

IRELAND 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Ireland is a multiparty parliamentary democracy with an executive branch headed by a prime minister, a bicameral parliament (Oireachtas), and a directly elected president. The country held free and fair parliamentary and presidential elections in February and October 2011, respectively. Security forces reported to civilian authorities.

The principal human rights problem in the country remained poor conditions in prisons and detention facilities, some of which failed to meet basic needs for hygiene, were overcrowded, and were prone to prisoner violence. Additionally, the Ombudsman for Children's Office and the Irish Human Rights Commission reported problems at mental health facilities and in the treatment of children in the penal system.

Other human rights problems reported were: lengthy asylum determinations; gender inequality in the workplace with regard to pay and promotions; child abuse; violence and discrimination against immigrants, particularly Africans; and societal discrimination against the indigenous Traveller minority.

The government took steps to prosecute officials who committed human rights abuses, including in the security services and elsewhere in the government. There were no reports of impunity involving the security forces during the year.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

The Garda Síochana, or Garda, is the national police force. In 2011 the Garda Síochana ombudsman (GSOC) received 2,275 complaints from members of the public, of which 896 were deemed inadmissible. The reasons for inadmissibility varied from complaints being outside the six-month time limit to infractions being deemed by GSOC to be frivolous or of such minor concern that the issuance of a warrant to investigate was unnecessary. The largest number of allegations against police related to abuse of authority (39 percent), followed by neglect of duty (26 percent). Approximately 11 percent of the allegations were for nonfatal offenses against a detainee. The overall number of complaints against police officers increased approximately 5 percent in 2011, reversing a decline seen in 2010. Civil liberties organizations express concern over delays in the GSOC process, particularly with respect to allegations against senior Garda officials.

The country does not have a mechanism for independent inspection of detention facilities and methods.

Prison and Detention Center Conditions

While the majority of prisons met international standards, a small number of the country's older prisons failed to meet prisoners' basic hygiene needs.

Physical Conditions: The prison population declined slightly in 2011, averaging 4,390 inmates a day. Concerns remained that prisons exceeded their capacity. At times authorities held detainees awaiting trial in the same facilities as convicts. In 2011 the prison population was 3.3 percent female, and 0.7 percent minors (below the age of 18 years old). Many prisoners in older facilities continued to have no sanitary facilities in their cells and were forced to use chamber pots in a process known as "slopping out," which humanitarian organizations referred to as inhumane treatment. The government acknowledged the need to remedy this situation, although the planned construction of two replacement prisons has been shelved due to fiscal constraints associated with the current financial crisis.

Although the country maintained separate facilities for children and young adults, in certain specific cases, including the need for higher security, authorities held a small number of 17-year-old prisoners together with older prisoners. Domestic and international monitoring bodies criticized the continued detention of 16- and 17-year-old males in Saint Patrick's Institution, a medium-security prison, for not

providing a suitable environment for the detention of juveniles. Minors are reported to continue to be admitted to adult psychiatric units.

Human rights groups continued to criticize understaffing and working conditions at the Central Mental Health Hospital in Dundrum, the county's only secure mental health facility.

Administration: Recordkeeping on prisoners was adequate. Prisoners had access to visitors and religious observance, and could submit complaints to judicial authorities without censorship. Government authorities investigated credible allegations of inhumane conditions. In recent years the country has taken advantage of early release programs to address prison overcrowding.

Monitoring: The government permitted visits and monitoring by independent human rights observers and maintained an open invitation to visits from UN special rapporteurs. The Irish Human Rights Commission (IHRC) reported that the prison inspector function was highly effective. The Council of Europe's Committee for the Prevention of Torture visited the country's police detention centers, prisons, and mental institutions in 2010 and published a favorable report later that year.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government observed these prohibitions.

Role of the Police and Security Apparatus

The Garda maintains internal security and is under the control of the Ministry of Justice. The Defense Forces are responsible for external security under the supervision of the Ministry of Defense but are also authorized for some domestic security responsibilities in support of the Garda.

