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Rights-Based Approaches to Food Poverty in Ireland

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Abstract

In Ireland food poverty has emerged as an increasingly important issue on the social policy agenda. The reasons for this include the changing understanding of the nature of food poverty, its causes, dimensions and the development of solutions, as well as a growing awareness that food remains a central dimension of people's experience of poverty even within industrialised countries. Alongside these developments there is a growing interest in the role of rights-based approaches to poverty alleviation generally and specifically to the issue of food poverty. This paper begins by mapping the main contours of the international human rights system and academic literature in order to ground food poverty within the overarching political and legal framework. In view of the fact that food poverty is central to people's experience of poverty, it is necessary to review the conceptual literature on poverty generally and to identify the primary state-level mechanisms associated with poverty alleviation. More specifically, this study also identifies the key concepts, actors and interventions that pertain to food poverty in Ireland. This is followed by a summary of the discussion and analysis generated from a one-day workshop which took place in Dublin in March 2008, at which various stakeholders explored the potential of using rights-based approaches to food poverty in Ireland. The paper concludes that rights-based approaches have not featured prominently in interventions to address issues of poverty in general, or food poverty specifically, and activists and practitioners working in the arena of food poverty point to significant challenges in progressing this approach. Institutional resistance to the adoption of a rights-based approach is a significant factor, as is the primacy of private sector interests who are the 'gatekeepers' of the contemporary food system. At the same time, insights from the work of human rights organisations who work on food and those who use the approach in other settings suggest that it is a promising avenue to explore. Of particular significance is its potential to address issues of power relations between marginalised groups and policy-makers and to locate local issues and responses within a framework of international human rights law.

Key words

Poverty, Food, Rights

Disclaimer

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Chapter 1: Introduction

1.1 Introduction

In Ireland and within the OECD food poverty has increasingly emerged as an issue on the social policy agenda. While unexpected, in some ways, in a high income country context there are a number of reasons for this emergence of specific interest in food poverty. These include the changing understanding of the nature of food poverty, its causes, dimensions and the development of solutions, as well as an increasing awareness that food remains a central dimension of people's experience of poverty even within industrialised countries. It is also due to the advocacy work of several organisations within the community and voluntary sector and, within Ireland, the work of the national Combat Poverty Agency (CPA). Alongside these developments there is a growing interest in the role of rights-based approaches to poverty alleviation generally and specifically to the issue of food poverty. The issue is also a timely one. The recent global financial crisis and subsequent current economic downturn brings to the issue of poverty, and food poverty in particular, a new sense of urgency and further underscores the importance of rights-based approaches.

1.2. Research Questions

The topic of rights-based approaches to food poverty is addressed through the following research questions, which form the basis of the subsequent chapters.

What is the essence of human rights-based approaches to food poverty?

By ratifying the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other relevant international treaties, the Irish State has undertaken to tackle poverty, including food poverty, through a human rights framework.¹ Various United Nations (UN) bodies now actively promote methodologies and processes underpinned by such a framework, known as human rights-based approaches. These bodies, in collaboration with national governments, academics and civil society, have formulated detailed principles, standards and tools, which should be used to realise the human right to food.

¹ The Covenant was agreed in 1966 and came into force in 1976. See further Craven 1995.

This research question maps the core elements of human rights-based approaches. It identifies the implications of such approaches for Irish law and policy in the arena of food poverty, outlining the standards against which the Irish government – as the principal duty-bearer – is accountable to individuals as right-holders.

How is poverty, and specifically food poverty, conceptualised by the relevant actors in Ireland?

How poverty is understood and analysed has implications for both the nature of the interventions that are undertaken and the broad policy environment within which these responses take place. Consequently this research question seeks to identify how poverty, and within that food poverty, is currently conceptualised in the Irish and international literature and how it is experienced as a lived reality by food-insecure people in Ireland. It also seeks to examine how the issue is framed within the wider national context of poverty alleviation, rights-based approaches and economic and social policy.

Who are the key actors currently engaged in initiatives which address food poverty in Ireland?

Given the multi-dimensional and dynamic nature of the topic, it is important to capture the full range of actors engaged in food poverty interventions in Ireland, including community and voluntary sector organisations, statutory agencies, government departments and the research community. By extension, such an exercise can also identify those stakeholders or institutions that are absent from the food poverty agenda.

What is the scope, nature and impact of food poverty initiatives in Ireland?

The rationale for this question is to allow for the analysis of Irish initiatives based on a range of factors including, *inter alia*, the stakeholders involved; the focus of the intervention; the approach or methods employed and the 'location' of the initiative within the domain of food policy. On this latter issue, one of the key distinctions to be made is between *downstream* approaches (such as direct provision of food; measures to address information/skills deficits; local community-based food projects) and *upstream* approaches which have a greater focus on attempting to influence the wider policy context. Either of these broad approaches may also be rights-based.

Clearly the impacts of food poverty projects are an important dimension for analysis. However, the nature of the available published documentation, and the fact that many interesting initiatives are at an early stage of development in Ireland, means that in some cases, the analytical focus is on the *processes* involved, rather than the *outcome*. In any event the manner in which food poverty initiatives are realised is of fundamental import to the rights-based approach outlined in Chapter 2. Further, under such an approach a project 'outcome' should embrace both quantitative impacts on poverty levels as well as more qualitative effects on various stakeholders, such as for example the empowerment of people living in poverty. .

What should be the guiding principles and characteristics of a comprehensive joined-up strategy to address food poverty in Ireland?

The starting point in addressing this question is the identification of best practice internationally in terms of food poverty specifically, but it will also draw from relevant models located in the broader realm of food policy. These two issues share much in common in terms of the range of policy domains across which they intersect and the different stakeholders and interest groups involved. Identifying the characteristics of an integrated strategy for tackling food poverty in Ireland will be informed by this analysis. However, it is also necessary to address the specificities of the Irish context such as the role of the anti-poverty and social policy infrastructure, the incorporation of the key actors and initiatives and an analysis of how 'missing' actors should be brought into the policy-making process.

These research questions will be addressed in the subsequent chapters as follows:

Chapter 2 maps the main contours of rights-based approaches to poverty with reference to the international human rights system and academic literature in order to ground food poverty within the overarching political and legal framework. Throughout this study it is argued that food poverty needs to be seen as central to people's experience of poverty. The approach is reflected in the structure of the subsequent two chapters of the study. Chapter 3 reviews the conceptual literature on poverty generally, going on to identify the primary state-level mechanisms associated with poverty alleviation. Chapter 4 charts and analyses the range of food poverty interventions underway in Ireland. It examines the concepts, practices and policies

that underlie the work of key stakeholders. Chapter 5 presents a summary of the discussion, analysis and insights generated from a one-day workshop which took place in Dublin in March 2008. At the workshop various stakeholders (activists, public sector organisations and institutions, policy-makers, academics and researchers) explored the potential of using rights-based approaches to address issues of poverty in Ireland, with specific reference to food poverty. The concluding chapter identifies exemplars of best practice internationally with a view to informing policy and practice in Ireland. It is informed by the need for a joined-up, integrated approach to food poverty and also draws on a number of conceptual frameworks and models related to the broader arena of food policy which have useful insights into how inter-sectoral policy can be framed.

1.3 Methodological Approach

The research questions were addressed through a comprehensive review and analysis of the relevant literature. Because the topic of food poverty is one which has a strong policy, practice and experiential orientation as well as a theoretical focus, a variety of documentary sources were drawn upon. In addition to insights from the *formal academic literature* in cognate disciplines, the analysis also drew upon the substantial body of *grey literature* which has developed around this topic in Ireland, emanating chiefly from the community/voluntary sector and a variety of statutory agencies.²

The library facilities at University College Dublin were the key resource base for identifying much of the material needed for the literature review, providing access to both hardcopy material and electronic sources of information. In addition to housing many of the necessary texts, journals, reports and policy documents in printed form the library also provided access to a wide range of electronic databases and search engines. Sources including ASSIA (Applied Social Sciences Index and Abstracts), SSCI (Social Sciences Citation Index), SwetsWise, PROQUEST and Blackwell-Synergy were used to identify and access relevant formal literature and conference proceedings electronically. Internet search engine tools were used to source grey

² Following the approach taken by Caraher, Cowburn and Currie (2003), the distinction is made between the formal academic literature which has undergone a process of peer review and has appeared in refereed journals and grey literature, which falls outside this process and may take the form of reports, evaluations, policy submissions and reviews published nationally or internationally.

literature. These sources were augmented by advice and direction provided by the authors' personal contacts and colleagues. As outlined previously, the focus of the study is on the current 'state of play' in Ireland with regard to food poverty interventions. Therefore, an important criterion for including/excluding literature related to policy was that the initiative is currently 'live' or of relatively recent vintage (from 1999 to 2008). Regarding the more theoretical and conceptual elements of the study, the dynamic nature of the debate on food poverty (and the wider poverty context) means that there was a conscious effort to identify current sources.

Again, reflecting the importance of the policy, practice and experiential dimensions of food poverty, an important component of this research work was a one-day workshop to which relevant stakeholders (activists, public sector organisations and institutions, policy-makers, academics and researchers) were invited. The purpose of the workshop was to explore the potential of using rights-based approaches to address issues of food poverty in Ireland, with specific reference to food poverty.³ Of particular note was the presence of invited speakers with expertise in implementing rights-based approaches in different policy/country settings (food poverty and housing) who presented a summary of their experiences. Another feature of the workshop was that participants engaged in small-group discussions in which they explored various dimensions of rights-based approaches to food poverty.

1.4 Conclusion

The scope of this study is inevitably limited. It does not, for example, focus directly on market mechanisms for allocating food, on issues for suppliers and producers or on regulatory issues. Its primary purpose is to deliver a practice-oriented, rights-based, policy-focused contribution to the literature on food poverty in Ireland. Equally relevant for policy development is the identification of areas that warrant further investigation and form the basis of a future research agenda. All of these issues need to be informed by a clear understanding of how food poverty is treated in the Irish and international literature; how it is experienced in Ireland and how it interfaces with other relevant policy domains.

³ This workshop was supported by the Combat Poverty Agency, the Egalitarian World Initiative (EWI) Marie Curie Transfer of Knowledge Programme at University College Dublin (UCD), the School of Social Justice, UCD and the School of Biology and Environmental Science, UCD. Full details are available from: <http://www.ucd.ie/ewi/events/foodpoverty/home.html>

Chapter 2: Rights-Based Approaches: Poverty and Food Poverty

2.1 Introduction

Allied to developments in the international legal framework a significant literature has emerged on the relationship between human rights and poverty.⁴ As Lister (2002:37) observes, the politics of poverty is 'increasingly being couched in a non-materialist discourse of human and citizenship rights, democracy, inclusion and respect'. While the conventional focus on economic resources is retained, questions of power now feature in theory and practice that recognises poverty as a human rights violation (Aoued, 2006; Lister, 2002; OHCHR, 2004).

Poverty is directly connected to the realisation of economic, social and cultural rights (ESCR), such as the rights to housing, health and an adequate standard of living, yet it is also deeply implicated in the furtherance of civil and political rights. Classic civil and political rights, including the right to private and family life, the right to equal treatment before the law, freedom of expression and freedom of association, are integral to understanding and addressing the status of people experiencing poverty in society. Thus, poverty may be *defined* with reference to a limited set of human rights but 'an effective anti-poverty strategy will certainly have to address a much wider range of human rights' (OHCHR, 2004:11). The indivisibility and interdependence of all human rights then is highly significant in the realisation context, a theme we elaborate on below and in Chapter 3.

Human rights-based approaches (HRBA) refer to methodologies and processes that adhere to a set of core principles and standards derived from the international human rights legal framework. As discussed in the body of this chapter, HRBA can be distinguished from other interventions in the arena of poverty reduction on a number

⁴ See for example the various contributions to Pogge (2007) and Williams (2006). On rights and food poverty more specifically see for example Lang (1997b); Dowler et al. (2001); Amalric (2001) Haddad and Kracht (2002); Dowler and Caraher (2003); Caraher (2003); Caraher and Coveney (2004); Aoued (2006).

of fronts. Cross-cutting features of HRBA include a commitment to realising, in the case of every individual human being, the substantive standards attached to the full set of internationally agreed human rights. Further, HRBA do not just define people's entitlements, but prescribe standards for enhancing the *processes* through which human rights are defined and implemented, rights violations identified and monitored.

While inevitably local and international actors deploy various conceptions, there is an evolving global consensus on the core elements of a HRBA (Amnesty International, 2006):

- Explicit application of the international human rights framework
- Participation
- Empowerment
- Accountability
- Non-discrimination

We utilise that basic framework in Section 2.3 to elaborate a HRBA derived from international human rights law, which is supplemented by academic commentary and perspectives advanced by NGOs. The next section first establishes the contours of the right to food under the International Covenant on Economic, Social and Cultural Rights (ICESCR).

2.2 The International Legal Framework

2.2.1 Overview

In relation to food poverty the most detailed elaboration of human rights principles and associated HRBA emanate from various United Nations organs, with the right to food set out under the ICESCR⁵ as the central reference point.⁶ We focus on that rich source of material for the purposes of this report.

⁵ While the International Covenant on Economic, Social and Cultural Rights addresses economic and social rights directly, these rights have been recognised in all major international treaties protecting the human rights of vulnerable groups, such as the Convention on the Rights of the Child, the Convention on the Elimination All Forms of Discrimination Against Women, and the Convention on the Elimination of All Forms of Racial Discrimination, as well as various treaties of the International Labour Organization.

⁶ National standards may also be benchmarked against those enunciated by the Council of Europe's human rights bodies. The European Social Charter covers social and economic rights. It was adopted in 1961 and revised in 1996. The European Committee of Social Rights monitors compliance with the Charter: http://www.coe.int/t/e/human_rights/esc/

Within the United Nations system, a perception that only civil and political rights were amenable to legal enforcement led to the separation of what was originally a unified conception of rights in the Universal Declaration of Human Rights into two separate Covenants, the ICESCR and the International Covenant on Civil and Political Rights (Whelan and Donnelly, 2007).⁷ Social, economic and cultural rights have generally been accorded a lesser status within the international legal order (Hunt, 1996) and this legacy contributes to resistance to giving such rights full effect at the national level (see Chapter 3). Nonetheless, the Preambles to both Covenants assert the interdependence and indivisibility of all human rights, as does UN law and policy more generally (Donnelly, 2003: Ch. 2).⁸

The UN Committee on Economic, Social and Cultural Rights⁹ is tasked with interpreting and monitoring compliance with the ICESCR. Although the Committee does not currently preside over an individual complaints procedure¹⁰ it issues authoritative jurisprudence on economic, social and cultural rights, primarily through General Comments and responses to government reports. In carrying out this role the Committee works within an adjudicative framework, which has a strong participatory dimension (McChesney, 2000: Ch. 9; Winter, 2002).¹¹

Article 2(1) ICESCR sets out the overarching duty imposed on contracting states under the Covenant¹²:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

Under Article 2(2):

⁷ For an account of subsequent institutional developments see Porter 2000.

⁸ Under Article 5 of the 1993 Vienna Declaration and Programme of Action, 'All human rights are universal, indivisible and interdependent and interrelated.' Adopted by the World Conference on Human Rights, Vienna, 25 June 1993 (A/CONF. 157/24 (Part 1), chap. III).

⁹ The Committee is a group of eighteen human rights experts.

¹⁰ This position is about to change because on 10 December 2008 the United Nations General Assembly unanimously adopted an Optional Protocol to ICESCR. The Protocol will be open for signature in 2009 and will come into force once ten states have ratified it. See further: <http://www2.ohchr.org/english/bodies/cescr/index.htm>

¹¹ On the contribution of civil society in this area see further Chapter 5.2.

¹² See further CESCR, 1990.

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Gender-based discrimination is also specifically prohibited under Article 3.

For some time Article 2(1)'s progressive realisation clause, in particular, impeded the development of robust standards (Chapman and Russell, 2002:6-7; Hunt, 2002). That position has however been redressed in recent years (Ibid.; Sepúlveda, 2003). UN organs have issued a series of detailed guidelines elaborating on the meaning of given articles and have adopted a tri-partite typology for explaining the obligations imposed by the various human rights covenants. The *duty to respect* requires States to refrain from acting in a way that deprives people of the guaranteed right. The *duty to protect* relates to third parties. It requires States to ensure that third parties, including other individuals and corporations, do not deprive people of the guaranteed right. The *duty to fulfill* is a positive obligation with two strands: the obligation to *facilitate* and the obligation to *provide*.¹³ It mandates States to establish political, economic, and social systems that enable right-holders to enjoy a right through their own means (facilitate), and/or an obligation to directly provide what is required in cases where a right-holder does not have the assets or the opportunity to take care of her or himself.

While the realisation of the complete set of these duties is progressive and conditioned by available resources, the obligation to 'take steps' towards full realisation is immediate (CESCR, 1990:§1). In other words, States are bound to implement a series of measures that continuously improve people's enjoyment of ESCR. The maximum resource provision implies that progress has to be as expeditious as possible (CESCR, 1990:§9; FIAN, 2007). Additionally, the reference to maximum resources reflects the fact that realisation is affected by the relative economic situation in the various signatory States: Affluent countries are bound to deliver more than poorer counterparts. Significantly, the Covenant does not require that the necessary resources flow entirely from the State. Rather the resources

¹³ In General Comment 14 on the right to health the CESR (2000:14) indicates that the duty to fulfill also incorporates an obligation to 'promote'. See further Sepúlveda (2003:199-201).

referred to 'are those that are available within the society as a whole, from the private sector as well as the public. It is the State's responsibility to mobilise these resources, not to provide them all directly from its own coffers' (Chapman and Russell, 2002:11).

Measures that actually worsen people's access to ESCR may violate the principle of non-regression inherent in the obligation to take steps (CESR, 2000). The legality of any deliberately retrogressive measure has to be justified in the context of the realisation of the totality of the rights set out in the Covenant (CESCR, 1990:§9).

The prohibition of discrimination also applies immediately. As discussed further below, respect for the twin principles of equality and non-discrimination means that States have particular duties towards vulnerable groups and individuals.

The following section discusses specific applications of these standards in the food arena.

2.2.2 The Right to Food within the UN System

Overview

As Riches (1999) notes, the recognition of access to food as a fundamental human right has a long history stretching back to the UN Declaration of Human Rights adopted in 1948. It is recognised in numerous human rights instruments, which are complemented by non-binding declarations resolutions and so on (Ahluwalia, 2004; Künnemann, 2002). At the same time, the right is interconnected with several others. The Committee on Economic, Social and Cultural Rights explains: 'The human right to adequate food is of crucial importance for the enjoyment of all rights' (CESCR, 1999:§1). The FAO points to the close relationship between food and the right to life (FAO, 2006:72), as well as the significance of labour rights in this context (FAO, 2004:Guidelines 8.8, 8.9), while General Comment No. 14 on the right to health emphasises the strong links between that right and the right to food (CESCR, 2000).

In setting out the normative content of the right to food and associated realisation measures we draw on jurisprudence concerning the ICESCR and the Voluntary

Guidelines on the Right to Food, which were adopted by the members of the Food and Agriculture Organization of the United Nations in 2004 (FAO, 2004).¹⁴ The Guidelines provide internationally agreed practical guidance for governments and civil society, illustrating measures that can be taken in nineteen policy areas to promote the right. General Comment No. 12 of the UN Committee on Economic, Social and Cultural Rights (CESCR, 1999) is the most authoritative interpretation of the right to food within the UN human rights system (Künnemann, 2002:167; FIAN, 2007:5). We also make reference to the findings of the Special Rapporteur on the Right to Food (Aoued, 2006).¹⁵

The normative content of the right to food

Under ICESCR, the right to food is housed within Article 11, which deals with the 'umbrella' right to an adequate standard of living (Eide, 1996, 2001; Künnemann, 2002).¹⁶ It embraces both a right to 'adequate food' (para.1) and 'freedom from hunger' (para.2). According to the Committee the broader right to adequate food is realised 'when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement' (CESCR, 1999:§6). Thus, the right to food 'should not be interpreted in a narrow or restrictive sense which it equates it with a minimum package of calories, proteins and other specific nutrients' (Ibid.).

The concept of 'accessibility', which encompasses economic and physical access to food, is of central importance in understanding the parameters of the right (CESCR, 1999:§13; Künnemann, 2002: 68-170). Physical accessibility refers to the straightforward matter of immediate access to adequate food for everyone (Künnemann, 2002:169). Food must be sufficient in quantity and quality to satisfy the dietary needs of individuals, be free from adverse substances and be culturally

¹⁴ Other key commitments to the right to food derive from, *inter alia*, the World Declaration on Nutrition (1992), the UN Convention on the Rights of the Child (1989) and the recognition of the universal right to adequate food adopted by the World Food Summit in 1996. See Lang and Heasman (2004) for a comprehensive list of global commitments in relation to food and nutrition.

¹⁵ The Special Rapporteur was appointed by the Commission on Human Rights (now the Human Rights Council) in 2000. He has a broad mandate to investigate and highlight violations of the right to food and to make relevant recommendations. The Rapporteur has issued several reports dealing with topics such as justiciability, gender, and international trade. See further: <http://www2.ohchr.org/english/issues/food/index.htm>

¹⁶ The right to an adequate living standard is incorporated at European level in the European Social Charter (Combat Poverty Agency, 2001; Hervey and Kenner, 2003).

acceptable (CESCR, 1999:§ 8). 'Dietary needs' are met by a mix of nutrients that are necessary for physical and mental growth and physical activity (Ibid.:§ 9).

In relation to economic accessibility, the costs associated with acquiring food for an adequate diet should not be such as to threaten or compromise the satisfaction of other basic needs (Ibid.:§13). According to Eide (2001:135) this 'notion is consistent with that of a "livelihood approach" to food security, rather than a "food first" approach'. Furthermore, food 'has to be accessible in ways that are sustainable, which implies that it has to be accessible and available in the long term' (Ibid.:134). The Committee emphasises the need to have particular regard to disadvantaged and vulnerable groups, whose access may be affected by factors such as age and disability. More generally food has to be accessed in a manner that does not destroy one's dignity as a human being (Künnemann, 2002:170).

