

# **Gender Justice and Ireland's Human Rights Council Commitments: Challenging the Gaps between Rhetoric and Practice**

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## **Introduction**

The election of Ireland to the United Nations Human Rights Council in 2012 was generally welcomed as an important achievement, especially at a time when the Irish Government was keen to signal its capable and progressive engagement in the world, as part of a wider strategy to regain control of its economic affairs. This short article considers the credibility of Ireland's stated pledges for its term on the UN Human Rights Council from a perspective of critical scrutiny of its record of domestic implementation of human rights commitments, with a particular focus on gender. Human rights, especially within better-off or 'donor' countries continue to be understood primarily as something that is most urgent in 'other places', usually in the 'developing world'. In contrast, a primary concern here is to highlight deficiencies on Ireland's part in: taking seriously its domestic implementation of human rights; ensuring there are strong domestic machineries in place for implementing and monitoring progress on Ireland's human rights and equality commitments; and actively supporting ongoing independent and rigorous monitoring of Ireland's human rights record by local NGOs and human rights advocates. The term 'human rights defenders' is usually reserved for activists whose lives are at risk as a result of their struggle for human rights. However, human rights advocacy is also constrained in Ireland, albeit in less dramatic ways. Such constraints warrant close scrutiny if Ireland's claim to be a champion of human rights is to be taken seriously; and if it hopes to exercise credible and effective leadership during its term on the Human Rights Council (2013-15).

As noted, the principal focus of this article is on gender equality and women's human rights as a subset of human rights, which are often strongly endorsed rhetorically in international human rights and policy forums but rarely adequately resourced or prioritized in practice. Indeed, Ireland routinely presents itself in the international arena as a champion of women's empowerment and gender equality. A frequently stated commitment to advancing gender

equality has been a prominent part of Ireland's diplomatic engagement across a range of global policy areas since the UN Fourth World Conference on Women (Beijing 1995). This is exemplified, for example, by its visible support for the establishment of the new entity UN Women and the adoption in 2011 of a National Action Plan on UN Security Council Resolution 1325. This article considers the quality of Ireland's stated commitment in this regard with particular reference to the domestic machineries and practices for advancing gender equality and human rights in Ireland. In doing so, each of the following sections takes as a point of departure one or more selected pledges made by Ireland during its election drive to secure a seat on the UN Human Rights Council.<sup>1</sup>

## 1. Between words and actions

**Pledge No. 1: 'Ireland is firmly committed to complying with its international obligations, including through timely reporting to the relevant United Nations treaty monitoring bodies'**

In fact, Ireland has a very poor record of timely reporting to UN treaty monitoring bodies (which require reports by states parties on their compliance to be submitted at four-year intervals). This is especially evident in Ireland's reporting on gender equality and women's rights. At the time of writing, it is more than 11 year since Ireland submitted a report to the UN Committee on the Elimination of Discrimination against Women (CEDAW), making the report *eight years overdue*. Of the 55 or so countries in the Europe and Central Asia category, Ireland's record on reporting to CEDAW is at the bottom, with only Latvia and Romania being similarly delinquent. Moreover, to date, Ireland has resorted to the shortcut of combined reports, submitting its Fourth and Fifth Combined Report in 2005 and its Second and Third Combined Report in 1999. Such a record of late and combined reports sends a signal internationally and domestically that

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<sup>1</sup> Letter dated 13 April 2012 from the Permanent Representative of Ireland to the United Nations addressed to the President of the General Assembly, UN Doc. A/67/80, 16 April 2012.

monitoring observance of its own commitments to gender equality and elimination of discrimination against women in Ireland is an exceedingly low priority.

A similar pattern is evident in relation to the Convention on the Elimination of Racial Discrimination (CERD) and the Convention on the Rights of the Child (CRC). A Combined First and Second Report to CERD was submitted in 2004, a combined third and fourth report was submitted to CERD over one year late in 2009. Regarding children's rights, a first report was submitted to the Committee on the Rights of the Child in 1996 and a second in 2005. Ireland's combined third and fourth report to the CRC was finally delivered to the UN in 2013, four years overdue. Similarly, after a six-year delay, Ireland submitted its third report to the Committee on Economic, Social and Cultural Rights in 2012 (the first report was submitted in 1997 and the second in 2000). In contrast, partly reflecting a general bias in the prioritization of civil and political rights over social, economic and cultural rights, Ireland's record on reporting to the Human Rights Committee (which oversees compliance with the International Covenant on Political and Civil Rights) is comparatively less delinquent. Reports have been submitted in 2001, 2007 and most recently in 2012.

