

Irish Human Rights Commission

**Human Rights  
Guide for  
the Civil &  
Public Service**

**“As we continue to improve  
& reform Ireland’s Public  
Service systems to meet  
the needs & expectations  
of the Government &  
of the people in Ireland,  
information on human  
rights tailored for the Civil  
& Public Service will help  
to support this work.”**

**Dermot McCarthy,  
Secretary General,  
Department of the Taoiseach,  
2010**

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Ireland

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The Irish Human Rights Commission (IHRC) was established under statute in 2000, to promote and protect the human rights of everyone in Ireland. The human rights that the IHRC is mandated to promote and protect are the rights, liberties and freedoms guaranteed under the Irish Constitution and under international agreements, treaties and conventions to which Ireland is a party.

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## **Foreword**

The Civil and Public Service plays a key role in ensuring that the human rights of everyone in Ireland are protected through policy and practice. To support this work, the Irish Human Rights Commission (IHRC) has developed a Human Rights Guide for the Civil and Public Service. We hope that this Guide will be of assistance to all those working in the Service. The Guide is supplemented by a wide range of information on our website as well as through the direct provision of training courses.

Human rights are universally agreed basic standards which aim to ensure that every person is treated with dignity and respect. It is the State which is the primary defender of human rights. The Civil and Public Service has set high standards in serving the Irish public and these standards should be underpinned by the human rights obligations to which the State has committed itself for the benefit of everyone.

This Guide for the Civil and Public Service has been produced as a reference point on what human rights are and how they can be applied in practice. It is produced in furtherance of the IHRC's statutory duty to promote awareness of human rights and underscores our commitment to support the Civil and Public Service, particularly in these challenging times. I am confident that the Guide will assist all in the Civil and Public Service to increase their awareness of human rights standards and to facilitate access to further tailored human rights training with the IHRC.



**Dr Maurice Manning**  
President

**IHRC**

AN COIMISIÚN UM CHEARTA DUINE  
IRISH HUMAN RIGHTS COMMISSION

## How to use this Guide

The aim of this Human Rights Guide is to give a brief and simple overview of what human rights are and how the Civil and Public Service can apply human rights in its day-to-day work.

This Guide should be viewed as a reference point to be supplemented both by the IHRC website **[www.ihrc.ie/training](http://www.ihrc.ie/training)** and IHRC training courses available free to the Civil and Public Service.

For each section of the Guide more detailed information, video clips and training details on human rights can be found on **[www.ihrc.ie/training](http://www.ihrc.ie/training)**

Users may find it helpful to open the contents flap when reading to navigate through the various sections and to locate the most relevant information quickly.

**i** Indicates a point of information

## Jargon Buster

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<b>Term</b>	<b>In other words...</b>
Binding	Signifies an obligation, or duty to respect.
Convention/ Treaty	A formal international agreement.
In force	When a convention or treaty is 'in force' in a state it means that the state has ratified the instrument and its provisions now apply in the state.
Protocol	An amendment or addition to a treaty or convention.
Provision	The term 'provision' is often used when referring to the content of particular articles within a law.
Ratify/ Ratification	An act by which a state signifies an agreement to be legally bound by the terms of a particular convention or treaty.
State Party/ Party to	A 'state party' or a 'party' to a convention/treaty is a country that has ratified that particular treaty and is legally bound by its provisions.

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# Section 1: What are Human Rights?

“Basically we could not have peace, or an atmosphere in which peace could grow, unless we recognized the rights of individual human beings... their importance, their dignity... & agreed that was the basic thing that had to be accepted throughout the world.”

Eleanor Roosevelt, USA, 1948

## Introduction

This section sets out briefly what human rights are, where they are found and who is responsible for upholding them.

## What are Human Rights?

### Human Rights are:

- **Universally agreed basic standards** which aim to ensure that every person is treated with dignity and respect.
- **Interdependent and indivisible** which means that rights are linked and non-observance of one right may impact on another.
- **Inherent to all persons** without discrimination, and irrespective of the political system of the state. The principle of non-discrimination is at the centre of human rights and features in the major human rights treaties.
- **Usually set out in law**, through international or regional treaties, or national legislation where they form a legal statement of universally accepted principles of how the state should treat its citizens and others within its jurisdiction.

### Human rights include:

- **Civil and Political Rights**, such as the right to life, the right to a fair trial and the right not to be subjected to torture.
- **Economic, Social and Cultural Rights**, such as the right to work, to join a trade union, to health, to education and to an adequate standard of living.

