

Buan-Mhisean na hÉireann chuig na Náisiún Aontaithe agus  
Eagraíoch idirnáisúnta eile | An Ghinéiv  
Permanent Mission of Ireland to the United Nations and  
Other International Organisations | Geneva  
Mission Permanente de l'Irlande auprès de l'Office des Nations Unies et  
des autres organisations internationales | Genève



TPN/039/2022

The Permanent Mission of Ireland to the United Nations Office and other International Organisations in Geneva presents its compliments to the Secretary-General of the United Nations (High Commissioner for Human Rights) and refers to the communication AL IRL 1/2022.

With reference to the aforementioned communication, enclosed please find a response from Minister for Foreign Affairs, Mr Simon Coveney T.D, in consultation with the Minister for Children, Equality, Disability, Integration and Youth, Mr Roderic O’Gorman.

The Permanent Mission of Ireland to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Secretary-General of the United Nations (High Commissioner for Human Rights) the assurances of its highest consideration.

Geneva, 10 June 2022





9 June 2022

To: The Working Group of Experts on People of African Descent; Special Rapporteur on the right to development; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on promotion of truth, justice, reparation and guarantees of non-recurrence.

**Re: Joint Communication from Special Procedures in relation to allegations of systemic racism and racial discrimination against children of African and Irish descent who lived in State institutions, including Mother and Baby Homes, Industrial Schools and analogous institutions, in Ireland, between the 1940s and 1990s, and the specific situation of Mr Conrad Bryan who was kept in institutions between 1964 and 1982.**

Dear Special Rapporteurs

I thank you for your joint communication of 12 April 2022. Ireland welcomes engagement from the Special Procedures and appreciates the opportunity to provide observations.

In consultation with my colleague, the Minister for Children, Equality, Disability, Integration and Youth, Mr Roderic O’Gorman, I wish to provide the following information in relation to the four matters raised in your communication, namely:

(1) specific allegations concerning Mr Conrad Bryan and other children of African and Irish descent, (2) the investigation of allegations of racial discrimination and systemic racism in the childcare system, including Mother and Baby Homes, Industrial Schools, and analogous institutions, (3) access to remedies for same, and (4) measures in place to prevent systemic racism in the childcare system in Ireland today.

A response to each of the four matters is set out in the remainder of this letter.

**1. Please provide any additional information and any comment you may have on the allegations concerning Conrad Bryan and other children of African and Irish descent**

At the outset, it is important to emphasise that the Irish Government takes very seriously the specific allegations which have been made by Mr Bryan, and the investigation of historic wrongs more generally. The Irish Government has engaged with Mr Bryan on several occasions over the past number of years, as well as with other persons of African and Irish descent who report similar experiences in Irish institutions during childhood.

Most recently, in May 2022, Irish Government officials travelled to London and met Mr Bryan in the context of Government plans to establish a National Centre for Research and Remembrance which will stand as a national memorial to honour all those who were resident in Mother and Baby Homes, Industrial Schools, Reformatories, Magdalen Laundries and related institutions. This was a helpful discussion and the Irish Government is very grateful to Mr. Bryan for engaging with it and giving generously of his time. It hopes that Mr Bryan will continue to be open to such engagement in the future, which is fundamental to inform the design and delivery of the State's response to the legacy of these institutions.

We are mindful that Mr Bryan may yet wish to pursue the domestic remedies available to him and, therefore, we do not believe it appropriate to comment on the particulars of his experiences, as outlined in the communication. As such, of necessity, the remainder of our response will focus on the latter three questions posed by your communication.

**2. What measures are in place to ensure the effective investigation of allegations of individual cases of racial discrimination and systemic racism in the childcare system, including in Mother and Baby Homes, Industrial Schools and analogous institutions?**

There have been two major, independent statutory inquiries in Ireland to investigate what happened to vulnerable children in Industrial Schools and Mother and Baby Institutions respectively. Each of these is briefly outlined below.

Industrial Schools, Reformatories and related institutions

The Commission to Inquire into Child Abuse (CICA) was established in 2000 with extensive powers to investigate allegations of abuse brought before it. CICA had three main functions – to listen to those who suffered abuse as children in institutions, to inquire into abuse of children in institutions and to report and make recommendations – and had two separate and distinct Committees (the Confidential Committee and the Investigation Committee). CICA published its final report in May 2009 (known as the Ryan Report). The Report revealed the horrific extent of the abuse suffered by thousands of children. Physical and emotional abuse was endemic while sexual abuse also occurred in many institutions, and particularly in institutions for boys.

