

Annual Report 2011

IHRC

AN COIMISIÚN UM CHEARTA AN DUINE
IRISH HUMAN RIGHTS COMMISSION

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By

Irish Human Rights Commission
4th Floor, Jervis House
Jervis Street
Dublin 1

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The Irish Human Rights Commission (IHRC) was established under the Human Rights Commission Acts 2000 and 2001 to promote and protect human rights in Ireland. The human rights that the IHRC is mandated to promote and protect are the rights, liberties and freedoms guaranteed under the Irish Constitution and under international agreements, treaties and conventions to which Ireland is a party.

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Foreword

In 2011, the Irish Human Rights Commission (IHRC) celebrated ten years in existence. We owe our presence to the Belfast/Good Friday Agreement, the terms of which required the creation of equivalent bodies in Ireland and Northern Ireland to promote and protect the human rights of everyone on the island of Ireland.

2011 was also the year that the Commission's second term came to a close, with three Commissioners appointed on an interim basis in December. During the summer, the Government announced its intention to merge the IHRC with the Equality Authority and that it would establish a working group to make recommendations on the process. While the Commission's view has been that a stand-alone body offers the best means of protecting human rights in Ireland, it nevertheless worked constructively with the process; stressing the international standards and key criteria necessary for a National Human Rights Institution (NHRI) to be independent, effective and credible.

The experience gained over this past decade has been instructive in this process and the hard-won international recognition of the IHRC as an independent national institution saw it chair the European Group of NHRIs from 2006 to 2011. We were pleased to see the Chairmanship pass, at the end of our term, to our colleagues in the Scottish Human Rights Commission. It was in the context of both our tenth anniversary and our international standing that we welcomed the endorsement of An Taoiseach, Enda Kenny TD and An Tánaiste, Eamonn Gilmore TD for the role and work of the IHRC at two key public events we organised this year. One of those events was to celebrate the IHRC's 10 year anniversary in September, at which time An Taoiseach stated that his Government's intention was to strengthen the IHRC into the future.

When the Commission was first established Taoiseach Bertie Ahern said that it should not merely follow standards but help to set them. We have succeeded in this and, in many ways, now represent a global example of best practice for a NHRI. We are recognised by the United Nations, the Council of Europe, the European Union and the Organization for Security and Co-operation in Europe (OSCE) as Ireland's independent NHRI and this international recognition is critically important to our work. The Commission is widely respected and accepted as independent of both the Government and NGOs and as a body whose critiques of the Government's performance are solid, considered and reliable, and are trusted by international human rights monitoring bodies. A strong, independent, robust Commission is both proof of Ireland's continuing commitment to human rights and a powerful instrument to ensure that this commitment is fulfilled nationally. We look forward to the newly merged body continuing to uphold these standards and indeed developing them further.

As can be seen from the section of this report on Human Rights in Ireland in 2011, many people are still denied their rights to live freely as full members of society and the financial crisis and economic recession has exacerbated the situation for many. There is a clear need for a robust, effective NHRI. We have a duty and mandate to protect every person's civil, political, economic, social and cultural rights and to tackle the issues that perpetuate inequality and injustice. The Commission has, since its inception, confronted almost all the major societal issues facing Ireland today including the effects of the current economic crisis, immigration, racism, policing, the criminal justice system, education, gender issues, the treatment of children, the rights of persons with disabilities and minority rights. We tackle these issues in a range of ways: through legislative and policy review, monitoring, legal assistance and interventions, enquiries, awareness and human rights education and training. However, we continue to be hampered in our ability to achieve our aims by a serious lack of resources.

There were a number of particular highlights in 2011. The IHRC engaged fully with Ireland's first Universal Periodic Review resulting in most of our concerns being voiced by Member States of the UN Human Rights Council during Ireland's hearing. Our concerns in relation to gaps in Ireland's human rights record were also strongly reflected in the conclusions of the UN Committees responsible for the Convention Against Torture and the Convention on the Elimination of Racial Discrimination. The Government must now take measurable and effective steps to meet these recommendations.

The year ahead will see considerable changes to the IHRC as it faces into a merger with the Equality Authority. It is important in this context to point out that among its values, the IHRC has always seen two as of particular importance. The first is the quality and authority of its work. From the outset, the IHRC was determined that its work, whether in legislative scrutiny, enquiries, litigation or education, would be founded on national and international human rights law and that its integrity would be capable of withstanding the most intense legal scrutiny.

Perhaps the IHRC's defining value, however, has been its sense of independence. Independence from government, and also independence from non-governmental organisations. At its most basic, independence from government means total adherence to the Paris Principles on NHRIs. These Principles are not an academic treatise; they define what it means to be an independent national institution promoting and protecting human rights. They constitute the criteria under which the IHRC gained its "A" status as a NHRI in 2004 and again in 2008, a status which is now up for review both as part of the 5-year review cycle and because of the changes to the IHRC from the merger. It would be ironic and deeply damaging if Ireland were to lose its "A" status NHRI at the very time when it is seeking membership of the Human Rights Council. Equally, it would be damaging in light of

the stated intention of the Government to strengthen the NHRI. Independence will be the determinative element not only for the effectiveness of the new body, but also this accreditation by the International Coordinating Committee of NHRIs.

The new body must also be given adequate resources and staffing to undertake its work. A NHRI cannot be expected to function without adequate resources as we have been for several years now. Allocating such a small amount of resources to our NHRI not only undermines Government commitments to human rights in Ireland, but risks creating an institution that cannot fulfil its mandate to promote and protect everyone's human rights.

There can be no doubt that one of the key lessons of recent years in this country is that independent scrutiny of the State is not only healthy, but is essential for Ireland's future well-being. The Commission's record in this regard is clear and we are well placed to continue vigorous impartial oversight of the State's activities on human rights in the years ahead.

Finally, I would again like to sincerely thank all my fellow Commissioners who completed their terms in 2011 for their contribution to the work of the IHRC. I also offer my gratitude to our former Chief Executive, Éamonn Mac Aodha, for his four years of service to the Commission and my thanks to the staff, contractors, interns and professional placements for their commitment and dedication in producing high quality work over the course of this year.

A handwritten signature in black ink, appearing to read 'Maurice Manning', with a stylized flourish at the end.

Maurice Manning
President

1. Introduction

As the work outlined in this Annual Report will attest, in 2011 the IHRC continued to actively monitor, scrutinise, intervene and influence Ireland's fulfilment of its human rights obligations. The Annual Report catalogues progress made across a broad range of human rights concerns in accordance with the IHRC's statutory mandate. This progress was enabled and driven by the Commission's hard-working staff, contractors, interns, professional placements and Commissioners, and it is fitting to acknowledge their invaluable contribution in the first instance, under the careful guidance of the President.

Despite the pressures of the current economic climate the Commission's staff and contractors have remained focused on producing high quality work which is both credible and enduring, guided by the IHRC's current Strategic Plan (2007-2011) which came to an end this year.

Key highlights of the IHRC's research, policy and promotion work this year included the continuing success of the Human Rights Education and Training Project – undertaken with philanthropic support - aimed at supporting the civil and public service. The IHRC also published its comprehensive overview of the extent of human rights education across a range of sectors in Ireland using it to inform its own policy work in the area and to promote the adoption of a national human rights education action strategy.

A key focus of our work as Ireland's National Human Rights Institution in 2011 was contributing to United Nations' (UN) reviews of Ireland's human rights record. The Universal Periodic Review (UPR) process saw the first comprehensive review of Ireland's human rights record, and culminated in October with the review by the UN Human Rights Council of Ireland and the issuing of a series of recommendations where improvements need to be made. The IHRC also briefed the UN Special Rapporteur on Extreme Poverty during her State visit, the UN Committee on the Elimination of Racial Discrimination on Ireland's record on non-discrimination and the UN Committee Against Torture on Ireland's record in that area. The Concluding Observations of these two Committees reflected the majority of the concerns and recommendations put forward by the IHRC. These UN processes are an important means of identifying and improving human rights issues on the ground in Ireland.

The Commission also submitted observations to Government on draft legislation and policy reviews with human rights implications. We provided Observations on the Scheme of the National Vetting Bureau Bill 2011 and recommended that there should be a strong link between disclosure of private information, other than convictions, and the nature of employment for vetting purposes. In relation to Oireachtas Committee and Departmental reviews of the proposed Mental Capacity Bill 2011, the Mental Health Act 2001 and the

Criminal Law (Insanity) Act 2006, the IHRC made recommendations on their alignment with the UN Convention on the Rights of Persons with Disabilities (yet unratified) and with each other.

Other policy recommendations to Government were made on foot of the IHRC's casework. These included recommendations on the key elements that should be present in proposed whistleblowing legislation from a human rights perspective, concerns regarding the operation of section 38 of the Health Act 1947 (as amended), which allows for the administrative detention of a person who is considered to be a probable source of infection. There was also some positive follow up to our 2010 Assessment Report on the Magdalene Laundries after the UN Committee Against Torture made similar findings. As a result, the Government established an Interdepartmental Committee to examine the extent of State interaction with the Magdalene Laundries chaired by Senator Martin McAleese.

On foot of previous legal assistance applications to it, the IHRC concluded a public consultation on the role of religion and education and issued a well-received report Religion and Education: A Human Rights Perspective in May. The report made 13 recommendations including increasing the diversity of school type in the State and ensuring that no proselytism or indoctrination of pupils can take place. This report allowed the IHRC engage in the debate on schools and religion, and to raise the human rights implications with both the Minister for Education and Skills and the Forum on Patronage and Pluralism in Primary Schools which was established by Government. We also made a submission on schools enrolment policies and the need to guard against discrimination.

In June, An Tánaiste and Minister for Foreign Affairs and Trade, Eamon Gilmore T.D. delivered the IHRC's Annual Human Rights Lecture to a capacity crowd. For the 9th time, the IHRC and the Law Society of Ireland successfully co-organised our joint annual human rights conference in October, focusing this year on the follow-up to Ireland's examination of its record on human rights under the UPR process. We also received widespread coverage in the media on our work and promoted human rights issues at conferences, seminars and before relevant Oireachtas Committees.

During the year, the IHRC continued to co-operate closely with the Northern Ireland Human Rights Commission through the work of the Joint Committee. On the broader international front, the IHRC continued to lead the European Group of National Human Rights Institutions in its work and in enhancing the Group's standing and developing NHRI relationships with the UN, Council of Europe, OSCE and EU among others, aimed at promoting and protecting human rights. The IHRC stepped down as chair of the European Group after 6 successful years in May.

In relation to our legal powers, the IHRC provided legal or other assistance to a number of individuals particularly in circumstances where the issue was affecting a number of people, such as the application of the habitual residence condition. Similarly, our considerations when it provided legal representation to person with an intellectual disability threatened with summary eviction by a local authority and who had no access to legal aid. The High Court granted an injunction preventing the local authority from evicting the tenant.

Although we did not conduct an enquiry during the year, we followed up on previous enquiry recommendations with the Department of Justice and Equality (regarding its enquiry into the treatment of a foreign national refused leave to land in the State). We also followed up with the Departments of Health and Education and Skills and the Health Service Executive, respectively, in relation to its enquiry into intellectual disability services at a residential, day care and respite centre. We appeared before the Joint Oireachtas Committee on Health and Children in January to discuss the implementation of its enquiry recommendations and participated on the HSE's National Implementation Project Team-Congregated Settings Report which aims to enable persons with intellectual disabilities live independently in the community.

Our interventions as *amicus curiae* (or friend of the court) continued during the year. Highlights included our interventions in; *ED v DPP* heard in February, where the IHRC drew the Court's attention to the relevant principles of the Constitution, as informed by both the ECHR and Article 31 of the Geneva Convention relating to the Status of Refugees which recognises that asylum-seekers may need to enter States undocumented or with false papers when fleeing persecution; *Fashade v The Minister for Justice and Law Reform & Others*, where our intervention focused on the need to ensure effective remedies under both the Constitution and the ECHR in its written and oral submissions; and *B.G. v District Judge Catherine Murphy, the Director of Public Prosecutions, Ireland and the Attorney General* where our intervention focused on the importance of the equality provision under Article 40.1 of the Constitution and suggested that an approach similar to that taken under international standards should be followed in interpreting the Constitution.

Internationally, we intervened on two occasions before the European Court of Human Rights. In August, the IHRC was granted leave by the Court to make a third party intervention in *O'Keeffe v Ireland*, a case which concerns the extent of State responsibility for the abuse of a child by a primary school principal in circumstances where the school is run not by the State but by a religious patron. The High Court and Supreme Court found there was no State responsibility for the acts of the school principal and dismissed the Plaintiff's claim. The Applicant then brought an application to Strasbourg.

Also in August, the IHRC, in conjunction with the French NHRI - the National Consultative Commission on Human Rights and the German NHRI – the German Institute for Human Rights, made a submission to the European Court in *Gauer v France* on behalf of the European Group of NHRIs. The case involves the alleged sterilisation of five girls with an intellectual disability in circumstances where neither their consent nor that of their parents was sought.

Although we continued to work on all areas of our mandate and on a broad range of human rights issues, in 2011 the IHRC's financial situation remained bleak. Following the 32% reduction in grant in aid in 2009 to €1,596,000, the figure was further reduced in 2010 to €1,523,000, while 2011 saw a further drop to €1,426,000, making a difficult position almost impossible. The Commission's work during the year was accomplished due to the innovative and creative skills of its staff, supported by the President and Commissioners.

The impact of budget cuts and the public service recruitment embargo continues to be a major concern for the Commission. The embargo – which means vacancies cannot be filled – has impacted disproportionately on a small public service body such as the Commission. Key staff members have departed since the embargo was put in place. Further staff departures in the coming period would be potentially devastating for the Commission and has been identified as a key operational risk.

Finally, I would like to pay tribute to the Commission's Chief Executive from 2007 to early 2012, Mr Éamonn Mac Aodha, who has since been appointed Ambassador to Belgium. Under his able leadership, staff and contractors, interns and professional placements were encouraged, motivated and empowered to find new ways of delivering human rights outcomes in line with the Commission's statutory remit.

A handwritten signature in cursive script, reading "Des Hogan", written in black ink on a white background.

Des Hogan
Acting Chief Executive

2. Human Rights in Ireland: 2011

2011 saw some positive commitments made to improving human rights in Ireland, however, many of those commitments remain to be realised through sustained, quantifiable action. In 2011, human rights continued to be denied or breached across a range of areas including for prisoners, people with disabilities, Travellers, migrant workers, refugees and asylum seekers and others. While some positive steps have been taken, there is still considerable work to be done to ensure that Ireland meets its international obligations, and more importantly, its obligations to respect, protect and fulfil the human rights of everyone in Ireland.

2011 was also a year of intense scrutiny of the human rights situation in Ireland by the international community. The United Nations Universal Periodic Review Process (UPR), which took place in October (see p.25), saw a review of Ireland's entire human rights record over the previous four years. It provided an opportunity to identify a broad range of areas where improvements must be made. Three specific assessments of Ireland during the year are also of particular note: the review of the Committee on the Elimination of Racial Discrimination (see p.24), the review of the Committee Against Torture (see p.25), the report of the visit of the Committee for the Prevention of Torture was published and the visit of the Special Rapporteur on Extreme Poverty took place (see p.34). The IHRC engaged with all of these processes which allowed it to draw attention to some critical areas where improvements must be made, in accordance with its statutory remit.

In relation to addressing the deficits in Ireland's adherence to human rights standards, it is important to note that there is no National Action Plan on Human Rights or other comprehensive human rights policy, and that this lacuna hinders comprehensive consideration of all human rights across all areas of Irish life. Such an Action Plan, properly established and with full State support, would underpin Ireland's stated desire to ensure that human rights are respected and protected for everyone.

The following provides an overview of some of the main issues that were highlighted by the IHRC in the context of the UPR review in 2011 or addressed through its policy and case work functions:

Prison Conditions

In 2011, Ireland was severely criticised both nationally and internationally for the conditions in Irish prisons. The Committee on the Prevention of Torture (CPT), the Inspector of Prisons, human rights NGOs and a significant number of States in the context of the UPR process commented adversely on the conditions in Irish Prisons, most notably in relation to Mountjoy and Cork Prisons. Particular concerns relate to ever increasing levels of incarceration and

persistent overcrowding (tempered only by overreliance on temporary release); high levels of inter-prisoner violence; degrading sanitation facilities; inadequate provision of education and training, and healthcare, including mental health services; and non-segregation of remand prisoners. The IHRC made a range of submissions and comments on prison conditions reiterating these same points.

While the Government has taken some welcome steps to start addressing the problem of prison accommodation and in-cell sanitation in particular, there remained many outstanding issues that needed to be addressed urgently.

During the year, the IHRC expressed concern that there was no movement on the ratification of the Optional Protocol to the Convention Against Torture (OPCAT) which would provide for the establishment of a National Preventive Mechanism with a mandate to inspect all places of detention (including prisons, mental health facilities, Garda Stations and facilities that provide long-term residential care for persons who lack capacity). The Government committed itself under the Universal Periodic Review to ratify OPCAT and the IHRC is monitoring progress in that regard.

The IHRC was also concerned that in 2011 there was no apparent progress on extending the remit of the Ombudsman for Children to include children in prison. The ongoing detention of children in adult prisons remained a cause for serious concern.

Disability rights and legal capacity legislation

Inadequate disability services stem from systemic problems with the legislative, strategic and policy frameworks set at the national level. This was a key finding in the IHRC's 2010 Enquiry into Residential and Day Care Services for People with a Severe to Profound Intellectual Disability. The Enquiry recommended that person-centred needs assessments should inform service delivery; that those assessments be reflected in the contractual arrangements between the Health Service Executive (HSE) and private service providers and that proper funding protocols be put in place. The Enquiry called for the health and personal social services, provided by the HSE to be properly defined in legislation and to ensure proper accountability, that independent Health Information and Quality Authority (HIQA) inspections should commence immediately. Other recommendations included the full implementation of the Disability Act 2005, the introduction of capacity legislation and the ratification of the UN Convention on the Rights of Persons with Disabilities.

The commitment to educate children with disabilities in mainstream education has also not been matched by an adequate allocation of resources and there was no absolute obligation on publicly funded schools to admit such pupils (see p.57).

Outstanding legislative reform continues to be identified as a reason why Ireland has not yet ratified the CRPD. Capacity legislation enshrining the presumption that all persons have legal capacity and providing for supported decision-making remains to be enacted. Reviews of the Mental Health Act 2001 and the Criminal Justice (Insanity) Acts 2006 to 2010 were still to be completed in 2011.

