

DFAT NGO Standing Committee on Human Rights

11:00am 12 December 2016

Iveagh House

Minutes

In attendance: Siobhan Mullally (*University College Cork, Law*), Deaglán Ó Briain (*Department of Justice & Equality*), Dr John Reynolds (*NUIM*), David Turner (*Church in Chains*), Julian Waagensen (*Trócaire*), Iarfhlaith Watson (*Baha'I Ireland*), Adam Egan, (*Department of Justice and Equality*), Martina Feeney (*Human Rights Unit*), Caroline Phelan (*Human Rights Unit*), Jerry MacEvilly (*Human Rights Unit*), Agathe Hutchinson (*Human Rights Unit*), Lisa Joyce (*Human Rights Unit*), Louise Finan (*Dóchas*), Caitríona Doyle (*Europe Division, DFAT*), Liam Herrick (*ICCL*), Catherine Lynch (*UCD*), Ms Anastasia Crickley (*NUIM*), Andrew Anderson (*Front Line Defenders*), David Joyce (*ICTU*), Emily Brennan (*Irish Centre for Human Rights, NUIG*), Graham Finlay (*UCD*), Ruth Gallagher (*IHREC*), Claire Devlin (*Christian Aid Ireland*), Éilís Barry (*FLAC*).

- 1. The Agenda of the meeting was adopted**
- 2. The draft minutes of the meeting of 24 October 2016 were adopted**
- 3. Ratification of the UN Convention on the Rights of Persons with Disabilities**

Mr Deaglán Ó Briain (Department of Justice and Equality) updated the Committee on the principle remaining legislative barriers to Ireland's ratification of the UN Convention on the Rights of Persons with Disabilities (UN CRPD). The finishing touches are being made to a draft bill with a view to submitting it for the final Government meeting on 20 December 2016, with a view to it being presented early in the new session of the Dáil in 2017. He provided an overview of the current state-of-play in relation to commencement of the Assisted Decision-Making (Capacity) Act 2015. Amongst the provisions of the new Bill, the Electoral Act 1992 will be amended to repeal the prohibition on a person of 'unsound mind' from standing for election to the Dáil. 113 references to "people of unsound mind" had to be individually examined and interpreted. Consultations with the judiciary were also organized in relation to the proposed amendment to the Juries Act, which will inter alia allow for provision of sign language interpretation to facilitate deaf persons serving on juries.

4. Ratification of the Council of Europe Convention on preventing and combating violence against women (Istanbul Convention)

Mr Deaglán Ó Briain (Department of Justice and Equality) summarised the legislative steps to be undertaken prior to ratification of the Istanbul Convention. The three pieces of legislation which are required prior to ratification include: the new Criminal Justice (Sexual Offences) Bill (which is to be enacted by the end of 2016), the Criminal Justice (Victims of Crime) Bill (which should be enacted by early 2017), and the Domestic Violence Bill (which should be published by the time of the final government meeting in 2016). It is hoped that all outstanding issues will be addressed by the end of 2017.

5. Review of Ireland by the UN Committee on the Elimination of Discrimination against Women (CEDAW), 15 February, 2017

Deaglán Ó Briain (Department of Justice and Equality) briefed the Committee on the upcoming 66th session of the UN Committee on the Elimination of Discrimination against Women, which will run from the 13 February to the 3 March 2017 in Geneva. Ireland's review under the CEDAW will take place on 15 February 2017. It is intended that the Irish delegation will be headed by the Tánaiste and will also comprise experts from all relevant Government Departments.

6. Update on the Committee on the Elimination of All Forms of Racial Discrimination (CERD) (not on the draft agenda)

Ms Anastasia Crickley (President of the UN Committee for the Elimination of Racial Discrimination) updated the Committee on the 91st session of the UN Committee for the Elimination of Racial Discrimination, which took place in Geneva from 21 November to 9 December 2016. The session included reviews of Argentina, Italy, Portugal, Togo, Turkmenistan, and Uruguay. Notable reports of incidents of racial discrimination include the United Kingdom post-Brexit; and incidents of racial discrimination toward indigenous peoples in Canada.

Ms Siobhan Mullally (UCC) highlighted the reports of ethnic cleansing and extra-judicial killings occurring in Burundi; and asked whether an urgent procedure would

be launched by CERD. **Ms Crickley** verified that two statements were issued by the Committee, through its Early Warning and Urgent Action Procedure, in August and November, on the situation in Burundi.

