

**Mandates of the Working Group of Experts on People of African Descent; the 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 the promotion of truth, justice, reparation and guarantees of non-recurrence**

Ref.: AL IRL 1/2022  
(Please use this reference in your reply)

12 April 2022

Excellency,

We have the honour to address you in our capacities as Working Group of Experts on People of African Descent; Special Rapporteur on the right to development; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on minority issues; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 45/24, 42/23, 42/16, 43/8, 43/36, 40/10 and 45/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **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**. These individuals, who self-identify as mixed-race Irish, are persons of African fathers and Irish mothers, from whom some were born in Ireland and some were born in the United Kingdom and were subsequently transferred back to the Republic of Ireland as part of the post-World War Two United Kingdom's 'Grand Experiment' whereby the children of Irish mothers in United-Kingdom care homes were to be returned to the Republic of Ireland.

According to the information received:

The large majority of the mixed-race Irish children were born out of wedlock of Irish white mothers and African fathers, who came to work or study in Ireland or in the United Kingdom. Fathers faced the risk of being expelled from employment or education institutions if discovered to have fathered an illegitimate child. Mothers faced the double stigma of having a mixed-race child out of wedlock. For these reasons, many of these mothers delivered their babies in Mother and Baby Homes and, following the delivery, they handed their children to the care of the Irish State for adoption or fostering. Only a few women refused to sign away their children for adoption and managed to bring up their child. The majority of Mothers and Baby Homes were run by Catholic nuns.

It is reported that mixed-race Irish children in the childcare system were subjected to differential treatment on the basis of their race, colour and/or

ethnic origins, which had the effect of impairing the enjoyment of several of their human rights on an equal footing as others.

Entry and exit ledgers, as well as medical records, systematically referred to them by names implicating their race, skin colour or ethnic origins, such as 'coloured', 'Negro' or 'Negroid', 'half-cast', 'Nigerian', 'dark-skinned' and 'slight negroid features' among others, thus suggesting that these characteristics were deemed relevant to the handling of their situation by the institutions that were in charge of them. This practice is indicative of the way in which the Irish society stigmatized these children at the time. In contrast, the ledgers and other records did not include any information pertaining to the race, skin colour or ethnic origins of Irish children who were white.

Mixed-race Irish children were allegedly subjected to differential treatment in the handling of their adoption and fosterage cases in comparison with white Irish children, thus resulting in higher institutionalisation rate of mixed-race Irish children. According to the Final report of the Mother and Baby Homes Commission of Investigation<sup>1</sup>, virtually all 'illegitimate' children born in Ireland were adopted in the 1960s, whereas 44% of the mixed-race children who were in the St Patricks Mother and Baby Home (also known as Pelletstown) and the Bessborough Mother and Baby Home were not placed for adoption. According to the same report, the adoption of 'illegitimate' children was promoted as the best option for the children and their mothers by the Mother and Baby Homes and by religious and civil authorities at the time. However, according to the information received, mixed-race babies were not offered for adoption based on a presumption that nobody would want to adopt them. There were would-be adopters who expressly sought out mixed-race children and whose requests were rejected on the grounds that they would not integrate well in a white family or that the family was not of the same religion as the child. Those who were adopted, were often adopted at the specific request of adopters.

Because of their prolonged time in institutions, mixed-race Irish children were exposed to heightened risk of corporal punishment, sexual abuse, and physical and verbal abuse. According to the report of the Commission to Inquire into Child Abuse (The Ryan Report)<sup>2</sup>, physical, emotional and sexual abuse were endemic in Irish Catholic church-run industrial schools and orphanages. Mixed-race Irish children in institution were subjected to daily physical neglect, derogatory name-calling, racist stereotypes, emotional abuse and degrading treatment by their carers. It is reported that up to 45% of mixed-race Irish attest to the fact that they were targeted for sexual abuse because of the colour of their skin during their time in institution. These have had long-term damaging effects on their psychological and emotional development, dignity and self-esteem, which is evidenced by high rates of suicide, early death due to depression and substance misuse, as well as severe and enduring mental health issues among them.

Furthermore, mixed-race Irish babies were allegedly targeted, along with babies with disabilities, for vaccine trials that were allegedly carried out in

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<sup>1</sup> <https://www.gov.ie/en/publication/d4b3d-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/>

<sup>2</sup> <https://www.gov.ie/en/publication/3c76d0-the-report-of-the-commission-to-inquire-into-child-abuse-the-ryan-re/>

breach of the Nuremberg Code. The Mother and Baby Homes of Bessborough in Cork and St Patricks in Dublin allegedly had a practice of keeping mixed-race Irish babies in separate facilities away from sight, a practice that could amount to segregation. There are also allegations that bodies of mixed-race babies who died in care may have been transferred to educational institutions such as the Royal College of Surgeons and the Royal College of Physicians post-mortem, without proper procedure.

