

EQUALITY & RIGHTS ALLIANCE

Ireland
Can't
Afford
Cutbacks
in Equality
and Rights

Shadow report to UNCERD in response to the Irish Government's combined second and third progress report under ICERD

Submitted by:
Equality & Rights Alliance
October 2010

About Equality & Rights Alliance

Equality & Rights Alliance (ERA) is a coalition of 147 civil society groups and individuals established in August 2008 in response to the Irish government's undermining of the effectiveness and independence of the statutory equality, human rights, anti-racism and anti-poverty infrastructure in Ireland¹. ERA remit is to defend and strengthen the Irish equality and human rights infrastructure.

The scope of Equality & Rights Alliance submission to the UN CERD

This submission is confined to an examination of the Irish Government's undermining of the Irish statutory equality, human rights and anti-racism infrastructure contrary to States obligations under Article 2 of the ICERD.

Summary and Recommendations

- The effectiveness of the infrastructure to promote equality, defend human rights, and address discrimination, has been seriously undermined due to wholly disproportionate cuts to the budgets of Irish Human Rights Commission (32% cut), the Equality Authority (43% cut), and the National Consultative Committee on Racism and Interculturalism (100% cut : leading to its closure in December 2008). ERA believe that the cuts imposed by the Irish government were a deliberate attempt to undermine the effectiveness and independence of important watchdog bodies charged with defending human rights and addressing discrimination, under the guise of fiscal prudence.
- The cuts imposed by the Minister for Justice, Equality and Law Reform to the afore-mentioned bodies, were wholly disproportionate to those imposed on other areas in the Ministers remit². It is also the case that areas explicitly pertaining to equality under the Ministers remit were subject to disproportionate cuts in comparison to other areas³.
- The cuts imposed on the Equality Authority and the Irish Human Rights Commission have seriously undermined their capacity to discharge on their functions and are contrary to: States obligations under Article 2 of the ICERD; recommendation 12 of the CERD concluding observations to the Irish Government; paragraph 8 of the report of CERD Coordinator on follow-up to Ireland; and recommendations 7 and 10 of the UN Committee on the

¹ ERA members include: 84 NGOs (national and locally based NGOs working across a broad range of equality and human rights issues); individual activists; 7 trade unions; and a number of academics and public representatives. A full list of current NGO members is available on our web page www.eracampaign.org/members-1.

² For example: the Garda Ombudsman Commission was cut by 5%; the Private Security Authority was cut by 2%; the Probation Service was cut by 3%; the Legal Aid Board was cut by 1%

³ The gender mainstreaming and positive action for women measure was cut by 45%; the domestic violence unit COSC was cut by 18%; the equality proofing measure was cut by 30%.

International Covenant on Civil and Political Rights to adequately resource Irish institutions in the field of non-discrimination and human rights⁴.

- **Equality & Rights Alliance recommendations to CERD:**

- The State party be asked to outline how the functions and powers of the Equality Authority and the Irish Human Rights Commission can be effectively and independently discharged in light of the scale of budget cuts imposed, and the government's plans to review the budget and staffing levels of both bodies.
- The State party be asked to outline how the remit of the NCCRI is being continued by the Office of the Minister for Integration, how the government plans to independently monitor incidents of racism and xenophobia and deal with those effectively, and its plan to combat racism and xenophobia in light of the decision not to introduce a follow-up to the National Action Plan Against Racism.

Current context

The Irish Government's undermining of independent watchdog bodies charged with defending human rights and addressing inequality and discrimination, comes at a time of ongoing high levels of discrimination against Black and minority ethnic groups. Evidence also suggests an increase in xenophobia and racism in Ireland, as economic recession tightens. An opinion poll of over 1,000 adults conducted by a national newspaper in October 2009, found a hardening of attitudes towards migrants in comparison to trends from previous polls. 43% of those surveyed in 2009 said they would like to see some, but not all, migrants leave the State, while 29% would like to see most migrants leave⁵.

The increase in incidents of racism in the current economic recession is also highlighted by non-Irish nationals living in Ireland and by a number of Irish NGOs working to address racism and promote interculturalism⁶.

Information from the Equality Tribunal indicates a significant year on year increase in the number of employment equality referrals to the Tribunal on the race ground. Cases under the race ground represent a significant percentage of total referrals regarding employment equality (Table 1).

