

Human Rights Treaty Bodies: NGO Perspectives, Case Study of Ireland at the Human Rights Committee

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Nottingham Human Rights Monitoring Summer School,
Tuesday, 14 June 2011



Irish Council for
Civil Liberties

Outline of presentation

1. Background
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3. Liaising and working with government
4. Preparing a shadow report
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6. Our role at the formal examination of Ireland before the Human Rights Committee
7. Follow-up



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1. Background

- I am here to present an Irish case study of non-governmental organisation (NGO) activities in relation to Ireland's Third Periodic Report under the International Covenant on Civil and Political Rights (ICCPR)
- Ireland submitted its Third Report in September 2007 and was examined before the Human Rights Committee, which monitors state parties' progress in July 2008
- The Irish Council for Civil Liberties (ICCL), and two other civil society groups, the Free Legal Advice Centres (FLAC) and the Irish Penal Reform Trust (IPRT) co-ordinated and led the NGO response
- Our ICCPR project lasted three years, involved: fundraising, research, policy, advocacy, communications and campaigning work



Irish Council for
Civil Liberties

1. Background

- The Irish Council for Civil Liberties (ICCL) was founded in 1976 during the civil rights struggle in Northern Ireland and is an independent human rights watchdog in Ireland
- Previously, the ICCL has participated in human rights monitoring under the:
 - International Covenant on Civil and Political Rights (ICCPR)
 - International Covenant on Economic, Social and Cultural Rights (ICESCR)
 - International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
 - International Convention on the Eliminations of All Forms of Discrimination Against Women (CEDAW)



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1. Background

- International human rights monitoring provides us with opportunities for leadership on key human rights concerns
- Some measure of international accountability
- Credibility, legitimacy and authority to advocate for legal reforms on sometimes unpopular issues, typically on asylum and immigration matters, prisoners' rights...



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1. Background

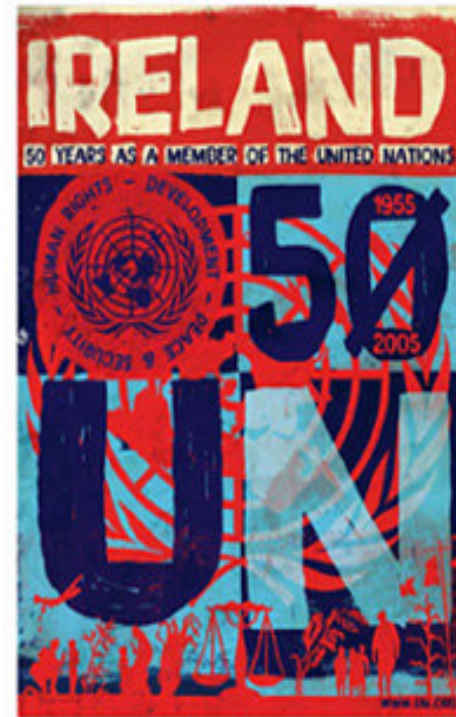
- Civil society and NGO groups play a particular role in the human rights reporting cycle
- The State Parties have the primary responsibility for reporting under each UN human rights treaty
- However, often they submit reports which fail to properly demonstrate the human rights situation on the ground
- They can include inaccuracies, misleading information or information gaps
- Civil society groups can address these issues by preparing ‘shadow reports’ or ‘alternative reports’ that point to gaps in the State’s reports, essentially providing an independent analysis of facts on the ground



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1. Background

- However, the work of NGOs can go much further – shadowing the State at all stages of the human rights reporting cycle
- The State's officials are invited to a session of 'constructive dialogue' with members of Treaty Monitoring Bodies
- NGOs and civil society attend these sessions as observers, to brief the Committee and lobby
- Influence the concluding observations



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2. Working in coalition

- In our work under the ICCPR, we made a decision to form part of a strong guiding coalition:
 - Maximise resources available for an ongoing project spanning several years
 - Build credibility and present a united front – important to convince and persuade a range of audiences
 - Ensure that treaty body members would not be overwhelmed by too many reports