Ireland's poor overall record of timely reporting is indicative of inadequate resourcing of domestic human rights monitoring, which in turn reflects its low priority within the domestic policy realm. Further, within this pattern, social and economic rights commitments and the human rights of traditionally discriminated-against groups, including women and minorities, receive the least attention and resources. Moreover, Ireland's failure with respect CEDAW is particularly inexcusable for a current member of the Human Rights Council. Arguably, neglecting its own reporting obligations in this way undermines Ireland's aspirations to exercise credible leadership in encouraging other states to do better on human rights, especially in relation to women, minorities and the most disadvantaged groups in society.

## **2. Human rights begin at home?**

**Pledge No. 2: ‘To uphold and strengthen human rights at home...’**

**Pledge No. 3: ‘The Irish Human Rights Commission and the Equality Authority will be merged to form a new strengthened and enhanced Human Rights and Equality Commission...’**

**Pledge No. 4: ‘Ireland is firmly committed to promoting an inclusive society and to eliminating all forms of racial discrimination...’**

Much has been said elsewhere<sup>2</sup> regarding the dramatic erosion of Ireland’s national machineries for human rights and equality domestically in a context of the economic crisis and recession that engulfed Ireland from 2008. Noting that Ireland has expressly highlighted its commitment ‘to strengthen human rights at home’ it is important to underline, in the middle of Ireland’s term in the HRC, that both entities – the Irish Human Rights Commission and the Equality Authority – were severely and, arguably, disproportionately affected by successive budget cuts. Starting in 2009, the staff of the Commission was reduced from 21 to six and its budget was cut by more than 40 per cent. In the same period, the budget of the Equality Authority was reduced by 48 per cent and its staff numbers cut from 55 to 29.<sup>3</sup> This radical reduction in resources clearly has implications for the capacity of both bodies to fulfill their mandates effectively. Moreover, recent amalgamation of the two institutions into a single entity, prompted former heads of the Commission and the Equality Authority to repeatedly voice concerns that the independence of amalgamated body is questionable and out of step with the UN Paris Principles for National Human Rights Institutions.<sup>4</sup> Again, Ireland’s credibility and effectiveness as a champion of human rights internationally rests on the credibility, independence and adequacy of resources of

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<sup>2</sup> U. Barry and P. Conroy, *Ireland: Untold Story of the Crisis – Gender Equality and New Inequalities* (Dublin: TASC, 2012).

<sup>3</sup> Tom Pegram, ‘Concern Grows over Human Rights Policing Vacuum as Merger Crawls to Conclusion’, *Irish Times*, 9 April 2013.

<sup>4</sup> Niall Crowley, ‘Deficiencies in the New Human Rights and Equality Commission’, *Village Magazine*, September 2012.

the new Human Rights and Equality Commission, which will become apparent in the coming years.

Furthermore, the closure of the National Consultative Committee on Racism and Interculturalism in 2008 is another casualty of economic crisis that raises obvious questions about the depth of Ireland's commitment domestically to combating racial discrimination. Ireland's National Action Plan against Racism (NPAR) was adopted in response to a particular event in the context of the World Conference against Racism (Durban 2001). A less than enthusiastic final report on Ireland's achievements in this area was produced of NPAR Monitoring Group in 2009.<sup>5</sup> It is not surprising, therefore – given that the modest domestic machinery dedicated to countering racism and intolerance in Ireland has been dismantled – that Ireland's reporting to CERD was severely delayed.

