



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the second periodic report of Ireland*

1. The Committee against Torture considered the second periodic report of Ireland (CAT/C/IRL/2) at its 1548th and 1551st meetings (see CAT/C/SR.1548 and 1551), held on 27 and 28 July 2017, and adopted the following concluding observations at its 1565th and 1566th meetings, held on 9 and 10 August 2017.

A. Introduction

2. The Committee welcomes the timely submission of the second periodic report and the dialogue with the State party's delegation and the oral and written replies provided to the concerns raised by the Committee.

B. Positive aspects

3. The Committee welcomes the State party's accession to and ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in September 2014.

4. The Committee also welcomes the following measures taken by the State party since the examination of the previous report:

(a) The adoption of the Irish Human Rights and Equality Commission Act 2014 and the merger of the Human Rights Commission and the Equality Authority to create the Irish Human Rights and Equality Commission as the country's national human rights institution, on 1 November 2014;

(b) The adoption of the Criminal Justice (Community Service) (Amendment) Act, providing, inter alia, for community service as an alternative to imprisonment, on 1 October 2011; the Criminal Justice (Community Sanctions) Act, replacing the Probation of Offenders Act 1907, in February 2014; the Fines (Payments and Recovery) Act, which considerably reduced the female prison population, on 16 April 2014; and the implementation of the Community Return Programme, providing for earned and early temporary release in return for supervised community service, including within the context of the Joint Irish Prison Service/Probation Service Strategic Plan 2015-2017;

(c) The adoption of the Children (Amendment) Act 2015, repealing legislation that permitted the detention of children in adult prison facilities, and the closing of St. Patrick's Institution for the detention of juveniles following the signing on 30 March 2017

* Adopted by the Committee at its sixty-first session (24 July-11 August 2017).



of a ministerial order ending the sentencing of children to adult prisons in Ireland, on 7 April 2017;

(d) The publication of the report of the Commission of Investigation into the death of Gary Douch, on 1 May 2014, and the submission of the implementation plan to the ministers in September 2014; the development of the 2015-2018 Strategic Plan for the Travellers in Prison Initiative; and the launching of the Irish Prison Service Strategic Plan 2016-2018 envisaging the elimination of slopping out and the modernization of Limerick prison and “Block E” of Portlaoise prison;

(e) The adoption of the Residential Institutions Statutory Fund Act to support the needs of survivors of residential institutional abuse, in 2012; the publication of the report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen laundries, known as the McAleese report, on 5 February 2013; the apology made in parliament (Dáil) by the Prime Minister of Ireland (Taoiseach), Enda Kenny, to the survivors of residential institutional abuse, on 19 February 2013; the establishment of the Residential Institutions Statutory Fund (Caranua), in March 2013; the publication of the report of Mr. Justice John Quirke on the establishment of an *ex gratia* scheme for the benefit of women who were admitted to and worked in the Magdalen laundries, in May 2013; the establishment of the Commission of Investigation into the Mother and Baby Homes and Certain Related Matters, in February 2015; and the adoption of the Redress for Women Resident in Certain Institutions Act 2015, providing health services free of charge to former Magdalen women, from 1 July 2015;

(f) The rolling out of An Garda Síochána victim service offices to 28 Garda divisions, in 2015; and the launching on 20 January 2016 of the National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021;

(g) The establishment of the Citizens’ Assembly to consider a number of issues, including abortion laws, in 2016;

(h) The adoption of the Criminal Justice (Female Genital Mutilation) Act, on 2 April 2012; and the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act, which entered into force in August 2012;

(i) The adoption of the Child and Family Act, regarding protection and welfare services, in 2013; the establishment of the Child and Family Agency, on 1 January 2014; and the adoption of the Children First Act 2015, which removed the defence of “reasonable chastisement” from the laws regarding assaults on children;

(j) The adoption of the International Protection Act 2015, replacing the Refugee Act 1996; and the introduction of the Immigration Guidelines for Victims of Domestic Violence by the Irish Naturalization and Immigration Service, in 2012;

(k) The adoption of the Protected Disclosures Act 2014, which enables members of the Garda to make disclosures to the Garda Síochána Ombudsman Commission; and the Garda Síochána Amendment Act 2015, expanding the remit and powers of the Commission;

(l) The adoption of the Assisted Decision-Making (Capacity) Act, in 2015.