7. De-brief on visit to Ireland by the Council of Europe Commissioner for Human Rights, Mr Nils Muiznieks, November 2016

Caitríona Doyle (Europe division, DFAT) briefed the Committee on the four-day visit to Ireland of the Council of Europe Commissioner for Human Rights, Mr Nils Muiznieks. The visit took place from 21 to 25 November 2016 and was part of a 48 country-visit, of which to-date the Commissioner has completed 39. His predecessor, Thomas Hammarberg (2006-2012), visited Ireland in 2011.

Mr Muiznieks had indicated his visit would centre around three areas of interest: the Traveller community, the rights of children, and the rights of women and girls. He visited two Traveller sites in Dublin and a centre for women victims of domestic violence. He met with the Tánaiste, President Higgins and many members of cabinet; Minister Katherine Zappone T.D., Minister Simon Coveney T.D., Minister David Stanton T.D., Minister Richard Bruton T.D., and Minister Catherine Byrne T.D.

Ms Doyle informed the Committee that the Commissioner raised the issue of recognition of Traveller ethnicity in Ireland. During the Commissioner's visit to Ireland, the first indications of a move toward recognition were made by Taoiseach Enda Kenny T.D., who resolved to support the recognition of Traveller ethnicity. Minister Bruton T.D. and Minister Zappone T.D. briefed the Commissioner on children and education. In his personal capacity, the Commissioner called for the end of criminalisation of abortion on grounds of foetal abnormality, rape and incest. He was briefed by the Tánaiste on the legacy homes and the various conventions that Ireland are due to ratify, and he called for Ireland to speed up the process of ratifying the Istanbul Convention.

His report on the visit is due in three months.

Dr John Reynolds (NUIM) enquired as to whether there is a timeline for the recognition of Traveller ethnicity in existence. **Adam Egan (Department of Justice and Equality)** responded that no precise timeline exists, but assured the Committee

that the matter is under consideration and the government will begin steps towards recognition in the New Year.

Professor Siobhán Mullally (UCC) informed the Committee that the Irish Council for Civil Liberties (ICCL) and UCC held a round table with the Commissioner, hosted by the Department of Foreign Affairs and Trade, where the Commissioner underlined different methods for civil society engagement with the Council of Europe and its Commissioning bodies. Professor Mullally thanked the Department, and the Europe division, for hosting the round table.

Liam Herrick (ICCL) thanked the Department for hosting this valuable event as it helped raise the profile of the Council of Europe and its mandate bodies.

8. Assessment of 71st session of the UNGA Third Committee.

Caroline Phelan (Deputy Director, Human Rights Unit, DFAT) updated the Committee on developments at the recent 71st session of the UN General Assembly Third Committee (13 to 26 September 2016).

Ms Phelan informed the Committee that the relationship between the Human Rights Council (HRC) and the UNGA was under intense scrutiny at the 71st session after the inclusion of an operative paragraph in the Africa Group resolution on the **Report of the HRC**, which would have reopened the HRC's decision to establish the mandate of an Independent Expert on sexual orientation and gender identity (SOGI). Ms Phelan told the Committee that Ireland was involved in the outreach for the amendment to be defeated, through our missions in New York and elsewhere. The amendment was defeated in the Third Committee, with positive cooperation between the EU and GRULAC to counter the amendment.

Hostile attempts were made by Sudan to remove references to the International Criminal Court (ICC) from resolutions on the **Rights of the Child** and **Trafficking in women and girls**, respectively.

Ms Phelan noted a positive return to previous practice, whereby the EU-led resolution on the **Rights of the Child** was adopted by consensus, after being brought to a vote at the previous session. At the 71st session, migrant children were the focus of this resolution. For the next session, the focus will be on violence against children. The two

other EU-led resolutions, **the Situation of human rights in the Democratic People's Republic of Korea** and **Freedom of Religion or Belief (FORB)**, were also adopted by consensus, with nine additional co-sponsors for the resolution on FORB.

Ms Phelan updated the Committee on Ireland's engagement at the session. Ireland acted as burden-sharer for the resolution on **Trafficking in women and girls**, ran by the Philippines. Ireland wrote two statements on behalf of the EU for the interactive dialogues with the Special Rapporteur on Human Rights Defenders and the Special Rapporteur on Trafficking in Persons.

Ireland delivered national statements during the Interactive Dialogue with the President of the Human Rights Council, High Commissioner Zeid, and during the Interactive Dialogue with the Special Rapporteurs for the Freedom of Religion and Belief, Human Rights in Belarus, Human Rights Defenders and the Democratic People's Republic of Korea. Ireland also delivered statements during the Interactive Dialogue with the chair of the Committee on the Elimination of Discrimination against Women, the chair of the Committee on the Rights of the Child, and the chair of the Committee on the Elimination of Racial Discrimination. These are available on the DFAT website.