**i** *Different terms are used to describe international legal agreements. 'Instrument' can be used as a generic term to describe all types of international legal documents and encompasses the terms 'convention', 'covenant', 'treaty' and 'agreement' which are often used interchangeably.*

### Who are Human Rights for?

They are universal which means they are for everyone. Central to the concept of human rights is respect for the life and dignity of **every** person.

## Where are Human Rights found?

Human rights are usually set out in law. They are found in international (primarily United Nations) or regional (European) treaties, or in national constitutions or national legislation.

## Who is Responsible for Respecting, Protecting & Fulfilling Human Rights?

States are obliged under international law to respect, protect and fulfil human rights. The Government and through it the Civil and Public Service have the primary responsibility to uphold human rights by creating the conditions for them to be effective. However, the state does not **give** people rights. These rights are inherent which means they **belong** to everyone.

States agree to **respect**, **protect** and **fulfil** the human rights contained in treaties or conventions:

- To **respect** means that states must not interfere with or restrict human rights.
- To **protect** involves passing laws and creating mechanisms to prevent violation of rights by state authorities.
- To **fulfil** means that states must take positive action to ensure the enjoyment of human rights.

These three principles should serve **all** people within the state.

**i** *The rights which everyone in Ireland has are set out in the Constitution, in national legislation (see Section 3), and in European legislation and international instruments (see Sections 4 and 5).*

# Section 2: Human Rights & the Irish Civil & Public Service

**“In protecting & respecting human rights, Civil Servants are required to reflect these values in their everyday work & to be aware of human rights legislation in performing their statutory duties.”**

**An Introduction to the Irish Civil Service, Department of Finance, 2008**

## Introduction

This section looks at the role the Civil and Public Service has in protecting and upholding human rights in Ireland.

## The Civil & Public Service

The Service:

- Offers objective advice to Ministers.
- Provides services for the Irish public on behalf of the State.
- Remains independent and politically neutral in performance of its duties.

It has a special role to **protect, respect** and **fulfil** human rights.

- i** *The European Convention on Human Rights Act 2003 provides that:*  
“Subject to any statutory provision (other than this Act) or rule of law, every organ of the State shall perform its functions in a manner compatible with the State’s obligations under the Convention provisions.”

All roles across the Civil and Public Service include some human rights responsibilities that must be understood and applied in everyday work.

## **An Example: Human Rights Roles within the Civil & Public Service**

Ministers have overall political responsibility to steer policy formation, strategy development and executive decision-making in line with international human rights standards and best practice.

It is the role of the Civil Service to assist members of the Government in making policy and carrying out policy decisions. The Public Service covers a diverse range of areas such as policing, healthcare, education and regulation which have important specific human rights roles. (See Section 6 for further examples).

Staff throughout the Civil and Public Service have a human rights role to play.

**The Civil and Public Service should:**

- Have due regard for human rights in its everyday work and in dealing with the public.
- Understand the applicable human rights framework.
- Ensure Customer Service Charters are upheld.
- Create the conditions for appropriate human rights training to occur.

Legal proceedings can be brought against central government and state bodies for alleged breaches of human rights. This usually follows decisions that impact on individuals.

**An Example: Local Authorities**

Local Authorities have a responsibility to provide quality services to all members of the community they serve and have a special role in respecting and protecting human rights.

For example, local authorities are charged with compiling the Electoral Register for local, national, and European elections and must guarantee that the Electoral Register is true and accurate. Local authorities are also responsible for the conduct of elections and must ensure that all elections are carried out in a democratic and transparent manner.

**i** *The right to vote can be found under Article 16 of the Irish Constitution, Article 25 of the International Covenant on Civil and Political Rights (ICCPR), and in Article 21 of the Universal Declaration of Human Rights (UDHR). (See Sections 3, 5 and 6).*

Legal proceedings can be brought against local authorities for alleged breaches of human rights. This usually follows decisions that impact on individuals.

## Why have Human Rights Training?

- 1 The Civil and Public Service is committed to human rights principles:** Human rights are rooted in respect for the dignity and worth of each person. The core Civil Service values are in keeping with this as set out in *An Introduction to the Irish Civil Service*: Honesty and Integrity, Impartiality, Respect for the Law, Respect for Persons, Diligence, Responsiveness and Accountability.
- 2 Human rights are law:** This legal responsibility to respect human rights applies to **all** state actors regardless of size, sector or location. This stems from the legally binding provisions contained in the Irish Constitution, the European Convention on Human Rights Act 2003, other relevant pieces of legislation and international instruments. Training can support the Civil and Public Service to meet its obligations with respect to human rights.

**3 Human rights are everybody's business:**

Human rights are not solely an issue for policy-makers, chief executives, or police officers; human rights concerns are relevant from management to front-line staff, and everywhere in between.