### The case of Conrad Bryan

Conrad Bryan is a mixed-race Irish men who was kept in institutions between 1964 and 1982. He was born in Holles Street National Maternity hospital Dublin on 6 May 1964 of an Irish single mother, who was 21 years old. On 11 May 1964, Conrad and his mother were admitted at St Patricks Mother and Baby Home on the Navan Road Dublin. On 16 October 1964, his mother signed an adoption consent form 34E, by which she expressed consent for her child to be adopted and was discharged soon after.

However, the adoption never took place. Conrad Bryan spent the first four years of his life at St Patricks Mother and Baby Home on the Navan Road Dublin. His mother visited him sometimes until she got married in 1966. At the age of four years old, he was transferred to St Vincent's Industrial School in Drogheda, where he remained until the age of 18 years old (1982). Both institutions were run by the Daughters of Charity order of nuns.

Between 1964 and 1969, Conrad Bryan was let out for short holidays to three families. In 1969, shortly after his admission into the Industrial School, one of the families expressed a serious interest in adopting him, but they were wrongly told by the Daughters of Charity that he was not available for adoption because his mother did not sign the final adoption papers. The family stayed in touch with Conrad Bryan and continued to take him out of the institution during school holidays.

In 1975, the Eastern Health Board, which was responsible for handling adoption cases, allocated a social worker to his case for the first time. At the time, he was already 11 years old, whereas the Adoption Acts of 1952 provided that a child should be adopted before the age of 7 years old. The Sister Superior admitted at the time that the delay in the involvement of the Health Board in his case was a "mistake" from the Daughters of Charity, as recorded in the social workers case file.

In 1976, the prospective adoptive family asked the Eastern Health Board again about the possibility of fosterage. The request was rejected. According to the information received, the belief that his skin colour could be an obstacle to his integration and well-being in a white family was a determining factor in the decision. In contrast, the sister of Conrad's prospective fostering mother was able to adopt several white children. In 1982, when he left the Industrial School, Conrad Bryan moved in with the prospective fostering family in Dublin and he has considered them to be his family since then and vice versa.

In 2014, Conrad Bryan received a copy of his mother's adoption consent form on which it was written: "Mother's consent to adoption placement which was

laid aside for whatever reason?” and “strictly confidential.” The information received suggests that Conrad’s skin colour may have been a decisive factor in the negligent handling of his adoption/fosterage case. For example, a file dated 1983 noted: “[CB] is a coloured child and seems to be the only possible reason he was not adopted.” The admissions ledger of the Industrial School referred to Conrad Bryan as “coloured”. Similarly, several health and psychiatric reports referred to him as ‘coloured boy’, ‘dark skinned’, ‘illegitimate’, ‘half cast’ and ‘Irish/Nigerian’, thus suggesting that the colour of his skin was deemed relevant to the handling of his situation and may have led to different treatment from other white children in a similar situation.

During his time in institutions (1964-1982), Conrad Bryan was subjected to the oral polio vaccine trial conducted in St Patricks Mother and Baby Home in 1965 (he was administered doses twice in this trial on 9 June 1965 and 5 August 1965). This vaccine trial was allegedly carried out in breach of the Nuremberg Code, as it was done without prior consent from his mother and possibly without the required licenses. According to the Final report of the Mother and Baby Homes Commission of Investigation, the selection process resulted in a higher proportion of mixed-race children to be enrolled in the trial (23%, which is well out of proportion to the percentage of mixed-race children in St Patricks Mother and Baby Home as a whole). Thus, there is reasonable suspicion that Conrad Bryan was targeted for the vaccine trial because of his skin colour.

The medical and psychiatric reports from his time in St Patricks Mother and Baby Home and St Vincent’s Industrial School show that Conrad Bryan’s physical and mental health condition was overall poor. For example, medical reports noted that, as a baby, Conrad Bryan was very slow to feed and lethargic. In August 1964, he had “excoriated buttocks” which may have been caused by unchanged dirty nappies. To Conrad Bryan, the neglect to which he was exposed led him to having to be circumcised at St Kevin’s hospital, which he considered as a bodily violation that should never have happened. At St Patricks Mother and Baby Home, he caught chicken pox in 1965, measles twice in 1966 and 1967, and scabies in 1969. He caught measles again shortly after arriving at the Industrial School in 1969. As a teenager, he suffered from vitamin deficiency and always had hives.