Civilian authorities maintained effective control over the Garda and the army. The government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

An arrest typically requires a warrant issued by a judge, except in situations necessitating immediate action for the protection of the public. The law provides the right to a prompt judicial determination of the legality of the detention, and authorities broadly respected this right in practice. Authorities must inform detainees promptly of the charges against them and, with few exceptions, cannot hold them longer than 24 hours without charge. For crimes involving firearms, explosives, or membership in an unlawful organization, a judge may extend detention for an additional 24 hours upon a police superintendent's request. The law permits detention without charge for up to seven days in cases involving suspicion of drug trafficking, although police must obtain a judge's approval to hold such a suspect longer than 48 hours.

Upon arrest the law permits detainees and prisoners prompt and unrestricted access to attorneys. If a detainee does not have an attorney, the court will appoint one. The law allows detainees prompt access to family members and requires that authorities bring a detainee before a district court judge "as soon as possible" to determine bail status pending a hearing. A court may refuse bail to a person charged with a crime that carries a penalty of five years' imprisonment or more or when continued detention is deemed necessary to prevent the commission of another offense. The Irish Council on Civil Liberties expressed concern that the law may not be in compliance with the European Court of Human Rights jurisprudence on the right of access to a lawyer.

e. Denial of Fair Public Trial

The constitution provides for, and the government respected, an independent judiciary.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary enforced this right.

The law provides for a nonjury "special criminal court" (SCC) when the director of public prosecutions certifies a case to be beyond the capabilities of an ordinary court. A panel of three judges, usually including one high court judge, one circuit judge, and one district judge, hears such cases in public. They reach their verdicts by majority vote. Apart from trial by jury, defendants in the SCCs enjoy most of the due process protections available to other defendants. The IHRC has noted that the jurisdiction of SCCs has been expanded in recent years to cover most organized

crime offenses. The IHRC has also noted concerns that an SCC uses a lower standard for evidence admissibility, and the absence of an appeal mechanism for the prosecuting authority's decision to remand a case to an SCC.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The independent and impartial judicial system hears civil cases and appeals on civil matters, including damage claims resulting from human rights violations. Such claims may be brought before all appropriate courts, including the Supreme Court. Individuals can petition (but not formally appeal) decisions involving alleged violations by the state of the European Convention on Human Rights to the European Court of Human Rights (ECHR). The IHRC expressed concern over limited access to government-funded legal assistance in civil actions, as compared with the more widely available resources for assistance in criminal actions.

Regional Human Rights Court Decisions

The country is subject to the jurisdiction of the ECHR. However, the minister of state for European affairs has stated the ECHR may not have direct jurisdiction over Irish legal matters, an opinion that civil liberties organizations dispute. In December 2011 the ECHR issued a ruling that Irish restrictions on abortion are inconsistent with the European Convention on Human Rights (A, B, and C v. Ireland). As of year's end, the government had not complied with the ECHR ruling.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech including for members of the press, and the government respected these rights in practice. An independent press, an

effective judiciary, and a functioning democratic political system act jointly to ensure freedom of speech and of the press.

Freedom of Speech: The constitution prohibits blasphemy, defined as publishing or uttering “matter that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion.” The law permits defendants to argue “genuine literary, artistic, political, scientific, or academic value” as a defense. There has been only one prosecution for blasphemy since 1855.

Freedom of Press: The independent media were active and expressed a wide variety of views without restriction. The law proscribes words or behaviors that are likely to generate hatred against persons in the country or elsewhere because of their race, nationality, religion, national origins, or sexual orientation. The law empowers the government to prohibit the state-owned radio and television network from broadcasting any material “likely to promote or incite to crime or which would tend to undermine the authority of the state.” Authorities did not invoke these prohibitions during the year.

Censorship or Content Restrictions: The Censorship of Publications Board has the authority to censor books and magazines it finds indecent or obscene. The board did not exercise this authority during the year. The Irish Film Classification Office (IFCO) must classify films and videos before they can be shown or sold; it must cut or prohibit any film that is “indecent, obscene, or blasphemous” or which tends to “inculcate principles contrary to public morality or subversive of public morality.” During the year the IFCO did not prohibit any films or videos.

