



## THE SITUATION OF HUMAN RIGHTS DEFENDERS

# IRELAND

UPR Briefing Paper - September 2015

At the national level, Ireland has demonstrated a sound commitment to ensuring a safe and enabling environment for human rights defenders (HRDs), as well as being open to improving its legal framework through reforms. It has also recently established a national plan on business and human rights (NAP). Internationally, Ireland has played a positive role in promoting the work and protection of HRDs at the UN Human Rights Council, including by regularly leading or co-sponsoring thematic resolutions on HRDs, civil society space, freedom of association and assembly, freedom of expression, reprisals, and the work of national human rights institutions. In Ireland's first Universal Periodic Review (UPR) in June 2011 it accepted a recommendation regarding freedom of expression and committed to repeal the law criminalising blasphemy. However this commitment on blasphemy is yet to be implemented.

### GENERAL FRAMEWORK FOR CIVIL SOCIETY AND THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- Ireland ranks 12 out of 109 States included in the 2013 CIVICUS Enabling Environment Index, which assesses how open and safe a country is for civil society.<sup>1</sup>
- Ireland received a score of 16 in Freedom House's Freedom of the press Index<sup>2</sup> (0 being the best and 100 the worst) based on indicators related to freedom of opinion and expression; and a score of 1 in the Freedom in the world Index<sup>3</sup> (1 being the best and 7 the worst) based on indicators related to political rights and civil liberties.
- Transparency International's 'Corruption Perception Index 2014', ranks countries based on how corrupt their public sector is perceived to be, with Ireland ranking 17th out of 175 states.<sup>4</sup> The 2014 Basel Anti-Money Laundering Index ranks Ireland 144th out of 162 states, 162 being the best.<sup>5</sup>
- According to former Special Rapporteur on the situation of HRDs, Margaret Sekaggya, 'Ireland has assumed a leading role in initiatives under the EU Guidelines on HRDs to contribute to the protection of defenders and activists at risk in other countries, including through the provision of temporary visas at the national level.' She also commended 'Ireland for its efforts to assist defenders at risk in third countries.'<sup>6</sup>

### REFORMS FOR THE PROTECTION OF THE WORK OF HUMAN RIGHTS DEFENDERS

- In collaboration with civil society and Transparency International (TI), the Irish Government enacted the Protected Disclosures Act in July 2014, which provides safe channels to workers speaking out against wrongdoings. The Act is a response to harassment suffered by members of Gardaí (the Irish police force) for attempting to report irregularities in road offences, where penalties were overridden for judges and Gardaí. While the Act represents a step forward, TI Ireland has called for it to be strengthened during its review in 2017, including by expanding the protection to voluntary workers.<sup>7</sup>
- Following her visit in November 2012, Sekaggya, noted that 'Ireland has not been very active in disseminating the Declaration on HRDs at the domestic level' and that 'there was no NAP on Human Rights in Ireland.'<sup>8</sup> Following this report, the Government initiated consultations for its NAP. In March 2015, ISHR made a submission to Ireland that it should consult and protect HRDs through its NAP.<sup>9</sup>
- Sekaggya also noted 'with concern that the [2009 Charities] Act fails to recognise the promotion of human rights as 'a purpose that is beneficial to the community', therefore, effectively excluding organisations that work on the protection and promotion of human rights from being able to register as charities.'<sup>10</sup>

- Following the Irish Council for Civil Liberties releasing an overview of gaps in Ireland's respect for international human rights standards in March 2015,<sup>11</sup> a new parliamentary mechanism was established to assist in the promotion and protection of human rights in Ireland. The Oireachtas Human Rights and Equality Sub-Committee's programme of work includes: (a) reviewing the omission of human rights organisations in terms of eligibility for charitable status in the Charities Act; and (b) examining Ireland's ratification of international human rights treaties.<sup>12</sup>
- The Irish Human Rights and Equality Commission (IHREC), Ireland's National Human Rights Institution (NHRI), was established by the Irish Human Rights and Equality Commission Act of 2014<sup>13</sup> following recommendations made by former UN High Commissioner for Human Rights Navi Pillay.<sup>14</sup> The UN General Assembly has stressed the importance of the administrative and financial independence of NHRIs and Amnesty International has expressed concern regarding the Minister for Justice and Equality setting IHREC's funding, making it vulnerable to cuts.<sup>15</sup>
- The Irish government introduced an independent mechanism for complaints in prisons under its Prison Service & Probation Service Strategic Plan 2013 – 2015, which protects prisoners from acts of retaliation for denouncing any type of abuse occurring in prison, following Sekaggya expressing concern regarding the lack of such a mechanism.<sup>16</sup>