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2. Working in coalition

- We also made a decision not to operate as part of a broader coalition initially due to the expansive nature of the ICCPR – family life, abortion, children's rights
- Free Legal Advice Centres (FLAC) – litigation based campaigning organisation
- Irish Penal Reform Trust (IPRT) – prisoners' rights campaigning organisation
- These organisations are moderately funded but well resourced in terms of legal expertise



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2. Working in coalition

- Our working methods:
 - Agreed on a project leader
 - Agreed a programme of work and set target dates for completion
 - Considered follow-up work
 - Decision-making was mostly participative/consultative and we communicated regularly
 - RECOMMENDATION: Preparing a memorandum of understanding covering decision-making procedures, methods for communicating/consulting, resource allocation and sharing of work
- RESULT: This was a useful way of working effectively and pooling resources. However, this approach may marginalise minorities and under-resourced groups from the outset



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3. Liaising and working with government

- The State's principal obligation is to submit a report and engage in a dialogue with the Human Rights Committee
- We made contact early on with the Department of Foreign Affairs seeking to be consulted on the content of its Third Report
- We also maintained a professional and amicable relationship



The Oireachtas: Irish Houses of Parliament



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3. Liaising and working with government

- We reviewed a draft version of the Government's report in October 2006
- The Government's report typically provided a lot of information with little analysis
- We took the view that our submission and views should not be another 'mini-shadow report'
- We asked the Government to:
 - include fuller statistics on certain matters
 - provide fuller explanations (where their report omitted pertinent information)
 - explain the rationale behind certain policies, particularly, discriminatory policies



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4. Preparing a shadow report

- The shadow report is an NGO's key human rights monitoring tool
- The report is a rights based independent assessment of the human rights situation on the ground
- It also benchmarks the State's progress under the Convention
- It forms the basis of your lobbying strategies
- It can become a campaign tool and a reference document on human rights problems in your country



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4. Preparing a shadow report

- Steps in preparing a shadow reports involve:
 1. Reading and critiquing the Government's report
 2. Identifying human rights concerns/violations for a shadow report
 3. Gathering documentation and evidence
 4. Consultations
 5. Writing up



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4. Preparing a shadow report

Before getting started

- Timing and time-tabling is everything...
- We looked at the Human Rights Committee's previous Concluding Observations on Ireland and the status of their implementation
- We recruited a research officer to conduct research, meet with groups, assist with consultations and to write our shadow report
- We worked as a team...



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Preparing a shadow report

Reading and critiquing the Government's report

- We scrutinised the Government's final report for:
- **information gaps**
- proposed legislation on abortion – the Government's report failed to mention that women would have been criminalised up to 12 years imprisonment



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Preparing a shadow report

Reading and critiquing the Government's report

- **Misleading information**
- The Government's Report describes Ireland's anti-discrimination laws in glowing terms
- But it failed to mention that the law does not cover governmental functions
- Or the fact it was amended three times to reduce its effectiveness in the intervening period



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Preparing a shadow report

Identify concerns and human rights violations for a shadow report

- From the outset, we identified human rights violations falling solidly under the Convention – shadow reports often do not follow this pattern
- We engaged in gap analysis – we used the text of the Convention articles and its jurisprudence to identify gaps between Ireland's obligations and the situation on the ground
- We identified the main determinants or factors causing the human rights violation and assessed the adequacy of any legal measures or policy efforts to address the factors
- We assessed whether legal and policy failures were due to inability, lack of resources or political will



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Preparing a shadow report

Gathering documentation and evidence

- Our researcher gathered evidence of human rights violations through testimonies, interviews, meetings, human rights reports, surveys and media articles
- Best source: government information, official statistics and court judgments
 - This improves the credibility of the shadow report