Internet Freedom

Individuals and groups could freely engage in the expression of views via the Internet, including by e-mail. There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Consistent with an EU directive, the government requires telecommunication companies to retain information on all telephone and Internet contacts (not content) for two years, although the IHRC questioned whether the safeguards for access to this information are compliant with EU law. According to International Telecommunications Union statistics, approximately 77 percent of the population used the Internet in 2011.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedoms of assembly and association, and the government respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and statutes provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The country's active asylum system provides an adjudication process to refugees; those who receive a negative result can appeal the decision. Nongovernmental organizations (NGOs) expressed concern over the length and complexity of the application and appeal processes, which can take up to six years to complete.

Safe Country of Origin/Transit: The country employs the Dublin Regulation that returns asylum applicants to the EU member state of original entry for adjudication of asylum claims.

Durable Solutions: The government operated a resettlement program that accommodates up to 200 persons per year on referral from the office of the

UNHCR or identified through selection missions to existing UNHCR refugee operations.

Temporary Protection: The country provides “subsidiary protection” to individuals who do not satisfy the legal criteria for refugee status but who cannot return to their country of origin due to a real risk of serious harm. Under EU guidelines individuals granted subsidiary protection are supposed to be entitled to temporary residence permits, travel documents, access to employment, and equal access to health care and housing. Ireland is the only country in the EU that does not make a determination on subsidiary protection status at the same time as asylum status. This approach causes delay, as the separate subsidiary protection determination can take from months to more than one year to complete. During 2011 the country received 884 applications for subsidiary protection, from which it granted protection to 13 persons.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: Observers reported that the 2011 parliamentary and presidential elections were free and fair.

Participation of Women and Minorities: There were 25 women in the 166-seat parliament (Dail Eireann) and 18 in the 60-seat senate (Seanad Eireann). Two of the 15 government ministers were women, as were the Chief Justice of the Supreme Court, the director of public prosecutions, and the attorney general. There were members of minority religions in the lower house, the senate, and the cabinet. Despite these improvements in broadening access to political participation, there remained concerns that women were underrepresented in governing institutions (in addition to the civil service leadership, public boards, and the highest levels of education and business). The government was implementing new regulations that will directly link public financial support of political parties to the ability of the parties to nominate women candidates for political office.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government implemented these laws effectively. There were isolated reports of corruption by public officials during the year.

Public officials were subject to financial disclosure laws. The country has a number of institutions responsible for identifying and combating government corruption, including an independent comptroller and auditor general, and a Standards in Public Office Commission.

The law provides for public access to government information and requires government agencies to publish information on their activities and make such information available to citizens, noncitizens, and foreign media upon request. Authorities generally granted public freedom of information requests, and provided mechanisms for appealing denials. The public's right to government information does not extend to some government organizations such as the Garda and the National Asset Management Agency.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated without government restriction and freely investigated and published their findings on human rights cases. Government officials were cooperative and responsive to their views. The government met with major local human rights NGOs and was responsive to them.

Government Human Rights Bodies: The government announced a proposal to merge the IHRC and the Equality Authority (EA) into the new Irish Human Rights and Equality Commission (HREC). Human rights organizations such as the Council on Civil Liberties supported this merger in principle but were critical of a perceived lack of independence in the mechanism for the appointment of the director and commissioners. There were also concerns over the potential for conflict of interest between the commission and the Department of Justice, as the department is the source of funding, the determinant of key appointees, and the possible target of HREC criticism.

The budgets of the IHRC and the EA have been reduced in recent years, as have those of human rights NGOs. Other organizations that have closed in recent years

include the National Action Plan against Racism, the National Consultative Committee on Racism and Interculturalism, and the Combat Poverty Agency.

The country also has an ombudsman, a data protection commissioner, an ombudsman for children, and a press ombudsman to regulate press matters.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination. The nine grounds under which discrimination is prohibited by equality legislation are: Gender; Civil Status; Family Status; Sexual Orientation; Religion; Age; Disability; Race; and Membership of the Traveller Community.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and the government enforced it. During 2011 there were 471 rapes among the 2,025 sexual offenses reported to the authorities. Police and judicial authorities showed no reluctance to investigate and prosecute rape or sexual assaults, and most persons convicted received prison sentences of between five and 12 years. According to the most recent report by the director of public prosecutions, there were 131 prosecutions for sexual offenses in 2010, resulting in 60 convictions.