## PROSPECTS FOR CHANGE

- Blasphemy is an offence under the Irish Constitution, defined as 'the publication or utterance of blasphemous, seditious, or indecent matter'. The Defamation Act (2009) also punishes blasphemy with a maximum fine of €25,000. While no prosecution has occurred to date, Sekaggya expressed concern about the vagueness of the offence, calling for its abolition. In October 2014, the Government announced its decision to hold a referendum on the issue. However, in January 2015, the Taoiseach (Prime Minister) said a referendum would not take place before the next general election, scheduled for April 2016.
- The Special Criminal Court was established in 1972 under the Offences against the State Act (1939) which tries cases on terrorism and serious organised crime. Sekaggya, in light of recommendations made by the Human Rights Committee,<sup>17</sup> called for the abolition of this special court on the basis that it does not provide adequate safeguards in respect of the right to a fair trial.<sup>18</sup>
- The Irish Government has not established an independent commission to examine all aspects of media ownership and control, including employment standards, despite a proposal by the National Union of Journalists, supported by the Irish Congress of Trade Unions, to ensure media plurality in the country.<sup>19</sup>

## RECOMMENDATIONS TO THE GOVERNMENT OF IRELAND

- Continue to demonstrate strong international leadership on the protection of HRDs, particularly by making recommendations for the protection of HRDs when engaging with the UPR and in leading or co-sponsoring resolutions on the protection of civil society space, the prevention of reprisals, and the protection of HRDs at the Human Rights Council in Geneva and at the General Assembly in New York.
  - Demonstrate international leadership by enacting specific national legislation which enshrines the right to access and communicate with international human rights bodies and which prohibits any form of intimidation or reprisal in association with such communication.
  - Demonstrate increased international leadership by leading the drafting and negotiation of Human Rights Council resolutions and joint statements in respect of country situations where human rights defenders and other civil society actors are seriously restricted or at risk.
  - Adopt and implement recommendations made in [ISHR's submission on Ireland's NAP](#), including consulting closely with HRDs in the development of the NAP and ensuring it contains specific measures supporting and protecting the vital work of HRDs in promoting corporate respect for human rights and corporate accountability for violations.
  - Continue and strengthen support, including financial and diplomatic support, to a diverse range of national, regional and international NGOs providing advice, protection and support to HRDs.
  - Continue to ensure that embassy staff implement the Guidelines for Irish Embassies and Missions for the protection of HRDs in a proactive, consistent and principled manner.
  - Amend the Charities Act to explicitly recognise that the promotion of human rights is a purpose that is beneficial to the community.
  - Ensure that the IHREC complies with the Paris Principles, including in respect of the adequacy of its resourcing and its financial independence.
- Ireland should continue the sound commitment it has made to ensuring a safe and enabling environment for HRDs nationally, as well as the positive role it has played in promoting the work and protection of HRDs at the international level.**

1. <https://civicus.org/media-centre-129/press-releases/1887-govts-fail-to-create-favourable-conditions-for-civil-society-says-new-report>
2. [https://freedomhouse.org/sites/default/files/01152015\\_FIW\\_2015\\_final.pdf](https://freedomhouse.org/sites/default/files/01152015_FIW_2015_final.pdf)
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14. <http://www2.ohchr.org/english/bodies/HRTD/docs/HCREportTBSstrengthening.pdf>, p. 85.
15. [http://www.ccprcentre.org/doc/2014/06/INT\\_CCPR\\_CSS\\_IRL\\_17502\\_E.pdf](http://www.ccprcentre.org/doc/2014/06/INT_CCPR_CSS_IRL_17502_E.pdf)
16. <http://www.irishprisons.ie/index.php/component/content/article/77-prisons/196>
17. (CCPR/C/IRL/CO/3, para. 20); <http://www.un.org/press/en/2000/20000728.hrct587.doc.html>
18. [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-47-Add-3\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-47-Add-3_en.pdf)
19. <https://www.nuj.org.uk/news/irish-unions-back-commission-on-media-ownership/>

## ABOUT THIS BRIEFING PAPER

ISHR encourages States to consult UPR submissions by local activists as well as to make a recommendation to Ireland regarding the protection of HRDs. For further information on this briefing paper, contact Tess McEvoy (t.mcevoy @ishr.ch).

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