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Preparing a shadow report

Identifying issues – Extraordinary Rendition

- Reports from the Council of Europe, the European Parliament and the Irish Human Rights Commission had expressed concern about Irish airports being used as part of a CIA “rendition circuit” of unlawful detentions and illegal prisoner transfers
- No searches of planes by Irish authorities



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Preparing a shadow report

- No independent inquiry as to how Irish airports have been used in the process
- Ireland's relationship with the US, particularly, its economic ties was a major factor influencing the Government's response
- The Government indicated that it was entitled to rely on the categorical and absolute assurances secured from the US Government that they have not used Ireland as a stop-off point



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Preparing a shadow report

- **RESULT:** The Human Rights Committee noted its concern about the rendition flights and advised the State party to take care in relying on official assurances
- It also recommended that the Government “should establish a regime for the control of suspicious flights and ensure that all allegations of so-called renditions flights are publicly investigated”



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Preparing a shadow report

Consultations

- Consultations can be useful for identifying human rights issues and for gathering evidence
- We organised several types of consultations in order to reach as many different vulnerable and marginalised groups as possible
 - ex-prisoners
 - Travellers (our main nomadic ethnic group in Ireland)
 - members of Lesbian, Gay, Bisexual and Transgendered (LGBT) persons
 - migrants and asylum seekers



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Preparing a shadow report

- Participants were informed of the limitations of the Convention
- We prepared a primer document with questions that were linked to Convention issues – the discussion was guided
- The consultations were useful in enabling us to prioritise human rights issues under each article as well as highlighting new concerns



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Preparing a shadow report

Writing and preparing a shadow report for maximum impact

- Human Rights Committee members have little time for reading during examinations
- A discursive text with anecdotal information will not have the same impact as a sharply written text
- A shadow report should be rights-based document



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Preparing a shadow report

- Under each article, we followed a particular format:
 - Highlighted the human rights issue
 - Pointed to any inaccuracy, information gap or poor analyse in the Government's report
 - Provided concrete back-up evidence that was clearly referenced
 - Noted the potential convention violation accompanied by a recommendation to address the issue
 - Included a potential question which Treaty Body Members might ask the Government



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Preparing a shadow report

- Once the report was written we consulted a wide range of groups on its contents and recommendations
- We also asked them to endorse a final draft of the report
- Some groups refused to sign up...
- We then asked representatives of those endorsing organisations to come to Geneva to work with us to lobby the UN Human Rights Committee



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Setting the agenda

- The Human Rights Committee organise a pre-sessional working group to review the State's report
- The principal purpose of this group or country task force is to identify in advance the questions which constitute the principal focus of the dialogue with the representatives of the reporting state
- The 'list of issues' session on Ireland took place in March 2010 in New York



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Setting the agenda

- We prepared a short submission in advance of this meeting
- We also organised an informal briefing session for the Human Rights Committee with the assistance of the International Federation for Human Rights before their meeting
- **Result: Very effective intervention and resulted in a detailed list of probing questions for the Irish Government many of which reflected our concerns**



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Our role at the formal examination of Ireland before the Human Rights Committee

- The Human Rights Committee formally examined Ireland's report in July 2010 at the UN in Geneva
- This session occurred over two days and the Government sent some of its most senior civil servants to engage in a dialogue with the Committee
- We organised a briefing session with the help of the Human Rights Committee's Secretariat before the examination formally began
- We attended with a broad based coalition of groups



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Our role at the formal examination of Ireland before the Human Rights Committee

Organising a wider coalition

- We encouraged a wide range of groups to attend this session with us to observe the dialogue and to lobby on their own behalf
- These groups were concerned with:
 - access to justice
 - asylum seekers/refugees
 - disability rights
 - migrants
 - LGBT issues
 - reproductive rights
 - Travellers' rights (nomadic Irish population)



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Our role at the formal examination of Ireland before the Human Rights Committee

Making the coalition work

- We negotiated a key list of concerns – very important
- We prepared joint lobbying materials
- We developed a lobbying strategy on who to target on the Human Rights Committee with different issues
- We also negotiated how to use our time in the briefing session – one of us presented the list of concerns and the different groups responded to each question
- We also lobbied Human Rights Committee members