⁴ Concluding observation 12 of the Committee on the Elimination of Racial Discrimination, March 10, 2005: CERD/C/IRL/CO/2. Concluding recommendations 7 & 10, Consideration of reports submitted by States Parties: International Covenant on Civil and Political Rights: Concluding observations of the Human Rights Committee on Ireland. CCPR/C/IRL/CO/3 30 July 2008. CERD Report of visit of Coordinator on follow up to Ireland para 8, 21-23 June 2006

⁵ Carl O'Brien, The Irish Times, November 24th 2009 'Poll shows hardening of attitude towards immigrants': <http://www.irishtimes.com/newspaper/frontpage/2009/1124/1224259339934.html>

⁶ See for example: <http://www.independent.ie/lifestyle/yes-we-do-love-this-country-but-racism-is-getting-worse-2132814.html> Also, <http://www.limerickleader.ie/news/Racism-on-the-rise-in-6461781.jp> also,

Migrant Rights Centre Ireland, Policy paper 2010 'Supporting Interagency Approaches to Working with Migrant Workers and Their Families' pg 2: <http://www.mrci.ie/publications/documents/MRCIPPInteragencyApproachtoWorkingwithMigrants.pdf>

Table 1. Employment equality referrals to the Equality Tribunal on the race ground

Year	2005	2006	2007	2008
referrals on race ground	82	149	307	359
Percentage increase on previous year	+61%	+78%	+106%	+17%
Total number of referrals All grounds	401	448	659	840

The 2009 annual report of the EU Fundamental Rights Agency, found that Ireland was one of only five EU countries where an increase in racist crime was reported between 2006 and 2007. It noted that 224 cases of racist crime were reported in Ireland in 2007, an increase of 29.5% on the previous year.

Formal complaints under equality legislation represent the tip of the iceberg since there is a lack of public awareness regarding rights under equality legislation and systems of redress. Research across EU member States found that 57% of Sub-Saharan Africans living in Ireland were unaware of any law protecting them from discrimination in employment. The research also found that 61% of Sub-Saharan Africans and 90% of Central and East Europeans had never heard of the Equality Authority, and 63% of Sub-Saharan Africans and 88% Central and East Europeans had never heard of the Equality Tribunal⁷.

UN CERD Recommendations to the Irish Government: ICERD Article 2

Article 2 of the ICERD pertains to the obligations on State parties to take effective measures to combat racial discrimination and to ensure that minority ethnic groups are guaranteed full and equal enjoyment of their human rights. Such measures are to be exercised through legislation, through the operation of public institutions, through governmental, national and local policies and through special proactive measures specifically targeting the needs of minority ethnic groups and individuals.

Specialised equality and human rights institutions are essential drivers in regard to the protection of rights and promotion of equality for minority ethnic groups. In an Irish context, the key Institutions are: the Equality Authority, the Irish Human Rights Commission, the Equality Tribunal, and prior to its abolition in December 2008, the National Consultative Committee on Racism and Interculturalism.

Following the Irish Government's submission of their combined first and second periodic reports on the ICERD in 2005, the Committee commended the Irish Government on:

⁷ European Fundamental Rights Agency, 'Data in Focus Report 3: European Union Minorities and Discrimination Survey 2010, Rights Awareness and Equality Bodies', pp 6,10

'the establishment of several independent institutions with competence in the fields of human rights and discrimination, namely the Irish Human Rights Commission, the Equality Authority and the National Consultative Committee on Racism and Interculturalism, as well as judicial bodies with specific jurisdiction on equality and non-discrimination, such as the Equality Tribunal'⁸.

In regard to the institutions referred to above, the Committee made a specific recommendation regarding funding of the newly established bodies:

'The Committee recommends that the State party provide the newly established institutions in the field of human rights and non-discrimination with adequate funding and resources to enable them to exercise the full range of their statutory functions, and also support the NGO community'⁹.

Following the visit to Ireland, in June 2006, of the Coordinator on Follow-up of the CERD, the following was noted by the Follow-up Coordinator:

'Independent institutions and judicial bodies are seen as essential elements in the fight against racism and racial discrimination and the promotion of human rights....The Coordinator on Follow-up was made aware of the fact that sanction for the employment of new personnel by these public bodies has to be obtained from the Minister of Justice and the Minister for Finance. A cap on staff recruitment in the public sector also exists which hinders the institutions in the fulfillment of their functions. The Coordinator on Follow-up encourages a review of the recruitment procedures for statutory bodies in order to facilitate their effective functioning'¹⁰

The current situation in Ireland regarding the operation of specialised equality and human rights bodies

In 2008 the Irish Government initiated a number of moves which have seriously undermined the efficacy of essential watchdog bodies charged with promotion of equality and human rights and combating discrimination. In August 2008, the Minister for Justice, Equality and Law Reform announced a proposal to merge five state bodies under his remit: the Equality Authority; the Equality Tribunal; the Irish Human Rights Commission; the National Disability Authority and; the Data Protection Commissioner¹¹.