A psychiatric report of 1967 noted that he was a “silent and very timid” child with slow verbal development who required stimulation. A second psychiatrist report of the same year mentioned some improvement as a result of individual attention and noted that he was fit for adoption. In 1968, another report stated that he was an alert bright boy but “speech not as advanced as I would wish for his age but improved”. Conrad Bryan wetted his bed up until 7 or 8 years old. A psychologist report of 1977 concluded that his “personality and emotional development” were “quite unhealthy” and that he should be kept under “close observation”.

In May 1974, the institutional records noted that “Conrad has been crying for his mother a lot recently and is finding it very difficult to sleep, he seems to be very upset in general but particularly when there is talk about mothers”.

In the Industrial School, he experienced racism and negative attitudes and attacks. He was called names like Nigger, Gollywog, Sambo (a character in a schoolbook) and black bastard, which had damaging long-term effects resulting in low self-esteem. When he was in junior school, he was victim of racially motivated physical attacks twice, once on his way from school and another time in the orphanage.

In the Industrial School, he was exposed to the threat of corporal punishment and sexual abuse. He has been traumatised by hearing the screams of children being beaten and by witnessing his friend being thrown into a bush of nettles by a nun. He was himself beaten once with a wooden stick for no reason. At the age of 12 years old, one of the older boys sexually assaulted him. Another time, a Garda interviewed him, in the institution, as a witness in a sexual allegation by one of the girls against the male carer. These traumatic events had lasting impact on his mental health.

Conrad Bryan was allegedly provided with false information about his father's identity during his time in the institutions, and his African heritage and identity were never acknowledged. Not knowing about his heritage, while growing up in a white dominated world, added to the emotional and psychological distress of not having a family.

#### Public investigations efforts

In February 2015, the Irish Government established a Commission of Investigation into Mother and Baby Homes and certain related matters to provide a full account of what happened to vulnerable women and children in Mother and Baby Homes during the period 1922 to 1998. The Commission's Terms of Reference required "to identify, in the context of the specific examinations [...], the extent to which any group of residents may have systematically been treated differently on any grounds [religion, race, traveller identity or disability]".

On 30 October 2020, the final report was submitted to the Minister for Children and Youth Affairs. It was publicised in January 2021. Under Chapter 31 "Discrimination", the Commission of Investigation noted that "[t]he inspectors' reports display a cautious attitude to the prospect of mixed-race children being adopted," which is consistent with the information received concerning Conrad Bryan and other children of African and Irish descent. Despite these observations, the Commission of Investigation concluded that "[r]ace does not seem to have been a significant factor in preventing adoption" and made no recommendations for racial discrimination.

In responding to the Final Report of the Commission of Investigation into Mother and Baby Homes, the Irish Government committed to a suite of twenty-two specific measures aimed at responding to its recommendations, including an official State apology and a restorative recognition scheme. In its State apology, the Government stated: "The commission acknowledges 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. 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.”<sup>3</sup>

On 17 December 2021, the High Court declared that the Mother and Baby Homes Commission of Investigation acted unlawfully by denying their statutory right to reply to a draft of its findings. The decision means that the declaration by the High Court would be published alongside the commission’s final report on the Government website.

Furthermore, it is reported that complaints for abuses that have occurred in childcare institutions in Ireland have often been rejected by national courts on the ground that the period prescribed by the statute of limitations has passed, in accordance with the provisions of the Statute of Limitations of 1957.

Without making any judgement as to the accuracy of the information made available to us, we wish to express concerns over the racial discrimination and systemic racism that allegedly prevailed in Irish childcare institutions, including in Mother and Baby Homes, Industrial Schools and analogous institutions. We are concerned that the practice of singling out particular children based on their race, colour and/or ethnic origins in ledgers and records are indicative of racism and racial prejudice in the institutions’ broader attitude towards children of African and Irish descent, which allegedly resulted in the differential treatment of Conrad Bryan and other children of African and Irish descent. We are concerned that the latter may have been discriminated against in the adoption and fosterage procedures because of their race, colour and/or ethnic origins, thus resulting the deprivation of their right to family life.