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Our role at the formal examination of Ireland before the Human Rights Committee

During the hearing

- We observed the dialogue and took notes
- We were looking for inaccurate statements and to counteract these directly with Human Rights Committee members
- The Attorney General's input lasted more than 2 hours
- Not all questions were put to the Government on the first day
- It was difficult for us to counteract statements – we prepared a follow-up submission



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Our role at the formal examination of Ireland before the Human Rights Committee

Communications

- At the same time as the briefing session, we launched the shadow report in Dublin to achieve maximum impact with the media and to lead on the media story
- July is a slow news month
- We received coverage on our national broadcaster, in all major newspapers and radio stations
- We did try to get a journalist present for the Government's session with the Human Rights Committee
- Website: www.rightsmonitor.org hosted all our information



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Rights Monitor - Mozilla Firefox

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Home About International Human Rights Law Shadow Report Concluding Comments Follow-Up Conference

Rights Monitor

Monitoring Ireland's human rights obligations

Search for something, type and hit enter

Human Rights Committee's sends a follow-up letter to Ireland

The Human Rights Committee's sent a follow-up letter to Ireland on 4 Jan 2010.

It is now on the Human Rights Committee website [HERE](#).

You will see from the letter that the Committee is largely satisfied with the Government's information on measures adopted to improve detention conditions and steps taken with a view to providing non-denominational primary education. However, the Committee has sought additional information from the Government:

[...] on how and how often terrorist acts have been investigated and prosecuted, including information on the length of pre-trial detention and access to a lawyer in practice, on the safeguards in place when relying on official assurances, as well as on the mandate of, and the work carried out by, the Cabinet Committee on Aspects of International Human Rights in relation to monitoring traffic through Irish airports.

Downloads



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Shadow Report to the Third Periodic Report of Ireland under the International Covenant on Civil and Political Rights

June 2008

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Follow-up

- The UN Human Rights Committee issued its concluding observations on Ireland in late July 2010 – very hard hitting
- We made contact with the Legal Correspondent with the *Irish Times* (the paper of record) to highlight the Committee's recommendations
- RESULT: Headline, front page, inside article and editorial



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State urged to control suspected rendition flights

UN rights committee makes 19 proposals to Government

CAROL COULTER,

THE UN Human Rights Committee in Geneva has called on the Government to establish a regime for the control of suspected rendition flights through its airports, and has also urged an amendment to the basic article of the Constitution dealing with the family to ensure its wording is "gender-neutral".

The international committee of jurists has also urged amendments to the recent Immigration Bill to ensure the rights of refugees and asylum-seekers are protected, and to remove provisions in the legislation that would allow the temporary deportation even in cases that are being reviewed or where appeals have been lodged to the courts.

The UN committee has also thrown its weight behind criticisms of overcrowding and "slopping out" conditions in Irish prisons.

There are among 19 recommendations in the committee's concluding observations on Ireland's compliance with the International Covenant on Civil and Political Rights, which have been seen by *The Irish Times*.

The observations follow two days of questioning in Geneva last week of the Government on its compliance with the covenant, which it signed in 1989. The Government was represented by the Attorney General, Paul

Gaughan, and the secretary general of the Department of Justice, Sean Aylward.

The committee praised various measures taken by the Government since 1989, including the Mental Health Act in 2001, the incorporation of the European Convention on Human Rights into domestic law, and the establishment of a Human Rights Commission, the Garda Ombudsman Commission, the Equality Authority and the Equality Tribunal.

However, it recommended measures to ensure the effective functioning of the Garda Ombudsman Commission and to enhance the independence of the Human Rights Commission by increasing its resources and making it directly answerable to the Oireachtas. At the moment it falls under the responsibility of the Department of Justice.