Racial Discrimination

Racism and racial discrimination happens in Ireland as in other countries. However, the full extent of the problem in the State is unclear insofar as there is no independent monitoring of racial incidents, with the closure of the National Consultative Committee on Racism and Interculturalism (NCCRI) being a contributing factor. During 2011, the IHRC continued to highlight the need for the functions of the NCCRI to be undertaken by another independent State body (see p.24).

Nevertheless in 2011, the IHRC welcomed commitments by the State to take more effective measures to combat racial discrimination, xenophobia and religious intolerance, including the commitment to investigate, prosecute and punish accordingly any persons involved in acts of racial discrimination. In this regard, the UN CERD Committee, human rights NGOs and IHRC continued to call for independent monitoring and recording of racist incidents, to ensure the full application of anti-discrimination laws and to undertake a review of the current system of investigating and prosecuting racist incidents. The Government was also called on to renew the National Action Plan Against Racism (NAPAR), which came to an end in 2008, or to replace it with a similar programme. Insofar as difficult economic circumstances create conditions for increased racist and xenophobic incidents as evidenced elsewhere in Europe, a comprehensive, system-wide approach to tackling racism and racial discrimination in Ireland was recommended to stem any such developments. During 2011, the IHRC highlighted its concerns in the context of its engagement with the UN CERD Committee (see p.24).

Travellers

Travellers in Ireland face high levels of discrimination and continue to be disadvantaged. They continue to have much shorter life expectancy and poorer educational and health outcomes compared to the general population. Travellers do not have sufficient access to accommodation that reflects their nomadic way of life, they remain unrecognised as an ethnic minority in the State and have insufficient access to decision making processes. Cuts in funding to essential services may compound these problems. In 2011 the Government

was again asked to address these issues by the Committee on the Elimination of Racial Discrimination (CERD) and by other States during the UPR process.

The IHRC welcomed the commitments by Ireland following its UPR Hearing in October to strengthen the rights of Travellers with special focus on access to health care, education, housing, and ensuring greater Traveller participation in decision making processes, but stated that such commitments must be matched by action. While the IHRC continued to call on the government to recognise Travellers as a distinct ethnic minority, the State withheld its response on the issue until the follow-up UPR Hearing before the Human Rights Council in March 2012.

Immigration

While Ireland reportedly saw a drop in immigration in 2011, this did not reduce Ireland's obligations to treat all those arriving in Ireland, including refugees and asylum seekers with dignity and respect and to have an adequate asylum system in place which effectively identifies all those at risk of serious human rights violations if returned to another country. The IHRC raised its concerns on immigration-related issues in Ireland in a number of fora (see for example p.24). The UN Committee on CERD called for a range of measures to improve the asylum process and Direct Provision conditions. Consequently, it was welcomed that in 2011 Ireland committed itself to establishing a consolidated immigration and asylum framework which would include an independent appeals body to ensure that decisions on international protection will be reviewable and subject to independent judicial supervision.

However, there was still no comprehensive human rights based system of immigration in Ireland by year's end. Comprehensive legislation in this area has been under consideration since 2006. Further, there was little movement in 2011 on the need to address the conditions experienced by people in 'Direct Provision' accommodation. This system requires urgent reform to ensure no one is kept in this system in excess of one year and that there is an independent accessible mechanism for complaints made by or against people in Direct Provision accommodation.

Conditions for Migrant Workers

During 2011, there continued to be an urgent need for stronger legislative and policy protections for vulnerable migrant workers, including those working in the hospitality and agricultural sectors, and women migrant workers, especially those working in domestic households. Migrant workers sought better information about their rights and the protections available to them during the year.

Despite calls from various UN monitoring committees including the CERD Committee to ratify the UN Convention the Rights of Migrants and Members of their Families, the Irish Government continue to refuse to do so; most recently at Ireland's UPR. Therefore, while Ireland's pledge to improve existing legislation to protect the conditions of migrant workers in 2011 was welcome, such improvements in protection should be a prelude to Ireland becoming a party to the Migrant Rights Convention. The IHRC highlighted its concerns in this regard during the CERD and UPR processes (see pp. 24 and 26).

Human Trafficking

2011 saw continued progress in Ireland in the ongoing fight to eliminate human trafficking. However, suspected victims of trafficking need greater support within the Irish system. Permission to remain in the State was not explicitly guaranteed for humanitarian reasons having regard to the personal situation of the victim of trafficking, particularly for child victims of trafficking. The IHRC and the UN Committee on CERD called on the Government not to make permission for victims of human trafficking to remain in the country for a period of rest and recovery conditional on the person's co-operation in the criminal prosecution of alleged traffickers (see p.24).

Health

The right to health is fundamental to everyone in Ireland. However, Ireland does not have a clear justiciable right to health set down in legislation. Indeed, the Health Acts governing the operation of the HSE do not have a comprehensive definition of the health and social services that agency is mandated to deliver to the public on behalf of the State. 2011 saw little progress in this area. Serious challenges that face the health care system were magnified by cuts to funding which in turn resulted in cuts to funding for many of the community and voluntary bodies that deliver health and social services on behalf of the State in local areas. Inequality of access to health care on the basis of ability to pay for private health insurance or on other prohibited grounds continued to raise questions of discrimination in the delivery of accessible, appropriate, acceptable and quality health care. In particular, the overall budget allocation to mental health services remained inadequate and community health services remained under resourced including for people with mental health difficulties leaving prison. Public health strategies incorporating human rights-based principles in accordance with Ireland's international commitments received insufficient attention during the year (see p.26).

Poverty

According to Central Statistics Office (CSO) figures published in 2011, of the EU-27 Member States, Ireland ranked ninth in terms of income inequality. Whilst rates of poverty had declined in recent years, in 2011 they showed signs of increasing again. A significant proportion of the population (over 15% in 2010 according to CSO statistics) continued to live at risk of poverty during the year, meaning certain families were unable to afford basic items such as food and clothes.

In its UPR report (see p.26), the IHRC noted that the closure of the Combat Poverty Agency resulted in the loss of independent monitoring and analysis of the nature and extent of poverty and the remedies needed to tackle it.

The IHRC drew attention to the fact that the human rights principle of non-retrogression should be a core aspect of all economic and social policy decision-making. This requires that State bodies must first undertake an assessment of the impact of welfare and service related decisions on individuals and families in poverty and then avoid retrogressive measures which would disproportionately impact on those individuals.

Education

Access to and participation in education for all children in Ireland, regardless of religious or philosophical belief continued to be a much debated issue in Ireland in 2011. The IHRC widely consulted on the issue of religion and education in early 2011, and made a number of recommendations to Government mid-year in order to address the lack of diversity of school type in the State and the need to provide an education that does not conflict with the convictions of those from a religious or non-religious background. The IHRC also met with the Government-appointed Forum on Pluralism and Patronage in Primary Schools established to consider these issues (see p.55).

In addition, concerns remained that equality legislation continued to permit schools to discriminate in employment on the basis of denominational ethos, and that similar exemptions are made in relation to teacher training, allowing for a situation where obstacles are presented to would-be teachers of non-faith or a minority religious background, or lesbian, gay, bisexual or transgender teachers who may be deterred from training or taking up employment as teachers in the State.

Human Rights Education

Human rights education provides people with the knowledge, skills and attitudes to promote and defend human rights in their everyday lives. Education that strengthens human rights and fundamental freedoms is a long standing commitment that the Irish State restated its support for in the UN Declaration on Human Rights Education and Training adopted at the UN General Assembly in December 2011. The IHRC contributed to drafting of this statement in its role as Ireland's NHRI.

In 2011, the fact that human rights education was most developed in the formal education system and most explicit in Civic, Social and Political Education (CSPE) was identified in the IHRC's Report *Human Rights Education – An Overview*. However, this did not prevent a proposal for the subject to be made non-mandatory in the new Junior Cycle curriculum. The IHRC called on the Government to support the retention of CSPE as a core state-examinable subject (see p.31).

Knowing, understanding and applying human rights standards in their everyday work are key requirements of the civil and public service under the Constitution and domestic legislation such as the European Convention on Human Rights Act 2003. Having identified the lack of human rights education and training for the sector, the IHRC further developed its Human Rights Education and Training Project (HRETP); successfully training a wide range of staff in Government departments and public sector organisations throughout 2011 (see p.32).

Legal Aid

People in vulnerable circumstances still lack full access to justice. In 2011, there remained an urgent need for a comprehensive and well-resourced scheme of civil legal aid covering all areas of the law in Ireland. The Civil Legal Aid Act 1995 explicitly excluded the granting of legal aid in certain areas of law that were not clearly justified or proportionate in terms of the rights or interests at stake for the individual concerned. The Legal Aid Board concentrates heavily on family law cases and there are ever growing delays before applicants are even seen by a legal advisor due to increased demands on the service. There remained a pressing need for the introduction of a comprehensive and well-resourced scheme of civil legal aid covering all civil legal areas including: social welfare, housing, debt, immigration, equality and employment law.

Children's Rights

In 2011, a range of serious issues for children were tackled including the detention of children in adult prisons, the precarious situation of Irish citizen children of non-EU parents

and need for stronger protection for unaccompanied minors seeking asylum. In highlighting these issues, the IHRC saw its role as complementing the work of the Ombudsman for Children (OCO) in this regard.

On the issue of Irish citizens children the IHRC appeared as *amicus curiae* in a number of cases (see p. 49) in relation to which the European Court of Justice's Judgment in the case of *Zambrano v Office National de l'emploi (ONEm)* in March had a positive impact. That Judgment provided that citizen children of the State are also EU citizens and have a right to parental support where dependent on them (conferring a right to work on the parents). On the basis of that Judgment, the Government subsequently settled a significant number of these cases.

The Government made a commitment during the UPR process to strengthen legislative protection for unaccompanied minors seeking asylum. Some progress was made in relation to the proposal to give children's rights greater protection in the Constitution. The IHRC welcomed the decision to hold a Constitutional referendum on children's rights thus ensuring a comprehensive and effective incorporation of children's rights into domestic law in line with the Convention on the Rights of the Child. However, there has been considerable delay in bringing forward the necessary legislative proposal in recent years.

Women's Rights

In 2011 the IHRC noted how, despite decades of equality legislation and equal-rights provisions, women in Ireland continued to be underrepresented at the highest levels, including in the Oireachtas, Seanad and on publicly appointed boards. There continued to be an urgent need to redress the gender imbalance in Irish public life and to promote the participation of women in the Oireachtas and beyond. Legislation to introduce gender quotas in the selection of political party candidates was identified as an important step in the right direction.

There was also a pressing need to ensure the availability of sufficient affordable childcare so that women can take up public appointments and access the labour market on an equal footing. The announcement in 2011 of a Constitutional Convention raised hopes that Article 41.2 of the Constitution, which continues to perpetuate stereotypical attitudes towards the role of women in Irish society, would be removed or replaced with gender-inclusive language. The IHRC highlighted its concerns in this area in its submissions to the CERD and UPR processes (see p.24).

Certain groups of women continued during 2011 to seek redress for previous human rights wrongs, such as women institutionalised in Magdalene laundries. Following the IHRC's

2010 report calling for a statutory enquiry into the Magdalene laundries and the 2011 UN Committee Against Torture's (CAT) recommendation for redress to include criminal prosecutions, the Government established an Inter-Departmental Working Group to establish the facts involved. During the year, the IHRC highlighted its concerns in its meeting with the CAT Committee as Ireland's NHRI and also met with the Inter-departmental Working Group.

Domestic Violence

Domestic violence remains a serious and pernicious problem in modern Ireland. The State committed itself to take stronger action on it following its UPR Hearing. There remained a need to ensure the effective implementation of the National Strategy on Domestic, Sexual and Gender-Based Violence 2010-2014, including the implementation of the specific targets and timeframes set out in the Strategy. The State was urged to support sustained training and awareness-raising initiatives on the issue of domestic violence amongst public officials, the judiciary, health professionals and members of the public. The IHRC indicated its intention to focus further on this issue in the coming years.

Human Rights and Equality Infrastructure

It has been well publicised that since 2008, there has been a significant diminution in the bodies established to ensure human rights protection for everyone in Ireland. Closures of the Combat Poverty Agency and the National Consultative Committee on Racism and Interculturalism, disproportionate cuts to the IHRC and the Equality Authority and a range of other supports and programmes meant that independent oversight and expertise on human rights issues affecting everyone in Ireland had been seriously compromised. Events in recent years have shown the absolute necessity of independent oversight in the undertaking of public functions, and in the most critical area of people's lives – their individual rights – checks and balances on state actions are paramount. The IHRC expressed the hope during the year that 2012 would see a marked improvement in this area, including a restoration of adequate funding.

3. Role and Functions

The Irish Human Rights Commission (IHRC) is an independent statutory body established to promote and protect human rights in Ireland. Established pursuant to the Belfast/Good Friday Agreement, the composition, functions and powers of the IHRC are set out in the Human Rights Commission Acts 2000 and 2001. Under these Acts, the IHRC has a statutory remit to ensure that the human rights of all people in Ireland which derive from the Constitution and the international treaties, to which Ireland is a party, are promoted and protected in law, policy and practice.

The key functions of the IHRC are: providing recommendations and observations on the human rights implications of key legislative and policy proposals, monitoring compliance with international and Constitutional human rights standards, promoting awareness, education and training on human rights, conducting enquiries into human rights issues and acting as *amicus curiae* (or “friend of the court”) before the courts in individual cases.

The specific functions of the IHRC, as set out in the Human Rights Commission Act 2000, are:

- To keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights;
- If requested by a Minister of the Government, to examine any legislative proposal and report its views on any implications of such a proposal for human rights;
- To consult with such national and international bodies or agencies having knowledge or expertise in the field of human rights as it sees fit;
- Either of its own volition or on being requested to do so by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strengthen, protect and uphold human rights in the State;
- To promote understanding and awareness of the importance of human rights in the State and, for these purposes, to undertake, sponsor or commission, or provide financial or other assistance for research and educational activities;
- To conduct enquiries;
- To prepare and publish, in such manner as it thinks fit, reports on any research undertaken, sponsored, commissioned or assisted by it or in relation to enquiries;

- To apply to the High Court or the Supreme Court for liberty to appear before the High Court or the Supreme Court, as the case may be, as *amicus curiae* in proceedings before that court that involve or are concerned with the human rights of any person and to appear as such an *amicus curiae* on foot of such liberty being granted;
- To take whatever action is necessary to establish and participate in the joint committee of representatives referred to in paragraph 10 of the section entitled “Rights, Safeguards and Equality of Opportunity” of the Agreement Reached in the Multi-Party Talks (the Belfast/Good Friday Agreement);
- To provide assistance to persons in connection with legal proceedings involving law or practice relating to the protection of human rights;
- To institute legal proceedings to vindicate the human rights of a person or a class of persons.

The role and functions of the IHRC derive from international standards for national institutions for the promotion and protection of human rights; the United Nations *Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights* (“Paris Principles”). The IHRC is Ireland’s National Human Rights Institution (NHRI), which means that its powers and functions fully comply with the Paris Principles. The Paris Principles, which set out the role, composition, status and functions of NHRI’s, were endorsed by the United Nations General Assembly in December 1993. As Ireland’s NHRI, the IHRC has an independent international mandate and standing, representing Ireland’s strong commitment to human rights internationally. NHRIs currently exist in over 70 countries throughout the world, with more being established every year. From September 2006 to May 2011, the IHRC was Chair of the European Group of National Human Rights Institutions and, in that capacity, a member of the bureau of the International Coordinating Committee of National Human Rights Institutions (ICC).

4. The Commission

The Commission consists of a President and 14 other members, all of whom are appointed by the Government. The legislation establishing the IHRC requires that not less than seven Commissioners shall be women and not less than seven shall be men.

During 2011, the members of the Commission were as follows:

- Dr Maurice Manning (President)
- Professor William Binchy
- Ms Olive Braiden
- Mr Conleth Bradley
- Dr Rosemary Byrne
- Professor Robert Daly
- Ms Suzanne Egan
- Mr Michael Farrell
- Ms Alice Leahy
- Ms Lia O'Hegarty
- Mr Tom O'Higgins
- Professor Helen O'Neill
- Professor Gerard Quinn
- Mr Roger Sweetman
- Dr Katherine Zappone

Short biographies of the Commissioners are provided in Appendix 1.

The Commission meets in plenary session approximately once a month. In 2011, the Commission met 8 times in plenary session. Commissioners also meet from time to time in committees to give input to the development of the work of the Commission in specific areas. Committees report to plenary.

In 2011, the Committees were:

1. Finance, Audit, Risk and General Purposes Committee;
2. Justice Committee;
3. Casework Committee;
4. Awareness and Education Committee;
5. Racism, Trafficking & Migration Committee.

The membership and terms of reference of the Committees are provided in Appendix 2.

All Commissioners completed their mandates in September 2011. The President welcomed the re-appointment of an interim board of Commissioners Bradley, O'Neill and Sweetman in December, appointed while the process of merging the IHRC and the Equality Authority was to be progressed in 2012.

a. IHRC Second Strategic Plan 2007-2011

2011 was the fifth full year of the IHRC's second Strategic Plan 2007-2011 *Promoting and Protecting Human Rights in Ireland*. Underpinning the delivery of the Strategic Plan is the IHRC's mandate to ensure that the human rights of all people in Ireland are promoted and protected in law, policy and practice, including the human rights guaranteed in the Irish Constitution and the international treaties and conventions to which Ireland is a party.

The IHRC's strategic goals for 2007-2011 are:

1. To promote a culture and ethos of respect for human rights in Irish society.
2. To promote the centrality of human rights in the formulation and administration of law, public policy and justice.
3. To work jointly with the Northern Ireland Human Rights Commission to promote human rights on the island of Ireland.
4. To promote a society that values diversity through respect for human rights.
5. To assess and anticipate emerging challenges to human rights.
6. To strengthen the organisational capacity of the IHRC to carry out its mandate.

The goals set out in the Strategic Plan informed the priorities and work of the IHRC in 2011.

b. Executive Structure of the IHRC

The IHRC executive is structured into two divisions each headed by a Director. The two Divisions are the Research, Policy and Promotion Division and the Enquiries, Legal Services and Administration Division.

The Research, Policy and Promotion Division has responsibility for the mandate of the IHRC in the areas of legislative review, 'shadow reports' to international treaty bodies, research, policy, human rights education, awareness, outreach, media and international work.

The Enquiries, Legal Services and Administration Division has responsibility for dealing with individual complaints, conducting enquiries, providing legal assistance and instituting proceedings to vindicate the human rights of persons in the State and appearing before the Superior Courts in suitable cases involving human rights issues as *amicus curiae* (or 'friend of the court'). The Division also incorporates the IHRC's administration functions including finance, human resources and general administration.