5. The Committee welcomes the standing invitation extended by Ireland to the mandate holders of all thematic special procedures of the Human Rights Council and the statement made by its delegation during the constructive dialogue with the Committee that Ireland would agree to a visit by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

C. Principal subjects of concern and recommendations

Pending follow-up questions from the previous reporting cycle

6. In paragraph 33 of its previous concluding observations (CAT/C/IRL/CO/1), the Committee requested Ireland to provide further information regarding areas of particular concern identified by the Committee. The Committee expresses its appreciation to the State party for providing information to the Committee on these issues (CAT/C/IRL/CO/1/Add.1

and Add.2). In the light of that information and the replies provided during the most recent dialogue with the Committee, the Committee considers that its recommendations relating to the provision of resources and ensuring the independence of the national human rights institution (now the Irish Human Rights and Equality Commission) have been substantially implemented. The Committee considers that its recommendations to implement the recommendations contained in the report of the Commission to Inquire into Child Abuse, known as the Ryan report, and to investigate allegations of torture and ill-treatment at reformatory and industrial schools operated by religious orders of the Catholic Church, prosecute and punish perpetrators of such abuse and provide redress to the victims have been partially implemented (see para. 23 of the present document). The Committee considers that its recommendations to investigate allegations of ill-treatment of women at the Magdalen laundries operated by religious orders of the Catholic Church, prosecute perpetrators and ensure that victims obtain redress and have an enforceable right to compensation have not been implemented (see para. 25). The Committee considers that its recommendations relating to the adoption of the Criminal Justice (Female Genital Mutilation) Bill, implementation of awareness-raising programmes on female genital mutilation and explicit recognition of female genital mutilation as amounting to torture have been partially implemented (see para. 33).

Independent monitoring of places of deprivation of liberty and the Optional Protocol

7. While noting that the Inspector of Prisons, the Prison Visiting Committees, the Health Information and Quality Authority and the Inspector of Mental Health have access to places of detention, the Committee is concerned that:

- (a) The State party has not ratified the Optional Protocol 10 years after signing it, and has therefore not been able to establish a national preventive mechanism;
- (b) The most recent annual report of the Inspector of Prisons was published in 2014 and covered only 7 out of the 14 prison establishments in Ireland;
- (c) The existing bodies do not systematically carry out visits to all places of deprivation of liberty such as Garda stations, residential care centres for people with disabilities, nursing homes for the elderly and other care settings (arts. 2, 11, 16).

8. The State party should:

- (a) **Immediately ratify the Optional Protocol and establish a national preventive mechanism, ensuring that this body has access to all places of deprivation of liberty in all settings;**
- (b) **Ensure that existing bodies which currently monitor places of detention as well as civil society organizations are allowed to make repeated and unannounced visits to all places of deprivation of liberty, publish reports and have the State party act on their recommendations.**

Fundamental legal safeguards

9. The Committee is concerned at reports that fundamental safeguards against torture for persons deprived of their liberty are not always respected in practice, including reports that the right to have a legal representative present during police interrogations is not provided in law and that the police do not consistently keep accurate detention records or use closed-circuit monitoring of interview rooms. While noting the information provided by the State party that the right to have a legal representative present during police interrogations is provided in the police code of practice and is the subject of legislation that has been enacted but not yet commenced, the Committee is further concerned at the present lack of an independent authority empowered to monitor conditions of detention in police stations around the country and that the provision of fundamental safeguards by the police is not effectively monitored. In this regard, it notes the delegation's statement made during the dialogue with the Committee that they were not aware of any case in which a police officer had been disciplined for failing to provide persons deprived of their liberty with access to a lawyer (arts. 2, 11, 12, 13, 14 and 16).