The merger proposal was not underpinned by any clear rationale, nor were the bodies concerned consulted about the proposal in advance¹². At a briefing meeting of July 23, when the heads of the bodies in question were first informed of the merger proposal, the senior civil servant briefing those in attendance stated that the merger was being mooted due to 'a Government concern to assert the authority of Government' and that

⁸ Paragraph 4 Concluding observations of the Committee on the Elimination of Racial Discrimination CERD/C/IRL/CO/2 March 2005

⁹ Paragraph 12 *ibid*.

¹⁰ Paragraph 8, Report Visit of Coordinator on Follow-up to Ireland, (21-23 June 2006)

¹¹ While this merger did not ultimately go ahead, it is useful to note here, some of the background to this proposal, as it was seen by many as a deliberate attempt to undermine the independence and effectiveness of important human rights and equality watchdog bodies.

¹² The proposals regarding the proposed merger were communicated to the bodies concerned at a meeting on July 23 2008. The bodies were given until September 15 2008 to respond to the Department of Finance.

*'arguments in relation to whether or not this amalgamation will achieve savings or not will have no impact on the final decision'*¹³

Many stakeholders viewed this move by government as a deliberate attempt to diminish the effectiveness and independence of independent equality and human rights watchdog bodies. The spokesperson on Justice and Equality with opposition party Fine Gael noted:

*'The Government has reacted to legitimate critiques of its record and approach by threatening to undermine and weaken the five agencies that it clearly sees as a thorn in its side.'*¹⁴

The spokesperson on equality with the Labour Party noted:

*'This Government has consistently eroded and buried the equality issue since it abolished the Department of Equality and Law Reform back in 1997 and that attack seems to be continuing unabated.'*¹⁵

A subsequent press release issued by the Equality Authority stated:

*'The Equality Authority has communicated to the Department of Justice, Equality and Law Reform that it is of the strong view that the Equality Authority should remain as an independent and distinct statutory agency..... It is vital that the work of the Equality Authority in promoting equality and non discrimination is not diluted and that there is no loss of service to the public'*¹⁶.

The President of the Irish Human Rights Commission also expressed concern regarding the merger proposal:

*'We have had a preliminary look, and we don't see any particular advantages, or major savings, to a merger. We're both small bodies with very low overhead'*¹⁷.

Following protests from the members of Equality & Rights Alliance, public representatives and academics, the proposed merger did not go ahead, but was instead replaced by a series of disproportionate budget cuts to the equality and human rights infrastructure, which were announced in October 2008.

In the October budget it was announced that funding to the Equality Authority would be reduced by 43% (together with the fast-tracking of the decentralisation of part of the Authority to an office located 120km from Dublin); funding to the Irish Human Rights Commission would be reduced by 24%¹⁸; and all government funding to the National

¹³ Doc 12.04 page 3- Briefing Document from Niall Crowley (CEO of the Irish Equality Authority) to the Board on the proposal to amalgamate the Equality Authority with the Equality Tribunal, the IHRC, the Office of the Data Protection Commissioner and the NDA. September 1 2008.

¹⁴ Statement issued by Charles Flanagan T.D. Spokesperson for Justice and Equality, Fine Gael, Tuesday Sept 30th 2008

¹⁵ Statement issued by Kathleen Lynch T.D, Spokesperson on Equality, Labour Party, October 1st 2008.

¹⁶ Equality Authority press release, September 14th 2008: <http://www.equality.ie/index.asp?locID=135&docID=736>

¹⁷ Ruadhan MacCormaic 'Human Rights body queries merger proposal' Irish Times Aug 19 2008 :

www.irishtimes.com/newspaper/ireland/2008/0819/1218868108954.html

¹⁸ The actual budget cut to the IHRC was 32%, since an additional 6 staffing posts which were sanctioned by the parent Department in 2008 were not met with any increase in core funding to the IHRC.

Consultative Committee on Racism would cease, leading to its closure in December 2008.