We are also concerned that the prolonged institutionalisation of Conrad Bryan and other children of African and Irish descent may have led to further violations of their human rights, including the right to life, the right to development, the right to protection, the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, right to the highest attainable standard of physical and mental health, the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development, the right of the child to preserve his or her identity and the right to have his or her views considered in accordance with his or her age and maturity.

We are concerned that the victims of these alleged human rights violations have not been able to exercise their right to access to justice and redress mechanisms yet. Despite the acknowledgement of “discriminatory attitudes” and its consequences for “mothers and children with different racial and cultural heritage” in the Final Report of the Commission of Investigation into Mother and Baby Homes, no further action has been taken to ensure an effective investigation into the above-mentioned alleged human rights violations.

We are concerned over the lack of proper investigations into alleged cases of racial discrimination and systemic racism. Under international human rights law, States Parties have the obligation to investigate into responsibility for alleged violations of human rights law that occurred and ended before the entry into force of a treaty, when the alleged violations still have effects after the entry into force of the

<sup>3</sup> <https://www.oireachtas.ie/en/debates/debate/dail/2021-01-13/10/>

treaty. The above-mentioned alleged violations of human rights have clear continuing effects into the life of Conrad Bryan and other children of African and Irish descent who were brought up in institutions.

We are also concerned over the lack of comprehensive redress schemes that ensure accountability for all violations of human rights, including racial discrimination, and provide full reparation to the victims. Although little information has been provided on the new restorative recognition scheme yet, the early information received shows a lack of consideration for enduring lifelong impact on all aspects of life of the possible systemic racism and racial discrimination experienced by mixed race Irish children in the restorative recognition scheme.

In connection to the alleged facts, please refer to the **Annex on Reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

- 1) Please provide any additional information and any comment you may have on the above-mentioned allegations concerning Conrad Bryan and other children of African and Irish descent.
- 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?
- 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?
- 4) What measures are in place to prevent systemic racism and racial discrimination in the childcare system in Ireland nowadays?

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary measures be taken to ensure effective investigations into the alleged violations and to ensure full compliance with the rights to truth, justice, reparations and guarantees of non-recurrence.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Dominique Day  
Chair-Rapporteur of the Working Group of Experts on People of African Descent

Saad Alfarargi  
Special Rapporteur on the right to development

Tlaleng Mofokeng  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable  
standard of physical and mental health

Fernand de Varennes  
Special Rapporteur on minority issues

E. Tendayi Achiume  
Special Rapporteur on contemporary forms of racism, racial discrimination,  
xenophobia and related intolerance

Ahmed Shaheed  
Special Rapporteur on freedom of religion or belief

Fabian Salvioli  
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of  
non-recurrence



## **Annex**

### **Reference to international human rights law**

In connection with the above-alleged facts and concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described.

We would like to remind your Excellency's Government of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), signed by Ireland on 21 May 1968 and ratified on 29 December 2000. Article 1 (1) of ICERD defines racial discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." Article 2. 1 (a) of ICERD provides the obligation of State Parties to "undertake to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation". Article 3 of ICERD provides the obligation of States Parties to "condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction." In accordance with Article 5 of ICERD, State Parties have the obligation to "undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law". We also draw the attention of your Excellency's Government to the Recommendation No. 34 adopted by the Committee on the Elimination of Racial Discrimination concerning racial discrimination against people of African descent.

We refer to Article 2 (2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), signed by Ireland on 1 October 1973 and ratified on 8 December 1989, which provides the obligation of States Parties to "undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." In connection with the above-alleged facts, we refer in particular to Article 12 (1) of ICESCR that provides the obligation of States Parties to "recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." In this connection, I would like to refer your Excellency's Government to General Comment 14 of the Committee on Economic, Social and Cultural Rights, which states that the right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. (GC 14, Para.8)

We also refer to Article 2 (1) of the International Covenant on Civil and Political Rights (ICCPR), signed by Ireland on 1 October 1973 and ratified on 8 December 1989, provides that States Parties "undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". We refer in particular to Article 7 of ICCPR according to which "[n]o

one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation”; Article 23 (1) of ICCPR that provides that “[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State” and article 24 (1) that provides that “Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”

We also would like to remind your Excellency’s Government of its obligations under the Convention of the Rights of the Child, signed by Ireland on 30 September 1990 and ratified on 28 September 1992. In accordance with Article 2 (1) of CRC, “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”. Article 2 (2) of CRC further provides that “States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.”