**4 Human rights benefit staff too:**

Rights-respected = staff-satisfied = effective. Having staff training in human rights helps to ensure that the rights of all staff within the workplace are respected. This can have a positive impact on staff morale and can be of tremendous benefit to any organisation. Satisfied employees are likely to be more productive, deliver a higher quality service and stay loyal to the organisation. Quality service which respects the rights of the service-user also results in a better service-user experience.

The Irish Human Rights Commission (IHRC) is delivering human rights training tailored to the Civil and Public Service. See [www.ihrc.ie/training](http://www.ihrc.ie/training) for further information.

A table illustrating examples of the connection between the functions of the Civil and Public Service, the rights relevant to those functions and the applicable law is available in Section 6.

# Section 3: Human Rights & Ireland

**“Strong legislation and accessible mechanisms for the vindication of human rights are important elements in the process of full conversion to a culture in which respect for human rights is embedded and spontaneous.”**

**Mary McAleese,  
President of Ireland, 2008**

## Introduction

This section looks briefly at the Irish legal system, including the Constitution as well as the role of the Irish Human Rights Commission (IHRC).

## The Irish Constitution

Ireland's core laws, values and structures are set out in the Constitution, which is the primary source of law in relation to our democratic structures and all legislation passed by the Oireachtas must be compatible with it.

### **The Constitution sets out a number of fundamental rights in Articles 38–44.**

#### **These include:**

- Right to life (Article 40.3)
- Equality before the law (Article 40.1)
- Right to a fair trial (Article 38.1)
- Right to liberty (Article 40.4)
- Right to freedom of expression, assembly and association (Article 40.6.1)
- Protection of the family (Article 41)

In addition, the Courts have interpreted the Constitution as including certain human rights. These are referred to as **unenumerated rights** (not explicitly set out in the Constitution but which are given meaning by the Courts), and include:

- Right to bodily integrity
- Right to freedom from torture, inhuman or degrading treatment or punishment
- Right to work and earn a livelihood
- Right to privacy

**i** *Limitations of the rights:*  
*Many of the rights within the Constitution are not absolute and can be limited by the Oireachtas on the grounds of the common good or public order.*

## **Who protects human rights in Ireland?**

Democratic institutions such as the Oireachtas and the Courts safeguard the legal and political foundations which ensure that human rights are protected and respected.

**National Human Rights Institutions** are an important independent oversight mechanism that exist to protect and promote human rights in law, policy and practice in states. The Irish Human Rights Commission is Ireland's National Human Rights Institution.

**i** *“The World Conference on Human Rights reaffirms the important and constructive role played by national institutions for the promotion and protection of human rights, in particular in their advisory capacity to the competent authorities, their role in remedying human rights violations, in the dissemination of human rights information, and education in human rights.”*  
*Vienna Declaration and Programme of Action, 1993*

## The Role of the Irish Human Rights Commission

The Irish Human Rights Commission (IHRC) was established under law in 2000, as an independent National Human Rights Institution, to promote and protect the human rights of everyone in Ireland. The IHRC achieves this through monitoring Irish legislation, policy and practice.

**The IHRC carries out its functions by:**

- **Keeping under review the adequacy and effectiveness of law, policy and practice** in the State relating to human rights, by reviewing draft legislation and by making recommendations to Government.
- **Consulting with relevant national and international bodies** around human rights issues.
- **Offering expertise in human rights law to the Irish Courts** through its mandate to act as *amicus curiae* (or 'friend of the court') before the Irish Courts.
- **Conducting enquiries into human rights issues** in the State.
- **Promoting understanding and awareness** of the importance of human rights.
- **Taking legal proceedings** to vindicate human rights in the State such as by providing (1) legal advice, (2) legal representation before the Courts and/or (3) such other assistance as is appropriate.

# Section 4: Human Rights & Europe

**“Today, no country in Europe is free from racism & discrimination... The negative impact of the global economic crisis will hit vulnerable groups considerably harder. There is a major risk that it will be the weakest who will suffer the most... We must not be complacent. The promotion of human rights is far too serious a question to be approached with half-measures.”**

**Thomas Hammarberg,  
Commissioner for Human Rights,  
Council of Europe, 2009**

## Introduction

This section provides a brief overview of the European human rights system.

## What is the European Human Rights System?

**The European system for human rights protection consists primarily of two elements:**

- The Council of Europe, the European Convention on Human Rights and the European Court of Human Rights.
- The European Union, the European Union Charter of Fundamental Rights and the Court of Justice of the European Union.

Ireland joined the Council of Europe in 1949 and the European Economic Community, the forerunner of the European Union, in 1973.