This recommendation comes as news emerged yesterday of a proposal that the Irish Human Rights Commission and the Equality Authority be merged with a number of other bodies, including the Disability Authority, the Data Protection Commissioner and the Equality Tribunal.

The Irish Human Rights Commission yesterday responded to this suggestion by recalling its position under the Belfast Agreement, and stressed that any changes should

comply fully with the letter and spirit of the agreement, and in no way undermine human rights protection.

The UN committee also urged the Government to ensure the Civil Partnership Bill will include tax and welfare benefits. It called for the reinforcement of measures to ensure equality between women and men, including more funding for the institutions established to promote it.

It recommended that the State bring its abortion laws into line with the articles in the covenant dealing with the right to life and equality between men and women, so that women did not have to resort to illegal or unsafe abortions.

It outlined a number of recommendations for amendments to the Immigration, Residence and Protection Bill, including the outlawing of summary removal, full access to legal and free legal representation and an independent appeals procedure. The Minister for Justice should not appoint members of the new Protection Review Tribunal, it added.

Welcoming the observations, Irish Council for Civil Liberties deputy director Teresa Ward urged the Government to immediately acknowledge those concerns and address them in a substantive and meaningful way.

UN committee not accepting Ireland's excuses for inaction on human rights: page 7

Editorial comment: page 16



Sean Aylward: represented Government before committee



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UN HRC has both praise and criticism for Ireland

Last July, the UN's Human Rights Committee praised Ireland's legislative and institutional advances since 1999, but there was much to criticise too, says Niamh Hayes

On 14 and 15 July this year, the United Nations' Human Rights Committee met in Geneva to consider Ireland's record on civil and political rights. At issue was Ireland's third periodic report to the committee, submitted by the government as part of their obligations under article 40 of the *International Covenant on Civil and Political Rights* (ICCPR). The periodic reporting mechanism requires every state party to provide information on the measures it has adopted to give effect to the civil and political rights recognised by the covenant and on what progress it has made in guaranteeing the enjoyment of those rights. Ireland's report was then scrutinised before the Human Rights Committee, the expert body responsible for assessing the compliance of states with their obligations under the ICCPR.

The government's report, submitted in 2007, provided a thorough breakdown of statutory and institutional developments implemented since Ireland's last report to the Human Rights Committee in 1999. The committee also received a number of 'shadow reports' from various NGOs and human rights organisations within Ireland, highlighting

what they viewed as deficiencies in the government's record on civil and political rights.

At the Geneva meeting, Ireland was represented by the Attorney General, Paul Gallagher, and a contingent of senior civil servants. The committee also heard from representatives of the Irish Council for Civil Liberties, the Irish Penal Reform Trust, Free Legal Advice Centres and various other delegations from Irish NGOs. Among the ongoing human rights issues that came in for criticism by NGO representatives were Ireland's acceptance of diplomatic assurances from the US regarding the use of Shannon Airport for extraordinary rendition flights, the overcrowded and unsanitary conditions in Irish prisons, the government's failure to recognise the rights of transgendered people, and the high number of people imprisoned for debt in Ireland.

Violence against women

Following its public consideration of the government's submissions and the various shadow reports, the committee produced a number of concluding observations. It began by praising the legislative and institutional advances undertaken since its

examination of Ireland's second periodic report in 1999. These included the establishment of the Equality Authority in 1999,

the Irish Human Rights Commission in 2000 and the Garda Síochána Ombudsman in 2007. However, the committee did express regret at the limited resources available to the Irish Human Rights Commissioner and recommended that the government should take steps to strengthen the commission's independence and capacity to effectively fulfil its mandate.

There was praise for the long-awaited incorporation of the *European Convention on Human Rights* into domestic law in 2003, although it was noted that many of the rights guaranteed under the ICCPR went beyond the scope of the convention and had not been given full effect in domestic law. The committee praised the state's progress in addressing domestic violence and establishing the National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Gosé), but criticised the failure to compile adequate gender-based statistics regarding complaints, prosecutions and sentences in cases involving violence against women.

