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U.S. Department of State

Ireland Country Report on Human Rights Practices for 1996

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IRELAND

Ireland is a parliamentary democracy with a long tradition of orderly transfer of power. The Government is headed by a president and a prime minister, and there is a bicameral parliament. The judiciary is independent.

The national police are under the effective civilian control of the Minister of Justice and have sole responsibility for internal security. Ireland's principal internal security concern has been to prevent the spillover of terrorist violence from Northern Ireland. Despite the end of the Irish Republican Army's (IRA) cease-fire in February, the Government did not reinstate the state of emergency, which it lifted in 1995 when the cease-fire began.

Ireland has an open, market-based economy that is highly dependent on international trade. It is a large net recipient of funds from the European Union (EU) designed to raise per capita gross national product to the EU average. Despite strong economic growth over the past few years, unemployment remains high at 12.4 percent.

The Government generally respected the human rights of its citizens. Human rights problems arise primarily from: prison overcrowding and substandard facilities; instances of abuse by police and prison officials; the continuation of special arrest and detention authority and the nonjury court; discrimination and violence against women; abuse of children; occasional censorship of films, books, and periodicals; and a lack of explicit antidiscrimination legislation, especially in relation to persons with disabilities and "travelers" (an itinerant ethnic community).

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture or other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and security personnel generally did not employ them.

However, at least 66 cases were filed against the State by persons claiming damages for personal injuries resulting from alleged mistreatment while in police custody. While mistreatment by police officers is not widespread, in one case two persons accused of murdering a police officer alleged that they had been severely beaten by police while in custody. At their initial court appearance, the men showed physical injuries consistent with their allegations. No official public action was taken on their complaint.

Ireland has a low incarceration rate (73 inmates per 100,000 population), and the prison regime is generally liberal. However, the physical infrastructure of many prisons is barely adequate: facilities are plagued by chronic overcrowding, requiring doubling-up in many single-person cells. Almost all of the country's 12 prisons are very old buildings that were built originally for other uses; as a result, less than half the cells have toilets and running water. According to the May report of its oversight committee, a statutory body made up of ministerial appointees not connected to the prison service, drug abuse is widespread at Mountjoy prison, the country's largest. The report also cites overcrowding and describes medical services as "ad hoc and uncoordinated." The Government is in the process of upgrading prison facilities to improve sanitary conditions and to meet statutory health and safety standards.

Prisoners have filed 26 cases against the State for alleged mistreatment. The Government admitted that "in at least some prisons in Ireland...there are certain officers who have a propensity to ill-treat prisoners." There is no evidence that these officers have been reprimanded or removed. The Government has improved training of prison officials in order to reduce prisoner abuse.

The Government has continued to arrest and incarcerate at Portlaoise prison persons involved in paramilitary activity. Conditions for these inmates are the same, if not better, than those for the general prison population.

The Government has a 3-year prison construction plan to build 800 new cells and a new women's prison annex at Mountjoy prison. However, human rights observers are skeptical that the plan will lead to the end of the present chronic overcrowding given the Government's failure so far to expand prison capacity under the 5-year plan published in 1994. International human rights monitors are permitted to visit prisons without reservation.

d. Arbitrary Arrest, Detention, or Exile

The Constitution stipulates that no person shall be deprived of personal liberty without due process under the law. A detainee has the right to petition the High Court, which is required to order release unless it can be shown that the person is being detained in accordance with the law. Under the 1984 Criminal Justice Act, the maximum period of detention for questioning in most cases is 12 hours, plus a possible extension of 8 hours overnight to allow a detainee to sleep.

Detention without charge is permitted for up to 48 hours, however, in cases covered by the 1939 Offenses Against the State Act. This act allows police to arrest and detain for questioning anyone suspected of committing a "scheduled offense," i.e., one involving firearms, explosives, or membership in an unlawful organization. Although the stated purpose of the act is to "prevent actions and conduct calculated to undermine public order and the authority of the state," it is not restricted to subversive offenses. Therefore, the police have broad arrest and detention powers in any case involving firearms.

The act also provides for the indefinite detention, or internment, without trial of any person who is engaged in activities that are "prejudicial to the preservation of public peace and order or to the security of the state." While this power has not been invoked since the late 1950's, the Government could do so by simply issuing a proclamation. There are no provisions for the 1939 Offenses Against the State Act be renewed; it continues indefinitely.

The Criminal Justice (Drug Trafficking) Act of 1996 permits detention without charge for up to 7 days in cases involving drug trafficking. To hold a suspected drug trafficker for more than 48 hours, however, the police must seek a judge's approval.

The authorities do not impose exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process.

The judicial system includes 23 district courts, 8 circuit courts, the High Court, the Court of Criminal Appeal, and the Supreme Court. Judges are appointed by the President on the advice of the Government.