10. **The State party should:**

(a) **Expedite the commencement of section 9 of the Criminal Justice Act 2011 to ensure that all persons deprived of their liberty by the police have the right of access to a lawyer, including during the initial interview and interrogations, from the time of their apprehension, and ensure that this right is respected in law as well as in practice;**

(b) **Expedite the drafting of the Inspection of Places of Detention Bill and ensure that this or other national legislation promptly establishes an independent body tasked with inspecting police stations and monitoring the provision by the police of all fundamental safeguards against torture to persons deprived of their liberty, including respect for the right of prompt access to a lawyer; the rigorous keeping of detention records, including in a centralized register; and systematic closed-circuit monitoring of interview rooms;**

(c) **Collect data on the performance of the police with respect to provision of fundamental safeguards against torture to persons deprived of their liberty, including data on cases in which police officers have been subjected to disciplinary or other measures for failing to respect such safeguards, and provide this information in its next report to the Committee.**

Situation of asylum seekers and migrants

11. While welcoming the State party's adoption of the International Protection Act 2015, which introduces a single procedure for assessing claims for asylum and subsidiary protection, and the information provided by the State party during the dialogue indicating that asylum seekers are placed in detention only as an exceptional measure, the Committee remains concerned that immigration detainees, including persons in need of international protection, continue to be detained in a number of prisons and police stations with remand and convicted prisoners, and that the State party has not followed through on its plans to open a dedicated immigration detention centre at Dublin airport. The Committee regrets that the State party did not provide the requested information on the number of individuals who were denied "leave to land" and who were not subsequently allowed to enter the country as asylum seekers in 2016, disaggregated by country of origin. The Committee reiterates that individuals denied leave to land should have access to legal aid and interpretation prior to being returned to their point of embarkation for Ireland (arts. 3, 11, 12, 13 and 16).

12. **The State party should:**

(a) **Enshrine in its legislation the principle that asylum seekers should be detained only as a measure of last resort, for as short a period as possible and in facilities appropriate for their status;**

(b) **Establish a formalized vulnerability-screening mechanism for torture victims and other persons with special needs and provide them with care and protection to avoid retraumatization, including during international protection procedures;**

(c) **Provide adequate funding to ensure that all persons undergoing the single procedure under the International Protection Act have timely access to medico-legal documentation of torture, ensure that all refugees who have been tortured have access to specialized rehabilitation services that are accessible countrywide, and support and train personnel working with asylum seekers with special needs;**

(d) **Ensure that persons detained for immigration purposes are not held together with remand and convicted prisoners, are informed about their situation in a language they can understand, and have effective access to legal advice and to the process of application for international protection;**

(e) **Ensure that all persons who are refused leave to land are provided with access to legal advice and information regarding international protection in a language they can understand, and provide the Committee in its next periodic report**

with data on the countries of origin of the persons denied leave to land and their point of embarkation for the State party, to which they were returned.

Training

13. The Committee is concerned at the absence of specific training for public officials on the absolute prohibition of torture and on dealing with victims of gender-based violence, including domestic and sexual violence, as well as at the lack of training programmes on documenting injuries and other health consequences resulting from torture and ill-treatment, based on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) (art. 10).

14. **The State party should:**

(a) **Make training on the provisions of the Convention and the absolute prohibition of torture, as well as on non-coercive interrogation methods, mandatory for public officials, in particular police and prison staff, including members of the Defence Forces, as well as for all other officials who come into contact with persons deprived of their liberty;**

(b) **Provide mandatory training on gender-based and domestic violence for police and other law enforcement officials, social workers, lawyers, prosecutors, judges and other public officials dealing with victims of gender-based violence, including domestic and sexual violence;**

(c) **Include information about the Convention and the absolute prohibition of torture in relevant training materials for law enforcement and other public officials;**

(d) **Ensure that the Istanbul Protocol is made an essential part of the training of all medical professionals and other public officials involved in work with persons deprived of their liberty;**

(e) **Systematically collect information on the training of public officials and law enforcement personnel and develop and implement specific methodologies to assess its effectiveness and impact on the reduction of the incidence of torture.**

Conditions of detention

15. While taking note of the decrease in the overall prison population and the measures taken to address overcrowding and improve material conditions, including the significant reduction in the number of prisoners required to slop out, the Committee is concerned that:

(a) While the size of the prison population was reduced as a result of the adoption of the Fines (Payments and Recovery) Act 2014, the overall number of women in detention has continued to rise;

(b) Remand and convicted prisoners continue to be held together in some facilities;

(c) Overcrowding continues at the Dochás centre for female prisoners in Mountjoy prison, as well as in the male and female wards of Limerick prison;

(d) In-cell sanitation continues to be problematic as 56 persons still have to slop out and 1,539 prisoners are required to use toilet facilities in the presence of another inmate, in cells where prisoners also have to take their meals;

(e) There are systematic deficiencies in the health-care services in the prison system, including serious understaffing of prison personnel as well as a shortage of qualified medical and psychiatric staff and psychologists;

(f) Solitary confinement has been used for prolonged periods, including as a disciplinary measure;

(g) The regime for holding prisoners requiring protection is inadequate, including lack of outdoor exercise and almost no contact with the outside world;

(h) Prisoners continue to be handcuffed when transferred between facilities and during external medical examinations.

