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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 May 2011]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Human rights issues in Ireland requiring attention

Amnesty International would like to submit the following observations on the enjoyment of human rights in Ireland related to extreme poverty.

People with mental health disabilities

Amnesty International notes that people with mental health disabilities in Ireland face pronounced social and economic exclusion, and the organisation is concerned that mental health services are widely deficient, with very few complete multi-disciplinary mental health teams and limited access to community care or the full range of psychosocial supports that should be part of a modern service. The government set out a comprehensive reform agenda in its 2006 mental health policy, *A Vision for Change*, which acknowledged the exclusion of people with mental health disabilities in areas including housing, education and social protection. However, progress in implementing this reform has been slow, and cuts in resources in 2009 and 2010 have almost halted the reform process.¹ Annual reports issued by the Inspector of Mental Health Services repeatedly point to mental health facilities that are unacceptable for care and treatment, in particular in some ‘long-stay’ units. In order to mitigate the increased risk of exclusion, unemployment and poverty, it is essential that available mental health services promote recovery and fulfil the right of people with mental health disabilities to the highest attainable standard of mental health.

Despite some recent modest improvements, mental health services for children remain seriously inadequate. Children continue to be treated in adult in-patient facilities in breach of the UN Convention on the Rights of the Child, a practice described as “in-excusable, counter-therapeutic and almost purely custodial” by the Inspector of Mental Health Services.²

Access to affordable healthcare

Reports and data analysed by Amnesty International indicate that the current provision for free healthcare is insufficient, with people falling outside the current eligibility parameters facing financial barriers in accessing care. Similarly, individuals without private insurance face delays in accessing care.

In Ireland, individuals are responsible for the costs of their own care except where this would cause ‘undue hardship’. The 1970 Health Act introduced the Medical Card system offering free access to health services within the public system, based primarily on an assessment of ‘undue hardship’ through a means test of income. Income guidelines are used to establish eligibility and are intended to ensure access to healthcare without payment for individuals below a certain level of income.

Approximately 35 per cent of the population hold either a full Medical Card or a General Practitioner (GP) visit card, and have no private health insurance. The Medical Card entitles beneficiaries to free access to public hospital services, GP and prescription care and other benefits; the GP card to free GP consultations. In 2009, evidence from the Central Statistics

¹ Report of the Inspector of Mental Health Services, Mental Health Commission Annual Report 2009 (June 2010).

² Mental Health Commission Annual Report 2008 (2009), at www.mhcirl.ie/News_Events/MHC_Annual_Report_2008.pdf

Office showed that nearly 50,000 people living in consistent poverty and 199,000 people at risk of poverty did not have a Medical Card.

Individuals without a Medical Card are required to pay for primary care and are liable for statutory fees for in-patient and out-patient care in public hospitals. For those not entitled to free care, payment for primary care services is made by them to the GP directly, through out-of-pocket payments, on a pay per visit basis. GP fees vary significantly around the country from vary from €35 to €70 per visit. The Expert Group on Resource Allocation and Financing in the Health Sector³ found that for persons without a Medical Card, their situation of having no direct subsidy for GP services is “unique compared with other developed countries” and burdens people who are just above the Medical Card/GP Visit card thresholds or who require regular contact with their GP. The cost of access to GP care acts as a “serious disincentive to people to attend primary care, particularly for lower income groups”. Nineteen per cent of people polled recently stated that they or a family member have been denied or delayed access to healthcare because of inability to pay.

The arrangement in place for access to acute care ensures that no one treated under the public health system pays the full cost of treatment. Any costs incurred are billed to the patient, and though in theory it is treated the same as any other household bill, there is legislation in place to ensure that hospitals can waive the bill in cases of undue hardship. However, the Expert Group on Resource Allocation and Financing in the Health Sector assessed in 2010 that “individuals who can afford private health insurance gain access to some hospital services faster than those with equivalent health needs but who do not have insurance.” In 2007, Medical Card holders were three times as likely to be on in-patient waiting lists and twice as likely to be on outpatient waiting lists as privately insured patients.