5. Research, Policy and Promotion

a. Research and Policy

The research, policy, legislative review functions of the IHRC are set out in section 8 of the Human Rights Commission Act 2000. These are:

- To keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights;
- If requested by a Minister of the Government, to examine any legislative proposal and report its views on any implications of such a proposal for human rights;
- To consult with such national and international bodies or agencies having knowledge or expertise in the field of human rights as it sees fit;
- Either of its own volition or on being requested to do so by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strengthen, protect and uphold human rights in the State;
- To take whatever action is necessary to establish and participate in the Joint Committee of Representatives of the Commission and of the Northern Ireland Human Rights Commission.

A range of policy initiatives of the IHRC – including in relation to whistle-blowing and mental capacity, also emanated from its casework and legal functions, (see p.55 below).

Legislative Observations

Scheme of Vetting Bureau Bill 2011

In October, the IHRC published its Observations on the Scheme of the National Vetting Bureau Bill 2011 and submitted its observations to the Minister for Justice, Equality and Defence. On publishing the Observations, the IHRC, in its press statement welcomed the Scheme of the National Vetting Bureau Bill 2011 as a means of putting the current *ad hoc* system (Garda vetting) on a statutory footing and made recommendations to further strengthen human rights safeguards in the draft legislation.

The IHRC recommended that full procedural and administrative safeguards are put in place in the entire vetting process, to ensure that the vetting scheme fulfils its purpose of protecting children and vulnerable adults while at the same time protecting people who are vetted from undue interference with their right to private and family life. The IHRC recommended that further safeguards must be included in this Bill, and that there should be a strong link between disclosure of private information, other than convictions, and the nature of employment. It recommended that the storage and onward transmission of information collected during the vetting process should be clearly provided for in the Bill. It was considered that the issue of vetting for reasons of national security should be addressed in separate legislation.

The IHRC attended the publication of the Oireachtas Joint Committee on Justice, Equality and Defence's report of its consultation on vetting legislation. The new approach taken by Oireachtas Committees of inviting comment and input by stakeholders on legislation before it is drafted as a Bill was a very welcome initiative.

Monitoring International Human Rights Obligations

IHRC Report to UN Committee on the Elimination of Racial Discrimination

In February, the IHRC briefed members of the Committee on the Elimination of Racial Discrimination (CERD) in advance of the Irish Government being examined on its record on tackling racism and racial discrimination under the Convention on the Elimination of all forms of Racial Discrimination. As Ireland's NHRI, the IHRC made an oral statement at the Hearing on Ireland's Report. The IHRC's written report on Ireland's record in implementing this Convention, submitted to the Committee in late 2010, formed part of the Committee's consideration of Ireland's record.

The IHRC called for better protection by the Government of the rights of asylum seekers, the Traveller community, migrant workers and their families, and victims of human trafficking. It highlighted to the Committee that since Ireland last reported on CERD, the human rights and equality infrastructure that worked to promote interculturalism and combat racism had been significantly reduced by Government. The IHRC asserted that as effective human rights and equality bodies are required to monitor and combat racial discrimination the restoration of the resources to carry out this work was essential. The IHRC also made recommendations on non-denominational and multi-denominational schools; the Traveller community; the asylum process and immigration; security procedures and practices on entry to the State; migrant workers; human trafficking; and unaccompanied minors and separated children.

In March, the IHRC welcomed the Concluding Observations of the CERD Committee in particular its calls for recognition of Travellers as an ethnic group, swifter processing of applications for asylum and well resourced monitoring of racial incidents. The Observations reflected the majority of the recommendations made by the IHRC.

UN Convention Against Torture

In April, the IHRC published its report to the UN Committee Against Torture (CAT) on the examination of Ireland's first National Report to the Committee. The IHRC report considered the extent to which Ireland is meeting its human rights obligations to prevent torture, other cruel, inhuman or degrading treatment or punishment. The IHRC called for a comprehensive policy to protect the rights of people in detention and a complete overhaul of penal policy. The IHRC report cited poor physical conditions in some Irish prisons, limited education and mental health services, inadequate human rights safeguards in psychiatric facilities, and the pressing need for independent oversight, accountability and complaints procedures for people in detention facilities.

In May, the IHRC, as Ireland's NHRI, briefed CAT on its concerns in advance of the Committee's examination of Ireland's first State Report under the Convention.

In June, the Committee published its Concluding Observations on Ireland. The majority of its concerns and recommendations mirrored those put forward by the IHRC in its written submission and oral briefing. The Committee's recommendations included: more non-custodial sentences and independent oversight and complaints procedures for the prison system; an end to 'slopping out' and overcrowding; greater human rights protections for children in detention; better resourced mental health and education services in prisons; and human rights education and training for those working in the prison service. The IHRC had separately called for the establishment of a statutory inquiry into the treatment of women and girls in Magdalene Laundries. The Committee went further by calling for the prosecution of the perpetrators of the abuse of these women and girls. It also called on the Government to adopt a systematic approach to ensure ill treatment is prevented.

Universal Periodic Review Project

The IHRC received philanthropic funding to support its engagement with the process surrounding Ireland's first Universal Periodic Review (UPR) before the United Nations (UN) Human Rights Council in October 2011. The IHRC's Universal Periodic Review Project aimed to support the engagement of a wide range of stakeholders in holding Ireland to account for its human rights record.

As Ireland's independent NHRI, the IHRC has a specific role within the UPR process, which role is recognised by the Human Rights Council and Office of the High Commissioner for Human Rights.

By January 2011, the IHRC had created and publicised the existence of a UPR specific section on its website, as well as publishing UPR information material. In addition, it held a series of practical regional briefings for those interested in making submissions on how to prepare a report for the UPR. These briefings served to outline the UPR process, provide information on report preparation and the lobbying process, and also provide a template for submissions. The IHRC also provided support directly to civil society organisations interested in submitting a report.

In order to help inform its own UPR report, the IHRC organised a number of consultation meetings with community and voluntary organisations which were well attended and offered very valuable insights. It also participated in a number of public consultations held by the Government throughout the country on the UPR process in which the Government sought the views of interested organisations and individuals.

In March, the IHRC submitted its report to the UN - stating that there were serious gaps in the State's efforts to meet its human rights obligations. The report recommended a series of reforms at constitutional, legislative, policy and service level to strengthen human rights in Ireland. The IHRC considered it unacceptable that important human rights treaties which would increase protections for vulnerable groups such as people with disabilities, migrant workers and people held in detention remained to be ratified. The IHRC drew attention to significant cuts in resources to human rights and equality bodies over a three year period which had hampered their efforts to safeguard human rights and to hold the State to account. The IHRC stressed that the uptake of the IHRC's recommendations by the State would reduce the human rights deficit and strengthen protection for everyone, especially the most vulnerable in Irish society.

The IHRC, in its role as Ireland's NHRI, compiled a document outlining its UPR work entitled '*A Practical Guide for NHRIs: Preparing for the Universal Periodic Review – The IHRC Experience*'. This guide served to outline the steps taken by the IHRC in relation to UPR with the aim of assisting other NHRIs on their future UPR work. This guide was disseminated at the 24th meeting of the International Coordinating Committee of National Human Rights Institutions, 16-19 May, Geneva.

In July, the IHRC called on the Government to make 15 voluntary commitments in advance of its Hearing before the HRC in October. Under the UPR process States can make commitments in advance of their examination to address gaps in human rights protection. The Government chose not to make any voluntary commitments.

In September, the IHRC briefed Ambassadors representing Member States on the UN Human Rights Council about its concerns in relation to gaps or deficiencies in Ireland's efforts to meet its human rights obligations.

In October, Ireland was examined on its human rights record by its peers on the Human Rights Council. Many – though not all - of the issues raised by Member States reflected the concerns raised by the IHRC. Days later, the Human Rights Council produced its draft report on Ireland. Out of a total of 126 recommendations made by the Council, Ireland immediately accepted 62. It committed to consider another 49 by the time that Ireland's UPR Report was to be formally adopted by the Council at its session in March 2012. The IHRC's concerns and Ireland's Hearing received extensive media coverage.

The IHRC stated that it would monitor the Government's efforts to implement the Council's recommendations and that it would present its observations to the Human Rights Council in March 2012.

b. Awareness & Education

In addition to promoting human rights through its legal, enquiries, research, legislative and policy functions, the Human Rights Commission Act 2000 provides a specific function for the IHRC in promoting awareness and education on human rights under section 8 (e):

To promote understanding and awareness of the importance of human rights in the State and, for those purposes, to undertake, sponsor or commission, or provide financial or other assistance for, research and educational activities.

In 2011, the IHRC continued to promote awareness and education on human rights issues through the media, events, research and public affairs outreach.

Awareness Raising

Communications and Public Affairs

The IHRC's media work resulted in consistent coverage on a month-by-month basis. Issues that received publicity included human rights and education, religion and schools and Ireland's record under UN CAT, CERD and the Universal Periodic Review process.

Highlights from a public affairs perspective included the address delivered by Dr Maurice Manning, President of the IHRC to Seanad Éireann and the IHRC's appearance before the Joint Oireachtas Committee on Health and Children to brief them on its enquiry into the care and services provided to people with severe to profound intellectual disabilities in a residential and day care centre. The IHRC also distributed its Human Rights E-Bulletin, updating a wide range of stakeholders on its work.

The Commission continued to update and expand the range of information available on its website, which received a large number of hits in 2011.

Events

IHRC Annual Human Rights Lecture

An Tánaiste, and Minister for Foreign Affairs and Trade, Eamon Gilmore T.D. delivered the IHRC's Annual Human Rights Lecture in June. The Tánaiste spoke of the courage of human rights defenders in fighting injustice, acknowledging the eminent role of Kader Asmal, who had recently passed away.

The evolution of human rights promotion and protection in Ireland was charted and the Tánaiste cited the work of the IHRC in promoting a culture of respect for human rights, highlighting the usefulness of the Human Rights Guide for the Civil and Public Service in ensuring such a "culture and ethos of respect for human rights permeates all organs of the State". The Tánaiste spoke of Ireland's contribution to the promotion and protection of human rights elsewhere through its development aid programme. He went on to speak of Ireland's role at the United Nations (including the Universal Periodic Review), Council of Europe and Organisation for Security and Co-operation in Europe (OSCE). The lecture was attended by a capacity crowd.

IHRC – Ten Years On: Achievements and Challenges

In September, An Taoiseach, Enda Kenny T.D., addressed a special event to commemorate 10 years of the IHRC as the independent statutory body charged with promoting and protecting human rights in Ireland. It was also an opportunity to acknowledge the immense contribution of outgoing Commissioners who completed their mandate in September. Commenting on the proposed merger of the IHRC and the Equality Authority, An Taoiseach stated that “it is this Government’s top priority to retain the independence of the new Commission.” The address was well received by a large audience of IHRC stakeholders.

IHRC & Law Society of Ireland Annual Conference, 22 October 2011

The IHRC’s 9th Annual Human Rights Conference with the Law Society of Ireland was a great success with full attendance in October. The conference was opened by the Presidents of both the Law Society and IHRC. The theme this year was *Ireland’s Record on Human Rights under the Spotlight – Implications of the United Nations Universal Periodic Review* and was judged timely as Ireland had just been examined by the UN Human Rights Council earlier in October on its human rights record and the draft recommendations of the HRC provided a good basis for discussion at the conference.

The keynote address was delivered by Anastasia Crickley, Member of the UN Committee on the Elimination of Racial Discrimination. The IHRC Chief Executive, Éamonn Mac Aodha, spoke about the IHRC’s role as Ireland’s National Human Rights Institution. Deirdre Duffy representing *Your Rights Right Now* (NGO UPR Coalition) provided an analysis of the outcomes of the UPR process from the Coalition’s perspective. The opening session was concluded by a drama by migrant women domestic workers, which offered a powerful illustration of the discrimination they can face and are working to overcome.

Rich discussions took place in parallel sessions and were facilitated by able chairs including Susan McKay, National Women’s Council of Ireland, Professor William Binchy, Trinity College Dublin, John Dolan, National Disability Federation of Ireland, Professor Gerry Whyte, Trinity College Dublin and Mrs Justice Catherine McGuinness, former President of the Law Reform Commission. The sessions focused on women’s rights, Traveller’s rights, the rights of people with disabilities, human rights and poverty, and human rights in prisons and places of detention. Carol Coulter, Legal Editor of the Irish Times provided the audience with an insightful closing address.

Speaker’s presentations are available on the websites of both the IHRC’s and the Law Society of Ireland.

Human Rights Day

'Social media and human rights' was the theme designated by the UN for Human Rights Day on 10 December 2011. The theme acknowledged the extraordinary events that had occurred throughout the year where social media was key in mobilising people to defend human rights and in communicating with the outside world in a very immediate way.

In keeping with the theme of the day, the IHRC launched a training video to promote awareness of human rights among the Irish Civil and Public Service online. The video is available to view on the IHRC's website.

Consultations with Community and Voluntary Sector Organisations

In recent years the IHRC established a more formalised dialogue with community and voluntary organisations by way of bi-annual consultation meetings. In February, the meeting focused on the Universal Periodic Review and the role of the IHRC as Ireland's National Human Rights Institution. The consultation was well attended by a cross section of community and voluntary organisations and generated a very useful information exchange.

Human Rights Education

Human Rights Education and Training is a core part of the IHRC's functions and its importance continues to be highlighted in Shadow Reports, submissions, speeches and through the Human Rights Education and Training Project.

Human Rights Education Conference with EU Fundamental Rights Agency

In June, the IHRC organised a successful conference with the EU Fundamental Rights Agency (FRA) on Human Rights Education and Training for the Civil and Public Service. It was the first event of its kind to be held in Ireland. Conference attendees included civil and public servants from a range of Departments and Statutory Bodies including An Garda Síochána and the Defence Forces. The morning session panel discussions included representatives of NHRIs providing their experience in training Civil and Public Servants & Training Methods/Training for Trainers, and representatives from Revenue and the Public Appointments Service. The session also heard NGO experiences, with representatives from Pavee Point, Lift Off/St Patrick's College of Education, and Dolphin House. In the afternoon, speakers discussed training in the Defence Forces, Prisons/Probation, Health Services and the Gardaí.

The conference was preceded by a meeting of NHRI representatives working in the area of training and education, hosted by the IHRC at its offices.

Human Rights Education in Ireland – An Overview

In July, Ruairi Quinn T.D., Minister for Education and Skills launched the IHRC's Report Human Rights Education in Ireland – An Overview. The report is a baseline mapping of the extent and range of human rights education taking place in Ireland. The approach taken in the IHRC report was guided and informed by the UN World Programme on Human Rights Education (WPHRE).

The report provides a comprehensive overview of the extent of human rights education and training across a range of sectors including formal primary and secondary education, higher education, the community and voluntary sector, the civil and public service and the legal professions in Ireland with a view to identifying ways to strengthen its implementation.

The IHRC recommended the development of a National Action Plan on Human Rights Education and Training and the establishment of a Government inter-Departmental Committee to bring coherence to efforts that already exist to promote human rights education and to enhance the delivery of human rights education in more sectors.

Human Rights Education and CSPE

In August, the IHRC made a submission to the National Council for Curriculum and Assessment (NCCA) on the reform of the Junior Cycle. In the submission the IHRC highlighted the important contribution that Civic, Social and Political Education (CSPE) makes to realising human rights education in the curriculum and to meeting Ireland's international human rights obligations in this regard.

As a mandatory subject, every young person completing the Junior Cycle has the opportunity to develop the knowledge, skills and attitudes to be an active participatory member of society. Consequently, the IHRC stressed the importance of maintaining CSPE as a compulsory state examinable subject in the reformed Junior Cycle curriculum.

The IHRC also provided an extensive range of material to school students, particularly CSPE students, throughout the year.

The IHRC President gave the keynote address at the Association of CSPE Teacher's Annual Conference in October stressing Ireland's obligations in relation to promoting human rights in education and highlighting the importance of CSPE in fulfilling this obligation. The IHRC also delivered a well received workshop on human rights education at the event.

Human Rights Education and Training Project (HRETP)

Embedding human rights in policy, practice and legislation is a key function of the IHRC. For Ireland to fulfil these obligations, the civil and public service must be aware of how human rights influence and impact on their work and should form a core part of learning and development.

The Human Rights Education and Training Project (HRETP) was set-up in 2010, with philanthropic support from The Atlantic Philanthropies, to offer such learning support. The overarching aim of the project is to promote a policy shift towards better integration of human rights standards and lead to a change in attitude towards human rights in law, policy and practice across the civil and public service. The project is designed to support and complement the work of this sector.

The HRETP with the Civil and Public Service is set to continue into 2013 thanks to renewed philanthropic funding following the successful completion of Phase 1, which ended in September 2011.

By end of year the HRETP had:

- delivered face-to-face training to approximately 350 participants across the civil and public service;
- developed a reference 'Human Rights Guide' of which over 5200 have been distributed (including 1500 to the Irish Prison Service, 1900 to the Police Service);
- developed a training website that includes various tools and resources on human rights;
- developed an on-line learning video on Human Rights for the Civil and Public Service
- developed bespoke training materials including extensive research papers;
- developed a Training for Trainers component to support Civil and Public Service Trainers to deliver and incorporate human rights training;
- shared learning with other NHRIs, networks and stakeholders;
- offered advice and collaboration with regards to bespoke materials and project management;
- received an independent evaluation report on the first 18 months of the HRETP.

Training sessions are delivered through a variety of media, with information delivered in non-legalistic language. Participants have called the training, all of which is bespoke, 'a fantastic learning tool' and a 'good insight into the legal area of human rights, but also the practical elements of how we ourselves act as public servants'. Others indicated that it encouraged

them to examine their own procedures and practices in a new light, as well as helping them to promote human rights values in service delivery.

The high take-up of over three times the target number of participants has been attributed to the careful building and maintaining of relationships within the sector, and by providing a focused approach to training.

Twelve Civil and Public Service Trainers who would act as multipliers completed a 2-day training for trainers course in 2011 equipping them to deliver basic human rights training and linking the benefits of human rights training to specific staff roles such as Human Resources. The trainers will now have access to on-going support from the IHRC and will be able to utilise their tailored Human Rights Training for Trainers Pack and resources for their own training purposes. 'Training for Trainers' participants gave positive feedback about the quality of the training sessions, with all participants indicating that the training had made them more aware of how to factor human rights into their organisational operations.

