



**Press and policy-maker briefing on Alyson Kilpatrick report :  
A Human-Rights Based Approach to Policing in Ireland**

On 14 September ICCL will launch a report by the former human rights advisor to the Policing Board of Northern Ireland, Alyson Kilpatrick, on why and how a human rights based approach to Garda reform should be implemented.

The publication of Kilpatrick's report comes just days before the anticipated publication of the Commission on the Future of Policing (CFP) report into the reform process for An Garda Síochána (AGS). The CFP report is likely to echo many of the observations Kilpatrick makes and indeed it has been informed by the ICCL [submission](#) to the process in January.

**Why should Ireland adopt a human rights-based approach to policing?**

A human rights-based approach is necessary because it is required by law. In Ireland, the European Convention on Human Rights Act 2003 requires AGS to perform its functions in a manner compatible with the state's obligations under the European Convention on Human Rights (ECHR). The Irish Constitution and the 'public sector equality and human rights duty' in section 42 of the Irish Human Rights and Equality Commission Act 2014 also require AGS to respect and protect every person's human rights in every interaction they have and decision they make.

Moreover, a human rights-based approach is the best means of securing the reform of policing that is desired and needed. It is effective in securing a professional, lawful, democratic and accountable police service that respects and values the people it is there to serve while effectively combating crime and maintaining order.

It will help secure police legitimacy and therefore enhance safety and security. The gardaí play a pivotal role in defending human rights. When a human rights-based approach is adopted by police they can rightly claim to be human rights champions who understand that the protection of human rights is the foundation of, not an obstacle to, their work. A human rights-based approach recognises and reflects the fact that policing is an honourable profession, which deserves the support of the public but also appreciates that support, if it is to be relied upon, must be earned.

A human rights-based approach puts the rights of individuals and protected groups at the centre of every decision and action of AGS and gardaí. Every policy, training exercise and operational application of powers and duties begins with a consideration of the rights at issue. The ensuing policy and practice respects, protects and fulfils human rights.

Rights and responsibilities are balanced within a human rights framework that is foreseeable and which is mandatory rather than discretionary. Policing within a human rights-based approach is not subject to the whim of politics, to money or to power but beholden to and protective of the rule of law.

## **Do we currently have a human rights-based approach to policing in An Garda Síochána?**

At the level of broad aspiration, the Garda Code of Ethics already names Human Rights as one of its three guiding principles, and there have been many useful human rights initiatives undertaken by the Garda over the past two decades. However, following six months' analysis of the policing situation in Ireland, Kilpatrick finds that there has not been the comprehensive implementation of human rights throughout the organisation which would deliver real change.

Influence and impact of human rights principles and standards remain superficial or absent in many key areas of AGS policy and operations, including training; accountability and oversight; recording and investigation of hate crime, domestic and sexual violence; stop-and-search practices; State security operations; and conditions in places of detention.

## **How can Ireland adopt a human rights-based approach to policing?**

Creating a police service which is truly human rights compliant will require visionary leadership and dedicated rank-and-file Gardaí to positively transform policy, practice and philosophy. The experience of Northern Ireland shows that taking such an approach improves the performance of the police and community support for policing.

Kilpatrick's report (attached) contains 45 recommendations for how Ireland can implement a human rights-based approach to policing, including a step-by-step guide in Chapter 8. The recommendations are grounded in her experience implementing human rights-based policing in Northern Ireland following the Good Friday Agreement and the Patten process and are designed to complement the forthcoming recommendations of the Commission on the Future of Policing in Ireland. The reform of policing in Northern Ireland, is evidence of the success of such an approach but also instructive of the potential pitfalls that must be avoided in its implementation.

In the area of organisational reform, Kilpatrick makes the following recommendations:

- The Garda Code of Ethics should be revised to include the human rights standards expected of gardaí and civilian staff and their practical application. ICCL believes this measure would protect not only ordinary people, but also Gardaí themselves as they look for guidance in difficult situations. Thereafter, the Code of Ethics should take effect as a discipline code with all alleged breaches of human rights investigated by GSOC.
- Training in human rights should be embedded within each element of foundation training and continuing professional development and should be designed in consultation with representatives of minority and "hard-to-reach" groups.
- Prior to any recruitment campaigns AGS should first consult with minority groups and work with representative groups to target advertisements specifically at those groups that are under-represented.
- The AGS management structure should include at least one human rights legal expert to assist in the development of policy and to oversee operations, and at least one human rights training expert.
- The Policing Authority should engage the services of an independent human rights legal advisor of standing and experience to assist the Authority to develop a human rights monitoring framework, devise the standards by which to measure compliance

and thereafter monitor and report upon AGS' compliance with the European Convention on Human Rights Act 2003.

The report also makes several recommendations addressing operational issues, including:

- AGS should be required to publish statistics on reported incidents of crime; recording rates for hate crime; recording rates for domestic and sexual violence; use of powers to stop, search, question and enter premises; use of security powers including surveillance and covert operations; use and deployment of Covert Human Intelligence Sources; detentions; use of force; arrest, charge and outcome rates; complaints and internal discipline and outcomes; breaches of data protection; training delivered; and the representativeness of the service.
- A statutory mechanism should be established to inspect all places of detention in the State with a view to ensuring compliance with human rights obligations. An independent custody visiting scheme should be established where trained lay people may make unannounced visits to all places of detention. Lay custody visitors should be given access to all detainees and their custody records with the consent of the detainee, and custody visiting reports should be submitted to the inspection body.

From a security perspective, her recommendations include:

- AGS should be required to publish all policy documents, instructions and directives save for those which cannot be published for security reasons. If sensitive security information can be redacted, the document should be published with an explanation for the redaction. If a document cannot be published at all the existence and title of the document should be published with an explanation for non-publication.
- All aspects of state security policing should be subject to statutory oversight arrangements.

Kilpatrick's report warns that strong and long-lasting support for human rights-based policing at the uppermost levels of An Garda Síochána and across the policing oversight bodies will be essential for real change to happen in Ireland. Kilpatrick also points out that human rights-based policing is nothing more than An Garda Síochána upholding their legal obligations.

She explains a 'human rights-based approach' to policing is one that:

*puts the rights of individuals and protected groups, enshrined at law by the ECHR, at the centre of every decision and action of the Garda Síochána and gardaí. Every policy, training exercise and operational application of powers and duties begins with a consideration of the rights at issue.*

She adds:

*Such an approach has been tried and tested and proved to be truly democratic, enabling people to know their rights, to claim and defend them. [In Northern Ireland] it has resulted in police becoming more professional, efficient, effective and ultimately respected by the public. Rights and responsibilities are balanced within a human rights framework that is foreseeable and which is mandatory rather than discretionary. Policing within a human rights-based approach is not subject to the whim of politics, to money or to power but beholden to and protective of the rule of law.*

## **About Alyson Kilpatrick**

Kilpatrick served for 7 years as Human Rights Legal Advisor to the Northern Ireland Policing Board and has seen first-hand the benefits of the PSNI committing to human rights as their guiding principles. Her report describes how reorienting policing so that equality and human rights are at the forefront of the police's mind every time they develop a policy or implement a practice created a huge shift in community relations and in the professionalism and effectiveness of the PSNI.