Obligations and implementation

In setting out the obligations imposed on States under the right to food, the Committee applies the tri-partite typology considered above:

The obligation to *respect* existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to *protect* requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to *fulfil (facilitate)* means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfil (provide)* that right directly. This obligation also applies for persons who are victims of natural or other disasters (CESCR, 1999:§15).

As noted in Chapter 2.2.1, the State must immediately take steps to realise its duties. With respect to what form these steps should take, the Committee emphasises that while States have some discretion 'all appropriate means' should be employed, including legislative, financial, educational and social measures, as well as the provision of judicial remedies (CESCR, 1990:§4, 5, 7). We discuss these measures further below, and review the domestic context in Chapter 3.

The concept of 'minimum core obligations' helps clarify which elements of a right are most essential or fundamental and so should be tackled first (Chapman and Russell,

2002:9). According to the CESCR (1990:§10), 'a minimum core obligation to ensure the satisfaction of, at the very least, the minimum essential levels of each of the rights is incumbent upon every State party...' otherwise the Covenant 'would be largely deprived of its *raison d'être*.' In relation to food, the core obligations include compliance with the principle of non-discrimination, as well as those obligations which secure for every person access to basic foodstuffs and freedom from hunger (Khoza, 2004:671; Künnemann 2002).

The issue of resources is pivotal, particularly with respect to the duty to fulfill (Chapman and Russell, 2002:11-12; Künnemann, 2002). States are not expected to do the impossible: 'in determining which actions or omissions amount to a violation of the right to food, it is important to distinguish the inability from the unwillingness of a State party to comply' (CESCR, 1999:§17). In effect the Covenant seeks to ensure that *available* resources are marshaled and distributed in a just and transparent manner. Chapman and Russell (2002:11) note, '... many resource problems centre around misallocation of resources: to expensive tertiary-level health care, rather than primary or preventive health care; to university education rather than primary education; to expensive weapons systems rather than food; to the privileges of the governing elite rather than to low-cost housing. A reordering of priorities will alleviate some of the resource burden in any country.'

As detailed further below, such a reordering of priorities is embedded in the non-discrimination and equality strand of HRBA. Under ICESCR States are automatically bound not to discriminate: 'Any discrimination in access to food, as well as to means and entitlements for its procurement, and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant' (CESCR, 1999:§18).

General Comment No. 12 (CESCR, 1999), according to Künnemann (2002:180-182), requires the instigation of both resource and income programmes aligned to the obligation to fulfil. 'Resource programmes put deprived people in a position to access productive resources (like land, skills or a job) to allow them to obtain access through

economic activities on the basis of these resources (economic access), whereas income programmes (like social welfare) just provide food or income to assure physical access in any event' (Ibid.:180). As for the minimum core obligation inherent in the duty to fulfil, he specifies that a State violation will occur if hunger or malnutrition stems from a range of omissions, including the absence or inadequacy of minimum wages (a resource programme), and insufficient levels of cash or in-kind provision through income programmes (Ibid.:181-182).

In relation to the obligation to provide, Eide (1996:33) notes that it could entail provision of direct food aid or social security 'when no other possibility exists, such as, for example: (1) when unemployment sets in (such as under recession); (2) for the disadvantaged and the elderly; (3) during sudden situations of crisis or disaster...; and (4) for those who are marginalized (for example, due to structural transformations in the economy and production).' The FAO (2004:Guideline 14) underscores the importance of establishing 'social and food safety nets', which are linked to complementary interventions that promote food security in the longer term.

Künnemann (2002:179-180) supplies several instances of breaches of the minimum core obligations to respect and protect:

- A1 destroying an individual's or community's food-producing resources through the effects of activities such as predatory mining, oil exploration, or industrial fishing;
- A2 destroying an individual's or community's food-producing resources by polluting or withholding water, or by destroying people's access to other essential inputs such as seeds;
- A3 destroying an individual's or community's food supplies;
- A4 forcibly evicting peasants, nomadic people, fisherfolk, or indigenous people from their land, fishing grounds or forests;
- A5 preventing or destroying access to markets for people depending on this access for their livelihoods;
- A6 blocking food transports into vulnerable areas or for vulnerable people (for example, as a result of war or through sanctions);
- A7 dumping food or other products onto a local market of vulnerable producers;
- A8 destroying a future generation's food-producing resources and food security;
- A9 dismantling a fulfilment-bound programme or legislative act by means of a retrogressive measure, unless forced to do so by lack of resources;
- A10 destroying community or family-based systems of social security

The protect-bound obligation recognises that multiple public and private sector actors are involved in the implementation of the right to food (FAO, 2006:41), and that their responsibilities must be triggered by the State, as the primary duty bearer (CESCR, 1999:§19, 20). For instance, the Committee explains that: 'As part of their obligations to protect people's resource base for food, States parties should take appropriate steps to ensure that activities of the private business sector and civil society are in conformity with the right to food' (CESCR, 1999:§27). Noting the increasing control of corporations in the realm of food security the Special Rapporteur (2003: §37) underlines:

The most important way to ensure respect for the rights to food and water is to put in place effective domestic legislation to protect people from violations by third parties, including transnational corporations – laws and regulations that protect access to land, drinking water, water for irrigation and a minimum income, and that prohibit interference with people's family or community means of subsistence, etc. – and provide effective administrative and judicial remedies.

Implementation of these various obligations is a complex process given the multifaceted nature of the 'food system' (Vidar, 2003:16). The need for a co-ordinated, concerted approach on the part of the State is apparent. In this regard one of the primary implementation measures required by the Committee is 'the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks' (CESCR, 1999:§21). It further proposes that States adopt, as a major instrument of that strategy, a framework law on the right to food:

The framework law should include provisions on its purpose; the targets or goals to be achieved and the time-frame to be set for the achievement of those targets; the means by which the purpose could be achieved described in broad terms, in particular the intended collaboration with civil society and the private sector and with international organizations; institutional responsibility for the process; and the national mechanisms for its monitoring, as well as possible recourse procedures. In developing the benchmarks and framework legislation, States parties should actively involve civil society organizations. (CESCR, 1999: §29).

The FAO's Voluntary Guidelines complement the Committee's work on implementation and aim to provide practical guidance to states in realising the right to adequate food (FAO, 2004). Unlike the commitments under ICESCR the Guidelines are not legally binding. We draw attention here, and in the subsequent section, to

those aspects of the Guidelines that appear to have particular resonance in the Irish context. As with the Committee's General Comment No. 12 there is a focus throughout on the need for co-ordinated government action. States should consider entrusting a specific institution with overall responsibility for overseeing and coordinating the application of the Guidelines (FAO, 2004: Guideline 5.3). 'In order to ensure transparency and accountability, the functions and tasks of this institution would need to be clearly defined, regularly reviewed and provision made for adequate monitoring mechanisms' (Ibid).

Reiterating the Committee's call for a national strategy to ensure food and nutrition security for all (CESCR, 1999:§21-26), FAO recommendations seek to ensure that a food poverty focus is built into existing poverty reduction strategies and impact assessments (where these have been established, as is the case in Ireland). It calls for the conduct of 'Right to Food Impact Assessment', and the development of a series of indicators and benchmarks designed to assess the implementation of the right to adequate food (Ibid.:Guideline 17). A further FAO publication (2006) centres on case studies and monitoring mechanisms; it supplies detailed guidance on matters such as the use of poverty maps and the construction of indicators framed around the core dimensions of the right: adequacy, availability and accessibility.

Full and transparent participation of the private sector and civil society is another recurring theme (Ibid.:Guidelines 1, 5.3; 5.4, 6, 11.1), as is the need to pay particular attention to vulnerable groups across all domains (Ibid.:Guidelines 13, 17.5).

Having outlined the essence of the right to food and the obligations assumed by the State, we now turn to examine the essential features of HRBA in the poverty context.

2.3 Core Components of Rights-Based Approaches

Most of the alternatives to human rights treat people as objects rather than as agents, beneficiaries but not right-holders. They rest on an inegalitarian and paternalistic view of the average person as someone to be provided for, a passive recipient of benefits, rather than a creative agent with a right to shape his or her life (Donnelly, 2003:37).

This section explores the core elements of a rights-based approach to poverty. As discussed in the previous section, international human rights law shifts the emphasis in addressing food poverty from a question of political will or intent to one of *obligation*. Human rights-based approaches do not refer to a static set of standards but are centrally concerned with changing the relationships between stakeholders. The Combat Poverty Agency has, for example, argued consistently that such approaches provide a means by which claims are not only *recognised* but can be *exercised*; in providing a framework for monitoring and accountability; in identifying the circumstances in which the State has responsibilities and where it does not and as a means of empowering the poor (Combat Poverty Agency, 2001; 2003). It is important to appreciate that a rights-based approach does not revolve around legal action or litigation; rather it entails placing human rights principles at the centre of policy-making and public service delivery. In other words, while access to remedies in the case of violations is crucial, the emphasis is placed on proactive measures designed to prevent violations arising in the first place.

Explicit application of the international human rights framework

Express application of the human rights framework does not involve simply citing the body of law in question; it entails explicit recognition of its normative underpinnings (OHCHR, 2004:15; Amnesty International, 2006:28) and an acknowledgement that poverty constitutes a denial of human rights (CESCR, 2001).

In Ireland, as is the case elsewhere, the international human rights standards enshrined in ICESCR are not fully enforceable under national law (Amnesty International, 2006; Irish Human Rights Commission, 2006). Governments generally maintain that such rights should not be legally binding but should instead be promoted through various policies that set out general goals or targets to be achieved in given areas. Since the right to food under the ICESCR calls for remedies and adequate reparation, Künnemann (2002:175) observes: 'The right to food is not about food policies or developmental economics, but about individual persons or groups...who turn up here and now, claim to be victims of violations of the right to food and ask for remedy and reparation.' Only when remedies, compensation and ameliorative programmes are in place 'can we talk about the right to food being realised as a human right' (Ibid.)

As discussed further in Chapter 3, the primary Irish poverty reduction strategies do not explicitly employ international human rights standards. Indeed, NAPinclusion makes just a single reference to an international human rights treaty – the UN Convention on the Rights of the Child. Nonetheless, Hunt (2002:10) contends that ‘there is significant congruity between many existing poverty reduction strategies – including NAPS – and the key features of a human rights approach to poverty reduction.... Thus, the departure represented by the introduction of a rights-based approach to poverty reduction should not be overstated.’ In recommending that the Government comply with its *mandatory obligation* to integrate HRBA into NAPS, he argues that such a framework foregrounds key principles and values leading to a positive change in emphasis. Hunt’s perspective is reinforced by two publications from the Office of the United Nations High Commissioner for Human Rights, *Human Rights and Poverty Reduction: A Conceptual Framework* (2004) and *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies* (2006). These reports provide guidance as to how governments can render policy on human rights compliant, and in particular set priorities in the face of competing claims on limited resources.

Participation

A right to participation is explicitly recognised in numerous international human rights instruments,¹⁷ but it is also an integral aspect of other rights such as those pertaining to freedom of expression, education, freedom of association and assembly, the right to receive and impart information, and the right to self-determination (OHCHR, 2004:18-20).

Participation is central to rights-based approaches in part because it advances the core value underpinning all human rights instruments, that of human dignity. A right-holder has the opportunity to actively participate in a process that impacts on his or her life; s/he is an active subject, as opposed to an object of policy.

¹⁷ See for example article 21 of the Universal Declaration on Human Rights, article 25 of the ICCPR, articles 12 and 15 of the Convention on the Rights of the Child and article 14 of the Convention on the Elimination of all Forms of Discrimination Against Women.

Consultation does not amount to participation. The involvement of representative groups and individual people experiencing poverty can often be a superficial exercise that generates little real impact on policy (Combat Poverty Agency, 2006; OHCHR, 2004:19). Effective participation entails a 'mutual decision-making process, where different actors share power and set agendas jointly' (Veneklasen et al, 2004:5). For Hussein (2002:628), 'implementing the right to food entails a shift of power in all initiatives, from measuring and monitoring of food insecurity through to the development, implementation and evaluation of programmes'. Participation then is critical as a means of empowerment and key to ensuring accountability of duty-bearers, themes we deal with separately below.

If people are to participate in a meaningful way, duty-bearers must ensure that an enabling environment is in place. Capacity to participate can be enhanced through relatively inexpensive measures such as allowing sufficient time for dialogue, and by providing adequate information (Combat Poverty Agency, 2006). Education and awareness raising measures, aimed at all stakeholders, are of central importance. The Voluntary Guidelines stipulate: 'States should provide information to individuals to strengthen their ability to participate in food-related policy decisions that may affect them, and to challenge decisions that threaten their rights' (FAO, 2004:Guideline 11.5). In a subsequent policy document centred on implementation the FAO underscores the importance of 'participatory monitoring':

Capacity among rights bearer and duty holder groups to facilitate simple, participatory monitoring methods should be strengthened. Information gathered at local levels should offer an opportunity for rights holder groups to indicate their priorities and aspirations. It should then be returned to the rights-holder groups for interpretation (assisted as needed) according to their priorities and aspirations. The information should measure concrete results for comparison with agreed results and targets; this would provide the basis for discussion between rights holder groups and duty bearers (FAO, 2006:34-35).

In the case of Ireland, examples of elaborate capacity-building measures aimed at civil society organisations include programmes operated by the CPA, such as *The National Anti-Poverty Networks Programme* (1992-2003) and *Having Your Say* (2005-2007).¹⁸ The EU-funded *Mainstreaming Social Inclusion Programme*¹⁹ is a prominent example of a cross-sectoral project (see further Chapter 3).

¹⁸ See further: <http://www.cpa.ie/ourwork/concludedprogrammes.htm/>

Participation is also valuable in that it can deliver improved policy outcomes. For instance, according to the European Commission's Joint Inclusion Report (2004):

The participation of people suffering exclusion in policy-making is essential, as their direct experience and knowledge contributes important insights to what does and doesn't work and this leads to the development of better focused and more relevant policies. The challenge is to put in place structured ways of ensuring this.

Sen's capabilities approach recognises that the definition of need, as well as the value attached to various social goods, are not technical or neutral matters (Sen 1999:78-81). A review of meals services provided to older people in the North-West inner city of Dublin supplies a pertinent example of a perceived disjuncture between the value placed on the service by recipients and policy-makers (Rourke, 2007:28). Several interviewees felt that policy-makers did not fully appreciate its socialisation, nutritional and wider health benefits: 'In the opinion of some interviewees meals services are still treated like "some type of Cinderella service"' (Ibid.). In essence the inclusion of people experiencing poverty in decision-making and accountability systems recognises that their expertise, especially experiential knowledge of various poverty-related issues, is valued and respected (Combat Poverty Agency, 2006).

The Irish government appears to acknowledge these benefits; it has produced consultation guidelines for public bodies aimed at enhancing the manner in which various perspectives are gathered.²⁰ However, as discussed further in Chapter 3, the extent to which effective participation, as opposed to consultation, has been secured within domestic anti-poverty policy processes is questionable.

Empowerment

Literature generally refers to two interconnected facets of the relationship between rights and empowerment – that concerning the status of oppressed groups in society and that relating to individuals.

At the level of group relations, empowerment refers to the need to transform unequal power relationships and structures at the root of poverty and social injustice. It entails

¹⁹ <http://www.europemsi.org/>

²⁰ See further: www.betterregulation.ie

challenging derogatory ideologies that label people experiencing poverty as passive welfare dependants (Lister, 2002; Williams, 1998). As Patricia Williams (1987: 417) comments, '...for the historically disempowered, the conferring of rights is symbolic of all the denied aspects of humanity: rights imply a respect which places one within the referential range of self and others, which elevates one's status from human body to social being'.

Rights also have the capacity to empower individuals in their day-to-day exchanges with social welfare officials, other professionals or 'experts'. Public officials occupy a power position in relation to the claimant, who is usually dependent on the official's good will or discretion to access services or benefits (Handler, 1993).

State agencies frequently engage in practices that result in what is termed 'bureaucratic disempowerment' (Mashaw, 1993; Danz, 2000; Sossin, 2006). Information about available services, including emergency cash assistance, training programmes and the availability of childcare, may be withheld; application processes may be arduous and complex. 'Bureaucratic disempowerment may reflect a deliberate political or institutional policy or it may simply be the result of too few resources, too little training, or too little attention' (Sossin, 2006:392). The central idea here is that the *manner* in which resources and services are delivered and received is crucially important (Northside Community Law Centre, 2005).²¹ Empirical studies reveal that the use of invasive practices aimed at identifying ineligible claimants significantly affects the take-up rate of benefits (Diller, 1996, 2000; Wolff, 1998; Danz, 2000). In the case of food-related entitlements, US research concludes that stigma, along with ignorance regarding eligibility and negotiating layers of bureaucratic hurdles, have the effect of excluding many eligible people (Lipsky and Thibodeau, 1991).

Human rights provide people with a way to counter disempowerment practices. As the OHCHR paper on *Human Rights and Poverty Reduction* (2004: 14) puts it, 'human rights empower individuals and communities by granting them entitlements that give rise to legal obligations on others.' The fact that a person is entitled to a service or income *as a matter of right* expresses a measure of dignity consistent with the

²¹ See for example De Wispelaere and Walsh, 2007 on the debate concerning disability rights in Ireland.

demands of respect for every person (Dworkin, 1978; Waldron, 1996). It signals that living in poverty does not undermine a person's social status. Having a right also means that the person should not have to plead for assistance: the right is already present and becomes 'operational' or 'active' as soon as the person signals that s/he wants to exercise the right in question.

Accountability

Another primary difference between addressing poverty through HRBA, as opposed to setting broad policy objectives, relates to accountability. Rights set up a relationship of accountability by imposing enforceable *duties*. As discussed in Chapter 2.2, States, as the primary duty-bearers, are required to respect, protect and fulfil all of the human rights that they have committed to by ratifying the relevant treaty. Accountability refers to the ability to render States answerable to right-holders for actions or omissions. Without a system of accountability rights and obligations 'can become no more than window-dressing' (OHCHR, 2004:16). Rights-holders are also accountable in the sense that they have responsibilities: to respect other people's human rights and to be active subjects, contributing to the realisation of human rights (CESCR, 1999:§20; Fredman, 2001).

International human rights law envisages the establishment of a range of accountability mechanisms. The four principal categories are judicial (e.g. judicial review of legislation and executive acts or omissions by courts), quasi-judicial (e.g. ombudsmen, international human rights treaty bodies), administrative (e.g. human rights impact assessments, poverty proofing mechanisms) and political (e.g. parliamentary processes) (OHCHR, 2004:16; FAO, 2006:71). All mechanisms must be accessible, transparent and effective (Irish Human Rights Commission, 2004).

In relation to the right to food, General Comment 12 places considerable stress on enabling right-holders to ultimately challenge any perceived violation before an independent body:

Every person or group victim of a violation of the right to adequate food must have access to effective jurisdictional remedies both on a national and international level. All victims of such violations are entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition (CESCR, 1999:§32).

The Committee goes on to state that national human rights institutions and Ombudsmen should address violations of the right to food. It further emphasises that legislation should be enacted empowering courts to adjudicate violations of the core content of the right (CESCR, 1999:§32, 33). Thus, judicial and quasi-judicial accountability mechanisms are considered necessary in order to fully realise the right.

As discussed further in Chapter 3.6.3, because of their structural independence and capacity to address violations in individual cases, tribunals, courts and ombudsmen enjoy significant institutional strengths over other forums of accountability.

Non-Discrimination and Equality

The twin principles of equality and non-discrimination underpin all of the major human rights treaties including the ICESCR (OHCHR, 2004:17). This element of HRBA requires that laws and institutions that foster discrimination against specific individuals and groups are eliminated, and that priority be afforded to the most marginalised or impoverished people (FAO, 2006:41). For instance, the protection of women against discrimination in health care and nutrition is stressed in the *Right to Food Guidelines*, according to which 'States should adopt measures to eradicate any kind of discriminatory practices, especially with respect to gender, in order to achieve adequate levels of nutrition within the household' (FAO, 2004:Guideline 10.8).

Integrating human rights into poverty reduction strategies, such as NAPS, helps to ensure that the particular situation of those vulnerable groups is addressed, but also that relevant measures give proper attention to 'those sectors (e.g. health) and subsectors (e.g. primary health care) that have particular relevance to pro-poor policies' (OHCHR, 2004:17). In order to identify such policy impacts and priority areas, data on food security must be disaggregated. The FAO (2004:Guideline 17) thus calls upon States to monitor the food-security situation of vulnerable groups, especially women, children and the elderly, and their nutritional status.

2.4 Conclusion

International covenants provide important tools for advocacy and citizens' groups to address domestic injustices and make States accountable (Riches, 2005). However, translating this right to food into a reality will require action not only by the food-insecure who must develop strategies to exercise their claims, but also by national governments (Hussein, 2002). In view of the 'privatisation' of food security articulated by Dowler (2003), this represents a significant challenge, notwithstanding the fact that national governments have legal obligations in this regard.

We turn in Chapters 3 and 4 to examine whether the legal and policy measures currently in place meet Ireland's international human rights obligations on food poverty and adhere to the HRBA articulated in Section 2.3.

Chapter 3: Poverty in Ireland: Concepts, Measurement and Mechanisms

3.1 Introduction

Given that food poverty is a central dimension of people's experience of poverty it is important to locate the issue in the wider anti-poverty context; the broader realms of economic and social policy-making and the relevant legislative framework. This Chapter provides an overview of poverty literature examining current debates on its conceptualisation, definition and measurement. It focuses in particular on the two measurement approaches used in Ireland, namely relative income lines and non-monetary deprivation indicators. The final section goes on to examine the main legal and policy architecture through which the State addresses poverty, concluding that Ireland has yet to meet the challenge of implementing a human-rights based approach.