16. The State party should:

(a) Continue to strengthen the measures aimed at further decreasing the number of persons in the prison system and to reduce overcrowding with a view to bringing conditions of detention into line with the international standards enshrined in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);

(b) Continue efforts aimed at reducing overcrowding and improving material conditions in all places where women are detained, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(c) Consider increasing the use of non-custodial measures and alternatives to detention, in keeping with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(d) Ensure the separation of remand prisoners from those who have been sentenced and provide the Committee with information on the number of remand prisoners and how long they stay on remand;

(e) Implement the Irish Prison Service Strategic Plan 2016-2018, including for the refurbishment of existing facilities and the construction of new ones; modernize Limerick prison and “Block E” of Portlaoise prison to eliminate the slopping out system completely; and improve in-cell sanitation in all facilities that require it and ensure privacy in the use of toilet facilities and their separation from places where prisoners take meals;

(f) Take urgent measures to increase the ratio of guards to prisoners, hire additional medical personnel, including psychiatric personnel and psychologists, and enable the referral of inmates requiring specialized medical care to outside medical facilities without delays due to administrative reasons and lack of escorts from among prison staff;

(g) Ensure that solitary confinement remains a measure of last resort, imposed for as short a time as possible, is never applied to juveniles, is under strict supervision and judicial review with clear and specific criteria for its use, and that prolonged and consecutive disciplinary sanctions of solitary confinement are strictly prohibited;

(h) Introduce a cell-share risk assessment tool across the prison estate and ensure that prisoners requiring protection are not penalized by their situation and have contact with the outside world, sufficient purposeful activities and out-of-cell exercise and family visits;

(i) Urgently undertake an independent, fundamental review of the entire prison health-care system, in keeping with the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

(j) Ensure that prisoners who are transferred between facilities are not injured during transportation and ensure that handcuffing is used only as an exceptional measure, after appropriate risk assessment;

(k) Take the necessary steps to ensure that external medical personnel consulted by prisoners respect the principles of medical confidentiality and human dignity.

Inter-prisoner violence

17. While noting the progress made to reduce the level of violence in prisons, the Committee is concerned:

(a) About the increase in the level of violence, including sexual violence, among both male and female prisoners;

(b) That 78 per cent of prison staff report that they have been assaulted in the course of their duties;

(c) At the violent incidents that took place in Oberstown detention centre for juveniles in 2016 and 2017;

(d) At the reported placement of juveniles presenting disciplinary issues for weeks in “single separation”, which may amount to solitary confinement;

(e) At the death in prison of Gary Douch owing to the absence of appropriate mental health care for prisoners with mental disorders and psychosocial disabilities (arts. 2, 11 and 16).

18. **The State party should:**

(a) **Undertake thorough and impartial inquiries into all acts of violence committed in prison facilities and detention centres;**

(b) **Enhance measures to prevent and reduce inter-prisoner violence by improving prison management and the ratio of staff to prisoners, and strengthen the monitoring and protection of vulnerable prisoners and those presenting disciplinary issues;**

(c) **Provide training to prison staff and medical personnel on communication with and managing of inmates, including juveniles, and on detecting signs of vulnerability and disciplinary issues;**

(d) **Abolish solitary confinement of minors as a disciplinary measure, strengthen existing and develop new educational and rehabilitation programmes aimed at encouraging pro-social behaviour, and improve extra-regime activities for minors;**

(e) **Ensure that solitary confinement is never applied to persons with a psychosocial disability and ensure that they receive appropriate therapeutic treatment.**

Police complaints mechanism

19. While expressing its appreciation for the establishment of the Garda Síochána Ombudsman Commission, the Committee is concerned about:

(a) The capacity of the Commission to function independently and effectively and to investigate allegations of torture and ill-treatment, including because of financial and staffing limitations;

(b) The “leaseback” practice whereby complaints referred to the Commission are referred back to the Garda for investigation, which amounts to the police investigating itself;

(c) The absence of information on the number of complaints which may relate to torture and ill-treatment and the low number of prosecutions initiated against the members of the Garda;

(d) Limited public awareness about the Commission’s activities and responsibilities (arts. 2, 11, 12, 13, 14 and 16).