A video eLearning tool offering an introduction to human rights was launched on Human Rights Day, 10 December and is available on the website. The video can be used by Trainers and others to give a short overview on the human rights framework relevant to the Civil and Public Service in Ireland.

Knowing about human rights and integrating the standards that they reflect is an essential part of all work carried out in the civil and public service. The Committee on the Elimination of Racial Discrimination (CERD) in its Concluding Observations on Ireland in February 2011 reaffirmed this:

"The Committee recommends that the State party strengthens its efforts to sensitise relevant civil servants on human rights issues particularly against racism and intolerance by ensuring that human rights training is mainstreamed in the civil service. In this regard, the Committee invites the State party to develop a coordinated work plan with the Irish human Rights commission (IHRC) that allows the IHRC to raise awareness and provide human rights training to all civil servants including the Garda Síochána and the judiciary." (Recommendation 24).

c. International Work

In addition to its work in monitoring the State's compliance with international treaties to which Ireland is a party, set out above, the IHRC, as Ireland's National Human Rights Institution (NHRI) engages with international human rights bodies. The basis for the IHRC's international work can be found in section 8 of the Human Rights Commission Act 2000:

- To consult with such national and international bodies or agencies having knowledge or expertise in the field of human rights as it sees fit.

Visit of UN Independent Expert on Human Rights and Extreme Poverty

In January, Magdalena Sepúlveda Carmona, the UN Independent Expert on Human Rights and Extreme Poverty made a country visit to Ireland for five days. She met with the IHRC President, Chief Executive, Commissioners and Staff on 12 January. The IHRC followed up later in the year with her Office in providing additional requested material and information. Among the areas of concern raised by the IHRC with the Independent Expert were structural issues – including the impact of the financial crisis on those in vulnerable situations, and the closure of the Combat Poverty Agency; Housing; the impact of the Habitual Residence Condition; the impact of the Direct Provision system; general concerns regarding the Social Welfare System; Legal Aid and the situation of the Traveller Community.

In March, the IHRC also spoke on the issue of NHRIs and tackling extreme poverty at an All Together in Dignity (ATD) 4th World Workshop.

Visit by Thomas Hammarberg, Council of Europe Commissioner for Human Rights

In May/June Thomas Hammarberg, Council of Europe Commissioner for Human Rights visited Ireland. The IHRC met with him and on 1 June convened a meeting between the Commissioner and civil society at the National Gallery of Ireland. The event was well attended by representatives of the community and voluntary sector as well as development and human rights NGOs. The encounter offered an opportunity for a very valuable exchange of views and discussion on human rights in Ireland.

NHRI Capacity Development Partnership Project

In August 2011, the IHRC with the support of Irish Aid launched a pilot project to provide capacity building support to NHRIs in Irish Aid Programme Countries.

Through this project the IHRC undertook to work in partnership with colleague NHRIs to provide support and assistance in the realisation of their mandates. The Project builds on *ad hoc* work undertaken by the IHRC over the past number of years including providing assistance to the Uganda, Ethiopia and South Sudan Human Rights Commissions. It allows for the exchange of good practices and identification of possible joint work between the IHRC and colleague NHRIs. Providing support to other NHRIs is an important role for a NHRI, who can provide peer-based assistance on the practicalities of running a national institution in a spirit of partnership.

The IHRC is collaborating with the Network of African National Human Rights Institutions (NANHRI) on capacity development initiatives in a number of thematic areas including strategic planning, international human rights systems and gender mainstreaming. The Project also undertook its first assessment mission with the Human Rights Commission of Sierra Leone (HRCSL) in November. On the basis of the recommendations identified in the assessment, the IHRC and HRCSL are developing practical capacity development strategies to assist the HRCSL to meet its mandate. The pilot phase of the Project will continue until August 2012.

European Group of National Human Rights Institutions

In February, as Chair of the European Group of NHRIs, the IHRC organised a meeting in Geneva on the establishment of a secretariat for the European Group of NHRIs. In March, the European Group of NHRIs held its annual meeting on the margins of the International Co-ordinating Committee of NHRIs annual meeting at the UN in Geneva. The Group discussed administrative issues, the establishment of a secretariat for the Group, the Arab-European Dialogue and the International Co-ordinating Committee of NHRIs' 10th Biennial Conference. The Coordinating Committee of the European Group of NHRIs met on 5 May, prior to the 3rd Annual EU NHRI – Fundamental Rights Agency (FRA) meeting on 6 May at the FRA premises in Vienna. In May, the IHRC completed a successful second and final term as chair of the European Group of National Human Rights Institutions. The Scottish Human Rights Commission was elected as the new chair.

International Coordinating Committee of NHRIs

In March, the IHRC attended the ICC's 24th annual meeting held at the Office of the High Commissioner for Human Rights in Geneva. The meeting was opened by Ms Kyung-wha

Kang, Deputy High Commissioner for Human Rights and Ms Geraldine Fraser-Moleketi, Director of Democratic Governance Group/Bureau for Development Policy (UNDP). The President of the Human Rights Council also addressed the opening session, highlighting the important role of NHRIs in the work of the Council.

The meeting was attended by over 100 NHRIs from around the world and discussed a range of thematic issues including;

- NHRIs and Human Rights Education and Training
- NHRI treaty body engagement (focus on CRPD, CAT and CRC) and UPR follow up
- NHRIs and the Declaration on the Rights of Indigenous Peoples
- NHRIs and Women's rights: Women human rights defenders
- NHRIs combating racism (Follow up the Durban Process)
- NHRIs in conflict situations
- Follow up to the Edinburgh Declaration on NHRIs and Business and Human Rights

The IHRC made a presentation on NHRIs and Human Rights Education and Training. As Chair of the ICC Finance Committee, the IHRC also presented to the meeting on issues related to the finance and administration of the ICC.

NHRIs and the EU Fundamental Rights Agency (FRA)

In April, the IHRC, as chair, represented the European Group of NHRIs at the EU Fundamental Rights Agency's (FRA) 4th Annual Meeting with EU NHRIs in Vienna and presented a report on the activities of the European Group of NHRIs since April 2010.

The IHRC attended a seminar on communications organised by the FRA. The purpose of the seminar was to share good practice and to build stronger communications channels between the FRA, NHRIs and Equality Bodies. The Communications Working Group of the European Group of NHRIs met at the fringes to share good practice and discuss effective communication among NHRIs.

NHRIs and the Organisation for Security & Co-operation in Europe (OSCE)

In April, the President attended an OSCE meeting on NHRIs. The goal of the meeting was to develop a set of recommendations on how the OSCE could improve engagement with European NHRIs. The President gave a presentation on the work of NHRIs in Europe. In May, the President spoke at a conference, organised as a result of the April meeting.

Meeting of NHRIs of Scotland, Northern Ireland, Great Britain and Ireland

In April, the IHRC attended the 3rd joint meeting of the NHRIs of Scotland, Northern Ireland, England & Wales and Ireland in London.

Arab-European NHRI Dialogue

The IHRC continued its engagement with the Arab-European Dialogue of National Human Rights Institutions (www.aehrd.ie) by contributing to a project on the development of a handbook for NHRIs in emerging democracies in the Arab region. The IHRC also presented a paper on NHRIs and human rights education.

Meetings with European and International Organisations

In June, the IHRC met with the Macedonian Equality Authority, at the request of Equinet, to discuss IHRC work on non-discrimination. In September, the IHRC and other European NHRIs met with the Office of the Secretary General of the Council of Europe in Madrid, Spain, to discuss the Reform of the European Court of Human Rights and the role of NHRIs in national implementation.

d. Joint Committee with the Northern Ireland Human Rights Commission

The terms of the Belfast/Good Friday Agreement provided for the establishment of both the IHRC and the Northern Ireland Human Rights Commission (NIHRC), and the respective laws under which both Commissions were established provided for both to meet jointly on a number of occasions each year as a “Joint Committee”. The Joint Committee acts as a forum for considering human rights issues on the island of Ireland and also provides an opportunity for both Commissions to cooperate in pursuit of commonly agreed objectives. For the IHRC, this function is set out in section 8(i) of the Human Rights Commission Act 2000:

- To take whatever action is necessary to establish and participate in the joint committee of representatives referred to in paragraph 10 of the section entitled “Rights, Safeguards and Equality of Opportunity” of the Agreement reached in the Multi-Party Talks.

In 2011, the IHRC continued its work as part of the Joint Committee. The Joint Committee met three times in 2011. In addition to meetings of the full Committee, sub-Committees on the Charter of Rights, and on Racism, Migration and Human Trafficking, also met.

In June, the IHRC and the NIHRC presented their advice on a Charter of Rights for the island of Ireland and forwarded this to the UK and Irish Governments. They recommended that human rights standards currently signed up to by the two governments should be used as the minimum protection structure from which a Charter could be established.

6. Enquiries, Legal Services and Administration

a. Enquiries and Legal Services

The enquiry and legal functions of the IHRC are set out in sections 8 to 11 of the Human Rights Commission Act, 2000, and are carried out by the Enquiries and Legal Services section.

These functions are:

- To consider requests for an enquiry into a relevant human rights matter or to initiate enquiries at its own volition;
- To consider applications for assistance in connection with legal proceedings involving human rights law or practice;
- To offer its expertise in human rights law to the Superior Courts as *amicus curiae* (or “friend of the court”) in suitable cases involving human rights;
- To institute proceedings to vindicate the human rights of persons in the State.

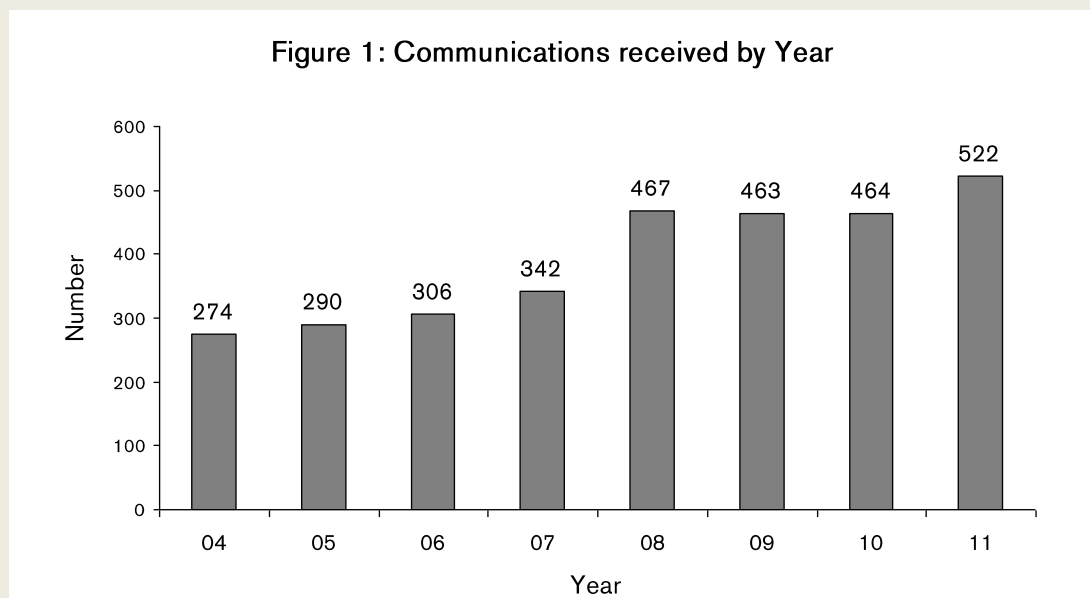
In performing these functions in 2011, the IHRC considered requests for enquiries and legal assistance, provided legal assistance and appeared on a number of occasions as *amicus curiae* during the year. It did not exercise its formal enquiry function or its power to institute proceedings to vindicate the human rights of people in the State, although a number of policy responses did arise from case work as set out below.

Overview

In 2011, the IHRC dealt with 522 individual communications, provided legal assistance in cases relating to housing and social welfare, appeared as *amicus curiae* in six cases before the Superior Courts, and monitored the implementation of previous enquiry report recommendations. In addition, the IHRC published a substantial report on religion in the education system, and made a submission on school enrolment policies. Disability rights were a significant area of work, and included submissions in relation to mental capacity legislation and mental health detention. Further, the IHRC made its first *amicus curiae* intervention before the European Court of Human Rights in a case concerning Ireland and the extent of State responsibility under the ECHR for the sexual abuse of a child in a national school during the 1970s.

Communications

During 2011, the IHRC received 522 individual communications from people or organisations. The level of communications received by the IHRC in recent years is illustrated in Figure 1. As can be seen, the number of people contacting the IHRC with their concerns has steadily increased over time.



Of the 522 communications received in 2011, 266 (57%) were received from men, while 203 (43%) were received from women. This is illustrated in Figure 2. The remaining 53 communications were notifications of legal proceedings, *amicus curiae* requests or from organisations or multiple parties: rendering problematic any precise gender classification.

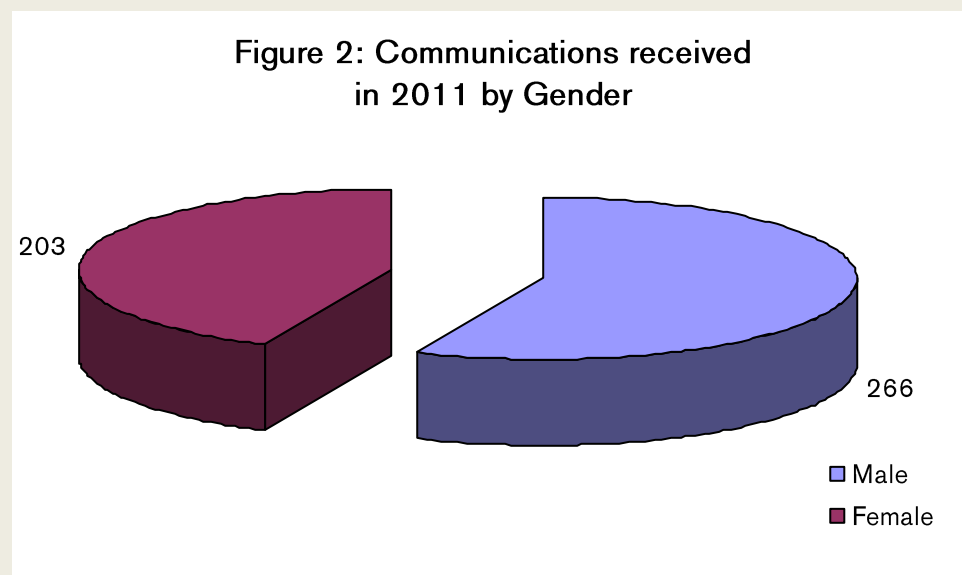
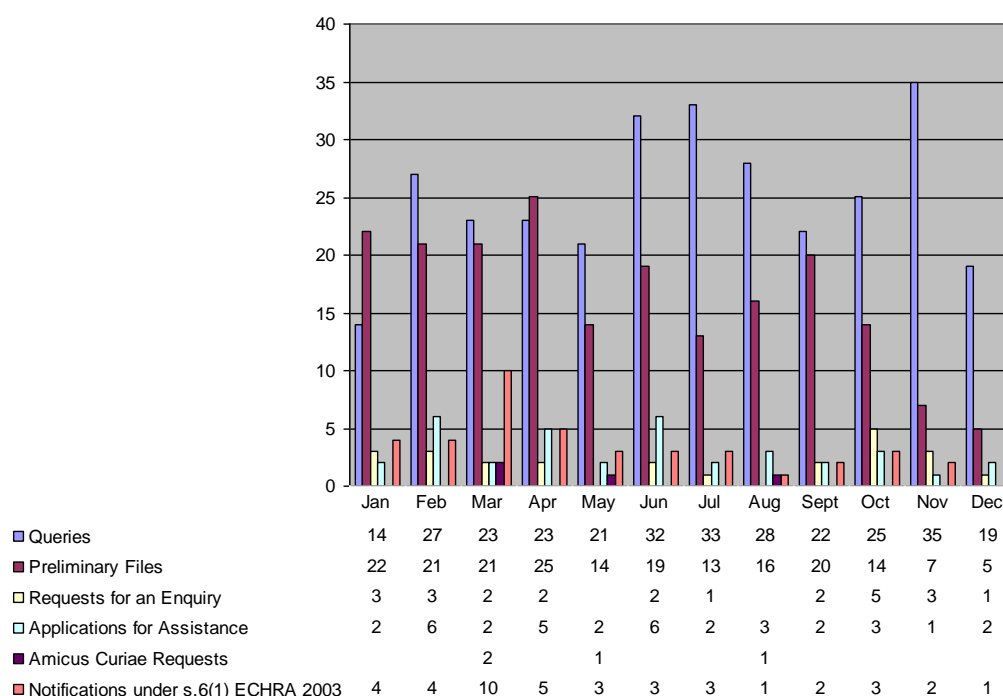


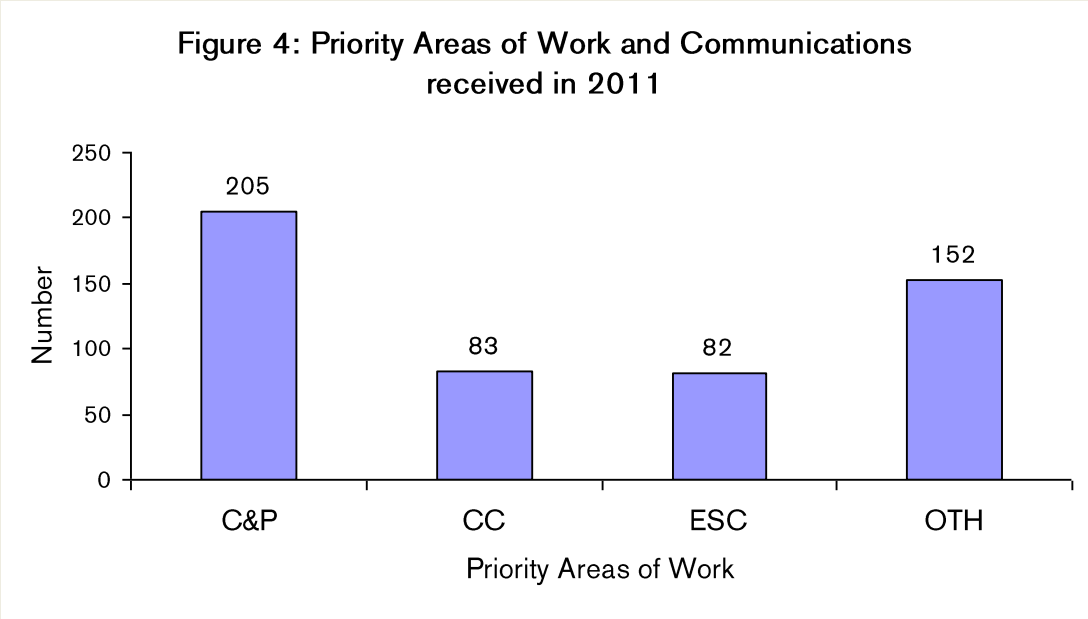
Figure 3 provides a breakdown of the communications to the IHRC in 2011, by category and by month. In 2011, as in previous years, the most common method by which persons chose to contact the IHRC to raise their concerns was by way of telephone query. There was also a strong positive response in 2011 to the facility on the IHRC's updated website (re-launched in 2010), for submitting complaints in relation to alleged breaches of human rights. Communications to the IHRC through this facility in 2011 accounts for the second most common method by which members of the public chose to contact the IHRC.