3.2 Conceptualisation of Poverty

There is an extensive international literature on poverty. The definition of poverty, its measurement and its relationship to other forms of disadvantage is both evolving and contested. There is debate on absolute versus relative conceptions of poverty; which poverty measurement is best or gives the most complete picture; the relationship between poverty and inequality or the relationship between poverty and income, material deprivation, class, education; issues of social exclusion and multiple disadvantage and the causes and/or consequences of poverty. Poverty is about distribution – it results because some people receive a great deal less than others. It functions both as a societal problem and a political one, yet mainstream discourse stays largely silent about politics, power and equality. These issues seem particularly pertinent in discussing food poverty.

At a very broad level two main debates dominate – the issue of poverty versus economic inequality and that of absolute poverty versus relative poverty. Poverty and inequality, while related, are distinct concepts (Callan and Nolan, 1989). The concepts are usually separated by the notion that poverty refers to living standards whereas inequality relates to the distribution of resources between individuals. The theoretical distinction between the two is clear in that even if there is no poverty, in the sense that no one would be so far below the general standard of living as to be

excluded from participation in the ordinary life of that society, there could still be substantial inequality in the distribution of resources between the wealthy and the rest of society. In Ireland the emphasis over the last two decades has been on the reduction of poverty rather than on explicitly addressing inequality. The rationale for this has been based, to some extent, on pragmatism in terms of inducing a more concrete policy response, but also reflects the fact that, on an analytical level, poverty is a phenomenon distinct from inequality and that the extent and especially the experience of it matters in and of itself.

Another debate at the conceptual level is what is referred to as the absolute versus relative one. However, the relative approach is, and always has been, the one adopted by researchers and policy-makers in Ireland. The basic question is whether poverty is seen as absolute deprivation or as socially defined (relative) deprivation.²² Regarding poverty as an absolute concept stems from the time when it was natural to think in subsistence terms but today in the developed world, most people live above the subsistence level and the concept of deprivation is more relevantly applied to emotional and cultural standards as well as physical ones. The core of the debate between absolute and relative definitions is whether standards are to be fixed over time or change with standard of living.

Townsend's (1979) definition when income is so below average that people are in effect excluded from the normal living patterns of the society to which they belong, makes the relative concept explicit and is probably the most widely adopted definition of poverty. It was the model used for the National Anti Poverty Strategy's (NAPS) definition of poverty launched in 1997 following the UN Social Summit in Copenhagen and it underpins most research on poverty in EU countries. Sen (1983) dissents somewhat, arguing that ultimately poverty must be seen to be primarily an 'absolute notion' while Piachaud (1987), in a sense, concedes to both views in his definition which allows that at subsistence level there is some absolute minimum necessary for survival, but beyond this any poverty standard must be relative, i.e. it must reflect prevailing social standards.

²² While this debate features in all the poverty literature one of the best sources for a clear overview of both the meaning of, and the various approaches to measuring, poverty remains chapters 1 and 2 of Callan et al (1989).

Despite the terminology used, the relative view represents actual practice. Rowntree's study of poverty in York in 1899 is classified under the absolute standard approach based on his compilation of food items deemed necessary for survival. And yet, tea with little or no nutritional value is included because eating habits are profoundly influenced by social conventions. Further, items included such as newspapers and gifts are difficult to justify on an absolute subsistence definition. Sen (1983) argues that the core concept of poverty is to be found in the notion of shame, which echoes Adam Smith's (1776) view on linen shirts being a necessity of life in England so much so that 'the poorest creditable person would be ashamed to appear in public without them'.

3.3 Definitions of poverty

While no single definition of poverty commands universal acceptance, Townsend's (1974) is probably the most widely adopted. He contends that people are in poverty 'when resources are so seriously below those commanded by the average individual or family that people are, in effect, excluded from the normal living patterns, customs and activities of the society to which they belong'. At the United Nations Social Summit in Copenhagen in 1995 two definitions of poverty, an absolute and an overall definition, were agreed by 117 countries.

The UN's definition of absolute poverty is:

A condition characterised by severe deprivation of basic human needs, including **food**, safe drinking water, sanitation facilities, health, shelter, education and information. It depends not only on income but also on access to services (UN, 1995:75).

Overall poverty is defined as:

Lack of income and productive resources sufficient to ensure sustainable livelihoods; **hunger and malnutrition**; ill health; limited or lack of access to education and other basic services: increased morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments; and social discrimination and exclusion. It is also characterised by a lack of participation in decision making and in civil, social and cultural life. It occurs in all countries; as mass poverty in many developing countries; pockets of poverty amid wealth in developed countries; loss of livelihoods as a

result of economic recession, sudden poverty as a result of disaster or conflict, the poverty of low wage workers, and the **utter destitution** of people who fall outside family support systems, social institutions and safety nets (UN, 1995:57)

In 2000 the EU agreed to adopt a strategy for eradicating poverty and social exclusion. The National Action Plans for Social Inclusion are part of that strategy, as is periodic reporting and monitoring of progress. The EU Statistics on Income and Living Conditions, first published in 2003, include eighteen monetary and non-monetary indicators to monitor poverty and social exclusion (EU-SILC, 2003).

In NAPS the Irish Government followed the Townsend model with its definition of poverty:

People are living in poverty if their income and resources (material, cultural and social) are so inadequate as to preclude them from having a standard of living which is regarded as acceptable by Irish society generally. As a result of inadequate income and resources people may be excluded and marginalised from participating in activities which are considered the norm for other people in society.

In addition to adopting an official definition of poverty, the Strategy included two measures of poverty and targets for their reduction. Ireland was the first EU member state to adopt a global reduction target. The adoption and rolling out of the NAPS strategy, as well as the applicable monitoring mechanisms, are detailed later in this chapter.

3.4 Measuring Poverty

A number of standard quantitative approaches to measuring poverty in industrialised countries can be identified. While all of them employ income to distinguish the poor they use a variety of methods to establish the appropriate income cut-off point including reference to the food ratio; to budget standards; to income supports offered by the social welfare system (also referred to as official poverty lines); to subjective views on minimum income needs (consensual poverty lines); and to mean or median income itself. A less explicitly income-oriented approach focuses directly on deprivation using non-monetary deprivation indicators which measure exclusion from

normal living patterns. The importance of this broader approach to HRBA is underscored by the FAO (2006:27): 'Traditional poverty analyses based their judgments on income and economic indicators alone. A human rights analysis reveals additional concerns of the poor themselves, including the phenomena of powerlessness and social exclusion.'

Two approaches, namely relative income lines and non-monetary deprivation indicators, underlie most of the research on poverty in Ireland since 1987 and we focus on those in this section. We then present an overview of trends in poverty in Ireland since 1994, using these two measures.

The two measures most explicitly concerned with food poverty *per se* are the food ratio method and the budget standards approach. In the former the poor are distinguished from the non-poor by the proportion of their money spent on necessities such as food, shelter and clothes. Using the budgets standards approach a poverty line is calculated based on the cost of a specific basket of goods and services that are considered by experts to represent a basic living standard. Neither of these approaches is used as poverty measurement approaches in Ireland by those undertaking quantitative analysis of large household-based survey questionnaires, although versions of the budget standards approach have been employed in small-scale qualitative analysis and these are discussed in Chapter 4.

Relative poverty lines are framed in terms of relative income. Lines are generally set at a particular percentage of mean or median income, for example 60 per cent, and then adjusted for household size and composition using equivalence scales. The rationale behind relative poverty lines is that those falling more than a certain distance below 'normal' income level in society are unlikely to be able to participate fully in the life of that society. The main advantage of this approach is the ease with which results can be understood and further it can be easily applied in cross-country comparisons. The main disadvantage of adopting a purely relative approach is that any improvement in the living standards of low-income groups, which are shared by the rest of the population, are discounted while a general decline in prosperity will not show up as an increase in poverty if the relative picture has not changed. We return to this point later when reviewing trends in Ireland over recent years.

Non-monetary deprivation indicators focus directly on exclusion from normal living patterns. Townsend (1979) pioneered this approach in his research on Britain. It measures exclusion directly – by examining what you do without either by choice, because it is not needed or because it cannot be afforded. Examples of the items in Townsend's deprivation list include certain items of clothes, visits to the doctor, heating, shoes and a television. These indicators of style of living were designed primarily to complement income in assessing the living standards and poverty status of households, and have proved extremely valuable for that purpose. The group of households characterised by both low income and particular forms of deprivation have a distinct profile, and a range of evidence suggests that they are much more likely to represent people suffering exclusion due to lack of resources than those simply on low incomes (Nolan and Whelan, 1996). This is not primarily because of the (real) difficulties in measuring income accurately, but because a household's command over resources is affected by much more than its current income. Long-term factors, relating most importantly to the way resources have been accumulated or eroded over time, as well as current income, play a crucial role in influencing the likelihood of current deprivation and exclusion.

Table 1 shows the set of eleven basic non-monetary indicators used in the CSO's annual Survey on Income and Living Conditions. These have been revised somewhat from the eight basic deprivation indicators used in the ESRI's Living in Ireland Surveys until 2003. Two very basic ones (going without a meal, and going into debt for ordinary living expenses) are being dropped and new ones added, such as entertaining and maintaining social relations, in order to reflect a broader conception of deprivation (Maitre, Nolan and Whelan, 2006). This revised index underlies the so-called 'consistent poverty' measure, discussed below, which is adopted in the National Plan for Social Inclusion 2007-2016 (NAPinclusion). It forms the basis for the calculation of consistent poverty in the EU-SILC from 2007. Using this measure 6.5 per cent of the population was in consistent poverty in 2006.

Table 1:EU-SILC Consistent Poverty Deprivation Indicators

New, Not Second Hand, Clothes

A meal with Meat, Fish or Chicken Every Second Day

A Warm waterproof Overcoat

Two Pairs of Strong Shoes

A Roast or its equivalent Once a Week

Had to go without heating during last year through lack of money*

Keep the home adequately warm

Presents for Friends or Family Once a Year

Replace any worn out furniture

Have friends or family for a drink or a meal once a month

Have a morning, afternoon, or evening out in the last fortnight, for entertainment

Source: CSO, 2007a

Note: The asterisk indicates it is presence rather than absence that constitutes deprivation.

The difference between this approach and consensual poverty lines is that it reflects, at least to some extent, social consensus on necessities. There are a number of criticisms of this approach mainly around who chooses the indicators of deprivation, differences in taste (for example, vegetarians) and the role of choice (Veit-Wilson, 1986). It has also been argued that the aggregation of deprivation indicators into a single index assumes that poverty is one-dimensional. If poverty is multidimensional, for example, households can be 'food poor' but not 'house poor' etc., then it is difficult to bring these different facets to serve as a basis for a cut-off between poor and non-poor. Notwithstanding these criticisms, most of which have been met by more sophisticated approaches to measuring deprivation, explicit analysis of living standards and deprivation gives an important insight into what it means to be poor and the nature of poverty. Combining indicators of deprivation with income lines can produce a very different perspective on trends in poverty than using income poverty lines alone, as we shall see below.

3.5 Trends in Poverty 1994 to 2006

Table 2 shows the percentage of households below relative income poverty lines between 1994 and 2006. Up to 2001 the data are based on the LII surveys, while from 2003 the data are based on the EU-SILC. Relative income poverty is measured by calculating the median rather than mean income and setting the line at 60 per cent of the median. Median income is the income above and below which half the distribution is to be found. People whose incomes fall below this line are said to be at risk of poverty. In 2006 that was an income of below €202.49 a week for an adult. Over the period 1994 to 2001 there had been a considerable increase (from 16 to 21 per cent) in the proportion of households below the 60 per cent income lines. The main reason was that social welfare increases lagged behind the very rapid increases in incomes. In the four years since the EU-SILC began, the risk of poverty rate has been declining. In 2003 the rate was 19.7 per cent, it fell to 18.5 per cent in 2005 and the most recent figure shows a rate of 17.0 per cent in 2006 (CSO, 2007b).

Table 2: Percentage of Households Below Median Relative Income Poverty Lines

| | | | |
|-------------|------|------|------|
| LII Survey | 1994 | 1997 | 2001 |
| 60 per cent | 16 | 18 | 22 |
| EU-SILC | 2003 | 2005 | 2006 |
| 60 per cent | 20 | 19 | 17 |
| median | | | |

Sources: Whelan et al (2003); CSO (2007b)

As well as trends in overall poverty, the 1987 Household Survey, the Living in Ireland Surveys 1994-2001, and the subsequent EU-SILC surveys, produce findings on characteristics of households showing how some social groups, including lone parent families, the unemployed, people with disabilities or long-term illnesses, and immigrants have higher poverty rates than the rest of the population. For example, notwithstanding some improvement over recent years, 20 per cent of children were at risk of poverty in 2006. Parental unemployment is the single biggest factor in child poverty, with non-working households accounting for a significant proportion of

children in poverty. The level of social welfare payments, especially child income support, is another key factor in determining the proportion of children at risk of poverty.

What is more revealing perhaps than the overall head count is what is called the poverty gap, which refers to how far below the poverty income line households fall. It is a depth-of-poverty measure and to some extent reflects policy response to the interaction of factors that underlie poverty such as employment and unemployment and social welfare rates increases. Between 1994 and 1997 the poverty gap widened. Even though unemployment was falling, other groups dependent on social income support did not fare so well in terms of relative income poverty lines. Between 1994 and 1997 inflation increased by around 6 per cent; social welfare rates by 12 per cent; but average income rose by 20 per cent. This gap has continued to widen for those who remained reliant on social welfare as these transfers, while still in excess of consumer prices, did not keep pace with income from work or capital (e.g. property). On the other hand, however, more people became employed over the period and even those reliant on social welfare transfers were more likely, than before, to be in households where other adults were employed (Fahey, Russell and Whelan, 2007).

One of the difficulties of focusing exclusively on relative income poverty lines, especially in the period of rapid growth in average incomes, which has characterised the Irish economy for the past decade, is that it can give a misleading picture with the improvement in living standards being discounted. Table 2 indicates more people below the 60 per cent threshold in 2006 than in 1994 despite unprecedented growth. The non-monetary deprivation approach to measuring poverty can provide a particularly useful complement to relative income lines. The approach, developed at the ESRI, of combining income lines and deprivation indicators gives a measure of what is termed 'consistently poor' and the trend in these figures shows a steady decline.

Using households which are deprived of one or more items on the index and the 60 per cent of mean income, the consistent poverty measures show a decline from 15.1 per cent in 1994 to 8.0 per cent in 1998, to 5.2 per cent in 2001. Using 70 per cent of

median income as the income element of the measure shows a very similar picture, down from 14.5 per cent in 1994 to 7.7 per cent in 1998, to 4.9 per cent in 2001. Comparison between the LII data and EU-SILC is not possible as different procedures were employed in gathering the material. In 2004 the EU-SILC found that 9 per cent of the population was consistently poor in so far as they were living in households whose net equivalised income was below 70 per cent of the median and they reported enforced absence of two or more of the items on the 11 item index (Table1). The figure for consistent poverty at the 60 per cent line in 2004 was 7 per cent and it remained at this in both 2005 and 2006.

Having set out the context in which poverty is conceptualised, defined and quantified, the next section examines how poverty reduction strategies are realised in practice.

3.6 Realisation of Anti-Poverty Objectives

3.6.1 Policy Measures

Currently the EU Social Inclusion Process, which was initiated at the Lisbon Summit in 2000, provides the overall context within which anti-poverty policies are framed in Ireland. At EU level the aim of the Social Inclusion Process is to make a decisive impact on poverty by the year 2010. The approach comprises the use of agreed mechanisms for targeting and monitoring poverty as well as commitments to mainstreaming anti-poverty strategies within national policy-making (Atkinson et al, 2005). A series of National Action Plans to address poverty and social exclusion were prepared by each Member State, the most recent of which covers the period 2007-2016 and is complemented by the social inclusion elements of the National Development Plan 2007-2013. The NAPinclusion is a follow-on from the key component of the domestic anti-poverty infrastructure, the National Anti-Poverty Strategy (NAPS) which was formulated after an extensive nationwide consultation process with civil society, representatives from Government departments and statutory agencies, NGOs, community activists and others interested in poverty and related issues.

The NAPS ten-year target, 1997-2007, to reduce poverty in Ireland has been described by the European Commission as the first global target for poverty

reduction in the EU (Atkinson et al, 2005). Despite achieving its global target in relation to poverty, the NAPS was accompanied by considerable debate as to how such a target should be formulated and operationalised, as well as issues of how poverty is defined, measured and monitored. As Layte et al (2001) argue, the conceptualisation of poverty as social exclusion from the life of one's society because of a lack of resources implies that low income of itself is not a reliable means of capturing such exclusion. The approach taken within the NAPS framework was to supplement relative income indicators with deprivation indicators, which combine to yield a measure of 'consistent poverty'. In keeping with this approach, NAPinclusion defines consistent poverty as the proportion of people having less than 60 per cent of median household income who also experience deprivation in two or more of eleven basic lifestyle items deemed necessary to ensure a basic standard of living (Government of Ireland, 2007a).²³ Of relevance in the food poverty context is the fact that three of the eleven indicators of deprivation used are food-related.²⁴

Estimates for 2006 show that approximately 7 per cent of the Irish population live in consistent poverty (Central Statistics Office, 2006) and the current government target is to reduce that proportion to between 2 and 4 per cent by 2012, with the aim of eliminating it by 2016 (Government of Ireland, 2007a).²⁵ Powell and Geoghegan (2004) are critical of the extent to which national anti-poverty measures are framed within the 'euphemistic' construct of consistent poverty rather than the potentially more 'explosive' concept of relative poverty. There is a broad consensus within the national literature that the concept of poverty should be a relative one.²⁶ However, as several authors have noted, there has been a marked reluctance to define a target for relative income poverty (Kirby, 2001; Nolan et al., 2002; Combat Poverty Agency, 2005b). The pace of economic expansion in Ireland in recent years underscores the

²³ This represents a broadening and a reconfiguration of the deprivation indicators used which, according to Maitre et al. (2006) should more accurately reflect the extent to which people are constrained in their ability to participate in family and social life.

²⁴ The three indicators are (i) Eating meals with meat, chicken, fish (or vegetarian equivalent) every second day, (ii) Have a roast joint (or its equivalent) once a week, (iii) Have family or friends for a drink or meal once a month.

²⁵ While previous National Action Plans had set a target for the elimination of consistent poverty by 2007, this was based on a different data set and methodological approach (Combat Poverty Agency, 2005b). It is argued that the revised target is necessitated by the move to a different set of data sources and methodological approach (Government of Ireland, 2007a).

²⁶ See for example Clinch, Convery and Walsh, 2002; Cantillon, Corrigan, Kirby and Flynn, 2001; Callan, Keeney, Nolan and Maitre, 2004; Department of Social Welfare, 1996.

considerable divergence in 'relative' and 'consistent' indicators of poverty over time. For example, current estimates of those 'at risk of poverty' in Ireland (defined as the proportion of households below 60 per cent of median estimates) stands at almost 20 per cent of the population, while the aforementioned rate of consistent poverty is almost 7 per cent (Government of Ireland, 2007a:26). The difficulties with a purely relative income poverty approach are spelled out earlier in the chapter, but it is also the case that as Ireland moves into an economic slowdown the divergence between consistent and relative poverty will narrow. Under such circumstances it is very difficult to see how the target set for NAPinclusion will be achieved. In this scenario the monitoring and review mechanisms will play a vital role. We discuss these later in this chapter.

Ireland's recent economic performance is the backdrop against which much of the critique of the conceptualisation and measurement of poverty takes place. However, there are more fundamental questions regarding the implicit equation between income and well-being which framed the NAPS and now NAPinclusion strategy. While the definition of poverty underpinning the Strategy notes that marginalisation from society may occur because of inadequate material, cultural and social resources, the indicators used relate predominantly to the absence of purchased material goods. As Kirby (2001) notes, the lack of emphasis of indicators relating to levels of health, mobility, education and participation in public life fail to capture the extent to which such goods might translate into people's ability to function as equals in society. Such a view echoes Sen's (1999) critique of tendencies to compare human well-being on the basis of real incomes, i.e. the 'commodity basis for utility'.

By contrast a 'capabilities' approach to human well-being acknowledges that there may be substantial variation in the well-being that people get from their incomes because of a range of factors. These include, *inter alia*, people's own personal heterogeneities, differences in their environment and social climate and their relative standing in society, all of which impact on the capability to transform income into components of the kind of lives they have reason to value (Sen, 1992; 1999). With these the spotlight moves from the incomes of the poor (a poverty focus) to the status of the poor in society (an inequality focus) (Cantillon et al, 2001; Kirby, 2001; Powell and Geoghegan, 2004). As discussed above, Sen's capabilities approach

informs the conceptual framework for human rights-based poverty reduction strategies produced for the Office of the United Nations High Commissioner for Human Rights (2004).

Notwithstanding these criticisms some attempt has been made to broaden the concept of social exclusion beyond material goods to include, for example, specific goals concerning access to services for people with disabilities. Some of these broader targets are included by way of other actors and processes in the wider public policy context. Although NAPinclusion forms the core of Ireland's anti-poverty architecture, many of the associated targets and interventions are framed within the social partnership process. The National Development Plan sets out the resource commitments necessary to give effect to such policy developments.²⁷

3.6.2 Implementation, Monitoring and Review

The framework for the implementation, monitoring and evaluation of NAPinclusion aims for more co-ordination across the various institutional structures and for greater integration in the various elements of the Government's social inclusion agenda, encompassing not only NAPinclusion itself but also the social partnership agreement, *Towards 2016* (Government of Ireland, 2006), and the National Development Plan (Government of Ireland, 2007b). While numerous institutional structures implement and monitor the targets set out in NAPinclusion (including, for example, the Cabinet Committee on Social Inclusion, the CPA, the NDP Monitoring Committee, and the *Towards 2016* Partnership Steering Group), primary responsibility resides with the Office for Social Inclusion (OSI) based in the Department of Social and Family Affairs.²⁸

The main functions of the OSI are:

1. Co-ordination of the National Action Plan against Poverty and Social Exclusion
2. Monitoring and evaluation of the strategy.
3. Development of support functions to underpin the process including:
 - Data strategy
 - Poverty proofing
 - Research

²⁷ The most recent social partnership agreement, *Towards 2016*, was launched in 2006. The latest National Development Plan for the period 2007-2013 was launched in 2007.

