



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Your Excellency,

In my capacity as Rapporteur for the Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the initial report of the Government of Ireland at its 46th Session in May 2011 (CAT/C/IRL/1). The Committee adopted its Concluding Observations (CAT/C/IRL/CO/1), in which it requested the Government of Ireland to provide further information on its response to the Committee's recommendations contained in paragraphs 8, 20, 21, and 25.

On behalf of the Committee, I thank you for your response on 31 July 2012, providing further information on the items identified for follow up. This information assists the Committee in its ongoing analysis of the issues identified for follow up. As Rapporteur, I would be grateful for clarification and further information on the matters cited below, where sufficient information is not yet provided to complete the analysis of progress made on implementing the recommendations.

National human rights institutions (paragraph 8)

The Committee welcomes the information that Head 28 of the Heads of Irish Human Rights and Equality Commission Bill 2012 ("Bill") will provide that sufficient resources will be made available to the Irish Human Rights and Equality Commission (IHREC) to ensure it can carry out its functions effectively. However, it is not clear from the Bill how the State party intends to achieve this. Please clarify what specific measures will be put into place to ensure adequate and sufficient resources will be available to the IHREC to enable it to carry out its mandate. For example, there have been suggestions from civil society organizations that the State party should identify baseline resources per function for the new body, and provide adequate resources to meet the need, and ensure that the Bill includes a provision that any further IHREC budget reductions should be subject to approval of the Oireachtas. Please clarify what measures are under consideration or will be put in place.

At present, the IHREC is linked to the Department of Justice for the purposes of its budget, a factor that has evoked expressions of concern about its independence. The Committee notes with interest and appreciation the reiteration of the Minister's intention that the IHREC "will report directly to the Oireachtas." Yet, as currently outlined in Heads 12 and 27 of the Bill, regarding the presentation of annual reports and strategic plans, the linkages to the Oireachtas would be quite limited. Please provide further information on how the State party intends to ensure financial autonomy and independence of the IHREC from government departments, in accordance with the Paris Principles and the Committee's recommendation.

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With regard to the reorganization of the IHERC, it was recently reported (a) that the Minister of Justice had appointed the 14 members of the IHERC, although no Chief Commissioner was recruited; (b) that the Minister has invited the IHERC members to elect one of their colleagues to chair both the Human Rights Commission and the Equality Authority; and (c) that members of the new IHERC will formally hold positions on the Equality Authority and the Human Rights Commissions pending approval of legislation setting up the new body. The Committee would appreciate clarification on the precise accountability of the Equality Authority and the Human Rights Commission members prior to their formal merger.

Follow up to the Ryan Report (paragraph 20)

The Committee commends the State party for establishing the Ryan Report Implementation Plan and issuing three progress reports, most recently in November 2012. The Committee appreciates the State party's re-affirmation that the Plan's purpose is "to make a difference in children's lives by addressing past failings and putting measures in place to achieve better...delivery of services to children and families." The Committee remains concerned as to when and how restorative and preventive measures will be implemented and requests clarification as to the expected time frame.

On the issue of redress, the Committee commends the State for measures to aid victims, including those by the Redress Board to finalize and dispense financial awards to victims of institutional abuse. The Committee would appreciate further information on how the Board proposes to advertise for applications from victims to avail themselves of the Proposed Residential Institutions Statutory Fund.

However, the Committee has pointed out that a key element in addressing past failings and providing better prevention is to ensure prosecutions of those responsible for abuses against individual children. The committee remains concerned that despite the high number of financial awards made by the Redress Board to individuals who were able to satisfy the Board that they were victims of institutional childhood abuse (14,038 at the time of the State's response), only one case had been prosecuted. Although the dispensation of financial awards by the State is obviously a positive step, there are other measures needed to ensure victims obtain redress, as outlined in the Committee's General Comment No. 3. While the Commission to Inquire into Child Abuse Act 2000 prevents the disclosure of the names of persons referred to in the Report, the Committee notes that the Act does not prevent prompt, independent and thorough investigation into cases of abuse found in the Report, or identified as a result of the Garda helpline that was created for reports of criminal behavior. Please provide an update on the number and status of investigations and prosecutions, as well as specific actions taken or anticipated to investigate and bring prosecutions of persons responsible for abuses.