Figure 3: Communications received in 2011

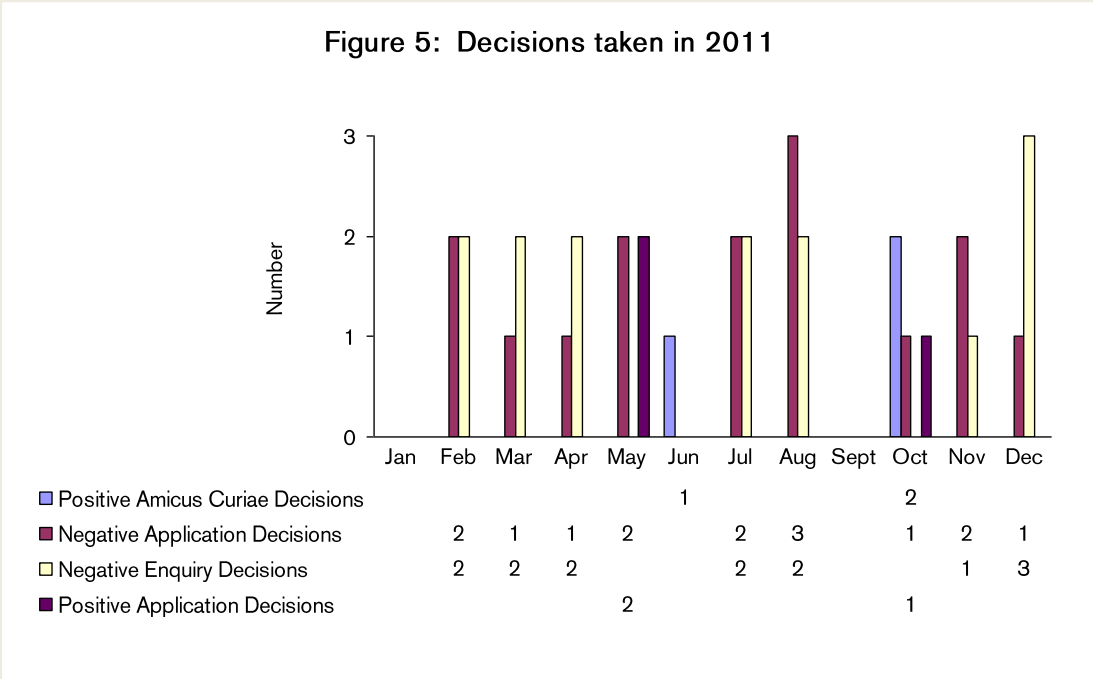


Communications to the IHRC concern issues from across the spectrum of “civil and political” (C&P) and “economic, social and cultural” (ESC) rights. Some communications concern both categories of rights and are referred to, for convenience, as “cross-cutting” (CC) issues. As in previous years, civil and political rights (39%) were the most common priority area of work in terms of communications received in 2011 by the IHRC. The level of communications received in relation to cross-cutting issues (16%) and economic, social and cultural right issues (16%) cumulatively accounted for nearly one-third of all individual communications to the IHRC. Communications categorised under the “other” (OTH) heading (29%) refer to matters which did not clearly raise human rights issues, such as disputes between individuals.

Figure 4 illustrates communications received by the IHRC in 2011 by priority area of work.



During the course of the year, the IHRC considered and decided upon fourteen formal enquiry requests and eighteen formal assistance applications. The IHRC granted legal assistance in respect of three applications to it under section 10 of the Human Rights Commission Act, 2000. The IHRC also decided to seek liberty to intervene in three sets of legal proceedings as *amicus curiae*, in addition to participating in ongoing proceedings. IHRC decisions on enquiry requests and assistance applications, in addition to its decisions on *amicus curiae* requests and proposals, are set out in Figure 5.



Legal Assistance Provided

EC v Cashel Town Council, Ireland and the Attorney General

The IHRC decided to grant legal assistance in this case in May 2011. The case concerns Orders for eviction of a tenant from local authority housing pursuant to section 62 of the Housing Act, 1966 (as amended). The tenant is a person with an intellectual disability. He was unable to obtain legal aid from the Legal Aid Board and represented himself before both the District Court and the Circuit Court. In May, the IHRC initiated proceedings in the High Court challenging the actions of the local authority in seeking to evict the individual concerned, and also the Orders of the District Court and Circuit Court as being in breach of his constitutional rights, and rights under the European Convention on Human Rights, and also the failure of the State to provide adequate legal aid. The High Court granted an injunction in the case preventing the local authority from evicting the tenant until such time as the case was heard. The case was still ongoing at year end.

AR

The IHRC decided to grant legal assistance in this case in May. The case concerns the refusal of social welfare assistance to a lone parent on the basis that she does not satisfy the Habitual Residence Condition and in circumstances where she and her children could face destitution. The IHRC made a written submission on behalf of AR to the Chief Social Welfare Appeals Officer seeking a review of the decision to refuse her assistance on the basis of the human rights of her and her children. A decision on the review was awaited at year end.

SMcG

The IHRC decided to grant legal assistance in this case in October. The matter concerns a tenant of a housing association with a periodic (week to week) tenancy. The person had been a local authority tenant for a number of years and entered into the tenancy with a housing association, after the Local Authority “nominated” her for the tenancy with the housing association. Following receipt of alleged complaints of anti-social behaviour against the person and her family (which were denied), the housing association issued a Notice to Quit terminating the tenancy in June 2011. The person had unsuccessfully attempted to secure the services of a private solicitor. The District Court application brought by the housing association, for a repossession Order, had not been heard at year end.

Contact with Statutory Bodies

The IHRC relies on the co-operation of statutory bodies in order to discharge its statutory functions. In assessing enquiry requests or legal assistance applications, the IHRC may seek formal clarification of certain matters or request specific information or documentation from other statutory bodies. This is in addition to routine informal referrals to other statutory bodies.

In 2011, the IHRC formally corresponded with 7 statutory bodies, in the course of exercising its legal functions. It sought information and documentation within a specified timeframe. Figure 6 below lists the bodies which the IHRC communicated with in 2011 and identifies whether a response was received within the timeframe suggested by the IHRC (normally 28 days).

Figure 6: Table of Communications with Statutory Bodies

Statutory Body	Response received on time	Late or no response
Cashel Town Council	✓	
Governor of Limerick Prison	✓	
Governor of Castlerea Prison	✓	✓
Irish Medicines Board	✓	
Irish Medical Council	✓	
Irish Naturalisation & Immigration Service	✓	
An Garda Síochána	✓✓	

Enquiries

Second Enquiry Report

The IHRC also followed up on recommendations it made in its second enquiry report published in January 2009. This enquiry concerned the treatment of a Pakistani national in possession of a valid travel visa, refused leave to land at Dublin Airport. He was subsequently detained, had his passport marked and returned, via a number of third countries, to his country of origin. In its report the IHRC expressed concern in relation to the State's compliance with the European Convention on Human Rights (ECHR), the European Convention on the Prevention of Torture (CPT) and the International Covenant on Civil and Political Rights (ICCPR) and made seven recommendations to bring the State into compliance with its human rights obligations.

The IHRC engaged in correspondence with the Department of Justice and Equality during the course of 2011 seeking progress in relation to the implementation of the Report's recommendations. A meeting was held with the Department in September in which the IHRC was advised as to certain measures taken in light of the recommendations in the Report. These included more robust oversight of decisions to refuse leave to land in the State and the necessity for immigration detention. The IHRC reiterated those recommendations arising from the Report not yet addressed and requested that they be included in the revised Immigration, Residence and Protection Bill, when reintroduced in the Oireachtas.

Third Enquiry Report

The IHRC's Third Enquiry report into intellectual disability services at a residential, day care and respite centre was published in March 2010. In its Enquiry Report, the IHRC concluded that the inadequate services stemmed from systemic problems with the national legislative, strategic and policy frameworks for persons with an intellectual disability. The IHRC's recommendations to Government highlighted significant deficits in the standards and monitoring of residential care, data gathering and the system of budgetary allocation for disability services and accountability for the delivery of those services. The Report comprehensively set out the human rights impact of these deficits, particularly in relation to the rights to health, education and equality.

In September 2010 the IHRC had written to all the stakeholders in the enquiry seeking updates in relation to the implementation of the Report's recommendations. A number of responses were received in early 2011. The IHRC considered that the responses from the HSE and the Department of Health did not fully address the implementation of the recommendations in the Report, and issued additional correspondence seeking further information on implementation during the year.

The IHRC appeared before the Joint Oireachtas Committee on Health and Children in January to present the findings of its Enquiry Report and to highlight its recommendations.

In addition, during 2011, the IHRC was invited by the HSE to sit on the National Implementation Project Team-Congregated Settings Report. The Project Team is vested with national responsibility for the implementation of the recommendations in the HSE's Report: *Time to Move on from Congregated Settings; A Strategy for Community Inclusion*, published in June. The report outlines the shift from caring for persons with a disability in congregated or institutional type settings, to a community inclusion model which emphasises independent living, reflecting the rights of people with disabilities enshrined in the Convention on the Rights of Persons with Disabilities ("CRPD").

Section 6(1) of the European Convention on Human Rights Act 2003

The IHRC continued to receive case notifications under the European Convention on Human Rights Act 2003 (ECHR Act) in 2011. The number of case notifications received under the ECHR Act or otherwise (complementary copies of proceedings involving human rights issues or cases stated to the Superior Courts) was 41. The IHRC continued to track these (and previous cases) as they progressed through the courts.

Section 6 of the ECHR Act requires that both the Attorney General and the IHRC be notified of the proceedings prior to a Court making a Declaration of Incompatibility under section 5 of the ECHR Act. Subsequent Rules of Court (Order 60 A) require the party taking the case to forward the pleadings to both the Attorney General and IHRC and these bodies are updated as the case progresses.

A Declaration of Incompatibility under section 5 of the ECHR Act may be made where the High Court or Supreme Court (on appeal) finds that legislation or a rule of law is incompatible with the State's obligations under the European Convention on Human Rights. Where a court makes such a declaration, the Taoiseach must ensure a copy of the court order is laid before each House of the Oireachtas within 21 sitting days. However, the making of a declaration of incompatibility does not affect the continuing enforcement or operation of the law in question, which continues to have effect until it is either amended in legislation or struck down as being unconstitutional by the Superior Courts.

Under Section 3 of the ECHR Act, a person may seek relief for breach of the statutory duty to observe human rights under that provision.

Amicus Curiae Appearances

Since the enactment of the ECHR Act, the IHRC has been granted liberty to appear as *amicus curiae* (or "friend of the Court") in an increasing number of cases. It continued to appear in a number of cases heard before the Superior Courts (High Court and Supreme Court) in 2011. These cases addressed a variety of human rights concerns including mental health, data protection, the criminal law on insanity, equality on the grounds of disability status, criminal charges for immigration offences and forced separation of a child from her parent. In addition, the IHRC intervened in two cases before the European Court of Human Rights.

J.B. v Mental Health (Review Board) & Ors (Supreme Court)

In October 2009, the IHRC had applied to the Supreme Court for liberty to appear in this case as *amicus curiae* and once the application was granted, the IHRC submissions were lodged in November 2009. The case concerned the ongoing detention of an individual, who had been found not guilty of murder by reason of insanity, in the Central Mental Hospital. Whereas the Mental Health (Criminal Law) Review Board had determined that the person should be released from detention subject to certain conditions, it had decided not to release him where the conditions could not be legally enforced.

In its submissions, the IHRC drew the Court's attention to the relevant principles of the ECHR and the Constitution and submitted that the rationale of "paternalism" be applied very cautiously in mental health cases where the right to liberty is involved. The Attorney General also appeared in the case and made similar arguments relating to ECHR standards.

The case was then adjourned from late 2009 until the introduction of the Criminal Law (Insanity) Act 2010 in December 2010 which saw the matter struck out by the Supreme Court on 17 February.

ED v DPP (High Court)

In July 2009, the IHRC applied to the High Court to appear in this case as *amicus curiae* and that application was granted. The case concerned the application of Section 12 of the Immigration Act 2004 which required foreign nationals to produce a passport or equivalent identity document on a demand being made for them by the Gardaí, or to provide a 'satisfactory explanation' for not doing so. A conviction under the section can lead to a prison term up to one year and/or a fine of €3,000.

The case was heard over 3 days, 8–10 February and the IHRC made written and oral submissions. In its submissions, the IHRC drew the Court's attention to the relevant principles of the Constitution, as informed by both the ECHR and Article 31 of the Geneva Convention relating to the Status of Refugees which recognises that asylum-seekers may need to enter States undocumented or with false papers when fleeing persecution.

The President of the High Court delivered Judgment in this case on 25 March in which he struck down Section 12 of the Immigration Act 2004 as being unconstitutional. In doing so, the President adopted a number of the arguments advanced by the IHRC in its submissions, particularly those relating to the vagueness of the offence.

Fashade v The Minister for Justice and Law Reform & Ors, Balogun v The Minister for Justice and Law Reform, Sarumi v The Minister for Justice and Law Reform, Oboh v The Minister for Justice and Law Reform & Ors, Efeh v The Minister for Justice and Law Reform & Ors, Human Rights Commission – Notice Party

In December 2010, the IHRC decided to seek liberty to appear in these linked cases as *amicus curiae*. The cases concerned challenges by way of judicial review to decisions of the Minister for Justice to make Deportation Orders in respect of the parent(s) of Irish citizen children, residing in Ireland. The question before the Court was whether the common law rules applying to judicial review provide for an effective remedy where fundamental rights are at issue.

The cases were heard before Mr Justice Hogan in the High Court over three days, 8-10 March and the IHRC made written and oral submissions. In its submissions, the IHRC focused on the need to ensure effective remedies under both the Constitution and the ECHR.

Judgment was delivered on 7 June. The High Court concluded that Article 40.3 of the Constitution requires the State to vindicate constitutional rights which of necessity requires the State to provide an adequate remedy where such rights may have been breached and that the courts, where necessary, will fashion such a remedy. Hogan J also concluded that the common law rules of judicial review, as interpreted by the Supreme Court in *Meadows v Minister for Justice*, met ECHR standards in requiring a proportionality test and that the Oireachtas had provided an adequate remedy under Section 3(11) of the Immigration Act 1999 (which allows the Minister for Justice to revoke a deportation order where there is a relevant change of circumstances since the original decision).

The case was somewhat overtaken by the impact of the European Court of Justice's Judgment in the case of *Zambrano v Office National de l'emploi (ONEm)* in March. That Judgment provided that citizen children of EU States are also EU citizens and have a right to parental support where dependent on them (conferring a right to work on the parents). On the basis of that Judgment, the Government subsequently settled a significant number of these cases.

Orumwense v The Minister for Justice

In June the IHRC decided to seek liberty to appear in this case as *amicus curiae*. The case concerned the separation of a five year old child from her mother by Gardaí following the arrest and detention of the mother in Mountjoy Dóchas Centre with a view to her deportation. Gardaí successfully applied to the District Court for an emergency care order under Section 13 of the Child Care Act 1991 based on the argument that the girl would be

homeless and without an adult to care for her and accordingly the child was placed in foster care.

However, the IHRC's application to the Court could not proceed as both mother and child were deported from the State and the Legal Aid Board, which had been representing the mother, could no longer take instructions from her. On that basis, the case was struck out.

McEvoy v Ireland, the Attorney General, The Clinical Director of St Vincent's Hospital

In June, the IHRC decided to seek liberty to appear in these proceedings which concerned the definition of voluntary patient under the Mental Health Act 2001. The patient had been classified as an involuntary patient but then had that status changed by his consultant to being a voluntary patient which does not attract the same protections under the Act.

After the hospital indicated to the Court that the relevant consultant intended to change the patient's status back from a "voluntary" to an "involuntary" patient under Section 2 of the Mental Health Act 2001, the proceedings were discontinued on the basis that the "harm" had been "cured".

Health Service Executive v MX/ CD v Director of the Central Mental Hospital

In October, the IHRC decided to seek liberty to appear in these proceedings which concerned the treatment of a person in the Central Mental Hospital where the individual was deemed to lack mental capacity but resisted the forcible taking of blood samples. The application to appear was granted. The case had not been heard by year end with regular periodic orders permitting the taking of blood samples being made by the Court.

B.G. v District Judge Catherine Murphy, the Director of Public Prosecutions, Ireland and the Attorney General

In November, the IHRC decided to seek liberty to appear in these proceedings which concerned the prosecution (for sexual assault) of an individual with significant mental disabilities, where an issue arose as to the individual's fitness for trial within the meaning of Section 4 of the Criminal Law (Insanity) Act 2006. The legislation requires the case to be sent forward from the District Court to the Circuit Court for trial, however, the individual faced more severe penalties as a consequence, if convicted.

The case was heard over 2 days on 22-23 November and the IHRC made written and oral submissions.

In its submissions, the IHRC drew attention to the importance of the equality provision under Article 40.1 of the Convention and suggested that an approach similar to that taken under the ECHR and CRPD should be followed.

On 8 December, Mr Justice Hogan delivered Judgment and made a declaratory order which in effect found that the Applicant's Article 40.1 rights had been breached and which prohibited his being convicted for an offence which would be disproportionate to the sentence he would have faced in the District Court if he had no mental disability.

Digital Rights Ireland Limited v The Minister for Communications, Marine and Natural Resources, The Minister for Justice, Equality and Law Reform, The Commissioner of An Garda Síochána, Ireland and the Attorney General

In December 2007, the IHRC had made an application to the High Court for liberty to appear as *amicus curiae* in the case of *Digital Rights Ireland Limited v. The Minister for Communications, Marine and Natural Resources, The Minister for Justice, Equality and Law Reform, The Commissioner of An Garda Síochána, Ireland and the Attorney General*. That application along with three motions was heard in July 2008 over five days by Mr Justice McKechnie.