²⁸ See further: <http://www.socialinclusion.ie/>

4. Supporting regional and local implementation
5. Implementing a communication strategy and a consultation process in relation to the NAPinclusion
6. Managing the international dimension of the office's work.²⁹

The OSI prepares an annual report that details progress towards the set targets and actions and identifies any new issues arising. It also has responsibility for gathering and reporting the views of stakeholders, as reflected by the Social Inclusion Forum and other consultative processes (e.g. OSI, 2006b, 2008). The Social Inclusion Forum is intended to draw on the experience and expertise of those working for social inclusion at both national and local levels, as well as ensuring wider public consultation, particularly with those experiencing poverty and social exclusion. It is convened annually by the NESF in association with the OSI.³⁰ The mechanism is more structured than the consultative processes associated with earlier incarnations of NAPS, such as the National Anti-Poverty Networks Programme,³¹ and is perhaps less conducive to encouraging genuine participation and engagement from those actually experiencing social inclusion and poverty.

Poverty proofing at policy formulation stage has been in place for a decade. Revised Poverty Impact Assessment Guidelines were produced by the OSI following reviews of the previous process (NESC, 2001; OSI, 2006a). It is perhaps too early to assess whether the new system will deliver better outcomes than its predecessor. In relation to the poverty proofing system in operation from 1998-2006 the OSI (2006a:7) observed:

As there is no formal system in place at present to monitor the operation of poverty proofing either in terms of quantity or quality it is difficult to determine with any certainty whether or not either of the two aspects of the objective of poverty proofing (that is poverty impact assessment and sensitising policy makers to social inclusion issues generally) has been achieved.

Notably the revised guidelines include for the first time provisions on consultation with relevant stakeholders (including anti-poverty NGOs), as well as monitoring and publicity arrangements (OSI, 2008).

²⁹ Taken from the National Development Plan website: <http://www.ndp.ie/viewdoc.asp?DocID=482>

³⁰ The fourth meeting of the Social Inclusion Forum took place on 15 November 2007. See further Office for Social Inclusion, 2008.

³¹ <http://www.cpa.ie/ourwork/concludedprogrammes.htm>

To sum up, the primary anti-poverty policy instruments score well on certain aspects of the HRBA, but neglect other significant components. Participation is secured to some extent through the relevant consultation and dialogue mechanisms (EAPN, 2004; Mainstreaming Social Inclusion Project, 2006:Ch. 6). However, the impact of the relevant processes on the policy environment is questionable. An evaluation of the Mainstreaming Social Inclusion Project (Litewska and O'Kelly, 2006:56) notes: '... almost two thirds of the survey respondents believe people experiencing poverty are consulted on policy development to a "low" extent only.' It records a similar finding in relation to the provision of resources to enable people experiencing poverty to participate in policy making (Ibid.:56-58). It is perhaps not surprising then that 80 per cent of respondents believed that people experiencing poverty influenced policy to a low extent (Ibid.:57). It remains to be seen whether the consultation step built into the poverty impact assessment process will secure effective participation.

The principle of non-discrimination, although not addressed in explicit human rights terms, features throughout the core instruments, particularly through the targeting of vulnerable groups such as Travellers, older people and disabled people. Specific groups are not dealt with separately in the NAPinclusion, but rather are addressed within the various lifecycle and communities chapters. Several other national strategy documents address the position of particular groups experiencing inequality, including the Children's Strategy, the National Women's Strategy, the Disability Strategy, the National Action Plan against Racism and the Task Force on the Traveller Community. As the NESF (2008:158) notes, however, 'significant challenges remain to secure their implementation'. It observes that such policies have been criticised for failing to include the achievement of specific outcomes (Ibid.).

The principles of empowerment and accountability appear to be less well embedded within the anti-poverty policy architecture. As noted above, Litewska and O'Kelly (2006) record concerns about the extent to which increased consultation and opportunities for submissions are taken on board at central level. NGOs in particular pointed to a lack of accountability and the related absence of excluded groups from the design and evaluation of policies (Ibid.:56-61).

Various mechanisms of accountability are required under a HRBA (Chapter 2.3). The anti-poverty strategies currently in place constitute administrative and political accountability measures, setting out general goals and targets; they do not confer rights on individuals. Indeed, with respect to the National Action Plans on Social Inclusion no system of redress is available in the event that the agreed objectives are not met: Under the Open Method of Coordination monitoring and peer evaluation are preferred over formal sanctions.³² Moreover, the strategies make scant reference to the international legal framework. In the following section we consider whether the national *legal* instruments in place adequately protect rights associated with poverty reduction.

3.6.3 Legal Measures

3.6.3.1 Overview

The international human rights system envisages the adoption of *legal* measures designed to secure the effective enjoyment of rights associated with poverty reduction. Justiciable rights are a key means of securing accountability and empowering people experiencing poverty (see Chapter 2).³³ As Donnelly (2003:9) explains: 'the ability to claim rights, if necessary, distinguishes having a right from simply being the (right-less) beneficiary of someone else's obligation.'

3.6.3.2 The Constitution

In recent years numerous writers have canvassed the extent to which ESCR enjoy constitutional protection within Ireland.³⁴ We do not go over that terrain extensively but simply isolate in this sub-section the core elements of that commentary and contribute some additional insights.

³² See further: http://ec.europa.eu/employment_social/spsi/poverty_social_exclusion_en.htm

³³ Contributions to the vast literature on the justiciability of economic, social and cultural rights within national legal systems include: Chapman (1996); Daly (2003); Eide et al (2001); Fabre (2000); FAO (2006: Chapter 4); Harvey (2002); Hunt (1996); Jackman and Porter (1999); Mapulanga-Halston (2002); Pieterse (2004, 2007); Ruxton and Karim (2001); Scott and Macklem (1992).

³⁴ Contributions include the following body of literature: Constitution Review Group (1996); Hogan (2003); Irish Commission for Justice and Peace (1998); Irish Human Rights Commission (2006); Langwallner (2008); McDermott (2000); Morgan (2001, 2004); Murphy (1998); Nolan (2003); O'Connell (2008); O'Mahony (2002); Quinn (2000); Whyte (2002, 2004, 2005, 2006). See also the papers delivered at the Irish Human Rights Commission conference, Economic, Social and Cultural Rights: Models of Enforcement, 9-10 December, 2005, Croke Park, Dublin: <http://www.ihrc.ie/>

Given the primacy of the Constitution, rights enunciated at that level are guaranteed the highest level of protection. Such rights are frequently said to be 'entrenched' since courts, primarily through the mechanism of judicial review, can issue remedial orders aimed at ensuring that the other arms of government fulfil their obligations. Judicial involvement in the enforcement of ESCR remains contested, however. Human rights theory and practice has been dominated by the perception that civil and political rights require only negative duties (and so are cost-free) while economic and social rights require positive duties (and are costly). Because of the distributive implications of socio-economic rights, they are not considered amenable to enforcement by courts. Such matters are instead said to properly fall within the institutional competence of governments and parliaments. Yet this supposed dichotomy does not hold upon closer examination: all human rights have both positive and negative components (CESCR, 1998; Donnelly, 2003: Ch. 2; Fredman, 2006; Wenar and Macedo, 2007:292-294). The protection of a civil or political right invariably involves positive measures associated with the right to fulfil and protect (consider for example the provision of legal aid to persons charged with and tried for criminal offences). Socio-economic rights also impose negative duties inherent in the obligation to respect (e.g. protection against evictions in the case of the right to housing and the duty to refrain from interfering with an individual's health). Moreover, even the fulfilment of *negative* duties requires monetary expenditure (Holmes and Sunstein, 1999). It is inevitable that concerns of cost and efficiency must enter any analysis of rights.

As discussed further below, in the realm of ESCR the key benefit of judicial accountability mechanisms lies in their capacity for independent oversight of government priority setting. While courts should not supplant democratic decision-making processes, they could play an important role in advancing political debate and ensuring greater transparency.

ESCR can achieve constitutional recognition in three principal ways (Fabre, 2000). First, and most obviously, such rights may be expressly protected in the text, as is the case under the South African Constitution (Pieterse, 2007) but not, with some exceptions, that of Ireland. Second, textual civil and political rights may be read

expansively to embrace matters traditionally seen as falling within the arena of ESCR. This approach reflects a strand of the indivisibility principle enshrined in international law: civil, political, social, economic and cultural rights are regarded as interrelated and interdependent (Donnelly, 2003:Ch. 2). Rights such as those of freedom of expression, liberty and life are interpreted as including respect for socio-economic freedoms and protections. Some judgments of the Indian Supreme Court follow this course. That approach has not been replicated before the Irish Courts (Irish Human Rights Commission, 2006:105-108). Finally, ESCR may fall under the rubric of constitutional equality guarantees, when these are viewed as requiring substantive equality (equality in substance) as opposed to formal equality (equal treatment of all irrespective of actual impact or outcome).³⁵ The equality guarantee, set out in Article 40.1 of the Irish Constitution, has not generated any socio-economic rights (Ibid.; Doyle, 2005).

An additional avenue for the constitutional recognition of ESCR was opened by the Irish judiciary during the 1960s. In a series of cases the courts established that Article 40.3 of the Constitution protects rights that are not listed in the text.³⁶ *Ryan v Attorney General*,³⁷ which first recognised a right to bodily integrity, is the foundational case on so-called 'unenumerated' rights. Since that judgment several other classic socio-economic rights have been recognised as flowing from Article 40.3 including the right to earn a living³⁸ and the right to protection of one's health³⁹ (Casey, 2000:395; Kelly, 2003:1413-85). However, more recent judgments emanating from the Supreme Court, in particular, signal an unwillingness to 'uncover' further such rights.⁴⁰ Moreover, as discussed further below, the Court is averse to granting orders aimed at enforcing the duty to fulfil even where the right is an enumerated one.

³⁵ This approach has been pursued, with limited success, before the Canadian courts: see further Brodsky (2004); Chada and Sheldon (2004); Hurley (2007); Jackman and Porter (1999); Kim and Piper (2003); Porter (1998).

³⁶ Article 40.3.1° provides: 'The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.' Under Article 40.3.2°: 'The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.'

³⁷ [1965] IR 294.

³⁸ *Murtagh Properties v Cleary* [1972] IR 330.

³⁹ *State (C) v Frawley* [1976] IR.

⁴⁰ See for example the judgment of Keane CJ in *T.D. v The Minister for Education* [2001] 4 IR 259; [2001] IESC 101.

This reticence is traceable to a particular understanding of the appropriate role of courts vis-à-vis human rights guarantees in liberal democracies. Judges frequently draw on the separation of powers doctrine to designate certain matters as non-justiciable (McDermott, 2000). Justiciability, according to Scott and Macklem (1992:17), can be loosely defined as ‘the extent to which a matter is suitable for judicial determination’ but is nonetheless ‘a contingent and fluid notion dependent on various assumptions concerning the role of the judiciary in a given place at a given time as well as on its changing character and evolving capability.’ For the purposes of this report the most significant application of the separation of powers doctrine concerns the distinction drawn between distributive and commutative justice. The basic argument advanced is that the people’s elected representatives should make decisions as to how collective resources are to be distributed. Courts should only have jurisdiction to deal with issues of commutative justice (what was due from one legal party to another arising from their mutual dealings). In line with this reasoning the Irish judiciary has not recognised any unenumerated constitutional right to be provided with goods or services that would secure an adequate standard of living.⁴¹

Two socio-economic rights are *explicitly* protected under the Irish Constitution: the right to primary education (Article 42) and the right to private property (Articles 43 and 40.3).⁴² The right to property is concerned with ensuring that persons are not deprived of possessions they already have and does not place any onus on the state to ensure that everyone should have a right to acquire some (Kingston, 1994; Murphy, 1998). Nonetheless, from the perspective of those experiencing poverty it has some limited capacity to protect pre-existing social welfare benefits. For instance, in 2005 the President referred a Bill to the Supreme Court, which sought to retrospectively validate the practice of charging medical cardholders for in-patient services in hospitals and nursing homes.⁴³ The charges had been levied despite a court decision dating from 1976 which established that there was no lawful basis for

⁴¹ See, for example, *O’Reilly v Limerick Corporation* [1989] ILRM 181.

⁴² It could be argued that Article 41.2 should give rise to a constitutional socio-economic right for those who undertake care work for family members. That provision acknowledges the contribution of women’s ‘life within the home’ to the common good and then provides: ‘2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.’

⁴³ *In Re Article 26 and the Health (Amendment) No. 2 Bill 2004* [2005] IESC 7 (16 February, 2005).

any such payments (O'Dell and Whyte, 2005; Doyle and Whyte, 2006). The Supreme Court found that the Bill amounted to an unjust attack on property rights – specifically the Bill sought to extinguish an intangible property right, the right to seek restitution (recovery) of the unlawful charges.⁴⁴ In the course of its judgment the Court stated that the standard of justification the Attorney General had to meet was affected by the fact that the rights concerned were those of people of 'modest means'. These rights could only be extinguished in 'extraordinary circumstances' and the sole reason advanced by the State was avoidance of the costs involved.

The protections afforded by the requirements of constitutional and natural justice have improved the decision-making processes that affect social welfare claimants (Whyte, 2002:Ch. 4). In a 2008 decision concerning the withdrawal of a disability benefit, for instance, the Supreme Court found that the insufficiency of information provided on the appeals system rendered the decision-making process unfair.⁴⁵ Having reviewed a number of precedents on the constitutional equality guarantee, the Irish Human Rights Commission (2005: 5) concludes that it 'seems that classifications and differential treatment based on wealth or economic status may, in certain circumstances, contravene Article 40.1, particularly where such classifications prevent or inhibit the exercise of fundamental rights.'

The constitutional text is largely silent in relation to the duty to fulfil ESCR. The directive principles on social policy (Article 45) are rendered non-justiciable. These are statements of principle, which broadly pertain to the economic domain and cannot be enforced by courts but are meant to guide the Oireachtas (Tushnet, 2004).⁴⁶ As Justice Murphy notes:

With the exception of Article 42 of the Constitution, under the heading 'Education', there are no express provisions therein cognisable by the courts which impose an express obligation on the State to provide accommodation, medical treatment, welfare or any other form of socio economic benefit for any of its citizens however needy or deserving.⁴⁷

⁴⁴ The Supreme Court cited a judgment of the ECtHR in support of this conclusion: *Pressos Compania SA v Belgium* (1995) 21 EHRR 301.

⁴⁵ *Maher v Minister for Social Welfare* IESC [2008] 15.

⁴⁶ Concerns for economic justice are also to be found in the provisions on private property (Murphy, 1998; Quinn, 2000).

⁴⁷ *TD v Minister for Education* [2001] 4 IR 259 at p.316.

In *F.N. v Minister for Education*⁴⁸ the High Court established that the right to primary education comprised a right to be fed and to live, to be reared and educated, and to have the opportunity of realising one's full potential and dignity as a human being. The right has since been confined to persons aged under eighteen.⁴⁹ Responsibility for its realisation rests with a child's family, with the State incurring obligations only where parents have 'failed' in their duties. *T.D. v The Minister for Education and Others*⁵⁰, a 2001 Supreme Court decision, casts considerable doubt over the parameters and efficacy of the right to primary education, however (Keating and Lowry, 2003; O'Mahony, 2002; Ruane, 2002; Whyte, 2005). The Court appeared to accept that the right to education imposed positive duties on the state but nonetheless refused to grant a mandatory order aimed at fulfilling that right because of separation of powers considerations.⁵¹ Doyle and Whyte (2006) survey judicial pronouncements in the field of socio-economic rights and conclude that the judiciary may in future cases review executive decisions only where there is evidence of bad faith.

Developments in Other Jurisdictions

Courts in other jurisdictions, relying frequently on international human rights norms, have accepted that judicial involvement in the duty to fulfil ESCR is legitimate (FAO, 2006:Ch. 4). India's Constitution, for example, drew on the Irish directive principles of social policy and the courts have used these to interpret and expand justiciable rights, most notably the right to life. It now encompasses rights to positive assistance in order to enable survival as well as the traditional negative right not to be killed (Hunt, 1996:Ch.4; Kothari, 2004). With respect to food, India's Supreme Court has issued orders directing that indigent people, older people and children be provided with food either free of charge or at subsidised prices (FAO, 2004:Annex 5).

⁴⁸ [1995] 1 IR 409.

⁴⁹ *Sinnott v. Minister for Education* [2001] 2 IR 545.

⁵⁰ [2001] 4 IR 259; [2001] IESC 101 (17th December 2001, Supreme Court).

⁵¹ In practice mandatory orders directed at the Executive are granted quite regularly in High Court actions: *TD* is generally differentiated because the issue is said to be one of commutative rather than distributive justice. Although the case law is by no means coherent it seems that the High Court takes the view that a mandatory order can be granted where access to *existing* facilities are in issue (O'Mahony, 2005). In one judgment at least the Court seemed to rely on the fact that the Education Act 1998 imposed statutory duties on the Minister: *Cronin v Minister for Education*, Unreported, High Court, July 6, 2004 (Laffoy J.). In other words, it seems that the enactment of legislation undertaking to provide given services 'translates' the question from one of distributive justice into one of commutative justice. The legislative framework is reviewed briefly below.

We have seen that for the Irish Courts restraint is required in relation to issues that are said to fall within the particular expertise of the legislature and executive. Literature generally refers to this line of reasoning as the 'institutional competency' argument.⁵² A related objection regards constitutional protection of ESCR as undemocratic, since it unduly constrains the workings of political processes (McDowell, 2002). Leaving aside arguments to the effect that courts are already implicated in the distribution of resources,⁵³ a strong case can be made for justiciability where an expansive view of public law remedies is embraced.

The stance adopted by the South African courts proves especially instructive in reconciling the separation of powers doctrine with a commitment to ESCR (Kende, 2003; Pieterse, 2004, 2007). Socio-economic rights are explicitly set out in the South African constitutional bill of rights. Indeed the right to food is the subject of three separate provisions: the State is obliged to take reasonable legislative and other measures, to progressively realise everyone's access to sufficient food and water, bearing in mind the financial capacities of the State.⁵⁴ A further provision devoted to children's rights is not contingent on availability of resources but stipulates that children have an unqualified right to adequate nutrition and shelter.⁵⁵ Finally, every sentenced person and detained prisoner has a right to adequate nutrition.⁵⁶

These guarantees are overseen by the courts; they are required to declare any law or conduct that is inconsistent with the Bill of Rights or any other provision of the Constitution to be invalid to the extent of such inconsistency.⁵⁷ When adjudicating upon a constitutional matter the courts have been granted the power to 'make any order that is just and equitable'.⁵⁸

⁵² See Pieterse (2004) and Michelman (2003) for an excellent discussion of these and other issues generated by constitutional enforcement of ESCR.

⁵³ See Whyte 2002, Ch. 1 for examples of contradictory approaches to distributive justice questions in the courts' case law, such as in litigation concerning taxation and criminal legal aid.

⁵⁴ Section 27, Constitution of the Republic of South Africa, 1996.

⁵⁵ *Ibid.*, Section 28.

⁵⁶ *Ibid.*, Section 35.

⁵⁷ *Ibid.* Section 172 (1)(a).

⁵⁸ Section 172 (1)(b).

Essentially, the South African courts approach cases concerning the duty to fulfil ESCR from the premise that they will review the 'reasonableness' of an enacted policy: a reasonable measure is one that plans, budgets for, and monitors the fulfillment of immediate needs, provides for the management of crisis situations, and does not exclude marginalized sectors of society (Jagwanth, 2003; Kende, 2003; Khoza, 2004; Pieterse, 2004, 2007). Key judgments on housing and access to health care resulted in the re-formulation of public policies to ensure that resource allocation decisions were 'reasonable', in the sense that they must be formulated so as to take account of the needs of those who are most vulnerable.

The South African jurisprudence illustrates that where public law remedies are shaped so as to respect the respective roles of the various branches of government, court involvement in ESCR can actually strengthen democratic legitimacy. Dorf and Sabel (1998) suggest that courts are well placed to coordinate collective problem-solving capacities. By setting out general performance standards and duties of cooperation that must be met by the relevant public body, judicial review has the capacity to generate 'experimentalist' remedies aimed at reforming practices of legislatures and bureaucracies. Courts may issue declarations to the effect that a particular legislative provision or policy violates constitutional norms, leaving the precise details of remedial action to the public body concerned. Judges can build in supervisory mechanisms and grant leave to the affected parties to return to court where compliance has not been forthcoming (Pieterse, 2007). Such an approach is not alien to the Irish legal system (O'Mahony, 2002), or to that of many other common law jurisdictions (Fredman, 2006; Michelman, 2003).

In this manner rights adjudication entails a 'dialogue of democratic accountability' (Nedelsky, 2003; Birenbaum and Porter, 1999:145). Governments spend a high proportion of public funds on matters that fall within the ambit of ESCR (Whelan and Donnelly, 2007); the crux of the matter is whether such funds are distributed in accordance with human rights principles. Justiciable rights lend greater transparency to government resource allocation processes by requiring public bodies to present and defend the reasons informing given policy decisions. Far from being anti-democratic then, judicial review can become a channel of political participation for groups that are marginalised in the arena of politics.

Of course the South Africa courts have a clear constitutional mandate in the realm of ESCR. With respect to jurisdictions that do not have explicit or detailed constitutional ESCR guarantees, it has been argued that courts in exercising their power of judicial review should adopt a context-sensitive approach to the separation of powers doctrine (Minow, 1990:361-2; Whyte, 2002:Ch.1). In relation to Ireland, Whyte (2002, 2006) derives support for this position from the commitment to economic justice inherent in the Constitution. The nature of the interest at stake or the parties involved and the responsiveness of other branches of government should inform the appropriate balance to be struck (*ibid.*). Intervention on behalf of groups who have no access to effective political representation, such as children, should raise different considerations to those applicable to members of relatively powerful groups (Kavanagh, 2003).