Magdalene Laundries (paragraph 21)

The Committee is pleased that the Government of Ireland commissioned a committee chaired by Senator McAleese to establish the facts of State involvement concerning the Magdalene laundry institutions, as explained in the Response to the Committee concerning follow-up items. We understand from other information available to the Committee that a final report of the McAleese Committee on the Magdalene laundries has now been published and has been examined by the Follow-up Rapporteur. We further note that following its publication, the State party made a full and public apology to the Magdalene laundry survivors, and acknowledged a number of areas of State involvement in the Magdalene laundries. The Committee commends these actions.

However, the Committee also notes that while the inquiry conducted by the McAleese Committee had a broad mandate "to establish the facts of State involvement with the Magdalene



laundries," it lacked many elements of a prompt, independent and thorough investigation, as recommended by the Committee in its Concluding Observations. Specifically, the Committee has received information from several sources highlighting that the McAleese Report, despite its length and detail, did not conduct a fully independent investigation into allegations of arbitrary detention, forced labour or ill-treatment. While noting the State party's Response explained that individuals and groups were encouraged to report any evidence of criminal wrongdoing directly, the Committee also received information that the State party was presented with extensive survivor testimony in the form of reports by Justice For Magdalenes and was aware of the existence of possible criminal wrongdoings, including physical and psychological abuse.

With these factors in mind, the Committee would appreciate further information as to the measures the State party is planning to take to ensure that there is a full inquiry into all complaints of abuse, in accordance with the Committee's original recommendation? Please clarify whether the State party intends to set up an inquiry body that is independent, with definite terms of reference, and statutory powers to compel evidence, and retain evidence obtained from relevant religious bodies? Would such an inquiry be empowered with the capacity to hold public hearings or obtain access to evidence for survivors or representative groups? Would such an inquiry have the authority to conduct a full-scale investigation into the abuses, and issue a public invitation to submit evidence? Given the nature and duration of institutionalized abuse, as well as the advanced age (and possible geographical remoteness) of some survivors, what steps does the State party intend to take to encourage survivors to lodge complaints?

On the issue of redress for survivors of the Magdalene Laundries, please clarify how the State party intends to ensure that the proposed fund to assist victims and survivors will in fact be primarily used to help such persons, as it has publicly stated it would try to do, rather than being used to cover legal or administrative costs? What measures are being put in place to help institutionalized survivors to engage with the redress processes?

As regards the law commission investigation established following the McAleese report, and headed by President of the Irish Law Reform Commission, Mr. Justice John Quirke, the Committee understands that he was charged with investigating and reporting back to government with recommendations within three months from 19 February 2013 as to the "establishment of an ex gratia Scheme (to operate on a non-adversarial basis)" for survivors of the Magdalene Laundries, and to make recommendations as to the criteria that should be applied in assessing the help that the government can provide in the areas of payments and other supports, including medical cards, psychological and counseling services and other welfare needs. The committee is concerned that his work is premised on the incomplete investigations carried out by the McAleese Committee. In this regard, the Committee looks forward to learning of the results of his investigation. Please also clarify whether the Quirke investigation process will have independent statutory powers, be transparent and also subject to an appeals process, and independently monitored.

Prohibition of female genital mutilation (paragraph 25)

The Committee is pleased to learn that the Criminal Justice (Female Genital Mutilation) Bill has been signed into law, and commends the State party for affirming that "the right to practice one's cultural traditions and beliefs cannot be used to justify FGM, which has been internationally recognized as a form of gender-based violence." In view of information received by the Committee from the Women's Human Rights Alliance regarding obstacles to implementation of the legislation and the need for data collection and measures to further sensitize the population on the harmful effects of FGM, the Committee would appreciate learning whether the State party has considered developing additional programs to educate and sensitize the public on FGM, such as through establishing a National Action Plan to Prevent and Combat FGM.



The Committee looks forward to continuing a constructive dialogue on the implementation of the Convention and looks forward to receiving clarification on these matters.

Accept, Excellency, the assurances of my highest consideration.

Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations
Committee against Torture