### **3. Combating discrimination and gender based violence**

Pledge No. 5: Under the heading of 'combating discrimination and gender-based violence':  
**'Ireland pledges to play a full role in efforts to combat all forms of discrimination and to promote gender equality'**

For the purposes of this article this pledge is of central concern. More than twenty years after the Vienna Declaration and Programme of Action (1993) first recognized that 'the human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights,' gender equality continues to be widely viewed as, at best, of secondary concern compared to 'real human rights' internationally, and certainly no longer relevant in the 'developed' world. This perception, however – that gender equality and women's human rights are relatively unimportant – belies much evidence to the contrary. It ignores deeply entrenched

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<sup>5</sup> Ireland Embracing Cultural Diversity: The National Action Plan Against Racism (NPAR) 2005-2008: Not an End – Just a Beginning. Available at <http://www.integration.ie/website/omi/omiwebv6.nsf/page/Racism-npar-en>. Last accessed 17 April 2013.

patterns of gender inequality and gender-based discrimination worldwide and how they are implicated in serious and systematic denials of human rights. Viewed through the distorting lens of naturalized gender identities and roles, however, many, including in the human rights community, continue to view such denials and violations of human rights experienced by women and girls as unfortunate but inevitable manifestations of ‘culture’ or ‘nature.’

It is important, therefore, to continually revisit the available evidence regarding the failure to promote gender equality worldwide, and to recognize that endemic patterns of gender-based discrimination are both forms and causes of human rights violations that affect women and girls in every region of the world.

**Box 1. Persistent gender inequality and discrimination against women: A reminder of the big picture**

POVERTY: Women and girls make up 70 per cent of people living in poverty worldwide<sup>6</sup>

SHARE OF POLITICAL POWER: On average, 80 per cent of members of parliaments worldwide are men, only 20 per cent are women<sup>7</sup>

CLIMATE CHANGE: Women are up to 14 times more likely than men to die from natural disasters<sup>8</sup>

SHARE OF PRODUCTIVE RESOURCES: Worldwide, women own less than two per cent of all property. In many countries, less than 10 per cent of women hold title to their land<sup>9</sup>

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<sup>6</sup> UN Women, Women, Poverty & Economics. Available at [http://www.unifem.org/gender\\_issues/women\\_poverty\\_economics/](http://www.unifem.org/gender_issues/women_poverty_economics/). Last accessed 17 April 2013.

<sup>7</sup> Inter-Parliamentary Union, Women in National Parliaments: Situation as of 1st February 2013. Available at <http://www.ipu.org/wmn-e/world.htm>. Last accessed 17 April 2013.

<sup>8</sup> UN Women, Facts & Figures on Gender & Climate Change. Available at [http://www.unifem.org/partnerships/climate\\_change/facts\\_figures.html](http://www.unifem.org/partnerships/climate_change/facts_figures.html). Last accessed 17 April 2013.

<sup>9</sup> Pegram, ‘Concern Grows’. See fn.3.

HIV/AIDS: Women account for 58% of people living with HIV in sub-Saharan Africa<sup>10</sup>

REPRODUCTIVE HEALTH: Approximately 287,000 women die each year from preventable causes related to pregnancy and childbirth; in sub-Saharan Africa a woman has a 1 in 39 lifetime risk of death as a result of pregnancy or childbirth related causes (compared to 1 in 3,800 in the developed regions).<sup>11</sup> Currently, 200 million women around the world have an unmet need for family planning while 47,000 women die each year as a result of unsafe abortions.<sup>12</sup>

DOMESTIC VIOLENCE: Reliable studies show that rates of women experiencing physical violence at least once in their lifetime range from several per cent to over 59 per cent depending on where they live.<sup>13</sup>

HIGH LEVELS OF WARTIME SEXUAL VIOLENCE IN SOME CONFLICTS: have affected hundreds of thousands of women and girls – resulting in trauma, forced pregnancy, infection with HIV, and related health crises.<sup>14</sup>

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<sup>10</sup> See: UNAIDS – The Joint United Nations Programme on HIV/AIDS, Global Fact Sheet. Available at [http://www.unaids.org/en/media/unaids/contentassets/documents/epidemiology/2012/gr2012/20121120\\_FactSheet\\_Global\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/epidemiology/2012/gr2012/20121120_FactSheet_Global_en.pdf). Last accessed 17 April 2013.

<sup>11</sup> World Health Organization, UNICEF, UNFPA and the World Bank, *Trends in Maternal Mortality: 1990 to 2010: WHO, UNICEF, UNFPA and the World Bank Estimates* (Geneva: WHO Press, 2012), p.19.