Even in the event of judicial developments along the line suggested by Whyte, robust constitutional recognition of ESCR will require a referendum. The All-Party Oireachtas Committee (2004) has recommended that socio-economic rights be reviewed in a future report. Anti-poverty NGOs and other interested parties could avail of the opportunity to influence those findings by making submissions.

3.6.3.3 Legislative Measures

Overview

The democratic and institutional competence objections voiced in relation to protection of ESCR at constitutional level do not hold in the legislative context. Legislation emanates directly from a democratic process, which encompasses input not only from the people's elected representatives, but also from the various agencies charged with administering and enforcing the law concerned.

The Oireachtas has adopted a wide variety of approaches in the general realm of ESCR (Irish Human Rights Commission, 2006:Ch.5.3). Legislation tends to impose a broad duty on government, leaving a wide margin of discretion to the relevant duty-bearer as to how the particular obligation is to be realised. In still other cases legislation simply empowers a given Minister, for instance, to take action without

imposing a duty to exercise that function, leaving aggrieved individuals without a remedy.⁵⁹

Income adequacy is clearly a critical issue in addressing poverty in a rights-based context. In this regard, the Finance Acts and Social Welfare Acts are of obvious importance as they carry out distributive functions through welfare, taxation and social expenditure provisions. Courts, or any other quasi-adjudicative body such as the Ombudsman, do not police the substance or level of the various entitlements. Such matters are determined exclusively by the Government; hence the importance of lobbying on the part of anti-poverty NGOs during the annual pre-budget phase. With respect to those in paid employment the introduction of a legislatively guaranteed minimum wage was a positive development,⁶⁰ but again the adequacy of the current rate and associated taxation measures should be reviewed. The European Commission (2007:221) observes that in the case of Ireland 'there is an increasing prevalence of people in employment who are at risk of poverty, reflecting primarily those who are engaged in low-paid and/or part-time work.'

Statutes of general application that are of especial importance to the poverty agenda include the Equal Status Acts 2000-2008 (ESA) and European Convention on Human Rights Act 2003. The ESA is an anti-discrimination law which purports to ensure that public and private sector service providers do not discriminate between individuals on select grounds. It is important to note that it does not confer a substantive right to obtain a particular good or service such as health care, food or housing. Rather the ESA seek to ensure that where goods and services are already provided, the conditions under which they are supplied are cleansed of overt bias towards particular groups (direct discrimination) and that unjustifiable conditions which impact adversely on protected groups are eliminated (indirect discrimination). Further, harassment and sexual harassment in the course of accessing services are prohibited. As discussed further below, the capacity of the ESA to protect people against discrimination in the field of ESCR is undercut by several legislative exemptions.

⁵⁹ On housing law see Whyte (2001); Kenna (2006); Phelan and Norris (2008).

⁶⁰ Under the National Minimum Wage Act 2000.

The enactment of the European Convention on Human Rights Act 2003 is potentially a significant development for the poverty agenda. Essentially it accords the European Convention an interpretive status before the domestic courts and obliges every organ of the State to perform its functions in a manner that is compatible with the State's obligations under that instrument (Kilkelly, 2005; O'Connell et al, 2006). The Convention is primarily concerned with civil and political rights, such as the right to private and family life, the right to liberty, and the right to freedom of expression. It also contains a non-discrimination clause⁶¹ requiring states to prohibit discrimination with regard to those rights and freedoms. The Strasbourg Court recognises the interdependence of civil, political, social, economic and cultural rights.⁶² Furthermore, its judgments increasingly acknowledge that the effective protection of all rights requires more than obliging states not to act in given ways, but may necessitate the imposition of positive duties (Mowbray, 2004; Fredman, 2006; Palmer, 2007). However, the European Court of Human Rights usually stops short of expansive readings of Convention rights that would impose extensive financial obligations on the Contracting States.⁶³ Nonetheless in acute and limited circumstances the Convention can give rise to a right to a minimum level of social provision from the State (Fredman, 2006; Palmer, 2007). Its impact on domestic law should become apparent as cases filter through the legal system. In *O' Donnell (a minor) & Ors v South Dublin County Council*⁶⁴ the High Court found that a housing authority had violated its positive obligation under Article 8(1) of the ECHR to provide appropriate accommodation for the plaintiffs who were Travellers and disabled. Laffoy J noted:

This is not a case which is based on an assertion that the State or its organs has a positive obligation to make certain provision for every Traveller family, for instance, that the State should legislate or have an administrative scheme to provide two de luxe mobile homes for every Traveller family. This is a case about the particular circumstances of one family, which has three severely disabled members, two of whom were minors when the proceedings started who, to the knowledge of the defendant have been living in unacceptable

⁶¹ Article 14 of the ECHR states: 'The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, political or other opinion, national or social origin, association with a national minority, property, birth or other status.' Although the text mentions some protected statuses, the list of grounds is not exhaustive.

⁶² See for example the Court's statement to that effect in *Airey v Ireland* (1979) 2 EHRR 305, para 26.

⁶³ *Sentges v Netherlands*, Application No. 27677/02, 8 July 2003; *Chapman v United Kingdom*, Application No. 27238/95. Applied by the Irish High Court in *Doherty & Anor v South Dublin County Council*, [2007] IEHC 4.

⁶⁴ [2007] IEHC 204, High Court.

conditions since 2005 and whose plight is not going to be alleviated until August 2008 at the earliest, if it will be then.

The Convention also contains standards as to procedural fairness, which should buttress the safeguards afforded people accessing entitlements in the general area of ESCR (Cousins, 2008).⁶⁵ Interests arising under state benefit schemes may constitute 'possessions' within the meaning of Article 1, Protocol 1, and so be protected as rights under the Convention.⁶⁶ For example, in *X v. Sweden*⁶⁷ the Commission found that, although there is no Convention right to a pension as such, the payment of contributions could give rise to a proprietary right to derive benefit from the fund in question.⁶⁸ *Stec and others v. United Kingdom*⁶⁹ established that *non-contributory* social welfare schemes are also protected. The salience of this decision does not solely lie in the fact that a wide range of social benefits are now protected against deprivation save in the circumstances allowed under the Convention; it also means that all state social welfare schemes should comply with the prohibition against discrimination set out in Article 14 (De Schutter, 2005:23). Significantly, the *Stec* case fills a gap in the coverage afforded by the Equal Status Acts 2000-2008, which exempts any measures required by statute from challenge.

Remedies

Socio-economic entitlements are administered by several dedicated bodies under the direction of the Executive (Irish Human Rights Commission, 2006: Ch.5.3), including Deciding Officers of the Department of Social and Family Affairs, Community Welfare Officers and a variety of local government agencies. Initial decisions are often subject

⁶⁵ See e.g. Ms. Justice Laffoy's judgment in *Donegan v. Dublin City Council and Ors.* [2008] IEHC 288 which gave rise to a declaration of incompatibility under s.5 of the ECHR Act 2003. The declaration relates to s.62 of the Housing Act 1966 (as amended), which provides a summary mechanism for the repossession of local authority property. The High Court held that the impugned provision does not adequately respect the right to a private and family life under Article 8 since it enables evictions by an organ of the State without the furnishing of reasons, liable to be examined on their merits by an independent tribunal.

⁶⁶ See *Van Raalte v. the Netherlands*, (1997) 24 EHRR 503; *Roshka v. Russia*, Application No. 63343/00, 6 November 2003; *Frátrik v. Slovakia*, Application No. 51224/99, 25 May 2004.

⁶⁷ (1986) 8 EHRR 425.

⁶⁸ *Stretch v. UK* (2004) 38 EHRR 12 established that a tenant's interest in the continuation of a public tenancy was protected as property under the ECHR. In *Gaygusuz v. Austria* (1996) 23 EHRR 364 the Court found that a Turkish national who had been working in Germany for a number of years was unlawfully denied emergency social security payments. He had contributed directly to the unemployment insurance fund and there was no objective justification for confining the payment to Austrian nationals.

⁶⁹ Application Nos: 65731/01 and 65900/01, 6 July 2005 (admissibility decision). The final judgment in the case was delivered on 12 April 2006.

to internal review and in some cases subject to a formal appeals system such as that operated by the Social Welfare Appeals Office.⁷⁰ Recourse to the formal court system is generally limited to appeals on a point of law. In exercising their powers of judicial review, courts have, nevertheless, had a considerable impact on the operation of various social assistance and social insurance schemes (Whyte, 2002:Ch.4).

As noted in Chapter 2, the CESCRC requires that administrative remedies should be accessible, affordable, timely and effective (CESCRC, 1998:§9). Problems faced by claimants include a lack of transparency, because for instance the Social Welfare Appeals Office does not publish the reasons for its decisions, as well as those stemming from 'bureaucratic disenfranchisement' more generally (see Chapter 2). Independent oversight of the systems that administer social benefits and entitlements is principally supplied by the Ombudsman and the Equality Tribunal.⁷¹ We now turn to briefly consider the accountability mechanisms operated by these two statutory bodies.

The Ombudsman is charged with hearing and determining complaints about the administration of public services.⁷² Since the complaints process is inquisitorial and conciliatory in nature, and no fees are payable, the system enjoys many advantages over litigation before the regular courts (Morgan and Hogan, 1998:380-381). The recommendations issued are not legally binding, however. Where it appears to the Ombudsman that the response to a recommendation is not satisfactory she may make a special report on the matter to the Oireachtas.⁷³ Investigations have uncovered arbitrary decision-making and flawed procedures in arenas such as health care and social welfare. To reiterate a point made above, the Ombudsman does not have jurisdiction over the substance of a given entitlement or benefit, her role is confined to ensuring that proper procedures are followed:

⁷⁰ <http://www.socialwelfareappeals.ie/>. See generally Northside Community Law Centre (2005).

⁷¹ The Ombudsman for Children is empowered to uphold the rights of children. However, the remit of the Ombudsman for Children is circumscribed. For instance, the Ombudsman for Children Act 2002 precludes the investigation of any action 'taken in the administration of the law relating to asylum, immigration, naturalisation or citizenship.'

⁷² <http://ombudsman.gov.ie/en/>

⁷³ Section 6(7), Ombudsman Act 1980.

My Office deals with what would classically be defined as socio-economic rights. However, problems usually emerge from the process whereby such rights are alleged to be inadequately delivered. To that extent...my role is often to look at the vindication of a socio-economic right through the lens of a procedural right that might more appropriately be classified as civil and political. The concept of fair and sound administration is, therefore, the ultimate example of practical indivisibility, whatever about its other definitional imperfections. (O'Reilly, 2007:4)

As of December 2008 draft legislation to expand the Ombudsman's remit is before the Oireachtas.⁷⁴ It remains to be seen whether agencies affecting vulnerable groups, such as refugees, will be covered.

The Equality Tribunal is an independent, quasi-judicial forum that investigates and mediates claims under the ESA.⁷⁵ All hearings are conducted in private, no fees are payable, and the procedures adopted are designed to facilitate self-representation (Walsh et al, 2007). Decisions issued are legally binding. The efficacy of the system has been considerably hampered by delays: in 2005 three years was the expected timeframe from embarking on a case to completion (Equality Authority, 2006: 22). The Equality Authority observed a 'noticeable improvement' in its 2007 Annual Report (2008:19), while highlighting the significant problems that remain (Ibid.:25-6).

Certain key activities of public bodies fall outside the purview of the Tribunal: Most immigration practices, and implementation of tax, social welfare and planning codes are not covered by the ESA. Two provisions are especially relevant here: the narrow definition of 'service' in Section 2 and Section 14 (a). Section 14 (a) essentially precludes use of equal status provisions to challenge any discriminatory treatment required by law.⁷⁶ When examining Ireland's first report under the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the UN monitoring committee recommended that the state 'consider expanding the scope of the Equal Status Act so as to cover the whole range of government functions and

⁷⁴ Ombudsman (Amendment) Bill 2008.

⁷⁵ Established in 1999, the Equality Tribunal was initially called the Office of the Director of Equality Investigations (ODEI): <http://www.equalitytribunal.ie/>

⁷⁶ See for instance the finding in *A Complainant v Department of Social and Family Affairs* (DEC-S2008-013) to the effect that the ESA could not be availed of to challenge the method of calculating contributions for the purposes of the Old Age Contributory Pension.

activities, including controlling duties'.⁷⁷ Another international human rights body, the European Commission Against Racism and Intolerance,⁷⁸ made a similar recommendation in its *Third Report on Ireland (2007)*.

A further factor undermining the scope of protection against discrimination in the field of ESCR relates to the range of grounds covered. Socio-economic status or social class is routinely used as a basis for discriminating against people, but unlike a range of other jurisdictions, individuals cannot base a claim before the Equality Tribunal on that ground (Kilcommins et al, 2004). 'Social condition' is defined as follows in section 2 of the Human Rights Code of New Brunswick, Canada:

[I]n respect of an individual, means the condition of inclusion of the individual in a socially identifiable group that suffers from social or economic disadvantage on the basis of his or her source of income, occupation or level of education.⁷⁹

Full compliance with the anti-discrimination provisions of ICESCR arguably requires amendment of the Equal Status Acts 2000-2008 to cover explicitly state functions and to allow for inclusion of 'social condition' or 'socio-economic status' as a ground.⁸⁰

3.7 Conclusion

Returning to the contention that food poverty is a central dimension of people's experience of poverty, this Chapter has attempted to situate that particular topic in the broader anti-poverty context, examining conceptualisation, measurement, policy development and implementation issues, as well as the relevant legal framework. Before addressing the potential applicability of rights-based approaches to addressing food poverty, it is important to develop a similar understanding of how food poverty is defined and how responses are framed and implemented – and by whom. These questions form the subject matter of Chapter 4.

⁷⁷ Conclusions and Recommendations of the Committee on the Elimination of Racial Discrimination, Ireland (2005), UN Doc. CERD/C/IRL/CO/2.

⁷⁸ Established by the Council of Europe in 1997, ECRI is an independent human rights monitoring body specialising in racism. It is comprised of independent members who are appointed on the basis of their expertise in dealing with racism, xenophobia, anti-Semitism and intolerance.

<http://www.coe.int/t/e/human%5Frights/ecri/>

⁷⁹ <http://www.gnb.ca/hrc-cdp/PDF/Guideline-Social-Condition-Discrimination-New-Brunswick.pdf>

⁸⁰ See further the analysis of the Irish Human Rights Commission (2005) on the inclusion of socio-economic status as a ground under the Employment Equality Acts.

Chapter 4: Food Poverty in Ireland – Concepts, Actors and Interventions

4.1 Introduction

This chapter review the actors, interventions and legislative framework within which the issue of food poverty in Ireland is currently addressed. As a first step in this analysis, it provides an overview of how food poverty is conceptualised and measured, charting the evolving nature of the concept and the implications this has for how responses are framed and implemented. Subsequently, it attempts to map the different approaches and actors engaged in addressing food poverty. Given the evolving nature of the issue, such an inventory cannot be an exhaustive catalogue of initiatives and actors, but it should provide a comprehensive and representative picture at a point in time. The broader policy context within which food poverty is addressed and the relevant legislative measures are also considered.

4.2 Conceptualising Food Poverty

Many authors note that historically food poverty was seen as an issue of personal responsibility, with the focus on individuals' poor health and nutrition status, which was attributed primarily to poor food choices and inadequate levels of the relevant skills and knowledge.⁸¹ However, as reflected in the international human rights arena, there is increasing recognition that food poverty needs to be seen as an issue of social justice, with a greater focus on the structural barriers facing individuals and households in their struggle to achieve food security (Caraher and Coveney, 2004; Dowler, 2003; Watson, 2001). The combined effects of inadequate incomes, poor infrastructural provision, poor housing and retail planning in generating and perpetuating food poverty is a recurring theme in the literature.⁸² When viewed through a human rights lens, '[h]unger and malnutrition are problems of people lacking the freedom to feed themselves, of people lacking the power to influence the

⁸¹ See, for example, Hitchman et al (2002), Coakley (2001) and Dowler (2001).

⁸² See, for example, Dobson, Beardworth, Keil and Walker (1994), Barratt (1997), Lang (1997a), Dowler (1997), Ellaway and Macintyre (2000), Furey, Stringnell and McIlveen (2001) and Kelly and Parker (2005).

political and economic decisions that would give them access to food in dignity' (Künnemann, 2002:168).

Many authors use the concept of food security as a starting point from which to conceptualise and explore the issue of food poverty.⁸³ According to the FAO (2002): 'Food security [is] a situation that exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life.'

In their review of food poverty and policy in Ireland, Friel and Conlon (2004:120) propose a working definition of food poverty as the 'inability to access a nutritionally adequate diet and the related impacts on health, culture and social participation'. Using a similar approach, Dowler et al (2001:12) define food poverty as 'the inability to consume an adequate quality or sufficient quantity of food in socially acceptable ways, or the uncertainty that one will be able to do so'. Conceptually, this definition is similar to that of 'food insecurity' used by Tarasuk (2001:2) to denote 'the limited, inadequate or insecure access of individuals and households to sufficient, safe, nutritious, personally acceptable food, both in quality and quantity, to meet their dietary requirements for a healthy and productive life.'

Riches (1996) raises the issue of the 'morality' of speaking about hunger in the high income economies of the developed world when the same term is used to describe the plight of those in famine-stricken countries of the developing world. However, as Watson and Hiscock (2002) note, while the scale and severity of the problem is undeniably greater in the developing world, many aspects of the human experience of hunger and food security are the same the world over. The question of how to ensure a regular supply of nutritious, reasonably priced food is one which faces people experiencing poverty everywhere. Irrespective of the country-specific context, this issue can be conceptualised as a 'failure of entitlement', as articulated by Sen (1981). What the definitions outlined above share is a reflection of the extent to which the debate on food poverty is evolving. Caraher (2003) argues that whereas the 'old' food poverty discourse was dominated by themes such as under-nutrition, a lack of

⁸³ See, for example, Dowler (2001), Turner and Dobson (2001), Friel and Conlon (2004), and Caraher and Coveney (2004).

food and the non-availability of food, the 'new' food poverty literature emphasises such issues as the over-abundance of processed food; imbalance in the diet; the inability to access food and social and cultural isolation.

4.3 Measurement Issues in Food Poverty

The Budget Standard approach to the measurement of poverty dates back to both the Rowntree study and the Booth study from the turn of the last century (Bradshaw, 1993). This approach involves the specification and costing of a set of goods deemed a minimum necessary for a nutritionally adequate diet. To this is added an allowance for other expenditure and allowances for family size, and the income needed to cover this is then defined as the poverty line. A modern use of the budget standard approach can be found in the 'official' poverty index used by the Census Bureau in the US. It is a food ratio method where the poverty line is framed in terms of the proportion of income spent on necessities. The US Department of Agriculture compiled estimates of food required by families of different sizes. It was set for a number of household types, in 1965, at three times the cost of a basic food basket, and is updated by indexation to the Consumer Price Index (Orshansky, 1969). The American food ratio poverty line has been described as 'crude' (Gordon and Pantazis, 1997) and was the subject of review by the Panel on Poverty and Family Assistance which recommended a revised approach that calculates a median annual expenditure on necessities and some non-essential items for a reference household of two adults and two children.⁸⁴

More recently in the UK a Family Budget Unit was established to determine a range of different budgets for different family types based on expenditure patterns and expert judgements. These budgets have been formulated at two living standards – 'modest but adequate' based on 'normal' living standards and 'low cost but acceptable' which could be seen as a subsistence standard (Bradshaw, 1993).

In the Irish context, the Vincentian Partnership for Social Justice estimates

⁸⁴ See <http://www.census.gov/hhes/www/povmeas/povmeas.html>

Minimum Essential Budgets for six household types on an annual basis. Their methodology combines the 'low cost but acceptable' approach with a 'consensual budgets approach' (Vincentian Partnership for Social Justice, 2008). Using this approach, people living in the household types for which the Budget Standards were devised come together to act as Budget Standard Committees and, consequently, the process is informed by the relevant households' actual expenditure choices and judgments. In relation to food, minimum essential budgets are calculated with reference to seven day menus for the six household types and are devised with the assistance of nutrition experts (Vincentian Partnership for Social Justice, 2006).

Critics have pointed to a number of problems with using a budget standards approach to measuring poverty. Firstly, there is no single subsistence level that can be used as a basis for the poverty line. Secondly, there is likely to be a disparity between expert judgement and actual consumption behaviour. In relation to food, while such costings may accurately reflect the minimum cost of an adequate diet, actual purchasing behaviour may be compromised by households' knowledge/skills deficits; lack of access to outlets or the unavailability of appropriate foods (Dowler et al, 2001). A fundamental question also arises as to whether it is desirable to determine an objective standard of living for people who undoubtedly have their own views about what is adequate for them. At any rate, although defined under the absolute heading, this approach is nonetheless socially determined as the initial index is taken with reference to actual expenditure.