The **Council of Europe** focuses on human rights, democratisation and the rule of law across its 47 Member States and covers almost the entire continent of Europe.

The **European Union**, comprises of 27 Member States, has its roots in regional economic integration and the creation of a common European market.

- i** *It is important to note that while the Council of Europe co-operates with the European Union in a number of joint projects, the two organisations are entirely separate in structure and function. However, every member of the European Union has first been a member of the Council of Europe, and negotiations have commenced to allow the European Union to become a party to the European Convention on Human Rights (ECHR).*

## The Council of Europe

### European Convention on Human Rights

European countries signed the first regional agreement for the protection of human rights – the European Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the European Convention on Human Rights (ECHR) – in 1950. It was followed by the establishment of a permanent European Court of Human Rights to handle individual cases.

The ECHR is the basis of the European human rights system and is legally binding in Ireland through the European Convention on Human Rights Act 2003.

**Among the rights guaranteed in the ECHR are:**

- Right to life
- Prohibition of torture and ill-treatment
- Prohibition of slavery, servitude or forced or compulsory labour
- Right to liberty and security
- Right to a fair trial
- Right to respect for private and family life
- Freedom of thought, conscience and religion
- Freedom of expression
- Freedom of assembly and association
- Right to marry
- Right to an effective remedy
- Prohibition of discrimination in the enjoyment of Convention rights
- Protection of property
- Right to education
- Right to free elections

## **Revised European Social Charter**

The Revised European Social Charter (1996) updated the earlier European Social Charter (1961). The Revised European Social Charter guarantees social and economic human rights, whereas the ECHR primarily focuses on civil and political rights.

### **Among the rights guaranteed are:**

- Right to housing
- Right to health
- Right to education
- Right to work

## **The European Court of Human Rights**

The ECHR is enforced through the **European Court of Human Rights** which was established with legal powers to hold states accountable for their failure to uphold the Convention rights. The ECHR and Court system are significant because individuals can make a complaint if they feel their rights have been breached.

States have a duty to enforce judgements from the European Court of Human Rights.

## **Cases involving Ireland**

There have been more than 24 judgements issued by the European Court of Human Rights in which Ireland was a party. However, the Court often considers cases against other countries which concern issues common to Ireland. The Court's case-law makes the Convention relevant and up-to-date as new judgements consider its meaning in light of present-day circumstances.

## **European Convention on Human Rights Act 2003**

Under the European Convention on Human Rights Act 2003, **Irish Courts** must interpret and apply law in Ireland in line with the ECHR insofar as possible. If the Court finds that Irish legislation or practice is not in line with the ECHR, it can either find that the State has breached its statutory duty or it can make a '**Declaration of Incompatibility**' which must be considered by the Oireachtas.

Whenever a Declaration of Incompatibility is sought in legal proceedings the Attorney General and the Irish Human Rights Commission are formally notified.

### **The European Convention on Human Rights Act 2003 (ECHRA):**

- Incorporates the provisions of the ECHR into domestic law, allowing them to be considered before the Irish Courts.
- Must be considered in parallel with the Irish Constitution. However, the Constitution has primacy over the ECHRA in cases where there is any uncertainty.
- Requires that each organ of the State “perform[s] its functions in a manner compatible with the State’s obligations under the Convention”.

### **Compliance**

By applying certain procedures, the likelihood of cases being brought in the High Court against the State or later brought against Ireland before the European Court of Human Rights in Strasbourg could be reduced. See [www.ihrc.ie/training](http://www.ihrc.ie/training) for a useful compliance checklist.

## The European Union

The European Union (EU) is an economic and political partnership between 27 democratic European Member States.

Its aims are peace, prosperity and freedom for its 498 million citizens – in a fairer, safer world.

**The EU countries established three main bodies to run the Union and to adopt its legislation:**

- The **European Parliament** (directly elected representatives of the people of Europe).
- The **Council of the European Union** (comprising representatives of national governments).
- The **European Commission** (the ‘civil service’ of the EU).

**i** *EU legislation covers a wide range of human rights issues impacting on all sections of the Civil and Public Service.*

Tailored training on European human rights law is available from the IHRC. See [www.ihrc.ie/training](http://www.ihrc.ie/training) for further information.

In 2009, the EU took a major step forward in the area of promoting and protecting human rights with the adoption of a Charter of Fundamental Rights. The European Union Charter of Fundamental Rights sets out in a single text, for the first time in the European Union's history, the range of civil, political, economic and social rights of European citizens and persons resident in the EU.