The case involves the retention of telecommunications data by service providers for access and use by State authorities for a period of up to three years and also significantly includes challenges to both European Union law and domestic law data retention mechanisms (including the Criminal Justice (Terrorist Offences) Act 2005). The core human rights principles at issue are the right to respect for private life and correspondence under Article 8 of the ECHR and freedom of expression under Article 10. The case also involves a request for a reference to the European Court of Justice under Article 234 of the Treaty establishing the European Community.

In the event, the Court granted leave for the IHRC to appear in the case and the IHRC made submissions in relation to the motions before the Court, including the issue of the *locus standi* of the Plaintiffs, a non-governmental organisation, whose mission is stated to be to defend personal liberties in relation to data protection. In May 2009, Mr Justice McKechnie delivered Judgment on a preliminary issue and found that the Plaintiffs had *locus standi* to bring the challenge. Agreement in relation to the terms of a reference to the Court of Justice of the European Union was pending at the end of 2011.

Pullen v Dublin City Council

In 2008 the IHRC appeared as *amicus curiae* in this case before Ms Justice Irvine in the High Court. Judgment was delivered in 2009, and the parties both lodged appeals in the Supreme Court during 2010. In December 2010 leave was granted to the IHRC to be joined as *amicus curiae* in the appeal before the Supreme Court.

The case concerns the operation of section 62 of the Housing Act 1966, which allows local authorities to summarily recover possession of dwellings from local authority tenants without an independent hearing on the merits of the decision to evict. The case also addresses what remedies are available for a breach of the obligations placed on organs of the State to act in compliance with the European Convention on Human Rights under domestic legislation. A hearing date was awaited at end of 2011.

Pro Bono Counsel

In all these cases a number of counsel agreed to act for the IHRC in a *pro bono* capacity. The IHRC would like to sincerely thank these members of the Bar who provided it with *pro bono* assistance throughout the year without which it would not have been in a position to intervene in these cases.

European Court of Human Rights Interventions

O’Keeffe v Ireland (Application No. 35810/09) - European Court of Human Rights)

This case involves an application to the European Court of Human Rights by an individual who suffered sex abuse at the hands of a principal in a primary school under the patronage of the Bishop of Cork and Ross in the 1970s. The Applicant brought a case to the High Court and Supreme Court but lost both suits. She then made an Application to the European Court of Human Rights.

Within 12 weeks of a case being "communicated" to a respondent State by the Court, the European Convention permits third parties to make submissions to the Court after first applying to the Court to do so. Internationally, NHRIs such as the IHRC routinely make submissions to the Court in these cases. In August, the IHRC was granted leave by the Court to make a third party intervention, its first in a case concerning Ireland.

The case concerns the extent of State responsibility for the abuse of a child by a primary school principal in circumstances where the school is run not by the State but by a religious patron. The High Court and Supreme Court found there was no State responsibility for the acts of the school principal and dismissed the Plaintiff's claim.

The IHRC submission drew attention to the patronage model of education in Ireland, how allegations of child abuse were dealt with historically and in recent times and addressed how the Irish Courts interpret the responsibility of schools under the tort doctrine of vicarious liability. The case had not been heard at year end.

Gauer v France (Application No. 61521/08 - - European Court of Human Rights)

In August, the IHRC, in conjunction with the French Commission nationale consultative des droits de l'homme and the German Institute for Human Rights, made a submission to the European Court in this case on behalf of the European Group of National Human Rights Institutions.

The case involves the alleged sterilisation of five girls with an intellectual disability in circumstances where neither their consent nor that of their parents was sought. Separately intervening were a number of international NGOs.

The European Group's submission focused on relevant UN Standards on disability, health and gender and how these standards should inform the European Court's approach to the matters before it. The case had not been heard at year end.

Follow up to European Court Judgments

As Ireland's National Human Rights Institution (NHRI), the IHRC made a written submission under the Rules of the Committee of Ministers of the Council of Europe on the State's response to the Judgment in *McFarlane v Ireland (Application No. 31333/2006)* in September 2010. The Judgment found that there had been unreasonable delays in relation to the prosecution of the applicant, and that he had no remedy at the national level for such delays, leading to a breach of Article 13 (right to a remedy) and Article 6 (right to a fair trial) of the ECHR. The IHRC submission pointed to a number of underlying structural problems with the incorporation of the ECHR into domestic law, thus in certain circumstances depriving applicants of a remedy for a breach of their rights under the ECHR.

An Expert Group was established by the Minister for Justice and Equality to report on the measures required to address the judgment in *McFarlane*. The IHRC made a presentation to that Group in September.

Policy initiatives emanating from casework

During 2011, the IHRC made a number of policy submissions, and took other initiatives arising from its enquiry and legal services work. This ensured that where the Commission decided in accordance with its statutory criteria and guidelines that it would not conduct an enquiry or grant legal assistance, nonetheless any human rights issue arising from communications to it were dealt with under the broader mandate of the Commission.

Magdalene Laundries

In 2010 the IHRC, having decided not to conduct an enquiry into the treatment of women and girls in the Magdalene Laundries operated by various religious orders, decided to publish its assessment of the human rights issues arising, and recommended to Government that:

- a statutory mechanism be established to investigate the matters advanced by the Justice for Magdalene's group and in appropriate cases to grant redress where warranted.

Such a mechanism should first examine the extent of the State's involvement in and responsibility for:

- a) The girls and women entering the laundries
- b) The conditions in the laundries
- c) The manner in which girls and women left the laundries and
- d) End-of life issues for those who remained.

In the event of State involvement and/ or responsibility being established, that the statutory mechanism then advance to conducting a larger-scale review of what occurred, the reasons for the occurrence, the human rights implications and the redress which should be considered, in full consultation with ex-residents and supporters' groups.

In June 2011, the UN Committee Against Torture's Concluding Observations on Ireland expressed grave concerns "at the failure by the State party to protect girls and women who were involuntarily confined between 1922 and 1996 in the Magdalene Laundries, by failing to regulate their operations and inspect them, where it is alleged that physical, emotional abuses and other ill-treatment were committed amounting to breaches of the Convention... [and] at the failure by the State party to institute prompt, independent and thorough investigation into the allegations of ill-treatment perpetrated on girls and women in the Magdalene Laundries. (Articles 2, 12, 13, 14 and 16)". The Committee concluded "that the

State party should institute prompt, independent, and thorough investigations into all allegations of torture, and other cruel, inhuman or degrading treatment or punishment that were allegedly committed in the Magdalene Laundries, and, in appropriate cases, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offences committed, and ensure that all victims obtain redress and have an enforceable right to compensation including the means for as full rehabilitation as possible."

Also in June, the Minister for Justice and Equality announced the establishment of an Interdepartmental Committee to establish the extent of State interaction with the Magdalene Laundries. In July, Senator Martin McAleese was appointed chair of the Committee. The IHRC met with the Interdepartmental Committee in September to outline the background to its assessment report and highlight the concerns of the IHRC in relation to the human rights standards engaged. The Committee continued its work at year end.

Education and Religion

The IHRC published its report, "Religion and Education: A Human Rights Perspective" in May.

The report contained 13 recommendations to Government and was the culmination of a consultation process launched in November 2010 on the role of religion in education provision in Ireland and whether it meets human rights standards. Key among the issues raised in the consultation was how the right to freedom of religion, belief and conscience of parents of children can be met for parents and children of the majority Roman Catholic religion, those of minority religions and those of no faith.

The key recommendations of the report were:

- To diversify school provision to accommodate diversity of religious and non-religious convictions in the State;
- To learn from approaches taken in the pilot VEC community national schools, the Gaelscoileanna, and Educate Together schools;
- That schools should avoid any inadvertent indoctrination or proselytism of minority faith or non faith children;
- To expand the remit of an Ombudsman body to deal with complaints in relation to exemption procedures or any unwanted exposure to indoctrination or proselytism;
- To revise the Education Act 1998 and the Rules of National Schools to protect the rights of minority faith and non faith children.

A meeting was held in May with the Forum on Patronage and Pluralism in the Primary Sector, which had been established by the Minister for Education and Skills in March. That Forum engaged in widespread consultations and hearings during the year and its report was awaited at year end.

Education and School Enrolment

The IHRC made a submission to the Department of Education and Skills in response to its 'Discussion Paper on a Regulatory Framework for School Enrolment'. In its Submission the IHRC noted that 97% of schools in the State are under the patronage and management of religious denominations and that this has significant implications for school admission policies, particularly for pupils of minority religious or non-faith background. The IHRC grounded its submission on two key principles; namely (1) that the State is responsible for regulating school admissions policies and (2) that such policies should be compatible with those human rights obligations the State has committed itself to. Such human rights obligations were listed by the IHRC as including freedom from discrimination, the respect for privacy and the right to freedom of religion, conscience and thought, including the philosophical convictions of parents and children.

Particular groups of children were identified by the IHRC in its submission as requiring special attention in school enrolment policies - children from minority groups (including people of a minority faith or of no faith), children with disabilities, Traveller children and "newcomer" children (children of recent migrants to the State).

Mental Capacity

In November 2008, the IHRC provided its observations to Government on the Scheme of the Mental Capacity Bill 2008. In August 2011, the IHRC made a further Submission to the Joint Committee on Justice, Defence and Equality on the proposed Mental Capacity Bill 2011.

The human rights highlighted in the submission centred on the presumption that every person has legal capacity (or decision making capacity) as provided for under the UN Convention on the Rights of Persons with Disabilities and the strict safeguards which should apply where the law removes one's legal capacity.

Review of the Mental Health Act 2001

In October, the IHRC made a submission to the Department of Health on its review of the Mental Health Act 2001. The IHRC emphasised the need for more robust human rights safeguards particularly in relation to admission and detention, medical treatment, restraint and seclusion, oversight of mental health services and the treatment of children and young

persons. The IHRC also emphasised the importance of ratifying the UN Convention on the Rights of People with Disabilities without further delay.

The submission was followed by a meeting with the Department of Health and Children in October, at which the IHRC elaborated on its concerns and recommended that reform be undertaken in tandem with new Mental Capacity Bill and on the review of the Criminal Law (Insanity) Act 2006.

Review of the Criminal Law (Insanity) Act 2006

In November, the IHRC also provided a written submission to the Department of Justice and Equality on its review of the Criminal law (Insanity) Act 2006. In its Submission the IHRC recommended that the review be co-ordinated with the review of the Mental Health Act 2001 being undertaken by the Department of Health and that the same legal safeguards in relation to the right to liberty would apply under both Acts. The submission also emphasised the need for Court diversion programmes to ensure that those in need of treatment for a mental illness are directed to the correct therapeutic service, rather than prison, where appropriate.

Whistleblowing

On foot of an enquiry request received, the IHRC wrote to both the Minister for Justice and Equality and the Minister for Health setting out the key elements that should be present in proposed whistleblowing legislation from a human rights perspective. The IHRC pointed out that successive failings in the fields of health, finance and political accountability meant that Ireland needed to fundamentally reform its public governance, in relation to which accountability and transparency are key factors. It also suggested that whistleblowers must also have available to them the means to internally raise systemic deficits without the fear of victimisation.

Detention of people with a communicable disease

On foot of legal proceedings notified to it, the IHRC raised concerns regarding the operation of section 38 of the Health Act 1947 (as amended), which allows for the administrative detention of a person who is considered to be a probable source of infection. It is understood the section is invoked mainly to deal with persons suffering from tuberculosis, but who may not be isolated and treated in their own homes. The IHRC had concerns that the section did not have sufficient safeguards to protect the right to liberty. The IHRC had written to the HSE in 2010 seeking information regarding the use of the section, and a response was received in February 2011.

On the basis of that information, in April the IHRC made a detailed submission to the Minister for Health seeking an amendment to section 38 to bring it into compliance with the

European Convention on Human Rights. It was pointed out that there must be safeguards included to ensure that any detention under the section is absolutely necessary, is not arbitrary, is proportionate in the circumstances, and is for the shortest possible time. In addition it was emphasised that the procedural rights of the patient must be protected and in this regard, where it is not possible to specify the period of detention at the outset, (as would be the case with section 38), the detention should be kept under periodic review by an independent court or authority with the competence to end the detention. Where a Court or independent authority reviews a detention under section 38, the patient should have access to independent legal advice and representation to participate effectively in the review process.

European Court Reform

During 2011, the IHRC continued its engagement, as the chair of the legal working group of the European Group of NHRIs, with the process of reform of the European Court of Human Rights. The European Group of NHRIs made a number of submissions commenting on various drafts of the Declaration that was ultimately adopted at the High Level Council of Europe Conference held in Izmir in April, under the Turkish Presidency (“the Izmir Declaration”) by way of follow up to the earlier 2010 Interlaken Declaration. The European Group of NHRIs also addressed the Conference and focused on the need to strengthen the Court.

During the year, the European Group of NHRIs prepared a non-technical Guide to the European Court of Human Rights, one of its responsibilities under the 2010 Interlaken Declaration, to assist potential applicants to the Court to understand the mandate and functioning of the Court, how to make an application and what to expect. This non-technical guide was placed on a number of NHRI websites, including that of the IHRC.

The IHRC prepares a monthly register recording applications lodged with the European Court, which have been communicated to the respondent State, and also prepares a register of recent significant cases, which is distributed amongst the European Group of NHRIs. On this basis, the European Group intervened in the *Gauer* case (see above).

In March, the IHRC hosted a briefing session for legal practitioners and other stakeholders to give information on the European Court Reform process. Both the IHRC and the Department of Foreign Affairs briefed non-governmental organisations and legal practitioners on changes to procedures for bringing cases to Strasbourg.

b. Administration

Corporate Services

Human Resources

2011 was another difficult year for the IHRC as the reduction in funding and the continuation of the public sector recruitment embargo resulted in 4 Fellowship Positions as well as the positions of General Administrator and Research and Policy Officer remaining vacant.

Four previous contracts for services positions (Contract Solicitor, part-time Librarian, Support to European Group and to the Joint Committee) also remained unfilled.

No new staff joined the IHRC since 2008.

Placements Programmes

The IHRC commenced offering two types of voluntary placement opportunities in 2009 which continued successfully into 2011: Internships and Professional Placements. The IHRC internship programme was intended to provide work-placements for individuals who have completed studies to postgraduate level and who wished to work in the field of human rights.

The IHRC professional placement programme was targeted at volunteer opportunities for legal professionals in supporting some of the legal functions of the IHRC.

Two placements also joined the IHRC in 2011 as part of the JobBridge (National Internship Programme).

The response to all programmes was very high and the IHRC was fortunate to benefit from the dedicated hard work and professionalism of its placements in 2011.

Outsourced Services

The IHRC continued to work with Byrne and McCall, Chartered Accountants, in 2011 to ensure compliance with best practice in financial controls, financial record keeping and financial statement production. The IHRC also continued its relationship with Infinite Technology to provide full IT Technical support and disaster recovery services to the IHRC.

Among the new policy documents introduced or updated in 2011 were the following:

- Whistle-blowing Policy;
- Procurement Process Authorisation Policy;
- Revised System of Internal Financial Control;
- Register of Principal Risks.

Financial Situation

Following the 32% reduction in grant in aid in 2009 to €1,596,000, the figure was reduced again in 2010 to €1,523,000 and then a further reduction applied in 2011 to €1,463,000.

The years of successive budgetary cuts severely hampered the IHRC's capacity to adequately fulfil its mandate in 2011. The Office of the Comptroller and Auditor General highlighted the lack of adequate funding as a risk to the IHRC as a 'going concern' for two years running.

During 2009, the Department of Justice, Equality and Law Reform (as it then was) negotiated a deferral of rental obligations with the Landlord to the IHRC premises. While this has been of temporary benefit to the IHRC during the years of deferral it has placed a significant financial burden on the body which will need to be addressed.

On account of the insufficiency of its annual grant, the financial situation of the IHRC continued to remain bleak during 2011. Many of its statutory functions could not be properly supported due to a lack of funds, while the IHRC continued to rely on the *pro bono* generosity of volunteers and counsel in order to discharge some of its basic statutory functions. In addition, the IHRC was able to undertake work in the specific areas of human rights training and the Universal Periodic Review as a result of project funding from the Atlantic Philanthropies. Further, the IHRC was able to undertake peer capacity support work for NHRIs in Irish Aid programme countries due to project funding from Irish Aid.

7. Appendices

Appendix 1 - The IHRC Commissioners

The Irish Human Rights Commission consists of 14 members and the President, appointed by the Government for a period of five years. The first Commission served from July 2001 to June 2006. A new Commission was appointed on 31 August 2006 and its term commenced on 2 October 2006 and completed its term at the end of September 2011.

The current President, Dr Maurice Manning, assumed office on 1 August 2002, and was reappointed in August 2007. The following is a biographical note on the President and 14 Commissioners:

Maurice Manning (President)

An academic by background, Dr Manning previously lectured in politics at University College Dublin, where he is currently Adjunct Professor in the School of Politics and International Relations. He is Chancellor of the National University of Ireland, and has been a member of the Governing Authority of the European University Institute at Florence.

Dr Manning has written several books on modern Irish politics. He was a member of the Oireachtas for twenty-one years, serving in both the Dáil and the Seanad. He has been a member of the New Ireland Forum and the British - Irish Inter Parliamentary Body. He has served as both Leader of the Seanad and Leader of the Opposition in that House.

William Binchy

William Binchy was first appointed a Commissioner in 2001 and re-appointed in 2006. Professor Binchy is Regius Professor of Laws at Trinity College Dublin. He has been a special legal adviser on family law reform to the Department of Justice, preparing legislation on family maintenance, protection of the family home and domestic violence. As Research Counsellor to the Law Reform Commission, he advised on reform of law relating to the status of children. He has represented Ireland at the Hague Conference on Private International Law in the areas of marriage and inter-country adoption. He has actively contributed to public discussion of human rights issues, including those relating to Travellers, asylum seekers, divorce and abortion.

Professor Binchy is organiser of a programme on constitutionalism for the Tanzanian judiciary held in Dar es Salaam. He is also co-organiser of a training programme for the magistracy of Botswana and is organiser of the annual African workshop on constitutionalism for the Chief Justices and senior judiciary of African states, held in Trinity College, Dublin, which has been running since 1995. He was a Visiting Fellow at Corpus

Christi College Cambridge for the Michaelmas term of 2002 and was a member of the Hederman Committee to Review the Offences Against the State Acts. He was a consultant to the late Mr Justice Dermot Kinlan, former Inspector of Prisons and Places of Detention, and has acted as a consultant to the Irish Department of Justice, Equality and Law Reform on the justice system of Timor-Leste.