Irish equality and human rights bodies, prior to the cuts imposed, were operating on modest budgets. In 2007, for example, a report by the European Commission against Racism and Intolerance for the Council of Europe questioned whether the Irish Equality Authority and the Irish Human Rights Commission had sufficient resources to carry out their functions¹⁹.

The budgets of Irish bodies are modest in comparison to those of other EU member States. The budget of the Northern Ireland Equality Commission, for example, was €8.647 million for 2009, with a staff of 131. This is considerably more than the operational budget of the Equality Authority prior to its funding reduction (€5.897m) particularly given that the Equality Authority covers a population nearly two and a half times the size of the population of Northern Ireland (4.2 million, compared to 1.7 million in Northern Ireland).

Research commissioned by Equality & Rights Alliance, in 2009, to examine the events leading to the October 2008 cuts, indicate that the cuts imposed were the tipping point in a series of moves by government in the preceding years to interfere with operation of both the Equality Authority and the IHRC²⁰. The researchers noted that while the issue of funding cuts to both bodies is significant, it obscures to some extent a more significant underlying issue regarding the attempts by the parent Department to undermine the independence of both bodies over a significant period. In the case of the Equality Authority this included: the appointment of a Departmental representative to the board in 2008, which is contrary to international standards; the inclusion of a clause in the 2004 Equality Act conferring to the Minister full control over the terms and conditions of the CEO's appointment, removing this power from the board of the Equality Authority, and; contesting the Authority's right to take amicus curiae cases. In relation to the Irish Human Rights Commission, the interference by the parent Department in their work was evident when they were asked- but refused-not to publish their report on extraordinary rendition flights through Shannon.

Outlined below, is an analysis of the issues surrounding the cuts to the Equality Authority, the Irish Human Rights Commission and the National Consultative Committee on Racism and Interculturalism and the consequent impact.

The Equality Authority

The Equality Authority was established under the Employment Equality Act 1998 with a specific mandate to address discrimination on the nine grounds covered by the equality legislation, including the grounds of race and membership of the Traveller community²¹.

¹⁹ European Commission against Racism and Intolerance (2007) 'Third Report on Ireland', Council of Europe, Strasbourg.

²⁰ Harvey, Brian and Dr Walsh, Kathy (November 2009), 'Downgrading Equality and Human Rights- assessing the impact', Equality & Rights Alliance, Dublin.

²¹ The powers of the Equality Authority were further expanded under the Equal Status Acts 2000 to 2004

The Equality Authority is a specialised equality body for the purposes of the European Council Directive 2000/43/EC, the 'Race Equality Directive'.

The Equality Authority has been vocal in raising concerns in regard to discrimination being perpetrated through Government policies and those of public authorities and in regard to government failure to deal adequately with promoting equality for minority ethnic groups. In regard to addressing racism and xenophobia, the Authority has:

- Consistently called for the recognition of Travellers as an ethnic group,
- Called for proposed legislation on immigration and residency to expand the definition of services under the Equal Status Acts to explicitly include the functions of the State and thereby bring immigration control and police powers within the ambit of the equality legislation,
- Iterated concern at the development of a system of segregation of minority ethnic students in Irish primary schools²².

The Irish Equality Authority is the national designated body charged with the promotion of gender equality. The most recent concluding observations of the UN Human Rights Committee on the International Covenant on Civil and Political Rights, recommended increased funding to bodies established to promote gender equality:

*'The State party should reinforce the effectiveness of its measures to ensure equality between women and men in all spheres, including by increased funding for the institutions established to promote and protect gender equality'*²³.

Government cuts to the Irish Equality Authority

In the 2009 budget, announced in October 2008, the Equality Authority's funding was cut by 43%. In addition, the decentralisation of the Equality Authority to premises 120 kilometers from Dublin was fast-tracked²⁴. The decentralisation process had already resulted in a loss of experienced and skilled staff to the Authority. The proposed decentralisation of a further 15 staff following the October 2008 announcement, meant a further loss of expertise and skills to the Authority, the effects of which will take years to redress.