**i** *The European Union Agency for Fundamental Rights (FRA) is an advisory body of the European Union established in 2007. It works to ensure that the fundamental rights of people living in the EU are protected.*

Source: European Union <http://europa.eu/>

# Section 5: Human Rights & the International System

**“We must understand the role of human rights as empowering of individuals & communities. By protecting these rights, we can help prevent the many conflicts based on poverty, discrimination & exclusion (social, economic & political) that continue to plague humanity & destroy decades of development efforts ... I believe we can break [the vicious circle] only by ensuring respect for all human rights.”**

**Mary Robinson,  
Former President of Ireland &  
Former UN High Commissioner  
for Human Rights, 1998**

## **Introduction**

This section provides a brief overview of the international human rights system.

## **What is the International Human Rights System?**

International human rights law is based on a system of international treaties and is enforced through membership of international organisations. The state has an obligation to respect, protect and fulfil the rights guaranteed in these instruments (see Section 1).

As a member of the United Nations (UN), Ireland is expected to uphold the principles of the UN, and to protect the rights set out in international treaties through its laws, policies and practices.

## What is the United Nations?

The UN comprises of 192 Member States, divided into six principal organs including the **General Assembly**, the **Security Council**, the **Economic and Social Council**, the **International Court of Justice** and the **Secretariat**.

According to the **UN Charter**, one of the key purposes of the UN is to promote and encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

### **The two main bodies of the United Nations with responsibility for human rights are:**

- 1** The **Human Rights Council**, created by the General Assembly, consists of 47 Member States of the United Nations and is mandated to address human rights violations; and
- 2** The **Office of the High Commissioner for Human Rights (OHCHR)**, which works to promote and protect human rights by standard-setting, monitoring, and implementation.

**i** *The Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly in 1948. It is a set of principles that states have pledged to respect. It is the treaties and conventions based on the principles of the UDHR which form international human rights law.*

## **The United Nations Treaty System**

States must ensure that their domestic system complies with international human rights law.

### **The main ('core') human rights treaties of the United Nations are the:**

- 1** International Covenant on Civil and Political Rights (1966) and its Optional Protocols (1976 and 1989) (ICCPR).
- 2** International Covenant on Economic, Social and Cultural Rights (1966) and its Optional Protocol (2008) (ICESCR).
- 3** International Convention on the Elimination of All Forms of Racial Discrimination (1965) (CERD).
- 4** Convention on the Elimination of All Forms of Discrimination against Women (1979) and its Optional Protocol (1999) (CEDAW).
- 5** Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) and its Optional Protocol (2006) (CAT).
- 6** Convention on the Rights of the Child (1989) and its two Optional Protocols (2000) (CRC).

- 7 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).
- 8 Convention on the Rights of Persons with Disabilities and its Optional Protocol (2006).

Ireland has ratified (that is, has agreed to be bound by) the first six of these Conventions which set out obligations with which Ireland must comply.

**i** *The ICCPR and ICESCR are two treaties that were elaborated on in order to develop the rights set out in the UDHR into legally-binding instruments. Together with the UDHR they are referred to as the **International Bill of Human Rights**.*

## **United Nations Treaty Bodies**

Under each UN core treaty, states are required to provide regular reports to the relevant treaty body on their implementation of the treaty in law, policy and practice. A treaty body, which is a group of independent experts, then assesses the report in dialogue with the state and produces observations on the implementation of the treaty by the state.

The relevant treaty body can receive information from National Human Rights Institutions, for example from the Irish Human Rights Commission in this country, from other UN agencies, and from Civil Society Organisations in reaching its conclusions.

The treaty body then produces Concluding Observations setting out its assessment of the implementation of the treaty by the state. The state is then expected to address any human rights issues that have been highlighted.

## The Universal Periodic Review

In 2007, the UN introduced a new procedure to monitor a state's human rights record. The Universal Periodic Review (UPR) process looks at a state's human rights record once every four years.

**i** *Ireland's examination schedule under UPR is 2011 and 2015. For each consideration of the State's record, which is carried out by other Member States of the United Nations, Ireland must produce a report.*

The UPR process provides an opportunity for all states to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights.

The ultimate goal of the UPR is the improvement of the human rights situation in every country.

# Section 6: A Summary of Your Rights

“For me, Article 24 of the Universal Declaration of Human Rights means that I have the right to pick up a hurley... I see the right to stand in a field, frozen, in lashing rain with a bunch of other lads. I see the right to sport & am reminded again of the importance it has played in my life.”

Seán Óg Ó hAilpín, Cork hurler, 2009

**Article 24, UDHR:**

*Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.*

## **Introduction**

This section provides a brief overview of the human rights instruments discussed in previous sections.