20. **The State party should:**

(a) **Strengthen the independence and effectiveness of the Garda Síochána Ombudsman Commission to receive complaints relating to violence or ill-treatment by the police and to conduct timely, impartial and exhaustive inquiries into such complaints;**

- (b) **Try persons suspected of acts of violence or ill-treatment and, if they are found guilty, sentence them to punishment commensurate with the gravity of their acts;**
- (c) **Provide information on the number of complaints filed with the Commission which may relate to torture or ill-treatment and on the final outcome of such complaints processed by the Commission;**
- (d) **Ensure that victims have access to effective remedies and reparation;**
- (e) **Sensitize the public about the existence and functioning of the Commission.**

Complaints in the prison system

21. While taking note of the Irish Prison Service Complaints Policy introduced in 2014, which initiated a new complaints model with four separate categories of complaint (from A to D), and the information on complaints in 2016 provided by the State party, the Committee is concerned that there are deficiencies in the system such as a lack of or incomplete documentation of complaints, delays in investigations by external investigators, gaps in referrals to police in appropriate cases and confusion about the categorization of complaints as well as delays in their resolution, and that there is reportedly no confidence in the complaints system and that prisoners fear that they would not be protected if they were to make a complaint and were therefore discouraged from doing so (arts. 2, 11, 12, 13, 14 and 16).

22. The State party should:

- (a) **Consider establishing a completely independent mechanism for the consideration of prisoner complaints as well as a new individual complaints procedure, in the light of the shortcomings cited above;**
- (b) **Provide for an independent appeal procedure outside of the prison system;**
- (c) **Introduce greater involvement and oversight by an independent body;**
- (d) **Inform the Committee about sanctions or punishments for torture or ill-treatment applied against any of those responsible, based on the complaints that were upheld.**

Investigations, accountability and redress in the context of reformatory and industrial schools: the Ryan report

23. Recalling the Committee's previous recommendations concerning the report of the Commission to Inquire into Child Abuse, known as the Ryan report, and allegations of torture and ill-treatment at reformatory and industrial schools, and noting the provision of redress to more than 15,000 victims by the Residential Institutions Redress Board, the Committee remains seriously concerned that the State party did not provide further information in support of the statement that its authorities have carried out "a sizeable number of investigations" into allegations of abuse at institutions that have resulted in prosecutions and convictions of perpetrators, or information requested by the Committee on the steps the State party has taken to encourage victims of criminal acts to come forward. The Committee is also concerned that the Government has affirmed that it did not intend to continue to provide any funding that may be required for assistance to victims beyond 2019, at which point the redress scheme and Caranua, the State body responsible for providing assistance, will be dissolved (arts. 2, 4, 12, 12, 14 and 16).

24. The State party should:

- (a) **Encourage victims of abuse suffered in residential institutions to cooperate with the Garda and ensure that all participants in the redress scheme are aware that they are not "gagged" from doing so;**
- (b) **Collect data on all criminal investigations undertaken by the Garda into allegations of abuse at the institutions dealt with in the Ryan report, as well as on**

whether these allegations resulted in prosecutions and convictions and on any sentences handed down to perpetrators, and include this information in the State party's next report to the Committee;

(c) Ensure that the State party continues to fulfil its obligation to ensure that victims of torture or ill-treatment obtain redress, including the means for as full a rehabilitation as possible.