In December 2008, at a meeting with the Minister for Justice, Equality and Law Reform regarding the proposed budget cut of 43%, the Chief Executive Officer of the Equality Authority presented a proposal suggesting an alternative cut of 32%, the rationale being that this was the maximum cut in resources that could be sustained by the Authority if the organisation was to remain viable. The Minister, however, rejected this proposal without offering any rationale. The following day, the Chief Executive of the Equality Authority tendered his resignation arguing that the cuts imposed had rendered the Authority

²² For full position paper see: <http://www.schoolsdays.ie/articles/ea-paper-on-school-enrolment>

²³ Concluding recommendation 10, Consideration of reports submitted by States Parties : International Covenant on Civil and Political Rights: Concluding observations of the Human Rights Committee on Ireland. CCPR/C/IRL/CO/3 30 July 2008

²⁴ It should be noted that in the October 2008 budget, the government halted the decentralisation process for other government agencies and departments where a permanent premises has not been secured. Despite this being the case for the Equality Authority, nonetheless, their decentralisation was to be fast-tracked.

unviable and unable to discharge on its functions. In his resignation letter to the Minister, he stated:

'The only credible explanation I can see for what has been done to the Equality Authority appears to be that the casework strategy implemented by it, particularly in relation to allegations of discrimination in the public sector, has been experienced as a threat by senior civil servants and/or Government. It would further appear that the independent voice of the Equality Authority has had to be silenced for becoming an awkward witness to the inequality and discrimination in our society. The Equality Authority is being victimised for doing well what it was established to do'.

The Minister's decision also pre-empted a Value for Money Audit which the Department had commissioned on the Equality Authority and which has yet to be released, despite several attempts by opposition politicians to obtain this report through parliamentary questions to the Minister for Justice, Equality and Law Reform and a refusal by the Department to release the report to ERA following a request under the Freedom of Information Act.

By January 2009 six members of the board of the Equality Authority had resigned in support of the Chief Executive's stance²⁵.

In a report to the Board of the Authority on the likely impact of the budget cuts, the Chief Executive stated that the budget and staffing cuts would have the following impact²⁶:

- The capacity to open new casefiles in 2009 will be severely curtailed. The Equality Authority will be unable to assist claimants to contest cases appealed to the higher courts and commitments to current clients (488 casefiles) could be compromised with the risk of negligence and other claims,
- It will not be possible to conduct inquiries or equality reviews,
- It will not be possible to implement awareness campaigns to raise levels of awareness of rights under equality legislation,
- The research programme of the Equality Authority to provide an evidence base on inequality and discrimination will be severely curtailed.

In August 2009 the legal adviser to the Authority resigned her position and due to the government embargo on recruitment in the public and civil service the Authority has not been able to replace this. The absence of a legal adviser leaves a gap regarding the Authority's capacity to advise on strategic case litigation and to respond to any proposed legislation which is likely to impact on people experiencing inequality and discrimination.

Tables 2 and 3 outline the scale and impact of the budget cuts to the Equality Authority.

²⁵ Board members who resigned were: Finola McDonnell and Dennis O'Flynn (Irish Business and Employers Confederation), Therese Murphy (National Women's Council of Ireland), David Joyce (Irish Congress of Trade Unions), Frank Goodwin (the Carers Association), Louise O'Donnell (Impact Trade Union)

²⁶ Ibid pg 2

Table 2. Scale of budget cut to the Equality Authority (income and staffing levels)

Year	2008	2009	% reduction
Budget of the Equality Authority	€5.897m	€3.333m (pay budget- €2m, non-pay €1.333m)	- 43%
Staffing levels	58	37 (the position of legal adviser remains unfilled since Aug 2009 due to the government embargo in staff recruitment in the civil and public service)	-64%

Table 3. Impact of budget cuts on the output of the Equality Authority²⁷

Area of work	Output for 2008	Output for 2009
Legal		
Number of case-files opened	234	213
Number of casefiles closed	268	465
Number of casefiles considered for legal assistance by Chief Executive Officer:		
Number granted	71	27
Number refused	68 2	21 6
Public awareness campaigns		
Say No to Ageism campaign: funding contribution from the Equality Authority	€105,454	€0
Communications		
Total Inquiries to Public information Centre	10,443	8,155
Equality mainstreaming unit		
Small and Medium Enterprises supported	122	37

²⁷ Figures based on 2008 and 2009 annual reports of the Equality Authority

Applicants for support from enterprises re work-life balance scheme granted	30	20
Research Number of research reports published	5	3

The funding and staff cuts have resulted in a reduction of outputs for the Authority between 2008 and 2009. Regarding the legal work of the Equality Authority in 2009, a significant issue is the increase in casefiles closed that year. This increase in closed casefiles, together with the significant decrease in the number of casefiles granted assistance in 2009 compared with 2008 (a decrease of 31%) suggests the ongoing difficulties for the Authority in discharging on its legal functions.

