

**Oral Statement, Ms Emily Logan, Chief Commissioner of the
Irish Human Rights and Equality Commission (National Human Rights Institution)
to the UN Committee on Economic, Social and Cultural Rights
on the occasion of the examination of Ireland's Third Periodic Report under the
International Covenant on Economic, Social and Cultural Rights**

8 June 2015

Introduction

Good morning. I would like to thank the Committee for the opportunity to make this representation on behalf of the Irish Human Rights and Equality Commission, Ireland's National Human Rights Institution.

It is thirteen years since our last examination in 2002. Given that Ireland was so significantly affected by the 2008 global economic and financial crisis and the period of harsh austerity measures that followed, I believe this examination to be timely. This is also the first official examination of the State by a UN Treaty Body since the Commission's establishment in November last year, and we are pleased to be able to contribute to this important discussion.

Austerity

Since 2008 we have witnessed the undermining of the economic, social and cultural rights protected in the Covenant. We have also found ourselves in an area of mixed human rights responsibility. The Irish State, where the people affected live, is the essential guarantor of the obligation to protect all people from human rights violations. However, in the case of Ireland, conditionality imposed at a regional level by external institutions for the receipt of loans, have highlighted potential gaps in accountability across a range of institutions.

While Ireland emerged from its agreement with the Troika at the end of 2013, we continue to see the effects of the recession in increased poverty rates for adults and children, high youth unemployment rates and a growth in food poverty. The Commission notes that in its 2012 letter to State Parties, the Committee emphasised that any retrogressive measures should be temporary in nature, covering only the period of crisis. We are also cognisant that in line with the Covenant the principle of maximising available resources should guide decision making, including as Philip Alston has noted, in informing the State authorities to

make the correct choices in taxation policy. Ireland is not the only country within the European Union that has suffered negative human rights and equality implications from both a Troika programme of fiscal consolidation and the choices of its Government in that context; however, as the UN Special Rapporteur on foreign debt and human rights has stated, prioritising fiscal consolidation while disregarding the human rights implications of these choices is not in compliance with ICESCR.

The Commission believes that parliamentary oversight could be enhanced by the establishment of a full Oireachtas (Parliamentary) Committee for Human Rights and Equality that cuts across all Departments and captures the full range of human rights issues. The Commission reiterates its recommendation made during the Universal Periodic Review process, for the development of a National Action Plan on Human Rights.

The Commission has expressed concern that accountability mechanisms surrounding economic, social and cultural rights can be weakened where the State delivers its public functions through private, non-State actors. It can be challenging to ensure the implementation of economic, social and cultural rights when the State as duty bearer is subcontracting to non-state actors that provide some of the health, education and social services on behalf of the State. Examples here include Direct Provision centres for asylum seekers, nursing homes for older people, day and residential services for persons with intellectual disabilities and care services for children – many of which are run on a for-profit basis. It would be of great assistance for the Committee to engage in a constructive dialogue with the State on how it intends to ensure adequate accountability for the protection of economic and social rights in contexts where these services are delivered by private actors.

Fair Conditions of Work

In-work poverty is a reality for many households with approximately 12 per cent of workers falling below the poverty line undermining the requirements of Article 7 of ICESCR that a person should be able to earn a decent living for themselves and their families and an adequate standard of living under Article 11. We note the establishment of the Low Pay Commission to examine the adequacy of the National Minimum Wage. We also welcome the commissioning of research into the prevalence of low-hour contracts. We reiterate our recommendation that workers must receive fair wages and have job security.

Gender Equality

The advancement of gender equality in Ireland features prominently in our submission. From past violations of women's socio-economic rights, referred to in our report, right up to the present day, women's rights still fall short of full equality. This is particularly visible in the gender pay gap and lower participation rates in employment, with a lack of adequate childcare acting as a clear barrier to equal employment for women.

Older women, migrant women, lone parents and female victims of domestic violence all face multiple discrimination because of their gender. While we have seen some limited progress in recent years, unfortunately the recession has played its part in undermining some of the achievements made.

Direct Provision

The situation of asylum seekers living in direct provision accommodation, often for periods of six to seven years while they await a decision on their status, resulting in negative impacts on their right to family life, their mental health and children's best interests, has been widely documented and numerous recommendations have been made, including by a number of UN Treaty Bodies. The Commission reiterates these recommendations and understands that the NGO delegation will speak to the specific problems on direct provision.

Housing

The Commission believes that the rise in family homelessness, and the overall lack of social housing, has been significantly exacerbated by the recession and government choices in this regard. The Commission considers the debate about incorporating a right to housing in Irish law has never been more relevant. The Commission understands that the NGO delegation will speak to the more specific aspects of housing issues given their wealth of frontline experience in this field.

Health

The Committee in its List of Issues in 2014 asked the State about children being placed in adult mental health facilities. While improvements have been made since 2007, the Commission notes that children and young people continue to be placed in adult facilities. The practise persists due to a shortage of age-appropriate spaces, as well as an increase in

demand. Furthermore, a number of minority groups still face challenges in relation to accessing their right to health. This includes the Traveller population which continues to experience a high rate of infant mortality and the Roma community for reasons of poverty.

Persons with Disabilities

While the State has committed to ratify the Convention on the Rights of Persons with Disabilities, we regret that it has not yet done so as ratification would signify a real commitment to persons with disabilities. The barriers facing persons with disabilities in accessing their rights to health, education, employment and housing are clearly set out in our report. A person with a disability faces a much higher cost of living and this is not reflected in the rate of social security payments afforded to them. Persons with disabilities are much more likely to be unemployed or to work part-time. While the Disability Act 2005 provides for needs assessments for persons with disabilities, it is notable that the legislation has not been commenced in full. We see a similar situation in relation to the Education for Persons with Special Educational Needs (EPSEN) Act 2005 in that the implementation plan committed to by Government in 2011, has not been progressed due to resource constraints. However, it is noteworthy that both of these Acts pre-date the great recession and indicate that during times of prosperity, investment in policy and services for persons with disabilities was a low political priority.

Oversight of residential services for persons with disabilities is provided by the Health Information and Quality Authority which has established standards for the care of persons with disabilities in residential settings and commenced inspections in late 2013. This is a welcome and critical development, however, it is crucial that the inspection process is robust, and adequately resourced. Recent revelations at one residential care centre in the West of Ireland indicate what HIQA has described as, and I quote, “fundamental breaches in regulation and standards, but more strikingly in the human rights of individuals”. The Commission awaits the ongoing Garda (Police) investigation into these matters but wishes to emphasise its concern regarding adherence to minimum essential standards of human dignity for people with intellectual disabilities.

Conclusion

While our comments have largely referred to the primary duty of States in times of austerity, we are also aware of our responsibilities as a national human rights institution, and refer to the Committee's criticisms of NHRI's for the low priority given to economic and social rights. The Irish Human Rights and Equality Commission Act 2014 places a positive obligation on all public bodies in the State to be human rights and equality compliant and the Commission commits to its responsibility and willingness to support the State in achieving this aim.

The Commission notes and is proud of Ireland's recent leadership role in progressing the right to access civil marriage for individuals regardless of their sex and in progressing the rights of trans people. UN Secretary General Ban Ki-Moon commended Ireland for its leadership in international standards in the context of equality. The Commission recommends that the State take a similarly proactive approach in the field of socio-economic rights.

Thank you.