Mother and Baby Institutions

In February 2015, the then Irish Government established an independent inquiry- the statutory Commission of Investigation into Mother and Baby Homes and certain related matters. In establishing this Commission, the then Government sought to ensure an independent and thorough investigation of what happened to vulnerable women and children in these institutions during the period 1922 to 1998.

Notably, the terms of reference of the Commission specifically tasked it with examining the extent to which any group of residents may have systematically been treated differently on any grounds, including religion, race, Traveller identity, or disability.

The Commission had all the powers necessary to support its investigations and undertook its extensive work over an almost 6-year period, publishing seven Interim Reports and bringing a considerable amount of important and previously unknown information into the public domain. The Commission's Final Report, published on 12 January 2021, sets out its detailed analysis, findings and recommendations in more than 2,800 pages. Chapter 31 deals exclusively with the Commission's findings on issues relating to Discrimination.

With regard to individual allegations of abuse or mistreatment within the institutions, the Commission's reports were made available to the relevant civil authorities to decide if criminal investigation and/or prosecutions were warranted. In April 2021, An Garda Síochána, the Irish police force, appealed to anyone with information about potential crimes at Mother and Baby Institutions to make contact with them so that such criminal matters can be further investigated where possible. Dedicated contacts and specially trained officers are in place to support any person wishing to make such a report.

### **3 What measures are in place to ensure that victims of racial discrimination and systemic racism in the childcare system, including Mother and Baby Homes, Industrial Schools and analogous institutions, have access to effective remedies?**

In the case of both survivors of Industrial Schools and survivors of Mother and Baby Institutions, a range of measures has been advanced by the Irish Government. The starting point in both cases has been a formal State apology as the foundation for reparation and restorative action.

#### Industrial Schools, Reformatories and related institutions

On 11 May 1999, the then Taoiseach, Bertie Ahern, TD, apologised on behalf of the State to the victims of childhood abuse. He said *"The time has long since arrived when we must take up the challenge put to us all by the victims of childhood abuse. The starting point for this is simple, but fundamental. We must start by apologising. On behalf of the State and of all citizens of the State, the Government wishes to make a sincere and long overdue apology to the victims of childhood abuse for our collective failure to intervene, to detect their pain, to come to their rescue... 'all children need love and security'. Too many of our children were denied this love, care and security. Abuse ruined their childhoods and has been an ever present part of their adults lives reminding them of a time when they were helpless."*

In 2002, a statutory redress scheme was established for survivors of residential institutional abuse to provide fair and reasonable awards to those who, as children, suffered abuse in residential institutions under the supervision or regulatory authority of the State. This scheme was operated by the Residential Institutions Redress Board. The closing date for receipt of applications to the Board was December 2005, although the Board could accept late applications in exceptional circumstances until 17 September 2011. Overall, the Board received over 16,600 applications for redress with the total value of awards amounting to over €970m.

In addition to the statutory redress scheme, in 2012, a Fund of €110 million was established by the Residential Institutions Statutory Fund Act 2012 to address the health, housing and education needs of survivors living in Ireland and other parts of the world.

### Mother and Baby Institutions

On 13 January 2021, the Taoiseach Micheál Martin TD offered a formal apology on behalf of the Government, the State and its citizens to those who spent time in Mother and Baby and County Home Institutions. In this apology, the Taoiseach acknowledged the failings of the State, over many decades, to protect vulnerable citizens, and to uphold their fundamental rights. This State apology recognised the *“additional impact which a lack of knowledge and understanding had on the treatment and outcomes of mothers and children with different racial and cultural heritage, those who faced mental health challenges, or those with physical and intellectual disabilities”*. It was further acknowledged that *“such discriminatory attitudes exacerbated the shame and stigma felt by some of our most vulnerable citizens, especially where opportunities for non-institutional placement of children were restricted by an unjust belief that they were unsuitable for placement with families”*.