<sup>12</sup> See: United Nations Population Fund, Fact Sheet: Contraceptives, 5 July 2012. Available at [http://nigeria.unfpa.org/pdf/pdf2/UNFPA%20Kit/Contraceptives\\_UNFPA%20Fact%20Sheet\\_July%205%202012.pdf](http://nigeria.unfpa.org/pdf/pdf2/UNFPA%20Kit/Contraceptives_UNFPA%20Fact%20Sheet_July%205%202012.pdf). Last accessed 17 April 2013.

<sup>13</sup> United Nations, *The World's Women 2010: Trends and Statistics* (New York : United Nations, 2010), ch.6, Violence against Women. Available at [http://unstats.un.org/unsd/demographic/products/Worldswomen/WW2010%20Report\\_by%20chapter\(pdf\)/Violence%20against%20women.pdf](http://unstats.un.org/unsd/demographic/products/Worldswomen/WW2010%20Report_by%20chapter(pdf)/Violence%20against%20women.pdf). Last accessed 17 April 2013.

<sup>14</sup> See: UN Women, *Addressing Conflict-Related Sexual Violence: An Analytical Inventory of Peacekeeping Practice*, 2<sup>nd</sup> ed. October 2012. Available at: <http://www.unwomen.org/wp-content/uploads/2012/10/04D-An-Analytical-inventory-of-Peacekeeping-Practice.pdf>. Last accessed 17 April 2013.

MISSING WOMEN: In Asia, it is estimated that about 100 million girls are ‘missing’ due to prenatal sex selection, infanticide or neglect of girls.<sup>15</sup>

TRAFFICKING: An estimated 2.5 million people are in forced labour at any given time as a result of trafficking; 43% of victims are used for forced commercial sexual exploitation, of whom 98 per cent are women and girls; 32% of victims are used for forced economic exploitation, of whom 56 per cent are women and girls.<sup>16</sup>

Ireland has pledged to promote gender equality and to combat discrimination against women as part of its Human Rights Council agenda. While this is welcome, it is reasonable to put a spotlight on Ireland’s own practices and policies in this regard. In the domain of foreign policy, superficially, images of women and rhetoric about women’s empowerment feature very prominently in Irish Aid brochures and reports. Looking more closely, however, in the 130 odd pages of the Irish Aid White Paper (2006), there are just 14 references to ‘gender equality.’ Most significantly, only one of 39 Key Actions refer to ‘gender equality’ (in relation to building the capacity of aid receiving countries). The term ‘human rights’ appears more frequently in the White Paper with 64 references, but only three of these link ‘gender equality’ and ‘human rights,’ thereby underscoring the perception that gender equality is distinct from rather than constitutive of human rights policy. And perhaps the most salient indicator of the actual importance attached to ‘gender equality’ in Irish foreign policy is the share of the Irish Aid budget that is allocated explicitly to ‘gender equality’ across Irish Aid programming. For example, in 2008, the peak year before impact of recent budget cuts are taken into account, Irish

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<sup>15</sup> See: A. Sen, ‘Missing Women: Social inequality outweighs women’s survival advantage in Asia and north Africa’, (1992) *BMJ: British Medical Journal* 304(6827), pp.587-588; and A. Sen (2003) ‘Missing Women – Revisited’ (2003) *BMJ: British Medical Journal* 327(7427), pp. 1297-1298.

<sup>16</sup> See: UN Global Initiative to Fight Human Trafficking, *Human Trafficking: The Facts*. Available at [http://www.unglobalcompact.org/docs/issues\\_doc/labour/Forced\\_labour/HUMAN\\_TRAFFICKING\\_-\\_THE\\_FACTS\\_-\\_final.pdf](http://www.unglobalcompact.org/docs/issues_doc/labour/Forced_labour/HUMAN_TRAFFICKING_-_THE_FACTS_-_final.pdf). Last accessed 17 April 2013.