Although human rights are set out in different instruments, it is easy to identify what are the basic human rights. Four key sources of rights to be aware of are the Irish Constitution, the European Convention on Human Rights (as implemented by the European Convention on Human Rights Act 2003), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

## **The Irish Constitution**

The Irish Constitution contains certain fundamental rights (see Section 3 of this Guide):

- Right to a fair trial (Article 38.1)
- Equality before the law (Article 40.1)
- Right to life (Article 40.3)
- Right to liberty (Article 40.4)
- Right to freedom of expression, assembly and association (Article 40.6.1)
- Protection of the family (Article 41)

In addition, the Courts have interpreted the Constitution as including certain human rights; these are referred to as unenumerated rights. These include:

- Right to bodily integrity
- Right to freedom from torture, inhuman or degrading treatment or punishment
- Right to work and earn a livelihood
- Right to privacy

These rights are directly enforceable before the Irish Courts.

## **The European Convention on Human Rights**

The European Convention on Human Rights (ECHR) covers civil and political rights. Rights protected by the ECHR include:

- Right to life (Article 2)
- Prohibition of torture and ill-treatment (Article 3)
- Prohibition of slavery, servitude or forced or compulsory labour (Article 4)
- Right to liberty and security (Article 5)
- Right to a fair trial (Article 6)
- No punishment without law (Article 7)
- Right to respect for private and family life (Article 8)
- Freedom of thought, conscience and religion (Article 9)
- Freedom of expression (Article 10)
- Freedom of assembly and association (Article 11)
- Right to marry (Article 12)
- Right to an effective remedy (Article 13)
- Prohibition of discrimination in the enjoyment of Convention rights (Article 14)
- Protection of property (Protocol 1, Article 1)
- Right to education (Protocol 1, Article 2)
- Right to free elections (Protocol 1, Article 3)

These rights are interpreted and developed by the European Court of Human Rights (see Section 4) and subject to certain conditions are directly enforceable before the Irish Courts.

## **ICCPR & ICESCR**

Ireland has also agreed to be bound by 6 of the core UN treaties. The two treaties that set out the majority of basic human rights are the **International Covenant on Civil and Political Rights (ICCPR)**, and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**. These two instruments set out in legal terms the rights contained in the Universal Declaration of Human Rights (see Section 5 of this Guide).

**Most of the rights in the ICCPR are also covered by the Constitution or the ECHR including:**

- Right to life, prohibition of torture, prohibition of slavery, right to liberty and security of person, right to a fair trial, freedom of thought, conscience, religion, opinion and expression

**The key ICESCR rights deal with rights not contained in the ICCPR but contained in the UDHR. For example:**

- Right to work and to just and favourable conditions of work (Articles 6 and 7)
- Right to form and join a trade union and the right to strike (Article 8)
- Right to social security, including social insurance (Article 9)
- Right to an adequate standard of living (Article 11)
- Right to physical and mental health (Article 12)
- Right to education (Articles 13 and 14)

**i** *Four of the core UN human rights treaties which Ireland has agreed to be bound by relate to specific areas: elimination of discrimination against women (CEDAW), rights of the child (CRC), elimination of racial discrimination (CERD) and prohibition of torture (CAT). These Conventions were created because the international community considered that specific treaties were needed to bolster these areas and ensure that these rights are realised.*

## **Human Rights Responsibilities of the Civil & Public Service ... Some Examples:**

The following table illustrates some examples of the connection between the functions of some sections of the Civil and Public Service and some of the applicable law and rights arising. More information on human rights and the Civil and Public Service will be available via IHRC training courses.

- i** *To find out more about free human rights training and to order copies of this Guide see [www.ihrc.ie/training](http://www.ihrc.ie/training).*

## Human Rights Responsibilities of the Civil & Public Service: Examples

Civil & Public Service	Example of role	Examples of Irish Law	Example of relevant human rights
<b>Dept. of Agriculture, Fisheries and Food</b>	Protecting the safety of Irish food and the interests of consumers in line with European Union agricultural and environmental directives and standards.	Article 40 – Constitution  Diseases of Animals Act 1966	Right of everyone to an adequate standard of living ... including adequate food (Article 11 – ICESCR)  Right to the enjoyment of the highest attainable standard of physical ... health (Article 12 – ICESCR)
<b>Dept. of Communications, Energy and Natural Resources</b>	Managing the natural resources of the State.  Ensuring right to freedom of expression is balanced with competing rights in the State's regulation of the media.	Article 10 – Constitution  Article 40.6.1 – Constitution  Broadcasting Act 2009	Right to enjoy and utilise natural wealth and resources (Article 25 – ICESCR)  Right to freedom of expression (Article 10 – ECHR, Article 19 – ICCPR)
<b>Dept. of Community, Equality and Gaeltacht Affairs</b>	Ensuring that language and minority rights are upheld.  Incorporation of human rights, equality, social inclusion and anti-poverty objectives in public policy development.	Article 8 – Constitution  Official Languages Act 2003  Article 40.1 – Constitution  Equal Status Acts 2000 – 2008  Employment Equality Acts 1998 – 2008  European Convention on Human Rights Act 2003	Ensure realisation of human rights for all (Article 1 – ECHR)  Right to non-discrimination (Article 14 – ECHR) (CERD)  Right to protection against poverty and social exclusion (Article 30 – Revised European Social Charter)