This official State apology forms the basis of restorative action in response to the legacy of Mother and Baby Institutions, as set out in the Government’s *Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions*. The Action Plan contains a suite of 22 Actions across eight key themes:

- A survivor-centred approach
- Apology
- Access to Personal Information
- Archives and Databases
- Education and Research
- Memorialisation
- Restorative Recognition
- Dignified Burial

These themes take account of the priority needs and concerns of survivors as identified by them, as well as the Commission’s recommendations, all of which were accepted by Government, and are underpinned by the State’s obligations under domestic and international human rights law.

Since publication of the Commission’s final report, the Irish Government has been working to progress all 22 Actions to provide tangible benefits to all survivors as quickly as possible. This includes:

- Ensuring that strengthened counselling support was in place for all survivors, free of charge, prior to publication of the Commission’s report and remains in place.
- Taking possession of the archive of the Commission of Investigation, ensuring access to personal information within this archive in accordance with the General Data Protection Regulation, and appointing a professional archivist to focus on the preservation of, and public access to, these records.
- Publishing legislation to provide a clear right of access to birth and early life information for adopted persons and others with questions in relation to their origins.

- Publishing draft legislation to establish a significant Payment Scheme to provide eligible survivors and former residents with a financial payment and a form of enhanced medical card<sup>1</sup>.
- Publishing legislation to allow for exhumation, identification and dignified reburial of the infants at the Tuam burial site, as well as at any other institutional sites where there have been manifestly inappropriate burials.
- Approving proposals for a national memorial- the National Centre for Research and Remembrance- to honour all those who were resident in Mother and Baby Institutions, Industrial Schools, Magdalen Laundries and related institutions.

### **Mother and Baby Institutions Payment Scheme**

In November 2021, the Irish Government published proposals for a Payment Scheme to provide eligible survivors with:

- a financial payment, in recognition of time spent in the institution, harsh conditions, emotional abuse and other forms of mistreatment, stigma and trauma experienced while resident in a Mother and Baby Institution, and
- a form of enhanced medical card.

The proposals were informed by an extensive national and international public consultation process, as well as advice from the Irish Human Rights and Equality Commission.

The level of financial payment received by eligible applicants will depend on the amount of time spent in a relevant institution, with those who spent longer in the institutions receiving greater financial payments. This will allow for a simple and non-adversarial application process, in which applicants will not have to prove abuse and the State can shoulder much of the burden as proof of residency is all that will be required to determine eligibility.

As you note in your communication, those who spent longer in the institutions were, of necessity, subjected to harsh institutional conditions and associated harms for a more prolonged period of time. The proposed structure of the Payment Scheme, with increasing financial payments depending on length of stay, recognises this fact.

In March 2022, Government published a draft of the legislation required to establish the Payment Scheme. This draft legislation is now undergoing pre-legislative scrutiny in the Irish Parliament. Pending the completion of that process, the Government hopes to advance the legislation as quickly as possible, with a view to opening the Scheme for applications by the end of this year.

The Payment Scheme is a central element of the State's response to survivors of these institutions. However, the Irish Government recognises that no financial award can take back the hurt, loss and distress that has been experienced, and also recognises that different survivors have different priority needs and concerns. For this reason, the Scheme is complemented by a suite of additional measures related to access to counselling, information, memorialisation, and research among others.

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<sup>1</sup> The enhanced medical card provides the holder with an entitlement to a full range of health and social care services free of charge.

## **Birth Information and Tracing Legislation**

In January 2022, the Irish Government published the Birth Information and Tracing Bill 2022. This landmark legislation will provide a full and clear right of access to birth certificates, birth and early life information for all persons who were adopted, boarded out, the subject of an illegal birth registration or who otherwise have questions in relation to their origins. Currently, access to this information is limited, and a number of legislative attempts to address this issue over the last twenty years have failed.

The legislation will also establish a statutory tracing service and a contact preference register to support people seeking to share information or make contact with family. The Birth Information and Tracing Bill 2022 is currently being debated in the Houses of the Oireachtas and the Irish Government hopes it will be enacted in summer 2022, with a view to facilitating requests for information from autumn 2022.