Most criminal cases are prosecuted by the Director of Public Prosecutions, a state official with semiautonomous status. Jury trial is the norm. The accused generally may choose his or her attorney. For indigent defendants, the state assumes the cost of counsel.

However, the Constitution explicitly allows "special courts" to be created when "ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order." In 1972, under the 1939 Offenses Against the State Act, the Government set up a nonjury "Special Criminal Court" (SCC) to try "scheduled offenses," i.e., ones involving firearms, explosives, or membership in an unlawful organization. Largely a reaction to the spillover of paramilitary violence from Northern Ireland, the SCC has been justified over the years as addressing the problem of jury intimidation in cases involving defendants with suspected paramilitary links.

Since the paramilitary cease-fire in 1994, far fewer cases have been handled by the SCC than during the "troubles." However, since the IRA resumed its campaign of violence, the Government may use the SCC more frequently in the future. It was used at least twice in 1996, and several additional cases are pending. In addition to the "scheduled offenses," the Director of Public Prosecutions can have any case tried by the SCC by simply certifying that the ordinary courts are "inadequate" to deal with it.

In lieu of a jury, the Special Criminal Court usually sits as a three-judge panel. Its verdicts are by majority vote. Rules of evidence are essentially the same as in regular courts, except that the sworn statement of a police chief superintendent identifying the accused as a member of an illegal organization is accepted as prima facie evidence. Sessions of the SCC are usually public, but the judge may exclude certain persons other than journalists. Appeals from the SCC are only allowed on points of law or against the sentence imposed.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Supreme Court has affirmed that, although not specifically provided for in the Constitution, the inviolability of personal privacy, family, and home must be respected in law and practice. This is fully honored by the Government.

In 1996 the High Court upheld a referendum that removed the ban on divorce. The Government is expected to enact implementing legislation that allows courts to grant divorces under certain circumstances.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides individuals with the right to "express freely their convictions and opinions." Freedom of the press, however, is subject to the qualification that it not "undermine public order or morality or the authority of the state." Publication or utterance of "blasphemous, seditious, or indecent matter" is prohibited. While the press, in practice, operates freely, the 1961 Defamation Act (which puts the onus on newspapers and periodicals accused of libel to prove defamatory words are true) and the 1963 Official Secrets Act (which gives the State wide scope to prosecute unauthorized disclosures of sensitive government information) are believed to result in some self-censorship.

More than 80 libel actions against newspapers and other publications were pending before the courts; the National Newspapers Association of Ireland estimated that libel awards and related legal bills cost its members about \$10 million (6 million Irish pounds) per year.

Broadcasting remains mostly state controlled, but under the 1988 Radio and Television Act, private sector broadcasting is growing. There are at least 22 independent radio stations, and negotiations are proceeding for an independent television station. The Broadcasting Complaints Commission oversees standards and investigates complaints about programming. The 1960 Broadcasting Act empowers the Government to prohibit the state-owned radio and television network from broadcasting any matter that is "likely to promote or incite to crime or which would tend to undermine the authority of the state." It was on this basis that the Government banned Sinn Fein (the legal political front of the IRA) from the airwaves from 1971 to 1994.

Films and videos must be screened and classified by the Office of the Film Censor before they can be shown or sold. Distributors must pay a fee between \$1,100 and \$1,300 (650 to 800 Irish pounds) per film, which is used to finance the censor's office. Under the 1923 Censorship of Films Act, the censor has the authority to cut or ban any film that is "indecent, obscene or blasphemous" or which tends to "inculcate principles contrary to public morality or subversive of public morality." There has been a diminishing use of this broad power in recent years: only two films were banned in 1996. Decisions of

the censor can be appealed to a nine-member appeal board, but neither the censor nor the appeal board is required to hear arguments or evidence in public or to state reasons for its decisions.

Books and periodicals are also subject to censorship. The 1946 Censorship of Publications Act calls for a five-member board to examine publications referred to it by the customs service or a member of the general public. It can also examine books or periodicals on its own initiative. The board can prohibit the sale of any publication that it judges to be indecent or obscene. In 1996 the board banned at least 46 books and 43 periodicals, a sharp increase from 1995, when it banned 17 books and 3 periodicals.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The Constitution provides citizens with the right to "assemble peaceably and without arms" and to form associations and unions. However, it also allows the State to "prevent or control meetings" that are calculated to cause a breach of the peace or to be a danger or nuisance to the general public."