Conleth Bradley

Conleth Bradley SC is a barrister, appointed as a Commissioner on 3 September 2008. His areas of practice include judicial review and human rights law.

Olive Braiden

Olive Braiden was first appointed a Commissioner in 2001 and re-appointed in 2006. Ms Braiden has worked in the voluntary and community sectors for over 20 years. She was Director of the Rape Crisis Centre for 10 years. She has been involved in campaigns for legislative reforms in areas of women's rights. She commissioned research on the law of rape in the European Union and commissioned the SAVI Report, the first national research on child sexual abuse. She secured State funding to establish training programmes for community workers in the former Yugoslavia and Kosovo.

Ms Braiden is currently Chair of the Board of Governors and Guardians of the National Gallery of Ireland, and is a board member of Trinity College Dublin. She was Chair of the Arts Council from 2003 to 2009. She was the establishing Chair of the Crisis Pregnancy Agency. She has served on many Government Working Parties and Steering Committees. In 2006, Ms Braiden was appointed by the Minister for Finance to the Public Service Benchmarking Body and by the Minister for Arts, Sport and Tourism to the London 2012 Olympics Task Force. Over a period of 15 years, she has lived in Spain, France, Belgium, UK, Bahamas and Thailand. She holds an M.Phil. in Gender Studies from Trinity College Dublin and was awarded a Doctorate of Laws in 2008 by UCD.

Rosemary Byrne

Rosemary Byrne was appointed a Commissioner in 2006. She is a Senior Lecturer in International Human Rights Law and the Director of the Centre for Post - Conflict Justice at Trinity College Dublin. Throughout her professional career she has engaged in research and advocacy in the areas of migration, refugee and asylum law, and has spoken on human rights in over 20 countries. She has worked with a range of international and Irish non-governmental organisations and conducted human rights training for the Council of Europe and the Helsinki Committee.

Dr Byrne has been a visiting professor at the Paris School of International Affairs, Institut d'Études Politiques (Sciences-Po) and at the China-EU School of Law, China University of

Political Science and Law School. She has also been a Government of Ireland Research Fellow and a Visiting Fellow at the Human Rights Program, Harvard Law School. She holds a Bachelor of Arts degree in Political Science from Columbia University and a Juris Doctorate from Harvard Law School.

Robert Daly

Robert Daly was first appointed a Commissioner in 2001 and re-appointed in 2006. Professor Daly is an expert on Post-Traumatic Stress Disorder, on the psychiatric effects of interrogation and torture and on the medical aspects of human rights in general. In the past he represented the Irish Government in the torture case against the UK at the European Commission on Human Rights, was a member of Amnesty International's Medical Advisory Board awarded the European Peace Prize, advised the American Civil Liberties Union, and worked for victims of abuse in Latin American States and the Balkan Wars. He has evaluated programmes of the European Commission and the Council of Europe in many parts of the world. He has also been a trainer for the Committee for the Prevention of Torture and for human rights workers in the Kosovo conflict. He has served as an expert witness in numerous human rights-related cases on both sides of the border and in the UK. Professor Daly served on the World Psychiatric Association's Committee dealing with allegations of abuse and, when Chairman of the Irish Division of the Royal College of Psychiatrists, advised the Minister for Health on changes in Mental Health law. He was formerly Dean of Medicine and head of the Psychiatry Department at University College Cork, Clinical Director in the Southern Health Board and a member of the Medical Research Council.

Suzanne Egan

Suzanne Egan was first appointed a Commissioner in 2001 and re-appointed in 2006. Ms Egan has been a lecturer in International and European Human Rights Law at the Faculty of Law in University College Dublin since 1992. She is a qualified barrister and holds a Master of Laws Degree from Osgoode Hall Law School in Toronto. Prior to lecturing at UCD, she was the Legal Supervisor of an independent research centre on refugee law and policy in Canada (1989-1991) and a Research Assistant at the Law Reform Commission in Ireland (1991-1992). She is a former member of the Executive Committee of the Irish Refugee Council.

Ms Egan has published widely in the area of human rights, particularly with regard to refugee law and policy and has engaged in human rights training for various non-governmental organisations, the Council of Europe, and members of the legal profession.

Michael Farrell

Michael Farrell was first appointed a Commissioner in 2001 and re-appointed in 2006. Mr Farrell was prominently involved in the Civil Rights movement in Northern Ireland in the 1960s and 1970s and has campaigned on many civil rights and human rights issues over the past 30 years. He was involved in campaigns for the Birmingham Six and other victims of miscarriages of justice in the 1980s and in the campaign against political censorship under section 31 of the Broadcasting Act. He was vice-chair and then co-chair of the Irish Council for Civil Liberties for most of the 1990s and was involved in campaigns for gay rights, divorce, equality laws, refugee rights, against racism, and for the incorporation of the European Convention on Human Rights into Irish law.

Mr Farrell has an MSc degree in Politics and was formerly a journalist and author. He is now a solicitor working for Free Legal Advice Centres Ltd (FLAC) and is Vice-Chairperson of the Law Society's Human Rights Committee. He has taken cases to the European Court of Human Rights and other international bodies. Born and brought up in Co. Derry, he lived for 20 years in Belfast before moving to Dublin where he now lives.

Alice Leahy

Alice Leahy was appointed a Commissioner in 2006. Ms Leahy is Director of TRUST, which she co-founded in 1975. TRUST is an organisation based in Dublin that offers health and related services to people who are homeless. She is a former Chairperson of the Sentence Review Group.

Ms Leahy is also a writer, commentator, broadcaster and lecturer, promoting understanding of the needs of the outsider in our society and seeking practical ways to help combat social exclusion. She lectures widely and has directly contributed to public policy as a member of various policy bodies such as the Lord Mayor's Commission on Crime chaired by Justice Michael Moriarty; a Working Party set up by the Minister for Health to look at the care of the disturbed mentally ill; and the National Crime Forum. Her books include "Not Just a Bed for the Night" (1995), "With Trust in Place" (2003) and "Wasting Time with People?" (2008). In recognition of the work of TRUST, she has received a number of awards including an honorary doctorate from UCD, Tipperary Person of the Year Award 2004 and was the first 'Overall Winner' of the Crystal Clear MSD Health Literacy Award in April 2009 for her life's work in combating social exclusion and providing medical related services for people who are homeless.

Lia O'Hegarty

Lia O'Hegarty was appointed a Commissioner in 2006. Ms O'Hegarty is a graduate of UCC (BCL), the University of Michigan (LLM) and Harvard University (LLM). She was called to

the Bar in 1996. She worked as a researcher in the Law Reform Commission for a number of years. She also lectured on an occasional basis at Trinity College Dublin and University College Cork.

In 2000, Ms O'Hegarty was appointed Parliamentary Legal Adviser to the Houses of the Oireachtas. Latterly she has set up her own consultancy in legislation and public affairs. In 2007, she was appointed to the Criminal Law Codification Advisory Committee, established pursuant to the Criminal Justice Act 2006.

Tom O'Higgins

Tom O'Higgins was first appointed a Commissioner in 2001 and re-appointed in 2006. A Fellow of the Institute of Chartered Accountants in Ireland, he was President of the Institute in 1991/92. He was a partner at PricewaterhouseCoopers (PwC) from 1969 to 2000. He is a graduate in Economics and History from University College Dublin, in Human Resource Management (M.Sc.HRM) from Sheffield Hallam Business School and is a Master Coach from Middlesex University. He is a member of the Chartered Institute of Personnel and Development and of the Irish Taxation Institute.

Mr O'Higgins is a director of Concern Worldwide and of its subsidiaries, and was chairman from 1999-2003. He was chairman of AMK, Concern's Cambodian micro-finance institution from 2003 to 2010. He is a trustee of the Holocaust Educational Trust of Ireland and is Chairman of the Older and Bolder Campaign and a director of a number of private companies. He was Chairman of the Board of the Coombe Women's and Infants University Hospital from 2003 to 2007 and is a former Chairman of the Boardroom Centre. He is a partner at Praesta Ireland, an executive coaching firm.

A specialist in corporate governance he chairs the Audit Committees at Concern Worldwide and at the Courts Service, and is a member of the Audit Committee of DIT and NUI. He chaired the Audit Committees at the Offices of the Attorney General and the Chief State Solicitor and at the Office of the Director of Public Prosecutions from 2005 to 2010, and at the Houses of the Oireachtas and the Department of Education and Science from 2004 to 2009.

Helen O'Neill

Helen O'Neill was appointed a Commissioner in 2006. She is Professor Emeritus in the Centre for Development Studies in UCD where she was its founding-Director. She obtained her BComm degree at UCD and her Masters and PhD degrees in Economics at McGill University, Montreal, Canada. She was President of the European Association of Development Research and Training Institutes from 1993 to 1999, President of the Association of Canadian Studies in Ireland from 2000 to 2002, and has chaired the Irish

government's Advisory Committee on Development Cooperation and the Irish Commission for Justice and Peace.

Professor O'Neill has been a member of a number of international committees including the policy committee on developing countries of the International Council of Science (ICSU). She has been a visiting professor in a number of institutions including the University of Zambia, the World Bank Institute, Corvinus University, Budapest and Vidzema University, Latvia. She has carried out assignments for international organisations (including the World Bank and UN Industrial Development Organisation) in over a dozen African countries and the trans-Caucasus region. She has acted as expert to the Economic and Social Committee in Brussels on a wide range of issues in international relations and regional development and has acted as a consultant to EU Directorate General of Development.

Professor O'Neill has represented the IHRC as advisor on human rights issues in a number of developing countries. She has been a consultant to Irish Aid for a number of years. She has published six books and over 50 academic papers on topics in development, human rights and international relations and given guest lectures in universities in all five continents of the world. She was honoured in 2006 with a *festschrift* (*Trade, Aid and Development*, edited by Majda Bne Saad and Maura Leen, published by UCD Press).

Gerard Quinn

Gerard Quinn was first appointed a Commissioner in 2001 and re-appointed in 2006. Professor Quinn is a professor of law at NUI, Galway. Called to the Irish Bar in 1983, he holds a Harvard Doctorate in Juridical Science (SJD). He is a former Director of Research at the Law Reform Commission and led the legal research team of the Commission on the Status of Persons with Disabilities. He has worked with the European Commission on general human rights issues as well as on the preparation of EU policy instruments in the field of disability rights. He was Director of an EU Network of Disability Discrimination Lawyers and now co-directs a larger EU Network on Discrimination law across all grounds (age, race, disability, etc.).

Professor Quinn is a former First Vice-President of the European Committee of Social Rights (Council of Europe). He is a member of the research advisory boards of Land Mine Survivors Network (Washington DC) and Soros Foundation EU Monitoring Programme on Accession Countries on Disability (Budapest). He was a member of the United Nations Working Group convened to draft a treaty on the rights of persons with disabilities. He has published widely on economic, social and cultural rights, on the rights of persons with disabilities and on the EU and human rights.

Roger Sweetman

Roger Sweetman was appointed a Commissioner in 2006. Until 1981, Mr Sweetman was a solicitor who practised (and later became Partner) in Herman, Good & Co. He then enrolled in the Kings' Inns. From 1979 to 1989 he was a tutor/consultant in Advocacy and Criminal Law to the Law School of the Incorporated Law Society. In 1983 he was conferred with the degree of Barrister-at-Law and was called to the Bar. For the next 19 years, he practised at the Bar both in Dublin and on the Eastern Circuit. Having been appointed to the Director of Public Prosecution's Dublin Prosecution Panel, his practice thereafter was mostly involved in crime, both prosecution and defence.

In 2002 Mr Sweetman was admitted to the Inner Bar, where he has acted as leading Counsel, principally for the defence, in serious criminal cases. He has also been involved in the areas of habeas corpus and judicial review. As a criminal law practitioner, he has been involved in enunciating and vindicating the human rights of accused persons in a range of areas. Mr Sweetman has twice been short-listed for appointment to the European Court of Human Rights. In 2008 he was appointed to the panel of independent Chairmen to preside over Garda Disciplinary enquiries.

Katherine Zappone

Katherine Zappone was first appointed a Commissioner in 2001 and re-appointed in 2006. Dr Zappone was appointed as a Senator to Seanad Éireann by An Taoiseach, Enda Kenny T.D. in May 2011. She is Director of 'The Centre for Progressive Change' offering services to individuals, groups and organisations who are building a new social order in Ireland, based on the principles of social justice, equality and human rights. As former Chief Executive of the National Women's Council in Ireland, she participated in a number of committees and working groups at national, European and international level to advocate women's social and economic rights and gender equality.

Dr Zappone is a former member of the National Economic and Social Council of Ireland and has conducted a number of national research projects in public policy and gender equality, and equality in children's education. She is co-founder and Chair of An Cosán, a large community-based organisation in West Tallaght, Dublin, committed to eradicating poverty through transformative education.

Dr Zappone lectured for a decade in Trinity College Dublin on ethics and human rights, and has lectured in Canada, Australia, Europe, the USA and throughout Ireland. Her most recent publication is authored with her spouse, Anne Louise Gilligan: *Our Lives Out Loud: In Pursuit of Justice and Equality*. She holds a PhD in Education and Religion from Boston College.

Appendix 2 - IHRC Committees as of 31 December 2010

1. Finance, Audit, Risk and General Purposes Committee
2. Racism, Trafficking & Migration Committee
3. Justice Committee
4. Casework Committee
5. Awareness and Education.

1 Finance, Audit & General Purposes Committee

Members

Tom O'Higgins (Convenor), Conleth Bradley, Olive Braiden, Robert Daly, Éamonn Mac Aodha, Maurice Manning, Katherine Zappone.

Terms of Reference

- In conjunction with the Chief Executive, to report regularly to the Commission on budget income and expenditure at such intervals as may be laid down from time to time;
- To advise and make recommendations to the Commission, subject to the functions of the Chief Executive, regarding the financial policy and management of the Commission, and in particular:
 - to consider and approve budgets;
 - to provide oversight in accordance with the financial and Governance recommendations in the PriceWaterhouseCooper internal audit report in addition to best practice in the area;
 - to review controls and procedures in place and to recommend any changes and improvements that can be made thereon as appropriate;
- To report to the Commission on any pertinent financial or corporate governance matters throughout the year.
- To review the IHRC obligations in relation to matters of Risk Management and brief the Commission on risk compliance.

2 Racism, Trafficking & Migration Committee

Members:

Michael Farrell (Convenor), Rosemary Byrne, Alice Leahy, Tom O'Higgins, Helen O'Neill.

Terms of Reference:

- To carry out IHRC policy on opposition to racism and support for interculturalism as set out in the Commission's Strategic Plan and Submission to the Steering Group on a National Plan Against Racism (NAPAR), working wherever possible in cooperation with other statutory bodies in the field and bodies representing minority ethnic groups;
- To make proposals to the Commission for developing its policy on racism and interculturalism;
- To continue to work with statutory and non-statutory bodies towards the development and implementation of the NAPAR. The basis of the Committee's work in this area will be the Commission's submission to the Steering Group on NAPAR;
- To keep under review those aspects of immigration and asylum law and practice that impact on the issues of racism and interculturalism (the Committee could begin this work but because of the amount of legislation and agencies involved it might require a separate working group to research this area and formulate proposals);
- To play a role in publicising and promoting international human rights standards relevant to issues concerning racism and methods of monitoring and enforcing the application of those standards, with particular reference to Travellers, asylum seekers, migrant workers, refugees and generally Irish people of diverse ethnic backgrounds;
- To act as the Commission's representatives or delegate some of its members to act as the Commission's representatives on the Sub-Committee on Racism of the Joint Committee of the Commission and the NIHRC.

3 Justice Committee**Members:**

Maurice Manning (Convenor), William Binchy, Robert Daly, Suzanne Egan, Michael Farrell, Lia O'Hegarty, Gerard Quinn, Roger Sweetman.

Terms of Reference:

- To further the Commission's objectives in the key area of the administration of justice, including the issue of emergency laws;

- To identify priorities and to develop strategy in relation to the key area of the administration of justice, as set out in the *Strategic Plan 2003–2006*;
- To examine how the Commission should engage with the issue of the Offences Against the State Acts 1939–1989.

Note: Prior to 16 March 2009, this Committee was called the *Administration of Justice Committee*.

4 Casework Committee:

Members:

Maurice Manning (Convenor), Conleth Bradley, Roger Sweetman.

Terms of Reference:

- To establish procedures for the performance of the functions of the Commission under sections 8(f) (in relation to section 9 (1) (a)), 8(h) and (k) of the Irish Human Rights Commission Act 2000 (the Act), subject to approval by plenary;
- To consider proposals by the Chief Executive in relation to the performance of the functions of the Commission under sections 8(f) (in relation to section 9(1)(a)), 8(h) and (k) of the Act, and to report to the Commission sitting in plenary thereon;
- To consider matters referred to it by the Chief Executive under sections 9(1)(b) or 10 of the Act and either make any recommendations thereon to the Chief Executive, or refer the matter to plenary for its views;
- To develop, subject to the direction of the Commission and subject to the delegation of any function to the Chief Executive, the Commission's policy and strategy with respect to casework and make recommendations to the Commission sitting in plenary thereon;
- To consider requests by individuals or proposals by the Chief Executive, further to the Commission's *Amicus Curiae Guidelines*, that the Commission apply, further to section 9(h) of the Act, to the High Court or the Supreme Court for liberty to appear before the relevant court as *amicus curiae* in proceedings before the relevant court that involve or are concerned with the human rights of

any person and to make recommendations to the Commission sitting in plenary thereon;

- To consider requests by individuals or proposals by the Chief Executive that the Commission institute court proceedings seeking relief in respect of a human rights matter, further to sections 8(k) and 11 of the Act and to make recommendations to the Commission sitting in plenary thereon.

5. Awareness and Education Committee

Members:

Katherine Zappone (Convenor), Olive Braiden (co-Convenor), Suzanne Egan, Tom O'Higgins, Lia O'Hegarty, Helen O'Neill.

Terms of Reference:

To guide education work and to advise on strategy and policy to increase the IHRC's public presence.