The Development section of the Equality Authority, whose remit is the promotion of equality, was able to maintain a level of output in 2009 largely because of funding from the European Commission which ceased in December 2009²⁸.

The Equality Mainstreaming unit of the Equality Authority was set up in 2007, with a remit to improve labour market access and participation of groups experiencing inequality across the nine grounds covered by the Equality legislation. An operational budget of €1million was due to be made available to this unit each year for seven years, with a staff complement of four. However, the Department of Justice Equality and Law Reform did not provide the necessary match funding to the Equality Authority to fully operationalise this Unit, and its budget since 2007 has been €450,000 per annum (with a staff of two). The drop in output of the unit, noted in Table 3, was predicted by the Equality Authority in its progress report on the work of the Unit in 2008:

‘The Equality Authority experienced a 43% budget cut in December 2008 Budget. This means that the Equality Authority will be unable to provide the projected matched funding for this measure from 2009. This will inevitably affect the measure’s outputs and impact’²⁹

In addition to the ‘Say No to Ageism’ campaign, the Equality Authority has played a coordinating role in regard to the ‘anti-racist workplace week’ initiative. Between 2008 and 2009 funding of €136,668 was spend by the Equality Authority on this initiative. The continued funding for this campaign, which is now titled ‘Workplace Diversity Initiative’, is uncertain.

Research commissioned by ERA on the impact of the cuts imposed, concluded that in the case of the Equality Authority, serious questions are raised about how it can continue to carry out its functions with such a significant budget cut. The report noted that since the budget cuts to the Equality Authority there had been a decline in its media profile; a

²⁸ Funding for a range of actions under the European Year of Equal Opportunities legacy programme 2009, ceased in Dec 2009.

²⁹ ESF 2.9 Equality Mainstreaming Approach: Human Capital Investment Operational Programme (2007- 2013) Progress Report Jan. to Dec. 2008 : http://www.esf.ie/en/hci_view_meeting.aspx?article=e6b7fbc7-905c-4c4e-8348-2f155ff1ec02&meeting=47

decline in significant case outcomes; a sharp falling off of engagement with the business and enterprise community; and a much reduced engagement with NGOs³⁰.

In September 2009, Equality & Rights Alliance submitted a complaint to the European Commission to examine whether the Irish Government was failing to comply with its duties under EU equality Directives, due to the nature of the cuts imposed on the Equality Authority. Our complaint was supported by the General Secretary of the Irish Congress of Trade Unions. A corresponding petition was also submitted by ERA to the European Parliament's Petitions Committee. Our petition was signed by all opposition Irish Members of the European Parliament³¹. The Commission expressed much regret at the Irish Government's decision to cut the budget of the Equality Authority. However, the Commission stated that due to the minimal-standard nature of EU Directives, they were unable to instigate infringement proceedings against the Irish Government. Following the hearing of the ERA petition to the Petitions Committee of the EU Parliament in May 2010, the Committee has decided to write to the Irish Government requesting information on the nature of the cuts to the Equality Authority and how it is continuing to discharge on its functions under EU equality Directives.

The Irish Human Rights Commission

The Irish Human Rights Commission (IHRC) is Ireland's National Human Rights Institution. Established under the Belfast/Good Friday Agreement, the functions and powers of the IHRC are set out in the Human Rights Commission Acts 2000 and 2001. The IHRC has a mandate to promote and protect human rights through:

- Reviewing the adequacy and effectiveness of law and practice for the protection of human rights,
- Making recommendations to government on how human rights standards should be reflected in Irish legislation, policy and practice,
- Promoting debate around human rights issues as part of the legislative process,
- Appearing before the High Court and Supreme Court as *amicus curiae*,
- Carrying out enquiries into human rights concerns,
- Publishing and promoting research and policy reports on human rights,
- Developing and delivering human rights education and training.

The Commission has been vocal in calling on government to protect the human rights of minority ethnic groups. In 2007 the IHRC highlighted the issue of rendition of US prisoners through Shannon airport, and called upon the Irish Government to seek the agreement of the US authorities to the inspection of aircraft suspected of involvement in this practice on their landing at any Irish airport. In addition, the IHRC has also called on the Government to recognise Travellers as an indigenous ethnic group and has initiated joint work with a number of NGOs to address discrimination against migrants and minority ethnic groups including members of the Traveller community.