Aid reported that it allocated a meager 0.8% to gender equality and women-focused initiatives, that is, €7.8M of a total of €920.7M in development aid.<sup>17</sup>

Domestically, we see a similar pattern. The National Women's Strategy, the main mechanism for implementing the state's commitment to gender equality is largely invisible in public discourse and is severely under-resourced. The Gender Equality Division in the Department of Justice and Equality is a very small unit comprising a fulltime staff of about six. Yet, it has responsibility for advancing gender equality and gender mainstreaming<sup>18</sup> across all domains of policy domestically, as well as reporting on Ireland's implementation of the UN Convention on the Elimination of All forms of Discrimination against Women and other international commitments to women's human rights. Significantly, the efforts that were made by Ireland in the last decade to progress gender equality and gender mainstreaming at home were driven by the requirements of European Structural Funds (ESF), incorporated into the National Development Plan 2000-2006 (NDP), rather than by an active, principled commitment to advancing gender equality as a human rights obligation. Moreover, since the onset of the current economic crisis, the fledgling gender equality infrastructures that were put in place as part of the NDP have since been dismantled. In 2008, the NDP Gender Equality Unit and a second Gender Equality Unit in the Dept. of Education and Science were both closed down. What remains is a narrowly-focused Equality Mainstreaming Unit, within the soon-to-be dissolved Equality Authority, primarily concerned with assisting enterprises to develop equality strategies. Furthermore, the National Women's Council of Ireland, the leading NGO membership body that monitors progress on Ireland's

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<sup>17</sup> Sinéad Murray, Aisling Swaine and Áine Doody, *Gender Equality Policy: Review Report* (Dublin: Irish Aid, 2010), p.36. Available at <http://www.irishaid.gov.ie/Uploads/Gender%20Equality%20Policy%20Review.pdf>. Last accessed 17 April 2013.

<sup>18</sup> The concept of gender mainstreaming rose to prominence in the context of the Fourth World Conference Women (Beijing, 1995) and has been widely adopted as the standard strategy internationally for achieving gender equality. It encompasses requirements of formal equality, non-discrimination and positive remedial action to counter disadvantages experienced by women. In addition it requires that all policies and programmes in all areas must take into account women's as well as men's experiences and perspectives within a paradigm of commitment to gender equality and women's human rights.

implementation of the National Women's Strategy, had its public funding cut by 35 per cent in 2012.

Regarding substantive issues, Ireland has expressly named combating gender-based violence as an area of focus during its term on the HRC. But what is Ireland doing domestically on this issue? One agency, Safe Ireland, which tracks demand for domestic violence services noted that in 2009, 7,512 women and 2,462 children received support from domestic violence services, representing a 43% increase over 2007.<sup>19</sup> In the same year, on 2,341 occasions, women and children were turned away from refuges across Ireland. Violence against women has been recognised as a violation of human rights (Vienna Declaration and Programme of Action) and as a form of discrimination against women (CEDAW General Recommendation No. 19). Providing safe emergency accommodation for victims of domestic violence is a very basic part of what it means to recognise domestic violence as a violation of human rights. For example, the National Women's Council of Ireland pre-budget submission in 2012<sup>20</sup>, notes that to ensure such accommodation for women experiencing domestic violence, there should be one refuge place per 10,000 of population (current provision is in the region of 10-20 per cent of this figure). Further, over the period 2008-2012, Women's Aid, a leading organisation providing services and support to women in situations of domestic violence, had its public funding cut by about one fifth, while Safe Ireland, an organisation dedicated to advocacy and research on domestic violence had its core funding from the state cut by 100 per cent in 2012. Human rights begin at home, in all senses of the word. If Ireland is to exercise credible leadership around combating gender-based violence in its role on the HRC, it must be seen to practice domestically what it preaches internationally on what is a pivotal human rights issue for women.

#### **4. Ireland's commitment to women affected by conflict**

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<sup>19</sup> Safe Ireland, Gambling with Women and Children's Safety, 2 December 2010. Available at <http://www.safeireland.ie/2010/gambling-with-women-and-children%e2%80%99s-safety/>. Last accessed 17 April 2013.

<sup>20</sup> National Women's Council of Ireland, Pre-Budget Submission 2012, September 2011. Available at <http://www.nwci.ie/publications/fulllist/prebudget-submission-2012/>. Last accessed 17 April 2013.