4.4 The Lived Experience of Food Poverty

Insights into the lived experience of food poverty in Ireland can be gleaned from a number of recent studies.⁸⁵ In his review of food and hunger in 'First World' countries, Riches (1996:78) states that '...in none of the countries studied, is it possible to provide for an adequate nutritious diet on the basis of social assistance

⁸⁵ These include: Vincentian Partnership (2000), Coakley (2001), Furey et al (2001), Friel and Conlon (2004), Hickey and Downey (2003), Friel, Walsh and McCarthy (2004), Kelly and Parker (2005), and Manandhar et al (2006).

incomes alone'.⁸⁶ These findings also have a resonance in the Irish context. Research by the Vincentian Partnership for Social Justice (2000) on low-income households in Dublin concluded that existing social welfare rates and minimum wages rates in Ireland do not reflect the current cost of 'even the most frugal standard of living' and that inadequate income levels 'made it impossible to provide a reasonably healthy diet'. As noted above, this experiential dimension also informs the development and calculation of Minimum Essential Budgets. Friel et al (2004) analysed the financial cost of healthy eating in Ireland and found that the required 'basket' of groceries could absorb 80 per cent of the household income of a lone parent family and 70 per cent of income in a household comprising two adults and two children.⁸⁷ Their research also highlighted the constraints imposed by the inability to physically access large-scale, low-cost retail outlets (the food deserts phenomenon), showing that the same basket of groceries cost approximately 15 per cent more in the retail outlets to which low-income households have relatively easier access.⁸⁸

The impact in terms of people's nutrition and health status is evident in the 'social gradient' discussed by Kelleher et al (2002) and Friel and Conlon (2004), which shows the lower uptake of 'health-promoting' foods among lower socio-economic groups in Ireland and consequent impacts in terms of disease and mortality rates. An additional dimension to this issue is the experience of asylum-seekers in Ireland, documented by Manandhar et al (2006) which records poor nutritional and health status, very limited food choice and substantial levels of food poverty among this group in the North West of Ireland. According to a report on the Direct Provision system carried out by the Free Legal Advice Centres (2003), the quality and type of food available, as well as lack of access to cooking facilities, is a pressing issue that increases a sense of powerlessness.

⁸⁶ The countries studied were Australia, New Zealand, Canada, United Kingdom and the USA.

⁸⁷ A similar discussion on the link between inadequate levels of income and food poverty in the UK context is discussed in Dowler (1997), Morris et al (2000), Dowler et al. (2001) and Hitchman et al. (2002).

⁸⁸ The issue of food deserts is treated extensively in Whelan, Wrigley, Warm and Cannings (2002); Wrigley, Warm and Margetts (2003); Wrigley, Warm, Margetts and Whelan (2002) and Hitchman et al. (2002). On the question of retail access for older people in Ireland see Kelly and Parker (2005).

As Dowler (2003) argues, for most people food is much more than simply a bundle of nutrients. It is also an expression of 'who a person is, where they belong and what they are worth' (Ibid.:572). In the Irish context, the extent to which food serves as a marker of social exclusion or inclusion is portrayed vividly by Coakley (2001). She charts how mothers in low-income households constantly juggle the constraints of time, inadequate income and lack of physical access to good-quality, nutritious food with the desire that their families (particularly children) are not excluded from the norms enjoyed by the rest of society – eating 'treats' or 'child-friendly' foods; eating out or entertaining friends and family.

4.5 Gender and Food Poverty

Given that food purchasing and preparation typically falls into the domain of what McLaughlin and Lynch (1995) call women's caring labour or love labour, it is not surprising that food poverty is experienced differentially within the household. A recurring theme in Irish-based studies is the extent to which women 'go without' in order to safeguard provision for other family members, with the needs of children remaining paramount (Cantillon and Nolan, 1998; Coakley, 2001; Friel and Conlon, 2004). The notion of 'self sacrifice' in particular comes through in studies which examined differences in food consumption within families and found that not only were women more likely to 'go without' but that this was implicitly sanctioned within a hegemonic family discourse which saw the welfare of the children as the primary responsibility of the woman, and which normalised the idea that the woman should make sacrifices to this end (Goode, Callender and Lister, 1998; Cantillon, Gannon and Nolan, 2004).

In an analysis of differences between spouses in family meals and food consumption, approximately 7 per cent of 1, 124 couples said they sometimes skimped on their own meals (Cantillon et al, 2004). In over three-quarters of those cases it was the woman who said she did and the husband said he did not. So in about 5 per cent of all couples the woman is skimping on her meal and the man is not, to try to ensure the rest of the family have enough. In over half these cases the woman skimps on her own meal due to lack of money. The tendency for the woman to make personal sacrifices was substantially stronger in households characterised by financial

systems where women were in charge of stretching household finances but did not have total, or even shared, financial control (Ibid.; Vogler, 1994). Furthermore, the effects increased as family income decreased, such that women from low-income families were even more likely to experience personal deprivation in order to make ends meet (Ibid.).

4.6 Mapping Food Poverty Approaches and Actors

Food poverty literature makes a useful distinction between *downstream* approaches to tackling poverty (such as direct provision of food; measures to address information/skills deficits; local community-based food projects) and *upstream* approaches which have a greater focus on attempting to influence the wider policy context (Dowler and Caraher, 2003; Caraher and Coveney, 2004). An enhanced role for the State, which is associated with more upstream approaches, is absolutely central to HRBA, given that States are the primary duty-bearers under international human rights law (see Chapter 2).

Friel and Conlon (2004) argue that there appears to be little shared understanding among key stakeholders on what the term food poverty means and no evidence of an integrated approach to policy-making within the Irish context. Food poverty interventions in Ireland can also be characterised as predominantly downstream ones that are heavily reliant on the community and voluntary sector, with the State adopting a largely philanthropic role, to use the term coined by Dowler and Caraher (2003). Interventions under the auspices of the Catholic Church have been a particular feature of the Irish context. Historically, this occurred as part of its broader role in the provision of social services in Ireland. However, as Fahey (1998) notes, while the level of service provision has declined in the face of dwindling numbers of vocations, the Catholic Church has gradually become more involved in socio-economic critique and issues of social justice.

While recognising that the moral dilemma is acute, authors such as Riches (1996) are highly critical of the extent to which civil society organisations have become 'part of the problem' in the sense that they have depoliticised the food poverty issue and allowed governments to 'look the other way'. However, it is probably more realistic to characterise community and voluntary interventions in this context as an attempt to

fill the void left by State and market failure. Furthermore, to be overly dismissive of such efforts is to ignore what Dreze and Sen (1989) call the importance of 'adversarial' public participation in social change processes.

Community-based food poverty interventions may serve as a gateway through which people address more fundamental problems of poverty and social exclusion. Organisational capacity to work across several fronts is a major, perhaps *the*, central factor. Lipsky and Thibodeau (1991:84) describe the competing demands and tensions as follows:

People who provide direct services... have difficulty playing advocacy roles. Ideologically, they are often torn, because they provide necessary, temporary, emergency assistance and fear that their efforts represent short-term solutions that allow society to avoid confronting more comprehensive policy initiatives. They often have to spend most of their time running their organizations and maintaining systems of assistance when it is clear that energies need to be devoted to political activity at city, state and national levels. Strident political activity, however, may serve to alienate corporate support... Non-profit providers of food relief are concerned that their criticisms of state and local officials may hurt them when contracts are renegotiated. Fractionalization among non-profit providers inhibits the development of a stable advocacy strategy.

From an analytical perspective, it is undoubtedly useful to be able to locate food poverty interventions along a spectrum of activity, using the upstream/downstream criterion discussed above. However, at the outset, it should be stated that many food poverty initiatives defy such a neat categorisation or lend themselves to such a clear binary interpretation. In fact, the hallmark of a successful food poverty intervention may well be that it addresses the issue on a number of fronts. As will be shown subsequently, in the Irish context, the boundaries around activities are frequently blurred as different actors may be involved in the development, delivery and funding of the same initiative. In addition, there is evidence that the same actor may play different roles in different types of initiatives.

The structure of Table 4.1 and the subsequent discussion reflect this logic.⁸⁹ The analysis begins by looking at initiatives that have a single, direct and practical focus on a particular constituency or issue. It then spans across measures representing a

⁸⁹ The sources for all information on the agencies/initiatives referred to in Table 4.1 are the weblinks listed in Appendix 4.1.

broad coalition of interests impacting at a number of different political and institutional levels.

4.6.1 Initiatives Associated with Direct Provision of Food

As outlined above, the community and voluntary sector – and religious communities in particular – are strongly associated with the direct provision of food to various target groups in Ireland. Crosscare, the Social Care Agency of the Dublin diocese of the Catholic Church, operates the Dublin Food Bank, which co-ordinates the redistribution of foodstuffs donated by industry to a number of charitable and voluntary organisations. This agency is also involved in the operation of Food Centres, which provide low-cost hot meals on a drop-in basis and a Meals-on-Wheels service for older people and those that are housebound. The Society of Saint Vincent de Paul (SVP), the international voluntary Christian organisation – and Ireland's largest volunteering organisation – provides similar services and is also involved in the operation of Breakfast Clubs for schoolchildren in disadvantaged areas. Focus Ireland, a voluntary organisation addressing the needs of homeless people in Ireland, is involved in direct food provision via Breakfast Clubs for children in emergency accommodation and drop-in cafés for homeless people. These also function as a gateway to their other services. Other actors involved in initiatives such as Breakfast Clubs, Homework Clubs (which often include food provision) and Meals-on-Wheels include local partnership companies and community development organisations who implement these schemes with funding from the relevant government department – typically the Department of Social and Family Affairs.

A review of meals services provided to older people in the North West inner city of Dublin concludes that the programmes have clear nutritional and social benefits (Rourke, 2007). The sum people pay for the service is part subsidised by the Health Services Executive; in all cases bar one, core costs are met by the service providers through voluntary contributions and FÁS schemes. The report highlights that the absence of rights and correlative duties affects the nature and extent of provision, inevitably leaving many 'eligible' people without such a valuable service:

The fact that the provision of meals services is not enshrined in the Irish constitution or Irish legislation and that it is hugely dependent on the existence

of a local voluntary/community service provider means that, in effect, the likelihood of an older person receiving a community/delivered meal is far more influenced by the availability of a local provider than it is by the nutritional or socialisation needs of individual older people in Ireland. (Ibid.:7)

In light of the public health and other benefits delivered through the services, greater State funding and direct involvement was sought. In the words of one interviewee: 'It is not about charity and a bit of a handout now and again. It is about rights and the rights of older people to receive a decent meal either at home or in the company of friends and other older people' (Ibid.:22).

One area of direct provision in which State involvement is more prominent relates to funding of the School Meals Scheme. This statutory scheme involves the provision of food services by local authorities for disadvantaged school children. Local authorities are not obliged to participate. It is overseen and part-funded by the Department of Social and Family Affairs. In its current incarnation, the School Meals Scheme is targeted at primary-school children in urban areas and the food consists typically of milk and sandwiches or buns. The Department also funds an additional non-statutory Local Projects Scheme for pre-schools, primary schools, secondary schools, local groups and voluntary organisations to operate their own school meals projects. These must be targeted at areas of disadvantage or at children with special needs.

The School Meals Scheme was the subject of a major review in 2002, which argued that while the educational and nutritional benefits of such measures were incontrovertible, they were not being delivered through the existing Scheme. It was criticised as being inefficient in terms of reaching the desired target groups, lacking co-ordination in its administration and lacking any nutritional goals or mandatory standards (Department of Social and Family Affairs, 2002). The Working Group also highlighted lack of awareness and take-up of the EU School Milk Scheme, which is administered by the Department of Agriculture, Fisheries and Food. It noted that the Department had no role in relation to the promotion of the EU Scheme, and that in 'practice therefore the scheme operates year on year with little or no change in terms of service provided, numbers benefiting etc.' (Ibid.:§2.27). One of the key recommendations of the Review was the establishment of a dedicated multi-agency initiative to deliver a radically reformed School Food Programme (Department of

Social and Family Affairs, 2002). Further, the Working Group made some allusions to the human rights dimension to the provision of school meals:

It is important that children are not stigmatised in exercising their right to obtain sufficient food to enable them to fully participate in their education. In meeting its obligation to children, it is also important that the State does not allow or encourage parents to abdicate their duties and responsibilities to their children. It is necessary therefore, to strike a balance between ensuring that parents meet their responsibilities to their children and ensuring that children do not suffer in cases where parents for whatever reason do not discharge their responsibilities. (Ibid.:§6.8.7)

None of these recommendations has been implemented to date; it remains to be seen whether the forthcoming National Nutrition Policy,⁹⁰ which purports to tackle food poverty amongst other objectives, will deliver an enhanced, rights-based scheme. Particular cognisance should be taken of the FAO Guidelines, which call *inter alia* for a broad range of education and awareness raising measures (FAO, 2004:Guideline 11).

Significantly, in July 2008 the European Commission announced plans to implement a School Fruit Scheme, which would entail the provision of free fruit and vegetables in schools and a series of accompanying measures including an implementation strategy developed in consultation with relevant stakeholders.⁹¹ This development may provide an opportunity to operate the EU schemes as part of a revised School Food Programme, as recommended by the Working Group in its review of the existing Scheme (Ibid.:§5.11).

4.6.2 Initiatives Addressing Information and Skills Deficits

Many of these interventions are framed within a health promotion context and are the product of partnership agreements between the community and voluntary sector and the national Health Services Executive (HSE), the agency charged with the provision of health and social services in Ireland. While most are delivered in a community-

⁹⁰ <http://www.dohc.ie/press/speeches/2008/20080616.html>

⁹¹ Proposal for a Council Regulation amending Regulations (EC) No 1290/2005 on the financing of the common agricultural policy and (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) in order to set up a School Fruit Scheme {SEC(2008) 2225} {SEC(2008) 2226} /* COM/2008/0442 final – CNS 2008/0146.

based setting by voluntary organisations or local partnership companies, the HSE plays a key role in determining the structure and content of the programmes as well as their funding. A range of peer-led programmes such as *Cook It, Healthy Food Made Easy* and *Eat Well, Be Well*, provide training in cookery skills, nutrition information and promotion of healthy eating. In the case of Focus Ireland, interventions are targeted specifically at the homeless and those in emergency accommodation.

The primary function of the Food Safety Authority of Ireland is to ensure that all food produced, marketed or distributed in the State meets the highest standards of food safety and complies with relevant legislation and codes of practice. It has published a number of reports and leaflets concerning nutrition.⁹²

In addition to health promotion interventions, a number of programmes aimed at supporting the female farming community have been implemented under the auspices of the Department of Agriculture, Fisheries and Food (Government of Ireland, 2003).

4.6.3 Community Food Projects

Community food projects also represent partnership arrangements between local development actors and statutory agencies, but their focus tends to be broader than that of health promotion. While such initiatives are by no means commonplace in Ireland, there are some interesting exemplars that attempt to address more fundamental issues related to food production, distribution, access and affordability. One such initiative in the North-West of Ireland is the *Growing in Confidence* project funded by the HSE. It is run by The Organic Centre in Co. Leitrim, a not-for-profit organisation providing training and information on organic farming and gardening. This project seeks to improve the access of people on a tight budget to organic fruit and vegetables by encouraging and helping them to grow, prepare and cook their own. The *Limerick Food Partnership* is a coalition of business interests, statutory agencies and the community and voluntary sector and is located in the South-West of Ireland. It was established in 2005 to develop and manage a co-ordinated network

⁹² See further: <http://www.fsai.ie/publications/index.asp>

of projects that address food poverty in the region. Current projects include the *South Hill Food Co-operative*, which sells fruit and vegetables at affordable prices on a not-for-profit basis. This co-operative also provides the fruit and vegetables for an associated local School Food scheme, which has an emphasis on healthy lunches and snacks. The Partnership has recently established the *Mid-West Food Bank*, the only food bank that operates outside the Dublin area. Proposed projects include a community café and a locally based growing scheme.

4.6.4 Research and Advocacy Work

As outlined earlier, many of the community-based actors involved in food poverty initiatives attempt to address this issue at a number of levels simultaneously. For example, Crosscare and the SVP, in addition to their 'downstream' interventions outlined above, have been involved in some landmark pieces of research on food poverty in Ireland. Along with the Combat Poverty Agency (CPA) they were instrumental in the publication of Friel and Conlon's report (2004) on the relationship between food poverty and policy in Ireland. The SVP were also involved in an important study on the experience of living on a low income in Ireland where food-related issues emerged as a dominant theme (Vincentian Partnership, 2000). Focus Ireland undertook research on the impact of poverty and social exclusion on the food, diet and nutrition of people who are homeless in the city of Dublin (Hickey and Downey, 2003). In many cases, this research has served as part of the evidence base underpinning submissions by these agencies into many arenas. Their submissions range from inputs into broad areas of public policy such as social partnership agreements and the National Anti-Poverty Strategy to areas of macro-economic policy such as the annual budget as well as relevant sectoral issues.

In recent years, some statutory agencies in Ireland have emerged as useful conduits for the dissemination of relevant research. For example, the all-island Food Safety Promotion Board has been active in the dissemination of the results of the *Decent Food for All* project, a three-year action research initiative based in the North of Ireland, which the Board co-funded. In addition the Food Safety Authority of Ireland has recommended the adoption and implementation of a national nutrition policy for older people (FSAI, 2000). The Authority endorses the findings of a previous report concerning the need for accessible transport, improved housing and improved

income, in order to improve access to healthy food choices (Department of Health and the National Council on Ageing and Older People, 1998).

Conferences hosted by the Combat Poverty Agency on issues ranging from Childhood Poverty to the Social Determinants of Health, among others, have frequently acted as both a mechanism for showcasing relevant initiatives and a platform for raising awareness of food poverty and policy issues.

Table 4.1 Overview of Interventions Impacting on Food Poverty in Ireland

| Intervention | Brief Description | Key Organisation/s Involved |
|------------------------|---|--|
| Food Banks | <p>Dublin Food Bank established by Crosscare redistributes surplus goods donated by wholesalers, manufacturers and retailers.</p> <p>The Limerick Food Partnership has established the Mid-West Food Bank as part of a broader range of interventions.</p> | <p>Crosscare</p> <p>Limerick Food Partnership is a coalition of business, statutory and community agencies</p> |
| Food Centres | <p>Three centres operated by Crosscare in centre of Dublin city providing hot meals on a drop-in basis to hundreds of people</p> <p>Focus Ireland has a number of cafés in Dublin which, in addition to providing low-cost meals, also act as a gateway to a range of services for homeless people.</p> | <p>Crosscare</p> <p>Focus Ireland</p> |
| Breakfast Clubs | <p>Provision of breakfast to school-going children in disadvantaged areas. Delivered via combination of State funding and voluntary activity.</p> <p>Focus Ireland provides breakfast clubs for homeless people who are in temporary accommodation.</p> | <p>St. Vincent de Paul</p> <p>Focus Ireland</p> <p>Barnardos</p> <p>Local Partnership Companies</p> <p>Department of Social and Family Affairs</p> |

Table 4.1 continued. Overview of Interventions Impacting on Food Poverty in Ireland

| Intervention | Brief Description | Key Organisation/s Involved |
|----------------------------------|---|---|
| Cookery Centres | Teaching basic/advanced cookery skills Provision of nutrition information Demonstration cooking classes for those in emergency accommodation | Saint Vincent de Paul Focus Ireland |
| Community Food Projects | Growing in Confidence Initiative is a training programme to enable low-income households to grow, prepare and cook organic fruit and vegetables. Limerick Food Partnership incorporates a food co-operative, a school meals service and a food bank | Organic Centre, Leitrim Health Services Executive Limerick Food Partnership |
| Healthy Eating Programmes | Initiatives include Cook It, Healthy Food Made Easy which are peer-led community-based programmes, providing training in cookery skills and nutrition information and the promotion of healthy eating. Eat Well, Be Well campaign promotes awareness and provides information on nutrition and diet, targeting those who are homeless or in emergency accommodation. | Community Development Organisations Local Partnership Companies Health Services Executive Focus Ireland Health Services Executive |

Table 4.1 continued. Overview of Interventions Impacting on Food Poverty in Ireland

| Intervention | Brief Description | Key Organisation/s Involved |
|--|--|--|
| Food Co-Operatives | South Hill Food Co-op in Limerick provides access to fresh fruit and vegetables at affordable prices to low-income households. Incorporates production activities and not for profit sales. | Community Development Organisations Health Services Executive |
| School Meals Services | Provides funding for food provision for disadvantaged children who are 'unable by lack of food' to take advantage of education provided for them. In addition to the statutory urban-based primary school, there is a non-statutory Local Projects Scheme, which may be delivered with other partners. | Department of Social and Family Affairs, Local Authorities Community Development Organisations |
| Commission/ Dissemination of Research | Research initiatives identifying the nature and extent of food poverty in Ireland and measures by which it should be addressed. Relevant studies include <i>Food Poverty and Policy</i> (2004); <i>Against The Odds: Life on a Low Income in Ireland</i> (2002) and <i>Hungry for Change</i> (2003). Dissemination by Food Safety Promotion Board on all-island basis of research from Northern Ireland, e.g. Decent Food for All Initiative. | Vincentian Partnership, Focus Ireland, Combat Poverty Agency Food Safety Promotion Board |
| Advocacy/ Policy Work | Development and submission of food poverty-related inputs into key initiatives such as the National Development Plan, the Social Partnership Agreement, the Government Budget, the National Anti-Poverty Strategy, National Action Plans for Social Inclusion and other relevant arenas of policy formulation. | Barnardos, Combat Poverty Agency, Vincentian Partnership, Focus Ireland, Crosscare |

Table 4.1 continued. Overview of Interventions Impacting on Food Poverty in Ireland

| Intervention | Brief Description | Key Organisation/s Involved |
|----------------------------------|--|--|
| Multi-Agency Initiatives | Healthy Food for All Initiative (HFFA) is a multi-stakeholder initiative that seeks to address food poverty by (i) supporting community and sectoral initiatives promoting access/availability to healthy & affordable food for low-income households, (ii) developing a learning network of best practice interventions and (iii) promoting awareness of food poverty across all aspects of public policy with focus on availability, access and affordability. | Combat Poverty Agency, Saint Vincent de Paul Crosscare |
| Food and Nutrition Policy | Commitments to addressing Food Poverty within initiatives such as the emerging National Nutrition Policy and the recommendations of the National Task Force on Obesity Nutrition policies aimed at vulnerable groups, such as older people. | Dept. of Health and Children Food Safety Authority of Ireland |
| Anti-Poverty Policies | National Anti-Poverty Strategy (NAPS) developed in 1997 is the overarching framework within which poverty is addressed in Ireland. National Action Plan Against Poverty and Social Exclusion 2007–2016 sets out specific targets and interventions for the next 10 years. | Office for Social Inclusion; Department of Social and Family Affairs Social Partners Combat Poverty Agency |
| Government Budget | Annual process setting out Government's targets on expenditure and receipts. Sets out changes in a range of policy arenas including social welfare and direct and indirect taxation. | Department of Finance |

| | | |
|--|--|--|
| <p>Social Partnership Process</p> | <p><i>Towards 2016</i> is the most recent ten-year framework for social partnership in Ireland, encompassing macro-economic and infrastructural, environmental and social policy; public/private sector pay agreements</p> | <p>Department of the Taoiseach Social Partners</p> |
|--|--|--|

Source: Compiled using web links detailed in Appendix 1

4.6.5 Multi-Agency Initiatives

Interventions that attempt to simultaneously address both upstream and downstream issues related to food poverty are rare in Ireland. However, one exception is a recent initiative established by the Combat Poverty Agency, the SVP and Crosscare entitled the *Healthy Food for All Initiative* (HFFA). The move to develop this initiative was a direct result of the study commissioned by the CPA on the relationship between food poverty and policy in Ireland (Friel and Conlon, 2004). Echoing the findings elsewhere that food poverty interventions tended to be fragmented, narrowly focused and detached from the policy-making process, the establishment of the HFFA in 2006 was an attempt to address this issue. While an important part of its focus is on supporting community-based initiatives and the identification of best practice in these areas, it also aims to promote awareness of food poverty across all aspects of public policy with specific reference to availability, access and affordability issues. To date it has given effect to these objectives by hosting a series of networking events for those involved in community food projects, by commissioning research on best practice for school food initiatives and by making submissions into a range of relevant policy arenas. Funding is a perennial issue for the Initiative, as it comprises one-off donations from government departments and statutory agencies.