On the broader issue of historical adoption practices, the Final Report of the Mother and Baby Homes Commission makes clear that unmarried mothers and their children lived in a hostile and uncaring environment in the period the report examined. It is acknowledged by all parties that adoption in the past was often a secretive process, carried out sometimes without due regard to the rights and interests of those involved, and to the lifelong impact on those individuals. However, adoption today is a service for children, to provide a family to care for them when their parents are unable to do so, and where adoption is in their best interests. The safeguards in place today ensure that the best interests of the child are the paramount consideration in all adoption cases, and in every step of the process.

## **Memorialisation**

The Irish Government is aware of the importance of memorialisation, noting that, without memory, the rights to truth, justice and full reparation cannot be fully realised, and there can be no guarantees of non-recurrence. The Irish Government has made a number of important commitments to memorialisation at both a national and community level.

At national level, the Government has approved and published proposals for a National Centre for Research and Remembrance. This Centre, as a national site of conscience, will stand as an enduring national memorial to honour all those who were resident in Industrial Schools, Mother and Baby and County Home Institutions, Magdalen Laundries and related institutions. The development of the Centre will fulfil commitments made by Government to establish a national memorial in response to recommendations made by State inquiries into these institutions.

The Centre will contain a number of distinct but related areas, including: a museum and exhibition space, a research centre and central repository of records related to institutional trauma, a dedicate space for solemn reflection and remembrance, social housing and local community facilities, and an educational and early learning facility.

One unique aspect of the central repository will be the inclusion of the personal testimonies of survivors, allowing the lived experiences of survivors to be formally accepted as part of the official record. The Centre will be designed in cooperation with professional archivists and historians, as well as with survivors and their advocates.

This national project will be complemented by local memorialisation projects, funded by local authorities, in line with the wishes of former residents. In addition, the Government will continue to provide funding to local survivor groups, in Ireland and abroad, who wish to organise commemorative events.

In progressing all of these memorialisation and commemoration commitments, Government is deeply conscious that memorialisation means different things to many different people, and so it is key that the design and establishment of memorials should be led by survivors.

#### **4. What measures are in place to prevent systemic racism and racial discrimination in the childcare system in Ireland nowadays?**

The Irish Government is absolutely committed to vindicating the rights of all children, ensuring a robust system of child protection and pursuing policies to promote social inclusion, equality, and diversity.

Ireland is now a country which has recognised that children are individual rights holders in its Constitution. It is a signatory to, *inter alia*, the United Nations Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination. Within Government, we have a Government Department dedicated to children, to equality and to working across Government and society to promote and uphold the rights of all people.

##### Childcare Services Today

In 2014, we established a national statutory Child and Family Agency with a dedicated mandate to improve wellbeing and outcomes for children. The creation of the Child and Family Agency represents the most comprehensive reform of child protection, early intervention and family support services ever undertaken in Ireland. The Agency is responsible for childcare services and is subject to inspection against National Standards by an independent national regulator, the Health Information and Quality Authority.

In terms of children in residential care, the rights of children, as prescribed in the UN Guidelines for the Alternative Care of Children and in Irish law, are promoted and protected by social care staff at all times and young people are supported to understand their rights. The principles adopted in the policy and procedures of individual residential care services include conformity with the principle of non-discrimination.

The Health Information and Quality Authority *National Standards for Children's Residential Centres* apply to all designated children's residential centres - private, voluntary and statutory. Standard 1.1 relates to child-centred care and support, and emphasises that each child should experience care and support which respects their diversity and protects their rights in line with the United Nations (UN) Convention on the Rights of the Child. Each child is to be treated with dignity and respect for their age, gender, family status, sexual orientation, gender identity, disability, race, religious beliefs and ethnic and cultural identity.



## Detention

For children, who are the subject of a detention order by the Courts, Oberstown Children Detention Campus (Oberstown) has a statutory responsibility to provide safe and secure care and education to young people referred by the courts. The Oberstown Care Policy requires that the individuality, identity, cultural background, religious and spiritual needs, linguistic and communication needs, and any special needs of each young person are taken into account in planning for and providing care to them. Respect for the dignity of young people is fundamental in all aspects of care at Oberstown. This includes treating young people with respect and being cognisant of their gender, race, sexual orientation, age, religious beliefs or membership of the Traveller community.