³⁰ Harvey and Walsh op cit page 80

³¹ To read a full copy of the complaint: http://www.eracampaign.org/uploads/ERA_Complaint_to_the_EU_Commission.pdf and petition: http://www.eracampaign.org/uploads/ERA_Petition_to_the_European_Parliament.pdf

The IHRC has been assessed internationally and awarded an A rating by the International Coordinating Committee of National Human Rights Institutions.

The most recent concluding observations of the UN Human Rights Committee on the International Covenant on Civil and Political Rights, noted concern regarding the limited funding to the IHRC and recommended that resources to the IHRC be increased and its independence strengthened by direct accountability to Parliament:

'the Committee regrets the limited resources of the Commission as well as its administrative link to a Government department. (art. 2)The State party should strengthen the independence and the capacity of the Irish Human Rights Commission to fulfill its mandate effectively in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134), by endowing it with adequate and sufficient resources and linking it to the Oireachtas (Parliament)'³².

Government cuts to the Irish Human Rights Commission

In the October 2008 budget the IHRC had its funding cut by 24% (the eventual cut, however, was 32%). When the cuts were announced the IHRC issued a statement on the implications of the budget cut:

'The Commission in Plenary Session stressed that the proposed grant for 2009 of €1.6M will not even allow the IHRC to pay staff salaries and basic operational costs which amount to €2m. A cut of the scale proposed would also leave the IHRC completely unable to perform its functions. It would put its survival in doubt'³³.

By comparing information contained in the 2008 and 2009 annual reports of the IHRC, the impact of the government cuts are apparent in terms of financial and staff resources available to the IHRC (Tables 4 and 5).

Table 4. Scale of budget 2009 to the Irish Human Rights Commission (Income and staffing levels)

Resources of the IHRC	2008	2009	% Reduction
Budget of the IHRC	€2.342m	€1.596m	- 32%
Staffing levels	17 staff (in 2008 6 new staff positions were	10 staff (7 positions remain	- 41%

³² Concluding recommendation 7, Consideration of reports submitted by States Parties : International Covenant on Civil and Political Rights: Concluding observations of the Human Rights Committee on Ireland. CCPR/C/IRL/CO/3 30 July 2008

³³ Press release by IHRC, November 4 2008: <http://www.ihrc.ie/newsevents/press/2008/11/04/irish-human-rights-commission-condemns-proposed-24/>

	approved by the Department of Justice, Equality and Law Reform, yet these were not accompanied by any increase in core funding)	unfilled due to government embargo on recruitment in the public and civil service)	
External contractors	Services of 4 contractors relinquished during the year	No external contractors employed, due to lack of funding	- 100%

Table 5. Impact of budget 2009 on the Irish Human Rights Commission (funding for core areas of work)

Area of work	Expenditure 2008	Expenditure 2009	Expenditure reduction
Research	€69,195	€1,102	-98%
Policy work			
Expenditure on the work of the joint committee (with Northern Ireland)	€12,486	€1,102	- 91%
Expenditure to support European group of NHRIs	€30,749	€0	-100%
Legal work			
Expenditure on legal assistance	€109,805	€0	-100%
Expenditure on enquiries	€10,000	€0	- 99.9%
Expenditure on Amicus curiae	€95,186	€132	
Other expenditure			
Conferences	€45,370	€2,712	-94%
Media and consultancy	€42,698	€0	-100%
Advertising	€14,072	€0	-100%
Library	€16,125	€0	-100%

Despite the massive reduction in funding, in 2009 the IHRC managed to maintain a level of output in its core areas of work. This level of output, however, was only possible due to a significant amount of unpaid assistance to the Commission. Since the beginning of 2009, for example, all of the legal work undertaken by the IHRC is being undertaken on a pro bono basis, allowing the Commission to maintain its level of legal assistance. In addition, in April 2010 philanthropic funding was sourced which will allow the IHRC to resource its education and training work until October 2011. Unpaid internship

placements are also supporting the work of the Commission. It is clear, however, that reliance on internships, pro bono work and philanthropic funding is untenable and unsustainable for the IHRC in the medium to long term.

Research commissioned by ERA on the impact of the cuts imposed, concluded that in the case of the IHRC:

'the cuts have already halted its upward organisational trajectory. It is in a vulnerable state and the departure of further staff would push it below the level of viability'³⁴.