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<b>Dept. of Defence</b>	<p>Providing for the military defence of the State and contributing to national and international peace and security.</p> <p>Ensuring that the exercise of military law meets human rights standards.</p>	Defence Act 1954 (as amended)	<p>Right to life (Article 2 – ECHR)</p> <p>Right to liberty and security (Article 5 – ECHR)</p> <p>Contribute to the maintenance of international peace and security (Article 43 – UN Charter)</p>
<b>Dept. of Education and Skills</b>	<p>Ensuring that there is a sufficient number of primary and secondary schools available and maintained throughout the country.</p> <p>Ensuring that the education system embodies recognition of diversity.</p>	<p>Article 42 – Constitution</p> <p>Education Act 1998</p> <p>Education for Persons with Special Educational Needs Act 2004</p>	<p>Right to Education (Article 13 – ICESCR, Article 2, Protocol 1 – ECHR, Articles 28, 29 – CRC)</p>
<b>Dept. of Enterprise, Trade and Innovation</b>	Ensuring safe working environment for employees through carrying out inspections of work places.	<p>Protection of Employees (Part-time) Work Act 2001</p> <p>National Minimum Wage Act 2000</p> <p>Protection of Employees (Fixed-Term Work) Act 2003</p> <p>Unfair Dismissals Acts 1977–2007</p>	<p>Right to work (Article 6 – ICESCR)</p> <p>Right to safe and healthy working conditions (Article 3 – Revised European Social Charter)</p>

## Human Rights Responsibilities of the Civil & Public Service: Examples

Civil & Public Service	Example of role	Examples of Irish Law	Example of relevant human rights
<b>Dept. of Environment, Heritage and Local Government</b>	<p>Overseeing the operation of the local government system and implementing policy in relation to local government.</p> <p>Responsible for the various legislative codes dealing with the registration of electors and the conduct of elections and referenda.</p>	<p>Articles 12, 16, 28A, 47 – Constitution</p> <p>Local Government Act 2001</p>	<p>Right to take part in the conduct of public affairs and the right to vote (Article 25 – ICCPR)</p>
<b>Dept. of Finance</b>	<p>Ensuring proper economic and financial management of the State, including to address poverty and social exclusion, in order to meet Government commitment to eliminate consistent poverty by 2016.</p>	<p>Article 45 – Constitution</p> <p>Financial Emergency Measures in the Public Interest Act 2009</p>	<p>Right of peoples to freely pursue their economic, social and cultural development (Article 1 – ICCPR, Articles 12, 30 – Revised European Social Charter)</p> <p>Right to an adequate standard of living (Article 11 – ICESCR)</p>

## Human Rights Responsibilities of the Civil & Public Service: Examples

Civil & Public Service	Example of role	Examples of Irish Law	Example of relevant human rights
<b>Dept. of Foreign Affairs</b>	Ensuring provision of information to Government and Departments on Ireland's international human rights obligations.	Article 29 – Constitution  Criminal Justice (United Nations Convention Against Torture) Act 2000	Obligation under all UN core conventions (E.g. Article 40 – ICCPR, Article 16 – ICESCR)
	Facilitating the ratification of international human rights instruments and liaising with international institutions and coordinating reporting on progress.	European Convention on Human Rights Act 2003	
	Responsible for issuing passports.	Passports Act 2008	Freedom of Movement within a state, and freedom to leave the state (Article 2, Protocol 4 – ECHR)
<b>Dept. of Health and Children</b>	Ensuring health services are properly funded, regulated and supported to ensure proper health care for the population.	Article 40 – Constitution  Child Care Act 1991  Health Acts 1947 – 2007	Right to the enjoyment of the highest attainable standard of physical and mental health (Article 12 – ICESCR) (CRC)