**Pledge No. 6: ‘Ireland is fully committed to the objectives of Security Council resolution 1325 (2000) on women, peace and security, and has adopted a national action plan on the resolution.’**

In November 2011, Ireland adopted a three-year National Action Plan (NAP) for Implementation of UNSCR 1325, 2011-2014.<sup>21</sup> The NAP was the culmination of an independently chaired consultation process (chaired by the late Inez McCormack) with substantial input over several months from civil society organizations and academics. Civil society input took two principal forms. The first was a Technical Working Group (TWG), which provided the research and technical assistance that underpinned the development of the NAP’s ‘Monitoring Framework.’<sup>22</sup> The second was a series of consultations carried out with women affected by conflict in Ireland, which afforded an important mechanism through which the perspectives of women currently living in Ireland who have experienced conflict, in other countries and in Ireland, were taken into account in the NAP drafting process.<sup>23</sup>

While the adoption of the NAP is a positive step, notwithstanding substantial civil society input, ultimately, the first National Action Plan was quite a weak Government document. Mostly, it restates a range of existing modest commitments rather than introducing any new or bold actions

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<sup>21</sup> Government of Ireland, *Ireland’s National Action Plan for Implementation of UNSCR 1325, 2011-2014* (Dublin: Department of Foreign Affairs, 2011). Available at [http://www.dfa.ie/uploads/documents/CRU/national%20action%20plan%20\(web\).pdf](http://www.dfa.ie/uploads/documents/CRU/national%20action%20plan%20(web).pdf). Last accessed 17 April 2013.

<sup>22</sup> *Ireland’s National Action Plan for Implementation of UNSCR 1325, 2011-2014*, Annex I, pp.15-28. See fn.21. The civil society Technical Working Group was convened by Dr Niamh Reilly; its members included representatives from Amnesty International Irish Section, the Irish Committee for the Red Cross and Trócaire.

<sup>23</sup> An independent consultant (Dr Nata Duvvury) was engaged by the Department of Foreign Affairs to prepare the initial NAP submission based on consultations with the different stakeholders: government representatives and units, the chairperson and civil society members of the Consultative Group, including the Technical Working Group, and the coordinator of the consultations with women affected by conflict.

to be taken. Arguably, the most promising aspect of the NAP is its Monitoring Framework (Annex I). This reflects a significant attempt to lay a foundation for effective monitoring of progress in line with international best practice; that is, a process that is adequately resourced and based on specific, measurable, achievable, relevant and time-bound targets and indicators. At the time of writing, a second NAP is about to be launched. Once more, Ireland's credibility as a champion of UN SCR 1325 will rest on the quality of the action commitments contained the second NAP, which must be specific, measurable, achievable, relevant and timed (SMART), and on ensuring ongoing, adequately resourced and independent monitoring of such implementation.

## **5. Reproductive rights**

Finally, regarding the HRC Universal Periodic Review of Ireland's human rights record in 2011, Ireland notes: 'Of the 127 recommendations made by Member States, Ireland was able to fully accept 91 recommendations and to accept in part a further 17; it was unable to support only 19...' <sup>24</sup> Very significantly from a gender and women's human rights perspective, six of the 19 recommendations that were rejected outright by Ireland pertain to concerns raised by HRC peers regarding Ireland's highly restrictive abortion laws and policies. Reproductive rights, as recognized in the 1994 Cairo Programme for Action, entail a complex of well-established human rights including rights to:

- Life, liberty and security
- Equality and non-discrimination
- Highest attainable standard of health
- Equality in marriage
- Privacy
- Not to be subjected to torture, cruel, inhuman or degrading treatment or punishment
- Education, including sexuality education
- Participation in public affairs and cultural participation

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<sup>24</sup> Letter dated 13 April 2012 from the Permanent Representative of Ireland to the United Nations addressed to the President of the General Assembly. See fn.1.

- Seek, receive and impart information
- Freedom of expression, conscience and belief, including the right not to be subjected to the religious values others
- Benefit from scientific progress

Hence, while reproductive rights are wider than the issue of access to abortion, it is clear that criminalizing or severely limiting access to abortion inevitably impinges on many of the human rights enumerated above that comprise reproductive rights. Ireland has one of the most restrictive abortion regimes in the world. Over the last decade, different UN treaty monitoring bodies (including CEDAW, the Committee against Torture and the Human Rights Committee) have raised concerns with Ireland regarding the direct and indirect impacts on the human rights of pregnant women in Ireland of its very restrictive approach to abortion. In response Ireland generally has offered a minimal stock reply that asserts Irish exceptionalism on this issue on a variety of grounds. In effect, Ireland refuses to engage in human rights dialogue on the issue of abortion with international peers. This refusal – until very recent events – has been matched domestically by managed silence and inaction on the issue of abortion, despite a demonstrable liberalisation of public opinion, especially since the late 1990s. The customary avoidance of the issue however is currently being challenged profoundly by two events. The first is the untimely death of Savita Halapanaavar in an Irish maternity hospital in October 2012, apparently as a result of the mismanagement of complications of miscarriage and the failure to perform a prompt abortion due to uncertainty around the rights of a nonviable fetus. The second is the state's obligation to respond to the 2010 ABC judgment of the European Court of Human Rights,<sup>25</sup> which found that Ireland had violated the right of 'C' (who feared a recurrence of cancer due to her unplanned pregnancy) to an accessible process to determine if she was entitled to have an abortion in Ireland in line with the 1992 X Case<sup>26</sup> judgment of the Supreme Court.