Investigations, accountability and redress in the context of the Magdalen laundries

25. While noting the measures taken by the State party to address allegations of ill-treatment of women at the Magdalen laundries, including its creation of an ex gratia scheme that has provided over €25.5 million to 677 former Magdalen women to date, the Committee deeply regrets that the State party has not undertaken an independent, thorough and effective investigation into allegations of ill-treatment of women and children in the Magdalen laundries or prosecuted and punished the perpetrators, as recommended in its previous concluding observations. The Committee is concerned at reports that the State party has not undertaken sufficient efforts to uncover all available evidence of abuses held by private institutions, nor taken adequate steps to ensure that victims are able to access information that could support their claims because, in part, as the State party has acknowledged, "the records provided by the religious congregations were returned to them". The Committee is also concerned that the State party's ex gratia payment scheme does not apply to all women who worked in the Magdalen laundries and that survivors of the Magdalen laundries living outside Ireland may not be aware of its existence. The Committee also regrets that some of the recommendations made by Mr. Justice Quirke concerning redress for Magdalen survivors have not been fully implemented (arts. 2, 4, 12, 12, 14 and 16).

26. **The State party should:**

(a) Undertake a thorough and impartial investigation into allegations of ill-treatment of women at the Magdalen laundries that has the power to compel the production of all relevant facts and evidence and, if appropriate, ensure the prosecution and punishment of perpetrators;

(b) Strengthen the State party's efforts to ensure that all victims of ill-treatment who worked in the Magdalen laundries obtain redress, and to this end ensure that all victims have the right to bring civil actions, even if they participated in the redress scheme, and ensure that such claims concerning historical abuses can continue to be brought "in the interests of justice"; take further efforts to publicize the existence of the ex gratia scheme to survivors of the Magdalen laundries living outside Ireland; fully implement the outstanding recommendations on redress made by Mr. Justice Quirke; promote greater access of victims and their representatives to relevant information concerning the Magdalene laundries held in private and public archives; and provide information on these additional measures in the State party's next report to the Committee.

Accountability for past institutional abuses: Mother and Baby Homes

27. While the Committee appreciates the State party's creation of a Commission of Investigation into Mother and Baby Homes in February 2015, it is concerned at reports that its terms of reference do not allow it to investigate all institutions in the country at which abuses, including forced and illegal adoptions, may have occurred and that following the expected conclusion of the Commission's work in February 2018, its archives will be closed and will not be made available to the public (arts. 2, 4, 12, 13, 14 and 16).

28. The State party should ensure that it carries out an independent, thorough and effective investigation into any allegations of ill-treatment, including cases of forced adoption, amounting to violations of the Convention at all of the Mother and Baby Homes and analogous institutions, that perpetrators of any such acts are prosecuted and punished and that all victims of violations of the Convention obtain redress. The State party should ensure that information concerning abuses in these institutions are made accessible to the public to the greatest extent possible.

Symphysiotomy

29. The Committee expresses concern about the past practice in the State party of subjecting women and girls to symphysiotomy childbirth operations, which entail surgical division of a pelvic joint, and at reports that this procedure has caused many survivors to experience severe pain and suffering that continues to the present. The Committee is concerned at reports that doctors declined to perform alternative procedures that would have caused substantially less pain and suffering for religious rather than medical reasons. While noting that the State party has commissioned studies concerning this practice and has established a symphysiotomy payment scheme from which more than 570 women have benefited, the Committee is concerned that it does not provide victims of this practice with payments calculated on the basis of an individualized determination of their needs (arts. 2, 12, 13, 14 and 16).

30. The State party should initiate an impartial, thorough investigation into the cases of women who have been subjected to symphysiotomy, ensure that criminal proceedings are initiated with respect to any perpetrators of violations of the Convention and ensure that survivors of symphysiotomy obtain redress, including compensation and rehabilitation, determined on an individual basis.

Violence against women, including domestic and sexual violence

31. While noting the steps taken by the State party to address violence against women, including domestic and sexual violence, and taking note of the updated data provided by the State party after the constructive dialogue on complaints received and prosecutions undertaken regarding sexual offences and breaches of domestic violence orders, the Committee remains concerned that a significant percentage of Irish women reported having experienced physical and/or sexual violence, and at reports that in many cases the authorities have not sought appropriate punishments for perpetrators of sexual and domestic violence. While the Committee welcomes the introduction of the Domestic Violence Bill, it reiterates its concern that the bill does not presently contain a specific offence of domestic violence; it welcomes the statement made by the delegation during the constructive dialogue that the Government is considering the possibility of amending it. The Committee also reiterates its concern that the bill does not provide an exception for those unable to afford the minimum contribution required for legal aid. While recalling the Committee's previous concluding observations, and taking note of the report of the Citizens' Assembly convened by the Government that is expected to be addressed in a referendum in the State party and of the debate taking place in Ireland on an eventual legislative reform regarding abortion, the Committee expresses concern at the severe physical and mental anguish and distress experienced by women and girls regarding termination of pregnancy as a result of the State's policies (arts. 2, 4, 10, 12, 13, 14 and 16).