The concluding observations acknowledged with satisfaction the state's intention to provide



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How dare the UN take us to task over our human rights record



DAVID QUINN

WHEN the Catholic Church was still the major power in the land, what threatened many of its critics was its claim to have a monopoly on morality.

Today the shoe is firmly on the other foot and it is the mainly non-religious left that claims the monopoly, even, that they don't call it morality anymore, they call it "human rights".

Just this week, Ireland was before the UN Human Rights Committee. It appears before this unaccountable and un-elected body every five years to explain its "progress" in implementing certain treaties. The Government was represented by Sir Gillian Triggs, the Attorney General.

It was bad enough that Ireland was being judged by a supra-national body like the UN at all, but what made things much worse is that our moral was being judged by representatives from countries that are social human rights abusers, such as Egypt.

An entire global industry has been built up around human rights. Ironically, this industry is a sort of secular Catholic Church, with its version of the local bishops' conference in the shape of on the one hand the European Authority for Human Rights, the Commission and the Irish Council for Civil Liberties, and its equivalent of the Vatican in the shape of the UN.

It is the job of these secular clergy to lead certain politicians into establishing international human rights conventions - drafted at the UN, or the EU, or the Council of Europe - into national law and to have them enforced by the courts. They do this as assiduously as the local bishops once sought to have Catholic moral teachings enforced in Irish law. What is happening is basically a transfer of power from national legislatures to supra-national bodies, local and international courts and local and international human rights campaigns and NGOs.

Thus is happening without ordinary people even realising, or else, when they do realise, they shrug their shoulders, because who could possibly be against "human rights"?

Who indeed? But, equally, who can it be against, actually, until you discover that what is being enforced upon you is either a morality of Victorian morality, or Communist morality, or Nazi morality, or socialist morality, or secular humanist morality, or whatever type of morality it is that you happen to be against.

Just as there are different and competing views of morality, there are different and competing views of human rights and these are often radically at odds with one another. For example, I might believe in the right to free the labour and you might believe in the right to an abortion.

The big problem today is that the human rights industry is almost entirely in the grip of the left and a merely secularist, left-wing interpretation is being forced on the concept of human rights, and then on countries, after country, via the aforementioned international conventions, courts, campaigns and NGOs.

For a classic left-wing

interpretation of human rights, look no further than the document the Irish Council for Civil Liberties sent out to that UN Committee which our Attorney General had to appear before this week.

It favours abortion rights, as distinct from the right of life of the unborn. It favours same sex marriage and gay adoption, as distinct from the right of a child to a mother and father.

With regard to freedom of thought, conscience and religion, it is much more concerned about freedom from religion than freedom of religion. All of the rest of the document might as well have been dictated up by the old democratic left.

In short, the human rights industry is the agency by which the left, without losing its agenda of us without having to go to the bother of persuading voters.

"Human rights" has now become a synonym for socialism - or at best, social democracy and the left hopes the rest of us don't spot how they have co-opted human rights and lashed it to their own agenda.

In Ireland, it is more being used to punish journalists who step too far out of line from the prevailing political correctness. For example, in this newspaper last week, Kevin Myers wrote a very incoherent piece about Africa which the Immigrant Council of Ireland believes amounts to incitement to hatred.

It was complained to the Garda and it was criminal charges brought against Mr Myers.

News items across the land should be signing petitions protesting against this attack on freedom of speech. But of course, if you are a person of the left, yourself, or merely apathetic, then you won't real-



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Follow-up

- Strategic follow-up with government
 - We sought a cross-departmental meeting with government officials and made specific requests
 - RESULT: Agreement to consult us on follow-up submissions



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Follow-up

- We organised a follow-up conference in April 2010 to promote awareness of the concluding observations on Ireland
- We also prepared a follow-up submission one year on for the Human Rights Committee to shadow the Government's report
- **RESULT:** The Human Rights Committee asked the Irish Government to submit additional information, particularly, on extraordinary rendition



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