## Human Rights Responsibilities of the Civil & Public Service: Examples

Civil & Public Service	Example of role	Examples of Irish Law	Example of relevant human rights
<b>Health Service Executive</b>	<p>Ensuring health care is available, accessible, acceptable and of a commensurate quality for the population.</p> <p>Ensuring the right of access to health care for vulnerable or marginalised groups without discrimination.</p> <p>Ensuring regulation and control of health care delivery.</p>	<p>Article 40 – Constitution</p> <p>Health Acts 1947 – 2007</p>	<p>Right to the enjoyment of the highest attainable standard of physical and mental health (Article 12 – ICESCR)</p>
<b>Dept. of Justice and Law Reform</b>	<p>Ensuring that criminal justice laws respect human rights standards.</p> <p>Ensuring proper oversight of bodies to meet international obligations e.g. policing and prisons.</p> <p>Securing an effective youth justice system.</p>	<p>Article 40 – Constitution</p> <p>Criminal Justice Acts</p> <p>Prisons Act 2007</p> <p>Children Act 2001</p>	<p>No one shall be subjected to arbitrary arrest or detention (Article 9 – ICCPR)</p> <p>Right that no one shall be subjected to torture or to inhuman or degrading treatment or punishment (Article 3 – ECHR, Article 7 – ICCPR)</p> <p>Administration of justice where the best interests of the child shall be a primary consideration (Article 3 – CRC)</p>
<b>Director of Public Prosecutions</b>	<p>Ensuring effective, fair prosecutions of individuals accused of serious crimes.</p>	<p>Article 38 – Constitution</p> <p>Prosecution of Offences Act 1974</p>	<p>Right to a fair trial (Article 6 – ECHR)</p> <p>Right to have serious harm to person investigated and prosecuted (Articles 2, 3 – ECHR)</p>

## Human Rights Responsibilities of the Civil & Public Service: Examples

Civil & Public Service	Example of role	Examples of Irish Law	Example of relevant human rights
<b>Garda Síochána</b>	<p>Detecting, investigating and preventing crime.</p> <p>Border control and immigration.</p>	<p>Articles 38, 40 – Constitution</p> <p>Garda Síochána Act 2005</p> <p>Aliens Act 1935</p> <p>Refugee Act 1996</p> <p>Irish Nationality and Citizenship Act 2004</p> <p>Immigration Acts</p>	<p>Right to equality before the law (Article 14 – ICCPR)</p> <p>Right to have serious harm to person investigated and prosecuted (Articles 2, 3 – ECHR)</p> <p>Freedom of Movement (Article 2, Protocol 4 – ECHR)</p>
<b>Office of the Attorney General</b>	<p>Advising Government on human rights implications of draft legislation and proposed referenda.</p> <p>Defending the State in suits brought against it including those alleging human rights breaches.</p>	<p>Article 30 – Constitution</p>	<p>Ensure realisation of human rights for all (Article 1 – ECHR)</p>
<b>Dept. of Social Protection</b>	<p>Ensuring that social welfare systems are adequate to ensure that the needs of individuals and families are met; endeavouring to raise progressively the system of social security to a higher level, in order to meet Government commitment to eliminate consistent poverty by 2016.</p>	<p>Article 45 – Constitution</p> <p>Social Welfare Acts 2001 – 2009</p>	<p>Right to be protected against poverty and social exclusion (Articles 12, 30 – Revised European Social Charter)</p>

## Human Rights Responsibilities of the Civil & Public Service: Examples

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<b>Dept. of the Taoiseach</b>	Providing support, policy advice and information necessary for the effective conduct of government.	Article 28 – Constitution	Ensure realisation of human rights for all (Article 1 – ECHR)
<b>Dept. of Tourism, Culture and Sport</b>	Enabling people to partake in cultural life of the nation.	Irish Film Board Act 1980 Section 481 Taxes Consolidation Act 1997 National Cultural Institutions Act 1997	Right to take part in cultural life (Article 15 – ICESCR) Right to rest and leisure (Article 24 – UDHR)
<b>Dept. of Transport</b>	Providing adequate transport policies and infrastructure in the State (aerial, maritime, road and rail) and to ensure proper regulation.	Air Transport Act 1986 Road Safety Authority Act 2006 Maritime Safety Act 2005 Public Transport Regulation Act 2009 Railway Safety Act 2005	Freedom of Movement within a state (Article 2, Protocol 4 – ECHR)
<b>Revenue</b>	To serve the community by fairly and efficiently collecting taxes and duties and implementing Customs control.	Articles 11, 43 – Constitution Finance Acts European Convention on Human Rights Act 2003	Protection of Property: subject to the State's right to secure payment of taxes (Article 1, Protocol 1 – ECHR)

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## **Human Rights Education & Training Project**

Irish Human Rights Commission

Fourth Floor, Jervis House,

Jervis Street, Dublin 1, Ireland

**Tel:** + 353 (0)1 858 9601

**Email:** [training@ihrc.ie](mailto:training@ihrc.ie)