Iarfhlaithe Watson (Bahá'í Ireland) expressed his appreciation that the discrimination of Baha'i communities was raised by Ireland in the national statement for the Interactive Dialogue with the Special Rapporteur on Freedom of Religion or Belief.

Professor Siobhán Mullally (UCC) voiced her concern that the divided vote on the Special Rapporteur on SOGI suggests the mandate holder will encounter difficulties in his role. She enquired as to whether there was discussion on child immigration detention during the session. **Ms Phelan** replied that the issue arose during discussions on the resolution of the rights of the child, regarding the integration of language from the New York Declaration into the resolution.

Anastasia Crickley (NUIM) commended the substance of the New York Declaration, but highlighted that the language of the Declaration is unfortunately weak in relation to the detention of children.

Iarfhlaith Watson (Bahá'í Ireland) enquired about a change to the Special Rapporteur on freedom of religion or belief. **Ms Phelan** informed the Committee that on 1 November 2016, Ahmed Shaheed assumed his mandate as Special Rapporteur on Freedom of Religion or Belief, taking over from Mr Heiner Bielefeldt (2010-2016).

Andrew Anderson (Front Line Defenders) expressed his hope that an independent candidate be chosen for the role of the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

9. Ireland's engagement at the 26th session of the Universal Periodic Review (31 October – 11 November 2016)

The item was not addressed in full at the meeting. The below information has been circulated to the DFAT Standing Committee Members.

The 26th session of the UPR Working Group was held from 31 October to 9 November 2016. Ireland delivered statements during eight of the eleven reviews. The statements are available online.

- **Haiti**: Ireland made two recommendations on combatting violence against women and judicial reform and pre-trial detention. Both recommendations were **accepted** by Haiti.
- **Lithuania**: Ireland made two recommendations on combating violence against women and protecting LGBTI rights. Lithuania has **deferred** the decision on the response to the recommendations which will be included in the report for **HRC34**.
- **Moldova**: Ireland made two recommendations on combatting human trafficking and protecting the right to freedom of expression and independence of the media. Both recommendations were **accepted** by Moldova.
- **South Sudan**: Ireland made two recommendations on permitting humanitarian access to NGO's, civil society organisations and UN agencies and expediting the establishment of the Hybrid Court for South Sudan to try violations of human rights and ensure accountability of all perpetrators. South Sudan has

deferred the decision on the response to the recommendations which will be included in the report for **HRC34**.

- **Syria**: Ireland recommended that the Assad regime comply with international human rights law and humanitarian law and cease attacks on civilians, and that it lift all restrictions on humanitarian access to populations in need of assistance. Both recommendations were **not accepted**.
- **Uganda**: Ireland made two recommendations on the prohibition and prevention of torture and the protection of civil society organisations and human rights defenders. Both recommendations were **accepted** by Uganda.
- **Zimbabwe**: Ireland made two recommendations to the Government of Zimbabwe. One of these addressed combatting the practice of child marriage. The second called for the protection of civil society and for the facilitation of a visit by the Special Rapporteur on the situation of Human Rights Defenders. Ireland's recommendation on **child marriage** was **accepted**. The response to the recommendation on **civil society and human rights defenders** was deferred.
- **Venezuela**: Ireland made two recommendations. The first related to the release of persons in arbitrary detention and investigation of allegations of torture and ill-treatment of detainees. The second was in relation to freedom of the media and human rights defenders. Venezuela has **deferred** the decision on the response to the recommendations which will be included in the report for **HRC34**.

Andrew Anderson (Executive Director, Front Line Defenders) welcomed Ireland's ongoing prioritisation of protection of human rights defenders in its UPR recommendations. He underlined the deteriorating position of human rights defenders in the Philippines. Mr Anderson welcomed the opening of the Human Rights Defenders Memorial by President Higgins in November 2016.

10. Update on the UN Forum on Business and Human Rights (14-16 November 2016)

Jerry Mac Evilly (Human Rights Unit) provided an overview of topics addressed during the various panel discussions at the 5th annual UN Forum which took place at the Palais des Nations in Geneva. Harassment of environmental and human rights defenders, as well as measures to improve accountability and access to remedy, emerged as major themes during the sessions. The 2017 Forum will take place from 27 to 29 November and will address the third pillar of the Guiding Principles - "access to remedy".