The law criminalizes domestic violence, but such violence continued to be a problem. The law authorizes prosecution of a violent family member and provides victims with safety orders that prohibit a person from engaging in violent actions or threats and orders that bar an offender from entering the family home for up to three years.

Sexual Harassment: The law obliges employers to prevent sexual harassment and prohibits dismissing an employee for making a complaint of sexual harassment. Authorities effectively enforced the law in the cases of reported sexual harassment. However, the Equality Authority reported a 60 percent increase in allegations of suspected discrimination in 2010.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so, free from discrimination, coercion, and violence. Women had access to contraception and skilled attendance during childbirth.

Discrimination: Women have the same legal rights as men, including rights under family law, property law, and in the judicial system. However, inequalities in pay and promotions persisted in both the public and private sectors. The IHRC has recommended amending the country's constitution to remove stereotypical references to the role of women in society. For example, among the IHRC citations is a recommendation to amend Articles 41.2 (current form: "The State shall, therefore, endeavour to ensure that all mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.").

Children

On November 10, a public referendum passed to amend the Constitution with strengthened protections of the rights of children.

Birth Registration: A person born after 2004 on the island of Ireland, including Northern Ireland, is automatically an Irish citizen if at least one parent is an Irish citizen, a British citizen, a resident of either the Republic of Ireland or Northern Ireland entitled to reside in either without time limit, or a legal resident of the Republic of Ireland or Northern Ireland for three out of the four years preceding the child's birth (excluding time spent as a student or an asylum seeker). Births are registered immediately.

Child Abuse: The law criminalizes engaging or attempting to engage in a sexual act with a child under 17 years old. The maximum sentence in these cases is five years' imprisonment, but a maximum sentence of 10 years can be given if the accused is a person in authority, such as a parent or teacher. The law additionally proscribes any person from engaging or attempting to engage in a sexual act with a child under 15 years old; the maximum sentence is life imprisonment.

In July 2011 the Ministry of Justice's Commission of Investigation into the Roman Catholic Diocese of Cloyne published its report on the handling by church and state authorities of allegations against clerics of child sexual abuse. The report criticized the Diocese of Cloyne for not reporting immediately credible allegations of clerical sexual abuse to civil authorities or in some cases not reporting them at all. It also criticized the Health Services Executive, which maintained that there was no need for further investigation even after credible evidence of the sexual abuse of minors came to its attention.

Child Marriage: The legal minimum age for marriage is 18 years old. Persons under 18 years old must obtain the permission of the Circuit Family Court or the High Court to marry.

Sexual Exploitation of Children: A maximum penalty of life imprisonment may be imposed for child trafficking and taking a child for sexual exploitation. A person convicted of meeting a child for the purpose of sexual exploitation faces a maximum penalty of 14 years' imprisonment, and the law provides that a person convicted of allowing a child to be used for pornography may be sentenced with a fine of up to 31,000 euros (\$40,920), up to 14 years' imprisonment, or both. The maximum penalty is 1,900 euros (\$2,508), a year's imprisonment, or both, for producing, distributing, printing, or publishing child pornography, penalties that the Irish Society for the Prevention of Cruelty to Children has criticized as too lenient.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

According to the 2011 census, the Jewish community numbered 1,984 persons. There were few reported acts of anti-Semitism during the year. There was a YouTube video briefly available on the internet that included anti-Semitic verbal attacks on Irish Justice and Defense Minister Alan Shatter, who is Jewish. The government spoke out against anti-Semitism in any form or country, notably in a speech by Minister Shatter at a university event celebrating the 100th anniversary of Raoul Wallenberg's birth co-organized by Trinity College Dublin and the Hungarian, Swedish, and Israeli embassies.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services; the government effectively enforced these provisions. The government effectively

implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications. The National Disability Authority has responsibility for setting and implementing disability standards, as well as directing disability policy. Children with disabilities generally have full access to all educational options at all levels. Observers reported that minors continued to be admitted to adult psychiatric units, and human rights groups continued to criticize understaffing and working conditions at the Central Mental Health Hospital in Dundrum, the country's only secure mental health facility.

National/Racial/Ethnic Minorities

The law prohibits discrimination based on language or social status, and the government enforced the law. However, societal discrimination and violence against immigrants and racial and ethnic minorities continued to be a problem. In September the Immigrant Council of Ireland reported that one serious racist incident--including physical violence, verbal attacks, and internet harassment--occurred every week.