32. The Committee recommends that the State party:

(a) **Amend the Domestic Violence Bill to include a specific criminal offence of domestic violence that encompasses physical and psychological abuse committed within a relationship and to exempt women seeking protection from domestic violence from the minimum contribution required for legal aid if they cannot afford it;**

(b) **Ensure the full implementation of the National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021, including by gathering data on the extent of such violence;**

(c) **Ensure that all allegations of violence against women, including domestic and sexual violence, are registered by the police and promptly, impartially and effectively investigated and the perpetrators prosecuted and punished in accordance with the gravity of the crime;**

(d) **Ensure that State funding for domestic and gender-based violence services is sufficient to ensure that all victims of these offences, including migrants and the indigent, have access to medical and legal services, counselling, safe emergency accommodation and shelters;**

(e) **Ensure the provision of post-abortion health care for women irrespective of whether they have undergone an illegal or a legal abortion.**

Female genital mutilation

33. While the Committee welcomes the State party's adoption of legislation criminalizing the removal of a girl from Ireland for the purpose of female genital mutilation and failing to report the crime to authorities, it remains concerned at reports that the law has not been used as a basis for prosecuting perpetrators, despite the fact that the number of women affected by female genital mutilation in Ireland has increased during the reporting period.

34. **The Committee recommends that the State party investigate and prosecute the crime of removing a girl from Ireland for the purpose of committing female genital mutilation, step up its efforts to deter this practice and reconsider its position regarding amending the double criminality requirement in its domestic legislation, noting that another State party's failure to criminalize the practice does not relieve Ireland of its obligations under the Convention.**

Abuse of older persons and persons with psychosocial disabilities in residential care

35. The Committee is concerned at reports that older persons and other vulnerable adults are being held in public and privately operated residential care settings in situations of de facto detention, and at reports of cases in which such persons were subjected to conditions that may amount to inhuman or degrading treatment, including the improper use of chemical restraints. The Committee regrets that although the State party has enacted new legislation — the Assisted Decision-making (Capacity) Act 2015 — that will substantially alter its procedures regarding involuntary confinement in such facilities, the substantive provisions of this law have not been commenced and, as a result, the Lunacy Regulations (Ireland) Act 1871 continues to be in effect. The Committee is further concerned at reports that the authorities currently entrusted with monitoring residential care facilities are not sufficiently independent nor adequately resourced to perform this function effectively, and at reports that the Ombudsman cannot receive complaints about clinical judgments in privately operated nursing homes.

36. **The State party should prioritize the commencement of the Assisted Decision-making (Capacity) Act 2015 and provide adequate resources for its implementation and repeal the Lunacy Regulations (Ireland) Act 1871 as expeditiously as possible, and ensure that the capacity of persons who are presently deemed wards of the court is reviewed under the new legislation and that those undergoing such reviews are entitled to legal aid. The State party should also ensure that the Inspection of Places of Detention Bill provides for independent monitoring of residential and congregated care centres for older people and people with disabilities within the national preventive mechanism, and that people residing in such facilities can submit complaints, including regarding clinical judgments, to these independent monitors. The State party should also ensure that all allegations of ill-treatment in residential care settings are promptly, impartially and effectively investigated by its authorities, that the perpetrators are prosecuted and punished and that victims are provided with redress.**

Follow-up procedure

37. The Committee requests the State party to provide, by 11 August 2018, information on follow-up to the Committee's recommendations on the ratification of the Optional Protocol, on strengthening the independence of the Garda Síochána Ombudsman Commission, and on investigating allegations of ill-treatment of women in the Magdalen laundries and ensuring that all victims obtain redress (see paras. 8, 20 and 26). In the same context, the State party is invited to inform the Committee about its plans for implementing within the coming reporting period some or all of the remaining recommendations in the concluding observations.

Other issues

38. **The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet party.**
 39. **The State party is requested to disseminate widely its report to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**
 40. **The State party is invited to submit its next periodic report, which will be its third, by 11 August 2021.**
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