Julian Waagensen (Trócaire) referred to the increasing harassment of human rights defenders that engage with the UN regarding violations of human rights by business. Mr Waagensen expressed that access to remedy remains a major flaw, one which an international treaty is unlikely to address.

David Turner (Church in Chains) enquired as to whether the impact of Chinese corporations on human rights in Africa was addressed at the Forum, and noted that Ireland should raise these issues bilaterally as a matter of priority with African countries.

Ms Anastasia Crickley (NUIM) noted that reprisals against human rights defenders remains a major concern. She questioned whether it would be feasible to place responsibility directly on the country where multinational corporations guilty of human rights violations are headquartered.

11. Ireland's membership of the UN Commission on the Status of Women and preparations for the 61st Session (13 - 24 March 2017)

Ms Martina Feeney (Director Human Rights Unit, DFAT) recalled that Ireland is taking its seat on the UN Commission on the Status of Women for the first time in 2017. The 61st session will run from 13 March to 24 March 2017. The DFAT and the Department of Justice and Equality will meet in early January 2017 to coordinate and plan for the 61st session. The Departments will finalise decisions regarding Ireland's co-sponsorship of side events at the session. Ms Feeney expressed hope for Ministerial involvement at the session, although the sitting days of the Dáil will be a challenge.

12. Update on Ireland's National Plan on Business and Human Rights

Ms Martina Feeney summarised progress to date in relation to the National Action Plan (NAP) on Business and Human Rights. She informed the Committee that the Department has significantly slimmed down the draft Action Plan to a more user-friendly text and is undertaking consultations in-house and with other relevant Government Departments to achieve this. The Department is currently finalising the draft of the Plan and it is hoped to publish the Plan in Q1 of 2017.

The Action Points of the Plan will include, firstly, a baseline study which will contain a full review of regulatory framework. Secondly, it will call for the creation of a business and human rights implementation group with representatives from relevant State Departments, corporations, civil society organisations and academia.

Ms Anastasia Crickley (NUIM) expressed her view that the Department of the Taoiseach should be the leading on implementation of the Sustainable Development Goals (SDG), due to the unique cross cutting measures of the SDGs. Given Ireland's leading role in the SDG arena, she suggested that Ireland should submit itself for voluntary review to demonstrate our engagement and implementation of the SDGs.

David Joyce (ICTU) enquired as to the relationship between the National Plan on Corporate Social Responsibility and the National Action Plan on Business and Human Rights, and whether it was suitable to continue with these two separate plans as they are so closely linked. He queried whether the task of ensuring Irish businesses are informed on matters of business and human rights would be more suited to the Department of Jobs, Enterprise and Innovation (DJEI), rather than to the DFAT. **Ms Feeney** responded that meetings with DJEI are ongoing to make sure there is no overlap between the Action Plan on Business and Human Rights and the National Plan on Corporate Social Responsibility.

Ruth Gallagher (IHREC) asked if the Recommendation of the Committee of Ministers of the Council of Europe on business and human rights, adopted in March 2016, which build on the UN Guiding Principles of 2011, are being taken under consideration. **Ms Feeney** confirmed that the Ireland's platform for developing our business and human rights plan includes the UNGPs, the Council Conclusions on business and human rights of June 2016, and the Council of Europe Recommendation.

13. Update on the Annual DFAT Civil Society Forum on Human Rights

Ms Martina Feeney (Director Human Rights Unit, DFAT) informed the Committee of the change of the name of the Annual NGO Forum to Annual Civil Society Forum. The theme of this year's Forum will focus on women as agents of change, at a local, national and global level. It is to be held in Dublin Castle on 31 March 2017.

Julian Waagensen (Trócaire) noted that he would gladly contribute ideas for speakers from abroad.

Andrew Anderson (Front Line Defenders) mentioned that a women human rights defender from Egypt could be a relevant speaker.

14. AOB

Emily Brennan (Irish Centre for Human Rights, NUIG) provided details of the 2016 Report of the EU Agency for Fundamental Rights which includes the Agency's opinions on major thematic areas, including on migration, rights of the child, data protection, and media freedom.

Mr David Joyce (ICTU) welcomed the change of name of the NGO Forum to the Civil Society Forum and questioned whether this might also be followed for the Standing Committee. **Ms Feeney** responded that the composition of the Committee is to be reviewed in October 2017 at which point the title will also be considered.

Professor Siobhán Mullally (UCC) requested that the impact of Brexit on human rights in the context of the Good Friday Agreement be addressed at the next DFAT NGO Standing Committee meeting.

Ms Martina Feeney noted that the next Standing Committee meeting will take place between the end of January and the beginning of February and requested that members suggest topics by email.