Furthermore, Article 6 (2) of CRC provides the obligation of States Parties to “ensure to the maximum extent possible the survival and development of the child.” Art. 8(1) of CRC provides that “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.” Article 19 (1) of CRC provides that “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”. Article 24 (1) of CRC provides the obligation of States Parties to “recognize the right of the child to the enjoyment of the highest attainable standard of health.” Article 27 (1) of CRC provides the obligation of State Parties to “recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.” In addition, Article 37 (a) of CRC provides that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”.

We also draw the attention of your Excellency’s Government to the Recommendation 15 adopted by the Committee on the Rights of the Child, in which the Committee states that “States parties have an obligation to ensure that children’s health is not undermined as a result of discrimination” (CRC/C/GC/15, para. 8) and that the realization of the right to health is indispensable for the enjoyment of all the other rights in the Convention (CRC/C/GC/15, para. 7).

Regarding the right to an effective remedy for victims of violations of international human rights law, we refer to Article 8 of the Universal Declaration of Human Rights and to Article 2 (3) of the ICCPR that provides the obligation of States Parties to undertake:

“(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.”

We also refer to Article 6 of ICERD that provides the obligation of States Parties to “assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.”

We also draw the attention of your Excellency’s Government to the General Comment 21 adopted by the Human Rights Committee concerning the nature of the general legal obligation imposed on States Parties to the ICCPR, in which the Human Rights Committee stated that:

“There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by State Parties of those rights, as a result of State Parties’ permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities” (CCPR/C/21/Rev.1/Add. 13, para. 8).

In the same General Comment, the Human Rights Committee further explained that “[a] failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant” (CCPR/C/21/Rev.1/Add. 13, para. 15) and that “Article 2, paragraph 3, requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparations to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of article 2, paragraph 3, is not discharged.” (CCPR/C/21/Rev.1/Add. 13, para. 16).

We also refer to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Human Rights Violations of International Human Rights Law and Serious Violations of International Humanitarian Law that provide, in paragraph 7 concerning statutes of limitations, that:

“Domestic statutes of limitations for other types of violations that do not constitute crimes under international law, including those time limitations applicable

to civil claims and other procedures, should not be unduly restrictive.” (A/RES/60/147, Annex, para. 7).

According to the same Basic Principles and Guidelines, reparation may include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

We also refer to the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity that establishes the right to truth as:

“[...] the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through of massive or systematic violations, to the perpetration of those crimes. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations” (E/CN.4/2005/102/Add.1).

We also refer to the recommendations made by the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the sale and sexual exploitation of children; the Special Rapporteur contemporary forms of slavery; the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment; the Special Rapporteur on trafficking in persons; the Special Rapporteur on truth, reparation, justice and guarantees of non-recurrence, the Special Rapporteur on violence against women; and the Working Group on discrimination against women and girls, in the communication of 5 November 2021 ([OL IRL 2/2021](#)).

We also refer to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the United Nations General Assembly in its resolution 47/135 of 18 December 1992. Article 4 (1) of this Declaration calls upon States to “take measures... to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.”

We would also wish to refer to the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55), which states in its Article 2 (1): “[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief”. According to Article 4 (1), “All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]”. Furthermore, we would like to refer to Article 4(2) according to which: “All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter”.

We further recall that the UN Declaration on the right to development (A/RES/41/128) defines the right to development an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development (article 1.1). We also recall that the concepts of discrimination, equality and the equitable distribution of the benefits of development, are enshrined in the Declaration on the Right to

Development. In particular, article 5 of the Declaration refers to a duty of States to “take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as [...] racism and racial discrimination”; article 8 states that States “shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income”. We also refer to the Guidelines and recommendations on the practical implementation of the right to development, which state that in developing, monitoring and evaluation their policies, States should take into account groups that have been discriminated against or historically excluded, including among other ethnic and religious minorities, people of African descent, indigenous peoples, internally displaced persons, refugees and asylum seekers. Specifically, States should give due attention to monitoring the structural obstacles faced by persons of African descent in many regions (para 118). The Guidelines emphasize that, in order to achieve a number of the Sustainable Development Goals and related targets, States should adopt and implement comprehensive laws on equality, which include mechanisms providing effective remedies for discrimination (para 147). They recommend that, in line with target 10.3 of the Sustainable Development Goals, States should adopt anti-discrimination legislation that provides an avenue for bringing cases to national courts. The legislation should contain comprehensive definitions of discrimination and grounds for discrimination, which should include all the grounds prohibited under international human rights law. The legislation should be effectively enforced (para 148).