There were racially motivated incidents involving physical violence, intimidation, graffiti, and verbal slurs, particularly against the country's African population. NGOs reported that immigrants, particularly those of African descent, suffered unemployment disproportionately during the economic downturn.

According to the 2011 census, 29,495 persons identified themselves as members of an indigenous group called Travellers, with a distinct history and culture. Despite applicable antidiscrimination laws and longstanding government policies to redress imbalances, Travellers faced societal discrimination and occasionally denial of access to education, employment, housing, sanitation, and basic services. However, Travellers also received funding from the government, particularly for education and housing.

The law obliges local officials to develop accommodations for Travellers and to solicit Traveller input. Traveller NGOs asserted that many communities provided Travellers with housing that was inconsistent with the nomadic Traveller lifestyle or provided transient caravan-camping sites that did not include basic amenities such as sanitary facilities, electricity, and water.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no laws that criminalize consensual same-sex sexual conduct between adults. The law prohibits discrimination on the basis of sexual orientation with respect to employment, goods, services, and education--although same-sex couples are prohibited from obtaining a marriage in the country.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS or against other groups not covered above.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law protects the rights of workers to form and join independent unions, conduct legal strikes, and bargain collectively, and these rights were respected in practice. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity. Police and military personnel may form associations, but technically not unions, to represent them in matters of pay, working conditions, and general welfare.

The law allows unions to conduct their activities without government interference, and this right was exercised in practice. The law provides for the right to strike, except for police and military personnel, and workers exercised this right in both the public and private sectors. Labor unions have the right to pursue collective bargaining and in most instances did so freely. However, the law does not require employers to engage in collective bargaining. There were no reports of antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government effectively enforced the law.

There were reports of forced labor practices. NGOs alleged that employers subjected men and women to forced labor in construction, commercial fishing, as domestic servants in private homes, and in agriculture. Women and girls were subjected to sex trafficking; there were reports of children subjected to sexual exploitation, forced begging, and forced labor in restaurants and domestic service.

To combat and increase awareness of labor trafficking, the government cooperated with the International Labor Organization in its antitrafficking initiative and formed a labor-exploitation working group with participants representing trade unions and employer organizations.

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits employment of children under 16 years old in full-time jobs. However, employers may hire children 14 or 15 years old for light work on school holidays as part of an approved work experience or educational program. Employers may hire children over 15 years old on a part-time basis during the school year. The law establishes rest intervals and maximum working hours, prohibits the employment of 18-year-olds for late night work, and requires employers to keep detailed records of workers under 18 years old. The Office of the Labor Inspectorate at the Department of Enterprise, Trade, and Employment is responsible for enforcement and was generally effective.

The government implemented laws and policies to protect children from exploitation in the workplace, and these laws were effectively enforced.

d. Acceptable Conditions of Work

The national minimum hourly wage is 8.65 euros (\$11.42). Reports persisted that employers at times paid foreign migrant workers below the minimum wage, particularly in the rural agricultural and construction sectors. Laws establishing and regulating wage levels cover foreign migrant workers. The standard workweek is 39 hours. The law limits work in the industrial sector to nine hours per day and 48 hours per week. The law limits overtime work to two hours per day, 12 hours per week, and 240 hours per year. The government effectively enforced these standards. Although there is no statutory entitlement, premium pay for overtime could be arranged between employer and employee. The government sets occupational health and safety standards.

The law requires equal pay for equal work or work of equal value.

The informal economy is small. While largely undocumented and not reported, the agriculture and services sectors have historically had the most informal labor.

However, recent reports indicated that the informal economy, which encompassed everything from narcotics to cash-only employment, may be growing as the country deals with a prolonged economic slump.

The government operated the National Employment Rights Authority (NERA) independent of the Department of Jobs, Enterprise, and Innovation, to monitor employment practices. The NERA operates with a staff of 102, including 62 labor inspectors and nine inspector-team managers, and was active and effective during the year.

The Department of Jobs, Enterprise, and Innovation is responsible for enforcing occupational safety laws, and these laws provided adequate and comprehensive protection. There were no complaints from either labor or management during the year regarding shortcomings in enforcement.