The Chief Executive Officer of the IHRC has noted the dire situation for the Commission and the urgent need for a restoration of adequate resources:

'the Commission, which has sought to tailor its operations to the economic realities of Ireland today, is in urgent need of some restoration of core funding. The impact of the current public service recruitment embargo is another area of major concern for the Commission. The embargo – which means vacancies cannot be filled – has the potential to impact disproportionately on smaller public service bodies such as the Commission. Four staff moved on in 2009 and could not be replaced as a result of the embargo. The effect of further departures in the coming period would be potentially devastating for the Commission'³⁵.

The National Consultative Committee on Racism and Interculturalism

The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1998 as an independent expert body on racism and interculturalism. The NCCRI worked as a partnership body bringing government and non-government organisations together to:

- Develop an inclusive and strategic approach to combat racism and promote interculturalism,
- Contribute to policy and legislative developments in all areas relating to racism and interculturalism,
- Provide a national framework for responding to and consulting with key European and international bodies on issues related to racism and interculturalism.

Government cuts to the NCCRI

In the October 2008 budget, the NCCRI had its funding cut by 100% which led to its closure in December 2008³⁶. The Minister announced that the work of the NCCRI would be subsumed within the Office of the Minister for Integration (OMI), however, it is difficult to envisage how this would be possible given that the funding of the OMI was cut by 26% in the same budget. The CEO of the NCCRI, in a statement on the cuts, noted:

³⁴ Harvey and Walsh op cit page 79

³⁵ Irish Human Rights Commission 2009 Annual Report pg 5

³⁶ The yearly core funding to the NCCRI was €500,000.

*'There is now a significant vacuum in Government policy arising from the fact that there is no longer an expert body to advise on anti-racism and integration and no longer a dedicated plan and funding line focused on dealing with these issues. The Government says the NCCRI's "functions" will be transferred to the Office for Integration. However, without staff or expertise being transferred, this commitment appears hollow*³⁷.

To coincide with the abolition of the NCCRI, in January 2009 the Government announced that it would not be continuing the National Action Plan Against Racism³⁸. In the final report of the National Plan Against Racism, the Chair of its Steering Committee stated noted:

*I am extremely concerned that in the midst of an economic crisis..... organisations working in the area of integration and interculturalism are the first victims of Government cutbacks. A decision has clearly been made that we can no longer afford to confront the potential for racism, precisely at the time when many immigrants living in Ireland are at their most vulnerable*³⁹.

Since the closure of the NCCRI there is a significant gap in relation to the independent monitoring of incidents of racism and xenophobia and in relation to the delivery of anti-racism training to the Police and other front-line service providers.

The Equality Tribunal

The Equality Tribunal did not suffer a funding cut in the 2009 budget. Despite this however, the Tribunal continues to experience a significant backlog in terms of dealing with its casework, particularly in regard to employment equality cases, which now represent approximately 85% of the Tribunal's casework. Currently, cases referred to the Tribunal under the Employment Equality Act are taking three years to reach hearing stage. This situation is a significant deterrent to people considering taking cases.

The Civil Law (Miscellaneous Provisions) Bill, 2010, put forward by the Department of Justice, Equality and Law Reform, has implications for people seeking redress through the Equality Tribunal. Section 17 of the draft legislation allows the Equality Tribunal to deal with cases on the basis of written submissions only, in situations where the facts of the case are not in dispute.

If the Director of the Equality Tribunal decides that a case can be dealt with in this way, the parties shall be notified and if either side does not agree, representations can be made within 28 days as to why oral evidence needs to be heard, as well as written representations. This proposal, if enacted, would place an additional onus on those seeking redress to make the case for their right to appear before the Tribunal.

³⁷ Philip Watt, Former CEO of the NCCRI (November 19th 2008), Irish Times 'Budget cutbacks weaken State's capacity to combat racism <http://www.irishtimes.com/newspaper/opinion/2008/11/19/1227026413011.html>

³⁸ The first National Action Plan Against Racism was operational from 2005 to 2008

³⁹ NPAR Final report, Jan 2009, foreword by Chairperson, Lucy Gaffney pg 2
[http://www.integration.ie/website/omi/omiwebv6.nsf/page/PCHK-7PNHH41312727-en/\\$File/NPAR%20Final%20Report%20Not%20an%20End%20Just%20a%20Beginning.pdf](http://www.integration.ie/website/omi/omiwebv6.nsf/page/PCHK-7PNHH41312727-en/$File/NPAR%20Final%20Report%20Not%20an%20End%20Just%20a%20Beginning.pdf)