Appendix 3 - IHRC Staff in 2011

Éamonn Mac Aodha	Chief Executive
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Enquiries, Legal Services and Administration Division

Des Hogan	Deputy CEO and Director of Enquiries, Legal Services & Administration
Sinéad Lucey	Senior Enquiry and Legal Officer
Gerry Finn	Enquiry and Legal Officer
David Carolan	Administrator (Finance and Human Resources)
Karine Petrasuc	Desk Officer
Aideen Damery	Clerical Officer
Sharon Brooker	Clerical Officer (Career break from 2011)

Research, Policy and Promotion Division

Kirsten Roberts	Director of Research, Policy and Promotion
Fidelma Joyce	Senior Human Rights Awareness Officer
Róisín Hennessy	Senior Research and Policy Officer (Career break from 2010)

IHRC Project Contractors in 2011

In 2010, the IHRC launched a Human Rights Education and Training Project (supported by Atlantic Philanthropies). In 2011 the Project Team comprised Fiona Murphy (Project Manager), Andrew Forde (Project Officer until July) and Ruth Gallagher (Senior Project Officer from December).

In October 2010, the IHRC had launched a Universal Periodic Review Project (supported by Atlantic Philanthropies). In 2011 the Project Team comprised Avril Hutch (Project Coordinator until August) and Tracy Murphy (UPR Project Assistant from September).

In August 2011, the IHRC launched a Capacity Building Project for overseas National Human Rights Institutions (supported by Irish Aid). From August, the Project Officer was Avril Hutch.

Appendix 4 - The Paris Principles

Principles relating to the Status of National Institutions (The Paris Principles)

Adopted by General Assembly resolution 48/134 of 20 December 1993

Competence and responsibilities

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
 - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
 - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
 - (ii) Any situation of violation of human rights which it decides to take up;
 - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for

example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner,

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

(c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly concerned;

(e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-judicial competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, and associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

Appendix 5 - Annual Statement to the Minister for Justice, Equality and Defence on the Code of Practice for the Governance of State Bodies

On behalf of the Human Rights Commission, I acknowledge our responsibility for maintaining compliance with the Code of Practice for the Governance of State Bodies.

I can confirm that each Commission member has signed the "Register of Members Interests" which covers this code and that the Human Rights Commission is fully committed to ensuring, through the work of the members of the Commission, the Finance, Audit, Risk and General Purposes Committee and Management that there remains a strong commitment to ethics in public office.

In addition to the financial controls and procedures in place, the Human Rights Commission also has a significant number of policies and codes that it keeps under review which support its ongoing adherence to best practice in this area including Codes of Conduct for both staff and Commission members, a Travel Policy, Customer Service Charter and Risk Management Policy.

On behalf of the Human Rights Commission,

Dr. Maurice Manning
President

Date

Appendix 6 – Draft Financial Statements for Year ended 31 December 2011

The financial statements have been prepared in accordance with Section 16 of the Human Rights Commission Act 2000. The accounts presented in this Annual Report appear in a draft pre-audited form. The financial statements have been prepared in accordance with Section 16 of the Human Rights Commission Act 2000 and submitted to the Office of the Comptroller and Auditor General for audit. At the time of publication, the draft statements had yet to be cleared.

Statement of the Responsibilities of the Human Rights Commission

The Commission is required to prepare financial statements for each financial year which give a true and fair view of the state of the affairs of the Human Rights Commission and of the income and expenditure for that period.

In preparing those statements, the Commission is required to:

- select suitable accounting policies and apply them consistently
- make judgements and estimates that are reasonable and prudent
- disclose and explain any material departures from applicable accounting standards
- prepare financial statements on a going concern basis unless it is inappropriate to presume that the Human Rights Commission will continue in existence.

The Human Rights Commission is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Human Rights Commission and which enable it to ensure that the financial statements comply with the Order.

It is also responsible for safeguarding the assets of the Human Rights Commission and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

On behalf of the Commission,

Dr. Maurice Manning
President

Date

Des Hogan
Acting Chief Executive

Date

Statement on Internal Financial Control

Responsibility for the Systems of Internal Financial Controls

On behalf of the Human Rights Commission, I acknowledge our responsibility for reviewing and ensuring the effectiveness of the organisation's system of internal financial controls.

The Human Rights Commission through the Chief Executive is responsible for monitoring the systems of internal control and providing assurances to the Commission.

A system of internal control is designed to reduce rather than eliminate risk and such a system can provide only a reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely manner.

Key Control Procedures

The following is a description of the key procedures which have been put in place by the Human Rights Commission designed to provide effective internal financial control.

- (i) The Human Rights Commission has an established organisational structure with clearly defined lines of responsibility and reporting. Formal procedures for reporting significant control failures and ensuring corrective actions are in place.
- (ii) The strength of the internal financial control systems is dependent on the quality and integrity of both management and staff.
- (iii) The Human Rights Commission operates a comprehensive Financial Management and Reporting process. A breakdown of expenditure is submitted to the Department of Justice Equality and Law Reform.
- (iv) The Human Rights Commission has defined authorisation procedures in respect of procurement and payment of creditors. These authorisation limits form part of the Human Rights Commission's statement on internal financial control.
- (v) The procedures for monitoring the effectiveness of the internal financial control system include:
 - A Finance, Audit, Risk and General Purposes Committee that meets regularly and reviews financial performance.

- The Human Rights Commission's Financial Management System contains inbuilt authorisation controls to ensure that only authorised staff can carry out specific processes.

The Human Rights Commission's monitoring and review of the effectiveness of the system of internal control is informed by the work of the members of the Board, the Finance, Audit, Risk and General Purposes Committee and the comments made by the Comptroller and Auditor General in his management letter or other reports.

Annual Review of Controls

The Human Rights Commission conducted a review of the effectiveness of the system of internal financial controls during 2011.

On behalf of the Human Rights Commission,

Dr. Maurice Manning
President

Date

Statement of Accounting Policies and Principles

General

These accounts have been prepared in accordance with Section 16 of the Human Rights Commission Act 2000. The Financial Statements cover the year 1 January 2011 to 31 December 2011.

Basis of Accounting

The Financial Statements have been prepared on an accruals basis under the historical cost convention in the format approved by the Minister for Justice Equality and Law Reform, and in accordance with generally accepted accounting practice.

Oireachtas Grants

Grant-in-aid from the Department of Justice, Equality and Law Reform (DJELR) is shown on a cash receipts basis.

Tangible Fixed Assets

Tangible fixed assets are stated at cost less accumulated depreciation. Depreciation is calculated in order to write off the cost of tangible fixed assets over their estimated useful lives as follows:

Buildings:	4%
Office Furniture:	20%
Fixtures & Fittings	20%

Capital Account

The Capital Account represents the unamortized value of income used to purchase fixed assets.

Pensions

The Commission operates a defined benefit pension scheme which is funded annually on a pay as you go basis from monies provided by the Department of Justice Equality and Law Reform. Pension scheme liabilities are measured on an actuarial basis using the projected unit method. Pension costs reflect pension benefits earned by employees in the period and are shown net of staff pension contributions which are refunded to the Department of Finance in accordance with agency financing arrangements. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable, and offset by grants received in the year to discharge pension payments. Actuarial gains or losses arising on scheme liabilities are reflected in the Statement of Recognised Gains and Losses and a corresponding adjustment is recognised in the amount recoverable from DJELR. Pension liabilities represent the present value of future pension payments earned by staff to date. Deferred pension funding represents the corresponding asset to be recovered in future periods from DJELR.

Human Rights Commission

Income & Expenditure Account for the year ended 31 December 2011

	Notes	2011 €	2010 €
INCOME			
Oireachtas Grant Received		1,562,748	1,532,000
Transfer to Capital Account	0	(3)	
Amortisation of Grants in year	42,394	42,394	46,223
Net Deferred Funding for Pension	9 (d)	67,600	97,400
Refunded Employee Contributions to the Dept. of Finance		(32,500)	(36,800)
Rent Received		30,180	31,468
Bank Interest Receivable		146	210
Total Income for year		1,670,568	1,670,502
		=====	=====
EXPENDITURE			
Staff Salaries	1	914,464	946,420
Commissioner Fees	2	146,584	194,518
Support for the European Group		(540)	0
Joint Committee		201	567
Pension Costs	9 (a)	35,100	60,600
Irish Aid Project		36,650	0
Conferences		8,299	3,153
Media & Consultancy		1,815	2,078
Heat and Light		14,849	13,210
Office Requirements		31,041	17,923
Cleaning		4,794	5,075
Premises	3	363,542	363,415
Printing and Publishing		9,136	5,272
IT & Support		16,147	13,924
Library		68	0
Telephone		11,318	9,330
Post and Packing		1,647	3,646
Bank Charges		663	544
Insurance		17,166	19,231
General Expenses		4,834	4,847
Training		6,620	3,759
Subsistence		19,143	13,782
Advertising		1,200	310
Legal Fees	11	0	(7,954)
Audit Fee		6,150	7,349

Accountant's Fees	11,498	11,468
Depreciation Charge	42,394	46,226
(Profit)/Loss on Disposal of Asset	0	2,399
Total Expenditure	<u>1,704,782</u>	<u>1,741,092</u>
Surplus / (Deficit) for the year	(34,214)	(70,590)
Balance brought forward from prior year	(102,846)	(32,256)
Balance carried forward at the end of the year	<u><u>(137,060)</u></u>	<u><u>(102,846)</u></u>

Statement of Total Recognised Gains and Losses

(Deficit) / Surplus for the year	(34,214)	(70,590)
Actuarial Loss/(gain)on Pension Liabilities	50,600	(165,500)
Adjustment to Deferred Pension Funding	(50,600)	165,500
Total Recognised (Loss) / Gain for the year	<u><u>(34,214)</u></u>	<u><u>(70,590)</u></u>

The Statement of Accounting policies and principles and notes 1 to 12 form part of these accounts.

Signed:

Dr. Maurice Manning

President

Des Hogan
Acting Chief
Executive

Date: __/__/2012

Human Rights Commission

Balance Sheet as at 31 December 2011

			2011 €	2010 €
Fixed Assets	4		597,306	639,700
Current Assets				
Cash at Bank and on Hand		447,482	403,967	
Debtors	5	8,960	6,393	
		<u>456,442</u>	<u>410,360</u>	
Current Liabilities				
Creditors & Accruals	6	(593,502)	(513,206)	
Net Current Assets			<u>(137,060)</u>	<u>(102,846)</u>
Net Assets Before Pensions			<u>460,245</u>	<u>536,854</u>
Deferred Funding Asset for Pensions	9 (c)		621,400	470,700
Pension Liabilities	9 (b)		(621,400)	(470,700)
Net Assets			<u>460,245</u>	<u>536,854</u>
Represented by				
Capital Account	10		597,306	639,700
Income & Expenditure Surplus/(Deficit)			(137,060)	(102,846)
			<u>460,246</u>	<u>536,854</u>

The statement of accounting policies and principles and notes 1 to 12 form part of these accounts.

Signed:

Dr. Maurice
Manning
President

Des Hogan
Acting Chief Executive

Date: __/__/2012

Human Rights Commission

Notes to the Financial Statements for the Year Ended 31 December 2011

1 Salaries

Under Section 18 of the Human Rights Commission Act 2000 the Commission in determining the remuneration or other allowances shall have regard to Government or nationally agreed guidelines. The Commission shall comply with any directives with regard to such remuneration, allowances, terms or conditions which the Minister may give to the Commission with the consent of the Minister for Finance.

€40,809 was deducted from staff by way of pension levy during 2011 and was paid over to the Department of Justice, Equality and Law Reform / Department of Community, Equality and Gaeltacht Affairs.

2 Commissioners Fees

Fees of €14,963 are payable to each of the 14 Commissioners.

A number of Commissioners undertook a voluntary reduction in fees during the year.

The President received salary payments of € 202,422.53 in 2011.

The President received recoupment of travel and subsistence expenses of €3,963.51 in 2011.

The President is not a member of the Human Rights Commission superannuation scheme.

3 Operating Lease

The Human Rights Commission holds a 25 year lease from 8 October 2003, in respect of office accommodation in Jervis House. The annual cost of the lease is €301,383. Following a substantial reduction in the grant-in-aid available to the Commission in 2009, officials from the Department of Justice, Equality and Law Reform met with the landlord and negotiated a 25% deferral of payments to 2012 on an interest free basis.

The 2009, 2010 and 2011 deferred amount is included in the accruals figure.

4	Fixed Assets	Buildings SL Over 25 Yrs	Equipment 20% RB	Fixtures 20% RB	Total
	<u>Cost</u>	€	€	€	€
	Balance 1st January	736,554	105,809	138,589	980,952
	Additions	-	0	-	0
	Disposals	-	0	-	0
	Balance 31 December	736,554	105,809	138,589	980,952
	<u>Accumulated Depreciation</u>				
	Balance 1st January	161,516	78,770	100,968	341,254
	Charge for the year	29,462	5,408	7,524	42,394
	Acc Depr. on Disposal	-	-	-	0
	As at 31 December	190,978	84,178	108,492	383,648
	<u>Net Book Value</u>				
	Balance 31 December 2011	545,576	21,631	30,097	597,304
	Balance 31 December 2010	575,038	27,039	37,621	639,698

Human Rights Commission
Notes to the Financial Statements for the Year Ended 31 December
2011

<u>5</u>	Debtors	<u>2011</u>	<u>2010</u>
		€	€
	Debtors	0	0
	Prepayments	8,960	6,393
		<u>8,960</u>	<u>6393</u>

<u>6</u>	Creditors & Accruals within one year	<u>2011</u>	<u>2010</u>
		€	€
	Trade Creditors - (Purchases due at year end)	18,905	8,294
	IHRC HR Education & Training Project	189,273	133,606
	IHRC Universal Periodic Review Project	15,652	51,874
	PAYE/PRSI	25,909	43,648
	Pension Levy	4,091	8,852
	Fees owing to Commission Members	695	27,775
	Professional Withholding Tax payable	2,894	3,531
	Accruals	336,083	235,626
		<u>593,502</u>	<u>513,206</u>

<u>7</u>	<u>IHRC Education & Training Project</u>	<u>2011</u>	<u>2010</u>
		€	€
	Opening Balance	133,606	164,369
	Funds Received	200,000	75,000
	Expenses	(144,333)	(105,763)
	Balance	<u>189,273</u>	<u>133,606</u>

The IHRC Human Rights Education & Training project is an IHRC project which Atlantic Philanthropy has agreed to support. €250,000 has been designated by Atlantic Philanthropy for the completion of this project which is due to run until mid 2011.

<u>8</u>	<u>IHRC Universal Periodic Review Project</u>	<u>2011</u>	<u>2010</u>
		€	€
	Opening Balance	51,874	
	Funds Received	-	68,000
	Expenses	(36,222)	(16,126)

Balance	15,652	51,874
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The IHRC Universal Periodic Review Project is an IHRC project which Atlantic Philanthropy has agreed to support. €68,000 has been designated by Atlantic Philanthropy for the completion of this project which is due to run until mid 2011.

9 Superannuation

(a) Analysis of total pension costs charged to Expenditure

	<u>2011</u>	<u>2010</u>
	€	€
Current service cost	44,600	71,800
Interest on pension scheme liabilities	23,000	25,600
Settlement	-	-
Employee contribution	(32,500)	(36,800)
Total operating charge	<u>35,100</u>	<u>60,600</u>

(b) Movement in net pension liability during the financial year

	<u>2011</u>	<u>2010</u>
	€	€
Surplus / (Deficit) in Scheme liability at 1 January	(470,700)	(502,000)
Current service cost	(44,600)	(71,800)
Settlement	-	-
Interest cost	(23,000)	(25,600)
Actuarial loss / (gain) recognised in STRGL	(50,600)	165,500
Employee contributions	(32,500)	(36,800)
Net Pension Surplus at 31 December	<u>(621,400)</u>	<u>(470,700)</u>

(c) Deferred Funding for Pensions

The Human Rights Commission recognises these amounts as an asset corresponding to the unfunded deferred liability for pensions on the basis of the set of assumptions described

above and a number of past events. These events include the statutory basis for the establishment of the superannuation scheme, and the policy and practice currently in place in relation to funding public service pensions including contributions by employees and the annual estimates process. While there is no formal agreement regarding these specific amounts with the Department of Finance, the Human Rights Commission has no evidence that this

funding policy will not continue to meet such sums in accordance with current practice.

The deferred funding asset for pensions as at 31 December 2011 amounted to €621,400 (2010: €470,700).

(d) The Net Deferred funding for Pensions recognised in the Income and Expenditure Account was as follows:

	<u>2011</u>	<u>2010</u>
	€	€
Funding recoverable in respect of current year pension costs	67,600	97,400
	<u>67,600</u>	<u>97,400</u>

(e) General description of the scheme

The Human Rights Commission operates its pension scheme as a 'Pay as You Go'

pension arrangement and therefore holds no assets.

The membership as at the balance sheet date consisted of 11 active members and 8 deferred members. Membership and pensionable salary details have been provided by the Scheme administrators. The past service liability for the Scheme as at 31

December 2011 based on final projected salaries is given in the table below.

	<u>2011</u>	<u>2010</u>
	€	€
Present value of scheme	(621,400)	(470,700)
Fair value of scheme assets	-	-
Total Past service liability	<u>(621,400)</u>	<u>(470,700)</u>

(f) The main financial assumptions used were:

	<u>2011</u>	<u>2010</u>
Discount rate	4.50%	4.90%
Rate of increases in salaries	3.10%	3.10%
Inflation	2.10%	2.10%
State Pension Increases	2.10%	2.10%
Mortality Table	62% of PNML00 70% of PNFL00	62% of PNML00 70% of PNFL00
Improvements	0.39% pa	0.39% pa
Life expectancy Male age 65	21.70	21.60
Life expectancy Female age 65	23.40	23.30

Projected Unit Method as prescribed under FRS17.

Note that the current service cost will rise under this method if the average age of the active members rises.

**(g) Revised FRS17
Disclosures**

The information on pensions has been presented in line with new disclosure requirements required from 2009 under an amendment to FRS 17.

<u>10</u>	Capital Account	<u>2011</u>	<u>2010</u>
		€	€
	Opening Balance	639,700	685,923
	Transfer from/(to) Income and Expenditure		
	Portion of grant awarded used for capital purposes	0	3
	Amortised in the year in line with asset depreciation	<u>(42,394)</u>	<u>(46,226)</u>
	Net movement in year	<u>(42,394)</u>	<u>(46,223)</u>
	Closing balance	<u><u>597,306</u></u>	<u><u>639,700</u></u>
 <u>11</u>	 Legal Fees	 <u>2011</u>	 <u>2010</u>
	Enquires	0	(8,987)
	Amicus Curiae	0	0
	Legal Assistance	0	67
	Legal Fees General	4,555	966
		<u>4,555</u>	<u>(7,954)</u>

12 **Approval**

The financial statements were approved by the Commission on _____ and signed on its behalf by:

Signed:

Dr. Maurice Manning
President

Des Hogan
Acting Chief Executive

