +353 (0)87 613 1345

w: www.oxfamireland.org

f: www.facebook.com/oxfamireland

t: www.twitter.com/OxfamIreland