In 2020, the Oberstown Board of Management adopted a new and robust Children's Rights Policy Framework to provide for a comprehensive, modern approach to the care of the young people on Campus. In line with statutory requirements, international children's rights obligations and best practice, the Framework sets out the rights to which young people are entitled, the standards of care they can expect and the responsibilities on duty bearers to fulfil these standards. The Framework consists of 12 Rules. Rule 6 of the Framework provides that young people shall be protected from all forms of harm and abuse and their welfare promoted, while rule 7 provides that young people shall be supported to access information and effective complaints mechanisms, to have their voices heard and to participate in decisions made about them. Young people are informed of, and supported to understand, the procedures in place to allow them to report incidences of harm, abuse or ill-treatment.

## Equality in Early Years Services

Ireland provides a universal entitlement to pre-school for all young children through the Early Childhood Care and Education (ECCE) programme. Alongside this programme, the Department of Children, Equality, Disability, Integration and Youth funds Equality, Diversity, and Inclusion Training for all Early Learning and Care practitioners. One of the modules of this training is Anti-Bias training. This module helps participants working with young children to critically reflect on their attitudes to difference and to proactively and consciously create an inclusive environment for all children. The Anti-Bias approach establishes 4 goals for adults and children. The four goals for adults are:

- to be conscious of culture, values and attitudes;
- to be comfortable with difference;
- to critically think about diversity, discrimination and bias; and
- to confidently engage with discussion on diversity and bias.

## Equality Legislation in Ireland

Ireland has a strong legislative framework protecting people from discrimination on nine specified grounds, including race (encompassing nationality and ethnicity), religion, and membership of the Traveller community. The Equal Status Acts 2000 to 2018 prohibit discrimination in the supply of and access to goods and services, including healthcare, education and training. Complaints may be referred to the Workplace Relations Commission and redress awarded under the Acts. Furthermore, under the Public Sector Equality and Human Rights Duty, introduced by the Irish Human Rights and Equality Commission Act 2014, all public bodies in Ireland have responsibility to promote equality, prevent discrimination and protect the human rights of their employees, customers, service users and everyone affected by their policies and plans.

Finally, the statutory functions of the Irish Human Rights and Equality Commission (IHREC), Ireland's National Human Rights Institution and equality body under EU anti-discrimination law, includes keeping under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality, and making recommendations to the Government in relation to measures to strengthen, protect and uphold human rights and equality in the State. IHREC may apply to the High Court or the Supreme Court for liberty to appear as amicus curiae in proceedings that involve or are concerned with the human rights or equality rights of any person. It may provide practical assistance, including legal assistance, to persons in vindicating their rights, and may also institute proceedings in certain matters. IHREC may also conduct inquiries in accordance with Section 35 of the Irish Human Rights and Equality Commission Act 2014 where it considers that there is evidence of a serious violation of human rights or equality of treatment obligations in respect of a person or class of persons, or a systemic failure to comply with human rights or equality of treatment obligations.

#### National Action Plan Against Racism

Ireland's current Programme for Government commits to publishing a new National Action Plan Against Racism. The Anti-Racism Committee was established by Government in 2020 to strengthen the Government's approach to combating racism. Caroline Fennell, Professor Emerita of Law at University College Cork, and Commissioner with the Irish Human Rights and Equality Commission chairs the Committee. The Committee includes people from the business, education, local government, academic and advocacy sectors. The Committee has developed a draft Action Plan which it hopes to submit to the Minister for Children, Equality, Disability, Integration and Youth in the next two weeks. The Minister will then bring the Plan to Government to secure approval for its publication.

#### **Conclusion**

In conclusion, the Irish Government is deeply committed to responding to the needs and concerns of all survivors of residential institutions, including Industrial Schools and Mother and Baby Institutions. As a nation, it is important not only to understand the failings of our past - we must also learn from them. We have adopted national and international laws which oblige us to follow a different, more humane and right-based approach. Today, there is in place, and being further developed, a wide range of social services completely absent for much of our history.

We are committed to recognising the failings of the past, providing survivor-centred supports, offering opportunities for reconciliation and healing, rebuilding trust, and, at the broadest level, promoting the development of a progressive, respectful and equal society. We are aware of the urgency of this work which is an absolute priority for the Government.

We welcome and deeply value the engagement of the Special Rapporteurs and trust this response is helpful.

Yours sincerely,



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Simon Coveney TD  
Minister for Foreign Affairs and  
Minister for Defence