4.6.6 The Broader Policy Context

As argued earlier, while food poverty can be seen as a central dimension of the people's overall experience of poverty, it is not at the core of alleviation measures nor does it feature significantly on the general social policy landscape in Ireland or in sectoral issues such as education or health. However, the existence of an established anti-poverty and social policy infrastructure in Ireland is clear from the discussion in the previous Chapters and range from social inclusion measures to macro-economic policy and public and private sector pay agreements. The importance of these policy domains in addressing the structural determinants of food poverty is recognised by an increasing range of actors. This

is evidenced by their ongoing efforts to 'infiltrate' the policy-making process through lobbying, advocacy work and forums such as social partnership.

At the same time, there are a number of important policy arenas and actors who appear to have no linkage with the food poverty agenda. An obvious case in point is the domain of agriculture and food policy and the associated statutory agencies for research, development and food marketing. References to food accessibility in the arena of planning and competition policy tend to be couched in terms of consumer choice, neglecting the human rights dimension. With the exception of a very small number of community-led responses, there are practically no interventions which address the production aspect of the food system or which seek to identify viable alternative supply chains for food-insecure people.

4.6.7 Legislative Measures

As discussed in Chapter 2, the Committee on Economic, Social and Cultural Rights considers the adoption of framework legislation as a core instrument in the implementation of the right to food (Khoza, 2004). No such law has been adopted in Ireland, a point we revisit in the concluding Chapter. Nor is the right to food recognised in a holistic fashion under any Act of the Oireachtas. However, a range of discrete legislative provisions impact, in either a benign or negative manner, on its realisation. Given the limited scope of this research it is not possible to supply a comprehensive audit of such provisions; instead this section supplies illustrative examples.

As a preliminary matter it is important to note that much legislation addressing food directly is oriented towards the protection of consumers. Such laws emanate principally from the European Union and take the form of regulations concerning food safety and quality, labeling and advertising, as well as those affecting competition in the food retail sector (FSAI, 2003). While this body of legislation goes some way towards realising Ireland's human rights obligations by, for

example, seeking to ensure that foodstuffs are free from adverse substances (FAO, 2004:Guideline 9), it only constitutes a partial response to the central issues of adequacy and availability. Kelly and Parker (2005) identify a range of legislative and other measures, particularly in the field of planning, which could be undertaken to enhance the physical accessibility of food.

There may also be a conflict between a rights-based approach to regulation of the food industry and other goals such as the pursuit of greater competition amongst retailers, as evidenced by the submissions of several anti-poverty NGOs to the review of the Groceries Order (DETE, 2005). Caraher and Carr-Hill (2007:221) address the pitfalls of a market-centred approach in the following terms: 'Now in the development of economies there is a danger that social contracts based on the concept of citizenship are being replaced with market reforms and protective legislation designed to benefit consumers'.

As implied in the discussion in Chapter 3 on the broader context of poverty alleviation, income adequacy is a major factor in addressing the right to adequate food. We have also noted that social welfare payments are currently inadequate to meet the costs of accessing a nutritionally adequate diet but that the Courts or other adjudicative bodies do not police the substance or level of the various entitlements.

Regressive and Discriminatory Legal Measures

Legislative and policy measures may also of course violate the principle of non-regression and the discrimination prohibition provided for under ICESCR. By way of example the Direct Provision scheme introduced in the field of asylum discloses breaches of both obligations in relation to food (FLAC, 2003; Friel and Conlon, 2004:94-95; Manandhar et al, 2006). According to the Office of the United Nations High Commissioner for Human Rights (2006:30), '[i]n any kind of

public food distribution system, the beneficiaries must not be forced to take food that is culturally unacceptable to them and/ or perceived to constitute unacceptable health risks.' The restrictions to the Diet Supplement Scheme effected as part of a range of social welfare cut-backs in January 2004 supply another example of a regressive measure. As the FAO (2004:Guideline 12.3) underlines, 'States should strive to ensure that budget cuts do not negatively affect access to adequate food among the poorer sections of society'. Under ICESCR any measures that worsen people's access to ESCR *prima facie* amount to violations of the Covenant.

4.7 Conclusion

Changing conceptualisations of food poverty in Ireland are reflected in recent research and advocacy work, which approach the issue from a perspective of human rights and social justice. However, to date, this shift in thinking has not translated into policy responses. Food poverty has not emerged as a central concern in the broader anti-poverty context, nor does it feature to any extent in the domain of economic and social policy development. Mirroring the discussion in Chapter 3, we conclude that while a rights-based approach is a potentially important avenue through which to address food poverty, its contribution is undermined by the failure of the Irish State to give economic, social and cultural rights full legal effect.

The inventory presented in this chapter suggests that 'downstream' rather than 'upstream' responses continue to predominate, with the State and its agents playing, at best, a supporting role in terms of funding and/or quality control. This is not intended as a critique of the significant contribution made by the community and voluntary sector. Their presence and profile is the inevitable consequence of State and market failure in this arena and it is to their credit that they have managed to move beyond a 'damage limitation' role. The multi-stakeholder approach taken by the HFFA initiative is commendable in many

respects but is at an embryonic stage of development, with no guarantee of its future sustainability. Private sector engagement with the food poverty agenda appears to be limited to the donation of surplus foodstuffs to food banks. While the picture painted by the foregoing catalogue of interventions and analysis is a familiar and somewhat pessimistic one, it does not represent the inevitable direction for the future of food poverty. Despite the range of binding international legal commitments outlined in Chapter 2, to date food poverty interventions have not been framed using a human rights-based approach. At the same time, there are other poverty-related policy arenas on the island of Ireland (e.g. housing) and other country settings (mainly in the developing world) where rights-based approaches are yielding interesting results. The next Chapter and the final one look at these exemplars in more detail and explore their potential applicability to the issue of food poverty in Ireland.

Chapter 5: Rights-Based Approaches to Poverty in Ireland – Implications for Addressing Food Poverty

5.1 Introduction

The main purpose of this chapter is to report on the insights generated from a one-day workshop which took place in Dublin on 19 March 2008. Stakeholders (activists, public sector organisations and institutions, policy-makers, academics and researchers) were invited to explore the potential of using rights-based approaches to address issues of poverty in Ireland, with specific reference to food poverty.⁹³ Of particular note was the presence of invited speakers with expertise in implementing rights-based approaches in different policy/country settings (food poverty and housing) who presented a summary of their experiences. Another feature of the workshop was that participants engaged in small-group discussions in which they explored various dimensions of rights-based approaches to food poverty. The subsequent sections of this chapter summarise the contributions of the participants and those of the key speakers.

5.2 Human Rights Approaches to Issues of Hunger and Malnutrition

Dr Rolf Künemann opened the morning session. Dr Künemann is the Human Rights Director of Food First Information and Action Network (FIAN), an international human rights organisation dedicated to the right to food.⁹⁴ A key element of FIAN's work examines how human rights-based approaches can be used in combating people's lack of access to the resources they need to feed themselves.

⁹³ This workshop was supported by the Combat Poverty Agency, the Egalitarian World Initiative (EWI) Marie Curie Transfer of Knowledge Programme at University College Dublin (UCD), the School of Social Justice, UCD, and the School of Biology and Environmental Science, UCD. Full details are available from: <http://www.ucd.ie/ewi/events/foodpoverty/home.html>

⁹⁴ See <http://www.fian.org/>

Dr Künnemann argued that for human rights in general, one should not start from law. Human rights are about values; how each and every person should be treated. International law sets up a relationship between rights holders and the state/community of states that have duties towards them. With regard to the right to food, there are two sides to the coin. On one side, there is the right and the normative content of that right (access to food, availability of food etc.) and on the other side is the State's obligation. Dr Künnemann then outlined the three levels of obligations assumed by the governments that have ratified ICSECR (see Chapter 2.2.1, 2.2.2).

Although it is an unconditional right in most countries, people have to be considered as the 'deserving poor' in order to qualify for an adequate standard of living. A violation of the right to food is a breach of State obligations, full stop. However, unless there is clarity about what a State's obligations are, one cannot talk about violations. States want to know what their duties are, and that is why States agreed and signed up to the FAO's *Voluntary Guidelines on the Right to Food* (FAO, 2004) (see Chapter 2.2.2). Dr Künnemann urged NGOs to draw the attention of national governments to the Guidelines and discussed a range of other tools at the disposal of activists and advocates. FIAN, for instance, provides 'shadow' reporting to the UN Committee on Economic, Social and Cultural Rights. In other words, it generates parallel reports to those provided by national governments to the Committee every five years on the implementation of ICESCR. This 'shadowing' mechanism is an important means of identifying violations and clarifying State obligations. In this respect the struggle for an Optional Protocol to ICESCR is crucial, since it would provide a mechanism for lodging complaints about violations of the human right to food.

Many violations of the right to food are 'respect-bound', for example, in cases where people's livelihoods are destroyed. Moving to 'fulfil-bound' obligations, there are fairly robust provisions in international law regarding what States have to do. There is no doubt that States have to create programmes that provide

access to adequate food for each person. A crucial element is the availability of transfers, as many people could buy food if they had the money. FIAN has produced a publication on a human-rights perspective on social cash transfers. This publication investigates what a social welfare system would 'look like' if it had to comply with human rights law.

In Germany there are now situations of starvation death arising from changes in national social legislation. Regarding children in Germany, it has been shown that the level of social transfers is insufficient to provide for children's needs and that the deficit is of the order of 45 per cent by the time the child reaches the age of 18. For FIAN, this is a violation of human rights.

5.3 Insights from the Participation and Practice of Rights Project (PPR Project)

The second presentation was given by Inez McCormack, the founder and Chair of the PPR Project, and drew primarily on the Project's experience relating to housing conditions in an area of North Belfast. PPR promotes awareness of international human rights instruments and standards, and supports marginalised communities and groups in using those rights guarantees in accessing services and achieving equality.⁹⁵

The purpose of the PPR project is to enable people who have rights as part of their inalienable human condition to know about them, to believe they can do something about them, and use the obligations gained through international struggles to make those rights real and through their participation to make power accountable. The Project is also contributing to the international struggle and debate as to the absolute requirement that human rights have to be the context and discipline for the application of globalisation.

⁹⁵ See <http://www.pprproject.org/> for details of this work.

For Ms McCormack, using a rights-based approach to the issue of food poverty is crucial because it tackles the very assumptions that are so deadly to those who are invisible – which is either that there isn't food poverty, or that if there is, it is the fault of those who experience it. A major element of the Project has been a change in the participants' belief that they are the problem; people were starting from a position where they felt unworthy of public resources. The core value of a human rights-based approach is in shifting the parameters of the problem in question. When the State's human rights obligations are made visible, the locus of the debate moves to challenging the effectiveness of the allocation of resources.

In a sense the issue of whether socio-economic rights are justiciable is a diversion. The real arguments are about control and authority – about who controls a right and the means for its realisation.

Within the PPR project, it was important to find ways to ensure that the language around 'progressive realisation' of rights would not prevent people from working, but would help them. Participants were advised to produce their own indicators that would show progressive realisation of rights, rather than letting them be set by States and governments and not by people who need them. By doing so, Ms McCormack argued, people feed into the international struggle on human rights, showing how a right can be defined by the people whose rights are at stake.

The PPR project also used international hearings at which evidence, indicators and monitoring systems were presented to international human rights experts and the relevant government minister identified as the duty bearer. Experts validated their methodologies and their findings as effective models of applying global standards at a local level. The Project is now looking at how these standards can be implemented and how the process can be deepened and broadened to involve other communities.

The Project's work is powerfully affecting thinking in one of the most devastated parts of the island of Ireland. It is now beginning to influence major regeneration projects in Belfast, where people from all communities are asking the Project to work with them in finding ways to develop a credible proposal based on their rights. The Project's human rights-based approach is concrete and practical, and the interaction between people struggling at global and local levels is crucial to its work.

5.4 Rights and Responsibilities in the Food Poverty Context.

This presentation was given by Professor Elizabeth Dowler, University of Warwick and Senior Marie Curie Fellow at University College Dublin.⁹⁶

Professor Dowler too noted that the Voluntary Guidelines produced by the Right to Food Unit within the Food and Agriculture Organisation (FAO) set out to define the right to food and how it might be implemented. It provides a practical means to implementing the progressive realisation of the right to adequate food in the context of national food security. It is meant to be a tool to assist civil society to hold governments to account. It also recognises the international dimensions, not only United Nations obligations, but also relationships with trade, development assistance, food security, social security and international corporations.

The strength of the rights-based approach lies in its accountability and the ability to locate food in a social justice framework. In developed countries (Canada, UK, Ireland) there is a high prevalence of household-level individual food insecurity because of lack of money. People regularly report they have not had enough to eat. Growing numbers depend on food banks and the charitable provision of food and there is a failure within systems of social 'safety nets' and persistent tightening up of entitlements. For governments, it is an easy area in which to make cutbacks because people do not march in the street on the issue of fellow citizens not having enough to eat. There is a complicit reliance on charitable

⁹⁶This presentation is available from <http://www.ucd.ie/ewi/events/foodpoverty/>

sources to prevent destitution. There is increasing commodification of labour and welfare systems whereby entitlements to welfare and food security depends on people's capacity to sell their labour.

Having a right to food does not mean handing out free food to everyone. As we know, governments have to respect, protect and fulfil people's right to food. States should not impede access to food – in practical terms, this might mean not allowing new builds where people don't have access to food. Planners must take account of siting decisions and whether shopping locations benefit car owners rather than non-car owners. States should take measures to protect access to food against violations by other actors.

This raises the issue of the distribution of power across the food system. Power does not lie with consumers unless they work very much together – perhaps in relation to ethical forms of consumption. In general, power in the food chain is with retailers, or their buying desks. On fulfilling the right to food, the prevailing view is that if people do not have sufficient food, they have access to food banks. However, States also have an obligation to strengthen the means by which people achieve a livelihood. This opens up a lot of issues – from strengthening the legal measures that protect plant varieties, to strengthening laws that stimulate employment, to decisions around income/welfare protection (particularly the practice of deductions that can be made from people's benefits and the failure to ring-fence or protect the amount of money needed to feed oneself). At the level of the State, there has been a very ready assumption that social welfare and minimum wages are sufficient if people know how to budget.

5.5 A Practitioner Perspective on Rights-Based Approaches to Food Poverty

This presentation was made Tim Meagher from the Paul Partnership, Limerick.⁹⁷

⁹⁷ Details of the work of the Paul Partnership can be found at <http://www.paulpartnership.ie>

Responding to some of the insights provided by FIAN's work and the PPR project, Mr Meagher said a sense of relief prevailed that human rights-based approaches are not all about the law. For community development practitioners and activists, a rights-based focus serves as an important reminder that governments are 'duty-bearers' and have to be targeted for action on specific issues. This raises the related issue of identifying the agencies and institutions that need to inform and mobilise community groups about rights-based approaches. Who should take responsibility for this?

Turning to the issue of food poverty specifically, communicating the 'message' in relation to this issue is a considerable task. There is resistance to accepting the nature and extent of the problem of food poverty; people fail to believe it is a problem. Even if people do perceive it as an issue, in the 'hierarchy' of social problems in many communities it does not feature very prominently. In particular community settings, other matters such as personal safety, housing, health, and education are seen as being more significant. However, it is important that the linkage between food poverty and many of these other issues (such as health) are clearly illustrated.

Another important feature related to food poverty is the role of the market and private sector interests in the food system. The *raison d'être* of the private sector is profit and accountability to shareholders, so to ask them to change dramatically in the way they conduct their business is asking a lot. Appealing to the corporate social responsibility agenda is likely to have very limited success as it seems to be primarily a marketing tool.

There is value in adopting a rights-based framework in trying to influence governments on a range of issues related to food poverty – such as planning, taxation and the influence of advertising, which is now so powerful that it can no longer be left to the market.

5.6 Summary of Participants' Contributions to the Workshops

Participants were asked to work in small-group sessions to provide feedback on specific questions concerning rights-based approaches to addressing food poverty. These questions related to the 'added-value' of using a rights-based approach to food poverty; the obstacles in moving towards such an approach and the practical issues and next steps associated with moving in such a direction. Participants' responses are summarised below.

5.6.1 What is the Added Value of a Rights-Based Approach?

There was consensus that the language of rights sharpens and strengthens the arguments of disadvantaged and marginalised groups. It empowers communities, hands the power back to individuals and communities and de-legitimises the language of rights, taking it away from elite groups. It places more power in the hands of communities who say this is what we understand as our right to food and this is what we require. It is universally applicable and does not exclude anyone from benefits. A rights-based approach which is applied in one setting can be transferred to other settings. With regard to the right to food, this is very much interlinked with other rights – the rights to health and education, for example. Useful insights into applying this approach to the right to food may be gained from its application in the health arena.

5.6.2 What are the Obstacles in Moving Towards such an Approach?

The language may be divisive. People who work with State agencies have to build relationships with civil servants and policy-makers, and to 'demand' something as a right can undermine and damage relationships. So, this approach can be viewed as a double-edged sword. It can be empowering but also divisive and combative. Another major obstacle is the entrenched economic interests which deal with distribution of food in the State. The really powerful forces are corporations. Everything is mediated through the market. Companies' *raison d'être* is not to provide for the rights of every individual – it is to generate profits for shareholders. Another obstacle is trying to convince the State to embrace the

language of rights. The State has become accustomed to and comfortable with the language of 'social inclusion'. This is borne out by the experience of the disability movement on the debate around adopting a rights-based approach to disability, and how government resisted this, even in the face of criticism from the UN Committee on ESCR. Another obstacle is the disjointed nature of the administrative State, whereby multiple agencies work on an issue but separately from each other. There is lack of access to policy-makers by those who need to claim their rights. Even if governments 'consult', the level of consultation is insufficient and a rights-based approach demands participation, not consultation.

5.6.3 What should be the Next Steps in Moving Towards such an Approach?

An event organised around World Food Day which takes place on October of each year could provide an important focal point in this area. The Irish Human Rights Commission (IHRC) could and should play a role in this area. The IHRC is keen to work on the area of ESCR and is a potential and important partner. This is a 'long-term' game and a range of institutions need to get behind the idea. There is a big 'sell' to be done on the concept of food poverty. There is a need to spread information about rights-based approaches and to mobilise and educate people on all levels. It could be possible to use the *Healthy Food For All Initiative* as a network through which rights-based approaches could be promoted. There should be scope to allow those involved in food poverty to learn from the use of rights-based approaches in other settings – such as the work of the PPR Project on health and housing in Northern Ireland and from food-related initiatives in a global South context. There is scope to engage with those involved in overseas development work as they have greater experience in using a rights-based approach to food in their work.

5.7 Conclusions

To date in Ireland, rights-based approaches have not featured prominently in interventions to address issues of poverty in general, or food poverty specifically.

Activists and practitioners working in the arena of food poverty point to significant challenges in progressing this approach. Institutional resistance to the adoption of a rights-based approach is a significant factor, as is the primacy of private sector interests who are the 'gatekeepers' of the contemporary food system. However, insights gleaned from the work of human rights organisations on food (such as FIAN) and organisations which use the approach in other settings (such as the PPR project) suggest that it may be a promising avenue to explore. Of particular significance is its potential to address issues of power relations between marginalised groups and policy-makers and to locate local issues and responses within a framework of international human rights law.

Chapter 6: Conclusions:

Rights-Based Approaches to Food Poverty and the Policy Implications

6.1 Introduction

This Chapter considers how the development of food poverty interventions in Ireland can be informed by the analysis contained in the body of the report. The issues addressed to date can be summarised with reference to the key research questions outlined in Chapter 1. Specifically, these questions sought to determine how food poverty is conceptualised in Ireland; to identify the range of actors engaged in food poverty interventions; to establish the nature, scope and impact of such interventions and to explore the potential value of human rights-based approaches. The insights gained are the basis for addressing the final research question, which asks how an integrated rights-based approach to addressing food poverty in Ireland should be framed.

Sections 6.2 and 6.3 seek to identify guiding principles drawn from good practice internationally. We identify exemplars within the realm of food poverty as well as the broader context of food policy, illustrating the general points made with reference to two cases exhibiting very different institutional and political settings. Within different national contexts, these studies identify the concrete strategies necessary to improve food security for all and the policy and institutional changes necessary at all levels of governance in order to deliver these benefits.