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<sup>25</sup> A, B and C v. Ireland - 25579/05 [2010] ECHR 2032 (16 December 2010).

<sup>26</sup> The 'X Case' decision ruled that abortion is lawful in Ireland where a pregnant woman or girl's life is in danger, including through risk of suicide.

This confluence of developments brought about a significant shift in public discourse in Ireland on the issue of abortion is conducted, if not in the scope of the debate and pressured to Government to finally legislate for the X case.<sup>27</sup> However, within the legislation, the penalty for carrying out or undergoing an unlawful abortion is 14 years imprisonment. Abortion remains outlawed in the vast majority of situations including in cases of rape, incest and fatal fetal abnormality. When facing a crisis in which a pregnant girl or woman's rights come into conflict with the 'right to life of the unborn', the *only* 'human right' of a pregnant women that is recognized by the state as warranting a termination of pregnancy is her 'right to life.' That is, if she is under imminent threat of death (as distinct from ill-health or disability) or is at risk of suicide, established via an extremely onerous panel review process. Even with the recent legislation of the X Case, therefore, the state's position remains that the 'right to life of the unborn' trumps all other human rights of a pregnant woman (e.g. the right to the highest attainable standard of health or the right not to be subjected to cruel treatment). Because of the seriousness of the human rights trade-offs imposed on pregnant women by this *status quo*, there is an onus on the state to facilitate ongoing dialogue regarding its stance on abortion domestically (as it has been repeatedly called on to do by the Committee on the Elimination of Discrimination against Women). By the same token, a credible stance by Ireland of support for gender equality and women's human rights in the international domain, especially during its term on the HRC, is not compatible with a strategy of outright rejection of (and non-engagement with) the recommendations of peer states regarding Ireland's approach to abortion in the context of the UPR.

## **Conclusion**

As Ireland enters the final year of its three-year term on the UN Human Rights Council, this article has examined major deficiencies on Ireland's part in its implementation of human rights, with the accent on gender equality and women's human rights. Doing so reveals yawning gaps between Ireland's diplomatic rhetoric on the international stage and the domestic implementation of commitments, which Ireland has ostensibly agreed to, and presumes to persuade others to

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<sup>27</sup> Protection of Life During Pregnancy Act 2013

follow. The economic crisis of recent years, affecting the Euro zone and Ireland has clearly exacerbated the erosion of domestic machineries for implementing and monitoring progress on human rights and equality commitments in Ireland. But this is not the whole picture; Ireland's history of chronic late and combined country reports to UN treaty monitoring bodies, for example, and the paltry resources allocated to achieving gender equality in domestic and foreign policy domains predate the current crisis. They are indicative of a weak underlying political commitment to the substantive implementation of international commitments and engagement in related monitoring processes. This is most striking in relation to the rights and equality of women and minorities and the spectrum social and economic rights commitments more generally. Most notably, given that Ireland has singled out combating gender discrimination and gender-based violence as key pledges for its term on the HRC, there is an onus on Ireland to lead by example. It must narrow the gap between its rhetoric and actions in both domestic and foreign policy domains. On the issue of reproductive rights, however, the leap required is greater; it entails recognition by Ireland in the first instance that the current stance on abortion severely compromises the human rights of pregnant women who are often in situations of great vulnerability. At a minimum, this forced suspension of the human rights of one group in society demands that Ireland engage in dialogue with peer states in the context of human rights monitoring processes. To refuse to do so, as Ireland has done, greatly undermines its credibility as a champion of human rights in general and of gender equality in particular.