Children

Amnesty International is concerned that the Irish Constitution fails to adequately incorporate the Convention on the Rights of the Child, in particular the right of children to be heard and to have their best interests paramount in decisions that affect them.

A referendum to provide improved protection of the rights of children in the constitution, as recommended by the UN Committee on the Rights of the Child,⁴ has been promised since the 1997 *Programme for Government*. However, to date no referendum has been held. In 2010, the Oireachtas (parliament) Joint Committee on the Constitutional Amendment on Children proposed comprehensive wording for the amendment, which was approved by all political parties. In March 2011, the new *Programme for Government* again committed to hold a referendum “along the lines recommended by the All-Party Oireachtas committee”. Amnesty International welcomes this commitment and hopes that there will be no delay in its implementation.

³ Expert Group on Resource Allocation and Financing in the Health Sector (2010). Report of the Expert Group on Resource Allocation and Financing in the Health Sector. Dublin, Ireland: Government Publications

⁴ See Concluding Observations of the UN Committee on the Rights of the Child: Ireland, 29 September 2006, CRC/C/IRL/CO/2, paras. 8, 9 & 25.

Asylum-seekers

Amnesty International is concerned at the long delays for asylum-seekers to have their claims for subsidiary protection assessed and at the conditions of accommodation in which the majority of asylum-seekers are living during the procedures to determine refugee or subsidiary protection status. Several reports have highlighted the overcrowding and lack of privacy in many centres, especially for families and children, resulting in physical and mental health problems. In 2010, of the 6,149 asylum-seekers accommodated in this system, 2,778 had been there for more than three years.⁵

Responsibility for this system lies with the Reception and Integration Agency (RIA), which contracts private companies to provide these services. Complaints regarding the accommodation or regimes are made to RIA, which raises concern about the lack of independence in this complaints process.

Access to remedy for economic, social and cultural rights

Amnesty International urges Ireland to sign and ratify the OP-ICESCR providing access to an individual complaint mechanism at the international level following the exhaustion of remedies for violations of economic, social and cultural rights under Irish law.

Irish Human Rights Commission

The Irish Human Rights Commission (IHRC) has a key role to play in ensuring Ireland's compliance with human rights. However, Amnesty International is concerned that the budget of the IHRC, which plays a key role in promoting and monitoring Ireland's compliance with human rights, was cut by 32 per cent in 2009, and in total by 37.5 per cent in the period since 2008, with a significant negative effect on the performance of its functions. The IHRC's capacity to fulfil its statutory functions has been undermined by the government's moratorium on staff recruitment in the public sector, whereby departed staff cannot be replaced.

Amnesty International would also like to stress that, in order to comply with the Paris Principles, the IHRC should be made independent of any government department and accountable directly to the Oireachtas (parliament).

Amnesty International calls on the Human Rights Council to urge the Irish authorities to:

- Introduce legislation to place a statutory obligation on the Health Service Executive to plan and progressively deliver the reform programme set out in the national mental health policy, *A Vision for Change*, to provide a comprehensive mental health service.
- Promote cross-departmental action in areas such as education, employment and housing to effectively combat social exclusion and discrimination against people with mental health problems.
- Review the healthcare system on the basis of human rights standards, develop action plans and to frame the national health strategy around the right to health, including the components of availability, accessibility, acceptability and of good quality.

⁵ Reception and Integration Agency, Monthly Statistics Report December 2010

- Ensure that fees for health services do not prevent individuals from obtaining necessary healthcare without undue delay.
 - Ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol without delay.
 - Ensure the comprehensive and effective incorporation of children's rights in Ireland's legal framework in line with the UN Convention on the Rights of the Child.
 - Ensure that residents in the "direct provision" system have an adequate standard of living and health, and ensure the right to private and family life.
 - Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
 - Ensure adequate resourcing and operational independence of the Irish Human Rights Commission.
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