Under the 1939 Offenses Against the State Act, it is unlawful to hold any public meeting on behalf of, or in support of, an illegal organization. Although the Government prosecutes and incarcerates persons for mere membership in a terrorist organization, it allows meetings and assemblies by some groups that are associated with illegal terrorist organizations.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government does not hamper the teaching or practice of any faith. Even though Ireland is overwhelmingly Roman Catholic, there is no state religion. However, almost all primary and secondary schools are denominational, managed and controlled by the Catholic Church. Religious instruction is an integral part of the curriculum, but there are provisions for parents to exempt their children from such instruction.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

There is complete freedom of movement within the country, as well as freedom to engage in foreign travel, emigration, and voluntary repatriation.

The Government approved a new refugee law in 1996, but it had not been implemented by year's end. Currently, there is no domestic law dealing with the status of refugees or procedures to be followed when a person applies for asylum. As a result, the legal rights and protections for asylum seekers and refugees are tenuous. The issue of provision of first asylum did not arise in 1996; nor were there reports of forced return of persons to a country where they feared persecution. Ireland implements its obligations under the 1951 Convention Relating to the Status of Refugees on an administrative basis. Specific administrative procedures for the determination of refugee status were drawn up in consultation with the U.N. High Commissioner for Refugees; in 1992 the Supreme Court ruled that these procedures were binding on the Minister of Justice. However, as the number of asylum seekers has increased (from only 31 in 1990 to 1,179 in 1996), these administrative procedures have proved inadequate. In particular, there have been complaints of long delays and a lack of transparency in decisions concerning refugee status. The Minister for Justice approved only 33 refugee petitions in 1996.

The new refugee law provides for a refugee commission, an appeals board, and provides criteria for evaluating refugee applications. These measures are designed to improve refugee processing and

provide more openness.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The Constitutional requirement that parliamentary elections be held at least every 7 years has always been met. Suffrage is universal for citizens over the age of 18, and balloting is secret. Several political parties have seats in the bicameral Parliament. Members of the Dail (House of Representatives)-- the chamber that carries out the main legislative functions-- are popularly elected; in the Seanad (Senate), some members are elected and some are appointed by various bodies. The President is popularly elected for a 7-year term and is limited to two terms. An appointed Council of State serves as an advisory body to the President.

Women are underrepresented in government and politics. Although a woman is president, only 23 of the 166 deputies in the Dail and 7 of the 60 senators are women. Of the 22 legislative committees, the only one chaired by a woman is the Joint Committee on Women's Rights. Two of the 15 government ministers are women, as are 3 of the 17 junior ministers. There are 3 women on the 20-member High Court; only 1 of the 8 Supreme Court judges is a woman. While women participate in all departments of government, they are underrepresented at senior levels. Women hold about 30 percent of public-sector jobs.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The principal independent organization monitoring domestic human rights problems, the Irish Council for Civil Liberties, operates without hindrance from the Government. The Government is open to investigation of human rights abuses by international or other nongovernmental organizations.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Except as regards employment, neither the Constitution nor the law prohibits discrimination on the basis of disability, race, sex, language, or social status. To address these and other shortcomings in Irish civil law, the Government in 1993 created the Department of Equality and Law Reform. The Department has drafted an equal status bill and an employment equality bill, but neither bill was passed by year's end. The Constitution, as amended, already forbids state promotion of one religion over another and discrimination on the grounds of religions profession, belief, or status.

Women

There have been no systematic studies of violence against women, but indications are that it is significant. According to a 1995 survey by Women's Aid, a private organization, 7 percent of the women interviewed said that they had been abused by a partner or ex-partner in the past year, and 18 percent reported having been abused at some time. The Dublin Rape Crisis Center reports a 20 percent increase in the number of calls received in 1996. In 1995 it received more than 10,000 calls. The Center estimates that only 29 percent of rape victims report the crime to police and that only 8 percent of those go to trial. A 1990 act criminalized rape within marriage and provided for free legal advice to the victim. There are 12 women's refuges in the country, funded in part by the Government, with accommodation for about 50 families.

Another indication of the extent of violence against women is the number of applications for barring orders. In 1995 there were 4,448 applications for orders to bar the husband from the family home; the

courts granted 1,891 barring orders. In 1996 the Government approved the Domestic Violence Act, which strengthens barring and protection orders and gives the police new powers to deal with these cases. A new working group on violence against women, chaired by a high-ranking government official, is scheduled to report in February 1997 on measures to deal further with the problem of violence against women.

Discrimination against women in the workplace is unlawful, but inequalities persist regarding pay and promotions in both the public and the private sectors. Working women are also hampered by the lack of adequate child-care facilities. The Maternity Protection Act was passed in 1994, providing a woman 14 weeks of maternity leave and the right to return to her job. The Anti-Discrimination (Pay) Act of 1974 and the Employment Equality Act of 1977 provide for protection and redress against discrimination based on gender and marital status. The Employment Equality Agency monitors their implementation. The number of cases brought to the agency has fallen in recent years, but progress in eliminating the differential in earnings has been modest. In 1996 the hourly industrial wage for women was 60 percent of that received by men, and weekly earnings of women averaged 68 percent of the weekly pay of men.

