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Committee on Children, Disability,  
Equality and Integration  
Leinster House  
Kildare Street  
Dublin 2  
D02 XR20

25/02/2021

**Re: Submission to the Committee on Children, Disability, Equality and Integration on the General Scheme of a Certain Institutional Burials (Authorised Interventions) Bill**

Dear Committee Members,

My name is René Gapert and I am a Consultant Forensic Anthropologist and Human Remains Specialist working on national and international cases of forensic human identification in unidentified remains cases. This ranges from cases of single individuals to mass fatalities. I am making this submission in an individual capacity free of any organisation but as a recognised expert in the area of forensic anthropology.

I applaud the introduction of the proposed Certain Institutional Burials Bill in general, however, there are a few considerations that have not been addressed in the text of the bill but which would be crucial in “getting it right” from the beginning rather than adding these later. In particular, the steps between excavation/exhumation of remains and subsequent sampling for DNA analysis are missing. These steps are basic and best-practice steps before any destructive sampling of remains should be undertaken and recognised in the international forensic context by all forensic practitioners regularly involved in human remains work. They can also be found in the INTERPOL protocol for Disaster Victim Identification (DVI) and best-practice implementations in mass fatality cases. I am mainly speaking about two points:

- 1) The remains require a full forensic anthropological and pathological examination and, depending on the case, full forensic radiological/radiographic investigation and forensic odontological examination before any destructive analysis for DNA analysis or otherwise (stable isotopes, radiocarbon dating, etc.) can be performed.
- 2) The examinations should only be carried out by accredited forensic anthropologists and pathologists. Should there be a lack of or shortage of such, then Biological Anthropologists/Osteoarchaeologists may be utilised under the supervision of a Lead Forensic Anthropologist and Lead Forensic Pathologist. Otherwise, the determination of a forensic investigation or examination can be attacked and put in doubt.

I would be willing to appear in public session at a Committee meeting should you have any questions.

Kind regards,



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### **Introduction**

I am a Consultant Forensic Anthropologist in the Republic of Ireland. I trained as a Medical Dissector/Prosector for Anatomy, Pathology and Forensic Medicine in Berlin, Heidelberg and Düsseldorf in Germany. I hold a Doctorate in Forensic Anthropology and Anatomy and a Professional Certificate in Forensic Radiography from University College Dublin.

I am a Fellow of the Royal Anthropological Institute and a Certified Forensic Anthropologist (Level 3) under the UK Justice System. I am a member of the Chartered Society of Forensic Sciences UK), a member of the British Association for Human Identification, a founder member of the British Association for Forensic Anthropology, a member of the Medico-Legal Society of Ireland and expert adviser (Forensic Anthropology & Mass Fatality Disaster DVI Management) to the National Directorate for Fire & Emergency Management.

I am also the Irish forensic anthropologist member of the Pathology and Anthropology Sub-Group (INTERPOL DVI Working Group); a listed forensic anthropology expert on the Expert Advisers Database of the National Crime Agency (UK); an active roster member of the UK DVI Forensic Anthropology cadre; a member of the International Commission on Missing Persons Forensic Specialists Roster for Mass Fatalities and a member of the Cranfield Recovery & Identification of Conflict Casualties Team.

I have over 20 years of experience in the dissection of the structures of the human body and over 19 years of experience in the examination and analysis of human remains in forensic and historical contexts. I have provided assistance in skeletal analyses to various Coroners in the Republic of Ireland and Northern Ireland, the Office of the State Pathologist and the Irish Police (An Garda Síochána), during the Grenfell Tower Fire in London, to the Institute of Legal Medicine and Forensic Sciences in Berlin, Germany and the Berlin Police, the Australian Government and the Buchenwald Concentration Camp Memorial Centre. I conduct ongoing multidisciplinary collaborative research in forensic anthropology, human anatomy and human identification and have published over 19 peer reviewed research papers and case histories and contributed a co-authored case report chapter to the book 'Advances in Forensic Human Identification' (2014).

### **Concerns**

First, I applaud the introduction of the proposed Certain Institutional Burials Bill in general, however, there are a few considerations that have not been addressed in the text of the bill (particularly under part 6: Provision for Identification of Deceased Persons) but which would be crucial in "getting it right" from the beginning rather than adding these later. In particular, the steps between excavation/exhumation of remains and subsequent sampling for DNA analysis are missing. These steps are basic and best-practice steps before any destructive sampling of remains should be undertaken and recognised in the international forensic context by all forensic practitioners regularly involved in human remains work. They can also be found in the INTERPOL protocol for Disaster Victim Identification (DVI) and standard texts on forensic human identification and mass fatality/mass graves investigations.

As experience internationally has shown, the identification of human remains is not solely achievable through DNA analysis depending on the death scenario. Not only is it not always possible

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to extract DNA under all circumstances but in some mass fatality cases the highest number of identifications were achieved by other means, e.g. forensic odontology. A multidisciplinary approach is crucial to such investigations but completely lacking in the bill!

Also under part 2, head 7 and the mentioned aspect of conducting any human remains analysis (death investigation) without the authority of the coroner is dangerous. Having no independent oversight of the death investigation process through the office of the coroner leaves an important aspect of investigating the deaths out, mainly the communication of results to the families of the deceased and the interest of the general public in the inquisitorial results of the coroner.

### **Recommendations**

I would strongly recommend to amend some aspects within the section for Identification.

First, it should be made clear that there are steps between the exhumation/excavation part and the DNA extraction part. Mainly these:

1) Assessment of burial site, planning and carrying out of excavation work (under the remit of the Lead Forensic Archaeologist\*. Forensic Anthropologist may be present to ascertain remains deposition inside the grave which helps in the mortuary examination later).

\* Forensic archaeology is a separate field to forensic anthropology and the two should not be confused. The forensic archaeologist is an expert in discovering hidden bodies but the forensic anthropologist is required to fully analyse decomposed or skeletal remains.

2) Examination of the remains in a mortuary/laboratory setting. This is the remit of the Lead Forensic Anthropologist and Lead Forensic Pathologist. The aim is to ascertain how many individuals are represented by the remains and, if commingled, the reconciliation of each individual set of remains into individuals as far as is possible.

This is followed by the establishment of a biological profile for each individual which includes assessing the age-at-death, biological sex, ancestry, living height/stature of the person as well as any illnesses and injuries which may be visible in the remains. Assessment of injuries is particularly important aside from identification in order to answer questions about possible maltreatment and other aspects may show malnourishment in the remains due to lacking an adequate diet. These methods are all non-destructive and should take place before any destructive sampling occurs.

3) Sampling the remains for DNA, stable isotope, radiocarbon dating analyses. This is the remit of the Forensic Anthropologist, Forensic Pathologist and Forensic Scientist (DNA).

4) Interpretation of the results and positive identification. This should be conducted in the form of an Identification Committee which should, at the very least, consist of the Coroner, the Lead Forensic Pathologist, the Lead Forensic Anthropologist, the Senior Identification Officer (If Gardai are involved), and the Lead Forensic Scientist. The results may lead to a positive identification, exclusion from identification or indeterminate.

Dr René Gapert

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