6.2 Good Practice in Framing Food Policy

The centrality of food security as a dimension of food policy is evident in the approach outlined by the World Health Organisation Regional Committee for Europe (WHO-E) in their First Action Plan for Food and Nutrition Policy and in the proposed outline of the Second Action Plan (WHO-E 2001; 2004; 2006). Both of these Plans outline the case for combining nutrition, food safety, food security and sustainable development into a single over-arching, inter-sectoral policy. The argument for developing national policy built around the integration of these

components is made on the basis of improved policy coherence. The benefits arising from the existence of an explicit 'written policy' are also presented and include, *inter alia*, the fact that that it sets out a clear statement of intent and legitimises actions; it justifies the allocation of resources to initiatives on food and nutrition and removes the possibility of misinterpretation among the sectors involved and demonstrates a commitment to the health of all citizens. While there are clear endorsements of the value of local and community-based efforts to address household food security for 'marginalised groups', there is also an explicit acknowledgement that local initiatives cannot by themselves provide the comprehensive coverage or fully integrated policies necessary to address the issue (WHO-E, 2001). The framework proposed in the outline for the Second Action Plan for Food and Nutrition Policy is instructive in this regard. In addition to setting out the actions that need to be taken in 'core areas' of policy such as health, agriculture and consumer affairs, it also identifies additional policy areas such as education, transport, planning, environment, housing and social policy where 'supporting action packages' are required (WHO-E, 2006).

There are related models that seek to explain the nexus between food, social policy and the environment (Lang, Barling and Caraher, 2001) and the complex relationships between health, food and agriculture (Waltner-Toews and Lang, 2000; Barling, Lang and Caraher, 2002; Lang and Heasman, 2004). This ecological public health model characterises health as the 'roof' under which human life shelters, requiring support from a highly diverse range of 'pillars', encompassing social justice, nutrition, a sustainable food supply, appropriate technology and food safety, among others (Waltner Toews and Lang, 2000). A modified version of this model builds on the WHO-E approach outlined earlier, in which three pillars, namely nutrition, food safety and a sustainable food supply support food policy. However, Lang, Barling and Caraher (2001) argue for the incorporation of an additional component that captures the importance of sustainable consumption issues. Irrespective of the precise configuration of these frameworks, what they share is an acknowledgement of the complexity of the

inter-relationships involved. Waltner-Toewes and Lang (2000) argue that while such an integrated approach may have gained a degree of policy legitimacy, it still lacks political backing. Citing successful initiatives in Norway and Finland, Barling et al (2001) advocate the establishment of Food Policy Councils at national level, which would draw from the range of relevant policy domains suggested within the WHO-E framework and provide an integrated evidence-based input to the policy-making process.

6.3 Good Practice in Addressing Food Poverty

There are a number of food poverty and food security initiatives which draw on the joined-up approach outlined above. An interesting exemplar is the work of the Toronto Food and Action Hunger Committee established by the Toronto City Council (2000; 2001; 2003). The approach is outlined in a series of three reports that correspond to specific phases of the Committee's work in addressing food security.⁹⁸ A noteworthy feature of the first phase was the extent to which it highlighted the market failure associated with the contemporary food system and the role of statutory agencies in combating it. While recognising and celebrating the achievements of the community and voluntary sector in developing innovative measures to improve food security, there was a clear statement that government involvement in this issue is both 'essential and appropriate' (Toronto Food and Hunger Action Committee, 2001). The second phase of the Committee's work was concerned both with the development of an action plan for progressing food security and the production of a Food Charter which endorsed the right of all citizens to an adequate supply of nutritious, affordable and culturally-appropriate food.

Within the context of identifying and prioritising concrete strategies for addressing food security, the Committee's second report clearly identified 'systemic issues' such as poverty, the lack of affordable housing, poor planning decisions and

⁹⁸ These are *Planting the Seeds* (2000), *The Growing Season* (2001) and *Tending the Garden* (2003).

inadequate transport infrastructure as key obstacles in attaining food security (Ibid.). While recognising that local government was limited in the extent to which it could address these issues, the Action Plan acknowledged the imperative to be a 'stronger advocate' with more senior levels of government regarding income security and social housing, citing particular measures and initiatives on which the City Council needed to lobby actively.

Another arm of the Plan addressed the need to co-ordinate, support and broker the plethora of community-based food security initiatives. These included farmers' markets, community gardens, school nutrition programmes, communal food provision for older people and food banks, among others. Specific actions in this regard included an awards system to honour the contribution of those involved in community programmes; 'making room' for food security initiatives in City-owned buildings and civic spaces; ensuring that food security initiatives are promoted in schools and social housing and the provision of improved funding mechanisms.

A further noteworthy dimension of this Plan was the focus on measures that promote and support urban agriculture and local, small-scale food processing initiatives as a vehicle to improve food security (Toronto Food and Hunger Action Committee, 2003). Their commitment to a 'joined-up' approach to tackling this issue was evidenced by the decision to establish an interdepartmental grouping to implement the Plan. This grouping was drawn from people working in the arenas of Economic Development, Culture and Tourism, Urban Planning, Public Health and Community Services, among others.

The third and final phase of the Committee's work was a review of the successes and challenges of implementation, which also identified subsequent steps that needed to be taken. As part of this exercise, it produced a detailed report on the status each of the recommendations contained in the Committee's Action Plan. Perhaps unsurprisingly, those areas in which least progress was achieved

required substantial additional financial and human resource commitments or needed action from higher levels of government. Nevertheless, of the thirty-eight specific recommendations contained in the Action Plan, twenty-nine had been implemented before the third phase of the work was completed, and there was a renewed commitment to 'actively advocate' on structural issues such as income security and affordable housing (Toronto Food and Hunger Action Committee, 2003).

In the United Kingdom the work of Sustain, under the auspices of its Food Poverty Project, has put considerable effort into the development of policy options.⁹⁹ An interesting element of this work is the extent to which it is grounded in a rights-based framework. Emphasis is placed on the 'positive right to food', with attendant responsibility for governments to ensure affordable food, shops, acceptable public transport and adequate incomes, rather than on the 'negative right' of freedom from hunger, which requires little other than that food must be available to society as a whole (Watson, 2001). The Project's Policy Options Report starts from the premise that food poverty can only be eradicated through concerted and co-ordinated action at all levels. However, it ascribes considerable importance to the work of local communities in identifying needs and acting upon them, albeit supported within a national strategic framework. Perhaps reflecting the diversity of local experiences and actors with which the author engaged, the Report does not identify one particular way forward. Instead, it sets out a menu of over one hundred policy options, various combinations of which will be appropriate to different food poverty settings, all of which are developed on the basis of the same framework. In each case, the approach taken is to clearly 'map' particular dimension(s) of food poverty to the relevant policy domain(s); to name the specific problems which arise; to suggest concrete policy-based strategies for dealing with these issues; to identify the key actors currently

⁹⁹ Sustain is a UK-based alliance for better food and farming which represents approximately 100 national public interest organisations working at local, regional, national and international level. One element of their work relates to food poverty and, since October 2006, this area of work has been renamed Food Access Network UK.

engaged in trying to address these issues and to identify who should be involved in framing the necessary response at policy-making level.

One of the defining characteristics of food policy-related initiatives is the array of policy domains across which they intersect. Consequently, a useful function of the Report is to show that the broadest possible range of policy concerns have a food poverty dimension – clearly a pre-requisite for any type of mainstreaming exercise which a joined-up approach to the issue implies. For example, the links between food poverty and social inequality are highlighted in terms of income inadequacy and social exclusion. The link with shopping and transport identifies the difficulties low-income households have in gaining physical access to low-cost food retail outlets; difficulties arising from poor public transport infrastructure and the decline of local shops. In relation to farming policies, the relatively high consumer costs of health-promoting foods such as fruit and vegetables are highlighted as well as the strategic issue of domestic food security arising from the decline in farming in the UK.

The connection between 'eating in' and food poverty is made in terms of a general decline in cooking skills, which disproportionately impacts on low-income households compounded by factors such as inadequate cooking and food storage facilities. 'Eating out' is clearly an area with a strong food poverty dimension as it addresses the issue of food quality in institutional environments and the requirements for direct provision of food in community settings. The Report uses a similar approach to demonstrate the links between food poverty and education and training, community support services and the broad policy-making framework.

Having identified the policy options and the actors required to effect change in these arenas, the Report then suggests an approach for 'moving from options to action'. In this respect, it reinforces the need to ensure that the voices of those experiencing food poverty and those who work with them are heard in the

formation of national policy. At the same time, there is recognition of the need to use international networks to infiltrate the policy-making process at supra-national level, such as the European Union and the World Health Organisation.

6.4 Overview of the Irish Context

The conceptualisation of food poverty in Ireland shares many features with what has been observed in other countries. There has been an evolution in thinking about food poverty, with an increasing focus on the importance of structural factors underpinned by the need to see the problem as one of human rights and social justice. Notwithstanding this development, in Ireland as elsewhere, responses to the issue continue to emanate primarily from the community and voluntary sector with a predominantly 'downstream' focus and remain heavily dependent on a mosaic of intermittent funding sources from both the statutory and non-statutory sectors. Apart from piecemeal funding of NGO-led activities, State involvement in measures to address food poverty is limited to a number of fragmented interventions in school settings. The overall impression conforms to that described by Riches (1996) of a sense of 'fractured responsibility' for the issue. In addition, certain key government agencies, particularly in areas relating to agriculture and food production, are conspicuous by their absence in this area.

As shown, food poverty is a central dimension of people's experience of poverty. Therefore, Ireland's anti-poverty infrastructure is potentially a key resource in tackling this problem. While Ireland was the first country in Europe to establish a global poverty reduction target, the dominance of consistent poverty as the key metric in anti-poverty policy has meant that the focus has remained particularly narrow. It has also served to detract attention from the unequal position of the poor in society and more robust measures, such as HRBA, by which this situation may be addressed.

A human rights-based approach holds significant promise for the poverty agenda. However, State interests in Ireland have remained implacable in the face of repeated requests to give economic, social and cultural rights full legal effect, so the issue of institutional resistance should not be underestimated. To date the legislature has not conferred enforceable substantive rights on individuals in the general area of social protection. Instead, emphasis has been placed on ensuring a measure of procedural fairness in the determination of individual entitlements and benefits. In sum, existing provisions tend to be reactive and ameliorative rather than positive and rights bearing (Bailey, 1997).

Ireland has undertaken to comply with a wide range of human rights commitments relevant to poverty alleviation (Irish Human Rights Commission, 2006). Yet, reviews for compliance with UN human rights treaties illustrate the gap between the international human rights commitments of Ireland, a developed and affluent country, and national standards. In the course of examining Ireland's human rights record, the Committee on Economic, Social and Cultural Rights and other human rights treaty monitoring bodies have consistently voiced concern about the absence of domestic remedies to address violations of social and economic rights. In its concluding observations on Ireland's last report, issued in June 2002, the Committee reiterated that ESCR should be embedded in Irish law.

Affirming that all economic, social and cultural rights are justiciable, the Committee reiterates its previous recommendation (see paragraph 22 of the Committee's 1999 concluding observations) and strongly recommends that the State party incorporate economic, social and cultural rights in the proposed amendment to the Constitution, as well as in other domestic legislation. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee would like to draw the attention of the State party to its General Comment No. 9 on the domestic application of the Covenant. (CESCR, 2002:§23)

It further recommended that both the National Health Strategy and National Anti-Poverty Strategy be revised and built around a human rights framework (CESCR, 2002). Given its mandate and considerable statutory powers the Irish Human Rights Commission (IHRC) should be a key partner in promoting and protecting the right to food.¹⁰⁰ Paul Hunt (2002) suggests that the IHRC could adapt international standards to the domestic context, using the resultant indicators and benchmarks to monitor realisation of a given right at national and local levels. Its statutory power to conduct enquiries 'can provide the excluded and powerless with space to describe their experiences and express their views. And enquiries can recommend practical policy proposals for the consideration of government and other actors' (Ibid.:4). It should be noted, however, that the Commission's capacity to activate many of its more resource-intensive powers, including the initiation of legal action, is hampered by inadequate funding.¹⁰¹

Human rights values lie at the centre of the work engaged in by Irish anti-poverty NGOs¹⁰² and coalitions or umbrella organisations such as the Community Platform¹⁰³ and EAPN Ireland.¹⁰⁴ However, a human rights-based approach does not underpin most of the *food poverty interventions* currently underway in Ireland. Examples of good practice regarding food poverty and policy in other countries, such as the work of the Food Poverty Project in the UK, are firmly underpinned by a credo of entitlement and correlative obligations. Another hallmark of the good practice evident in the examples outlined earlier is the extent to which they map the dimensions of food poverty to the requisite interventions and the key actors who are, or should be, taking responsibility. While there is widespread acknowledgement of the importance of community

¹⁰⁰ The Irish Human Rights Commission was established in July 2001 as a consequence of undertakings set out in the Good Friday Agreement. The Commission's powers and functions derive from the Human Rights Commission Acts 2000 and 2001.

¹⁰¹ See the comments of the UN Human Rights Committee in its 2008 Concluding Observations on Ireland's report under ICCPR: CCPR/C/IRL/CO/3, at para. 7.

¹⁰² See for example the discussion document on a human rights based approach produced by the Simon Communities of Ireland (2005) and the work of the Free Legal Advice Centres:

<http://www.flac.ie/>

¹⁰³ <http://www.cwc.ie/work/cp.html>

¹⁰⁴ <http://www.eapn.ie/>

experience and involvement in initiatives, of paramount importance is the need for concerted State-led action across a wide range of policy domains to address the structural dimensions of this issue.

6.5 Recommendations

Given the limited scope of this study, many of the recommendations outlined below are necessarily tentative. As such the national 'conversation' about food poverty and its relation to human rights is at an embryonic stage. The recommendations set out in this section are designed to prompt further dialogue, while also identifying a future research agenda.

An overarching theme in this study is the need to see food security as a political issue (Riches, 1996) and since states are the primary duty-bearers under international human rights law, measures to address food poverty should be predominantly 'upstream' in nature. Useful guidance on how to implement the right to adequate food in the national context is provided, as discussed in Chapter 2, by the CESCR and by the Voluntary Guidelines on the Right to Food (FAO, 2004). FIAN has produced a range of resources that can be drawn upon by the community and voluntary sector. Tools to assist both the public sector and non-state actors in implementing human rights obligations are readily available.

As argued above, income inadequacy represents a significant barrier to achieving food security for low-income households in Ireland. Consequently, there needs to be sustained pressure applied to increase levels of social welfare payments and benefits and to prioritise taxation measures which improve the progressivity of the system by impacting more favourably on low-income households. There are a number of mechanisms in the existing policy infrastructure through which these issues are pursued, including policy submissions into the annual government budget process, the review process of the national social partnership agreement and the monitoring and evaluation processes attached to the National Action Plan for Social Inclusion. We argued in

Chapter 2 that by employing international human rights law to evaluate and influence government policy, NGOs can emphasise that addressing food poverty is not simply a question of political will but one of *obligation*. Many of the same avenues and arguments could be used to address the multiple problems which low-income households face in getting physical access to affordable, acceptable and nutritious food. Issues related to the provision and quality of affordable housing, public transport and retail access, and their integration into the overall planning system, remain key factors in improving household food security (Kelly and Parker, 2005).

The Combat Poverty Agency, currently being absorbed to within the Office of Social Inclusion, can continue to be a key player in progressing the agenda outlined above. Its remit affords it a position of unrivalled access within the national social policy arena, particularly in view of the need to frame food poverty measures within a wider anti-poverty context, while at the same time it enjoys a significant degree of legitimacy among the community and voluntary sector organisations that have been key actors in food poverty initiatives to date. The CPA has been active in campaigning for the integration of rights into anti-poverty measures and was one of the key drivers behind the only multi-stakeholder initiative in Ireland (Healthy Food for All) which attempts to promote access, availability and affordability of good quality food to low-income households, addressing both upstream and downstream food poverty concerns. It would be of significant benefit if a funding stream from government sources for this initiative could be identified and assured, given that its mode of operation has much in common with models of good practice elsewhere.

While the Healthy Food for All Initiative exhibits something of the 'joined-up' approach that characterises effective food poverty interventions, there is a pressing need for this perspective to inform policy-making at government department level. This needs to happen both to ensure policy coherence across existing initiatives and also to engage relevant departments and State agencies

whose involvement in food poverty interventions to date has been negligible. For example, the likelihood of an enhanced school food programme would be significantly improved if there were a co-ordinated approach between the Departments of Health and Children, Education and Science, and Social and Family Affairs. At national policy-making level the Department of Agriculture and Food and associated statutory agencies such as An Bord Bia (the Irish Food Board) and Teagasc (the Irish Agriculture and Food Development Authority), could be further activated. Their inclusion could redress the current lack of focus on agriculture production and food distribution issues as dimensions of household food security. Such issues might span urban/small-scale agricultural production and food processing and the development of appropriate alternative supply chains.

At the same time, there is increasing recognition of corporations as the 'gatekeepers' of the contemporary food system (Special Rapporteur, 2003). However, in Ireland, engagement of the major multiple retailers with the food poverty agenda has been limited to the donation of surplus products to food banks for distribution to charitable institutions. A more robust interpretation of corporate social responsibilities (CSR) might incorporate the development of subsidised transport schemes; provision of delivery schemes; lower cost provision of health-promoting foods; meaningful consultation with local stakeholders on the location of stores and active support for a wider range of community-based food poverty initiatives (Kelly and Parker, 2005). A coalition of statutory agencies, civil society groups and concerned citizens and customers should press for the adoption of a more comprehensive form of CSR.

Enjoyment of the right to food rests on the proper functioning of a host of institutions. The adoption of a framework law on the right to food has the capacity to advance the cross-sectoral, multi-stakeholder approach just outlined in a coherent and transparent manner (FAO, 2004:Guideline 7; Khoza, 2004; FIAN, 2007a).

6.6 Concluding Remarks

For a number of reasons related to logistical and time constraints, this study was restricted to desk-based research and a single workshop-based event. The ability to undertake primary research would obviously have yielded additional insights on a number of fronts. For example, many community-led initiatives lack the resources and/or capacity to develop materials that have a reflexive or evaluative component. It would have been useful to be able to augment this information using other research methodologies. In addition, for many of these initiatives, the 'process' dimension of their work is as relevant as the 'outcome' and it would be easier to explore the relative importance of these different elements using more qualitative approaches.

At policy-making level, it is difficult to discern the precise reasons for the absence of any concerted and coherent measures to address food poverty, but nonetheless there is evidence of considerable institutional inertia or resistance. Again, approaches such as interviews and personal contact with key informants might be a fruitful way of exploring the nature of existing barriers and of identifying pathways forward. As it stands, this current study is limited in terms of the extent to which it can address these issues but it can identify the areas that warrant further investigation.

As has been highlighted throughout this work, there is an established anti-poverty infrastructure in Ireland within which food poverty could be mainstreamed but this has not yet happened. There are useful conceptual frameworks and organisational models on food policy emanating from institutions such as the Food and Agriculture Organisation and the World Health Organisation but these have not yet permeated the policy-making process. There are long-standing and

repeated requests from the UN Committee on Economic, Social and Cultural Rights to integrate a rights-based approach into anti-poverty programmes in Ireland, but to date this has not occurred. There are laudable attempts to 'join up' those involved in downstream and upstream food poverty interventions via the work of the Combat Poverty Agency and the Healthy Food for All Initiative. However, in terms of the uncertainty surrounding its continued existence, this Initiative has more in common with the fragmented community and voluntary actors whom it seeks to bring together.

All of these observations suggest that there is a considerable research agenda to be explored around the 'dynamics' of policy-making in Ireland as it pertains to food poverty. Why does such a fundamental issue as food security have such a low policy priority in Ireland? Why has the issue of food poverty not been advanced via the existing national and international poverty and human rights infrastructure? What are the key transformative actions necessary to move food poverty up the policy agenda and what are the appropriate roles for the various stakeholders? While a clear leadership role by government departments and State agencies would appear to be a *sine qua non* for driving this issue forward, the role of the community and voluntary sector merits a more nuanced approach. There are fundamental questions on the extent to which they should operate within existing mechanisms and structures or whether a more confrontational and oppositional approach would yield greater dividends.

An additional issue for consideration is whether policy-making in the food poverty domain could be informed by perspectives on other issues that require a multi-stakeholder response, such as obesity or tobacco control. A fundamental question concerns the appropriate interaction between statutory agencies or community interests and private corporate interests such as the food industry.

The foregoing analysis and the questions raised in the form of a future research agenda suggests that much remains to be done to tackle the issue of food

poverty, notwithstanding the battery of national and international mechanisms, policy models and expertise which could be drawn upon. At the same time, the range of stakeholders involved, their competing interests and differential power relations suggests that this challenge will be a formidable one, but wholly necessary if Ireland is to honour its legal and moral obligations to ensure food security for all of its citizens.

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Appendix 1: Weblinks Used

Table 4.1 was compiled using the following web links for the organisations and institutions listed below.

| Organisation/Institution | Web link |
|---|---|
| Crosscare | http://www.crosscare.ie |
| Limerick Food Partnership | http://combatpoverty.ie/publications/conferencepapers/2006_Health_SocialDeterminantsConference_Workshop_presentations.pdf |
| Focus Ireland | http://www.focusireland.ie/ |
| St. Vincent de Paul | http://www.svp.ie/ |
| Barnardos | http://www.barnardos.ie/ |
| Department of Social and Family Affairs | http://www.welfare.ie/ |
| The Organic Centre | http://www.theorganiccentre.ie/ |
| Health Services Executive | http://www.hse.ie/en/ |
| Vincentian Partnership | http://www.vincentians.ie/ |
| Food Safety Promotion Board | http://www.safefoodonline.com/ |
| Food Safety Authority of Ireland | http://www.fsai.ie/ |
| Combat Poverty Agency | http://www.combatpoverty.ie/ |
| Department of Health and Children | http://www.dohc.ie/ |
| Department of Finance | http://www.finance.gov.ie/ |
| Department of the Taoiseach | http://www.taoiseach.gov.ie/ |

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