Children

The Government is strongly committed to the welfare and rights of children, as demonstrated by its ongoing implementation of the 1991 Child Care Act. Education is compulsory for children 6 to 15 years of age. Among other things, the act places a statutory duty on government health boards to identify and help children who are not receiving adequate care and gives the police increased powers to remove a child from the family when there is an immediate and serious risk to health or welfare. The Minister of State (junior minister) for Health has special responsibility for children's policy, including implementation of the Child Care Act; by the end of 1996, only parts of the act remained to be implemented. The Status of Children Act of 1987 abolished the concept of illegitimacy and provided for equal rights for children in all legal proceedings.

Sexual abuse of children has been receiving increased media attention; the number of reported physical abuse cases is also rising. Surveys suggest that 12 to 15 percent of children experience physical, sexual, or emotional abuse or gross neglect. In 1996 there were several scandals involving allegations of sexual abuse of children by orphanage staff and members of the Roman Catholic clergy. In at least three cases, members of the clergy pled guilty to sexually abusing minors and were convicted. At least five more cases are pending.

People with Disabilities

An estimated 15 percent of the adult population have a disability; 80 percent of those are unemployed. There is currently no legislation to protect persons with disabilities from discrimination in employment or in other matters or to improve their access to buildings or transportation. Few public or private buildings have facilities for people with disabilities. The Commission on the Status of People with Disabilities issued a comprehensive report of the conditions faced by persons with disabilities. The report, which makes 402 recommendations for legislative and policy changes, is regarded by government officials and advocates for persons with disabilities as a first step toward improving the rights of the latter.

National/Racial/Ethnic Minorities

There are some 25,000 nomadic people within Ireland who regard themselves as a distinct ethnic group called "travelers," roughly analogous to the Roma of continental Europe. The "traveling" community has

its own history, culture, and language. The travelers' emphasis on self-employment and the extended family distinguish them from the rest of Irish society. In 1991 a European Parliament committee reported that in Ireland, "the single most discriminated against ethnic group is the 'traveling people.'" That remained true in 1996.

Travelers are regularly denied access to premises, goods, facilities, and services; many restaurants and pubs, for example, have a policy of not serving them. Despite national school rules that provide that no child may be refused admission on account of social position, travelers frequently experience difficulties in enrolling their children in school. Sometimes they are segregated into all-traveler classes. Of an estimated 3,500 traveler families, more than 1,000 are residing on roadsides or on temporary sites without toilets, electricity, or washing facilities.

Indicative of public hostility towards travelers, a Waterford county councilman said at a council meeting in April that travelers should be "run out" of the country. He said that "they are not our people, they are not natives of this country." In 1996 there were fewer reported instances of violence against members of the traveling community than in the past.

The tense relations between the traveling community and the rest of Irish society led the Government in 1993 to establish a task force to study the problem and make recommendations. One of the main recommendations of the task force was that "the distinct culture and identity of the traveler community be recognized and taken into account," especially in the context of the proposed equal status legislation. The traveling community is specifically addressed in the 1989 Prohibition of Incitement to Hatred Act, but to date, there have been no prosecutions under that law.

Section 6 Worker Rights

a. The Right of Association

The right to join a union is provided for by law, as is the right to refrain from joining. About 55 percent of workers in the private and public sectors are members of unions. Police and military personnel are prohibited from striking, but they may form associations to represent themselves in matters of pay, working conditions, and general welfare. The right to strike is freely exercised in both the public and private sectors. The Industrial Relations Act of 1990 prohibits retribution against strikers and union leaders; the Government effectively enforces this provision through the Department of Enterprise and Employment. In 1996 the number of strikes was significantly down from past years; however, the number of work days lost by strikes increased from 1995. The Irish Congress of Trade Unions (ICTU) represents 65 unions in the Republic of Ireland and Northern Ireland. Both the ICTU and the unions affiliated with it are independent of the Government and of the political parties. Unions may freely form or join federations or confederations and affiliate with international bodies.

b. The Right to Organize and Bargain Collectively

Labor unions have full freedom to organize and to engage in collective bargaining. The Anti-Discrimination (Pay) Act of 1974 and the Employment Equality Act of 1977 make the Employment Equality Agency responsible for oversight of allegations of antiunion discrimination. If the Agency is unable to effect resolution, the dispute goes before the Labor Court, which consists of one representative each for the employer and the union, plus an independent chairperson. The Unfair Dismissals Act of 1977 provides various forms of relief in cases of employers found guilty of antiunion discrimination, including the reinstatement of workers fired for union activities.

Most terms and conditions of employme