

# **Committee against Torture**

## **ADVANCE UNEDITED VERSION**

### **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 1548<sup>th</sup> and 1551<sup>st</sup> meetings, held on 27 and 28 July 2017 (CAT/C/SR.1548 and CAT/C/SR.1551), and adopted the following concluding observations at its 1565<sup>th</sup> and 1566<sup>th</sup> meetings (CAT/C/SR.1565 and CAT/C/SR.1566) 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 (IHREC) Act 2014 and the merger of the Human Rights Commission and the Equality Authority to create the Irish Human Rights and Equality Commission as Ireland'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) Bill, replacing the Probation of Offenders Act 1907, in February 2014; the Fines (Payments and Recovery Act), which reduced considerably 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 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 (TPI); and the launching of the Irish Prison Service Strategic Plan 2016-2018 envisaging the elimination of "slopping out" and the modernisation 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

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

of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalens Laundries, known as the McAleese Report, on 5 February 2013; the apology by the Prime Minister of Ireland (Taoiseach) Mr. Enda Kenny to the survivors of residential institutional abuse made in Parliament (Dail), 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 Magdalens 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 Magdalens women, from 1 July 2015;

(f) The rolling out of Garda 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 (CFA), 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 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 Síochána to make disclosures to the Garda Síochána Ombudsman Commission (GSOC); and the Garda Síochána Amendment Act 2015 expanding the remit and powers of the GSOC;

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

5. The Committee welcomes the standing invitation extended by Ireland to all thematic United Nations special procedures mandate holders and the delegation's statement during the constructive dialogue with the Committee that Ireland would agree to a visit by the UN 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 (see 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 CAT/C/IRL/CO/1/Add.2). In view of that information, and 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 (IHREC)), have been substantially implemented. The Committee considers that its recommendations to implement the recommendations of 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 Catholic Church orders, prosecute and punish perpetrators of such abuse, and provide redress to the victims, have been partially implemented (see paragraph X of the present

document). The Committee considers that its recommendations to investigate allegations of ill-treatment of women at the “Magdalen Laundries” operated by Catholic Church orders, prosecute perpetrators and ensure that victims obtain redress and have an enforceable right to compensation, have not been implemented (see paragraph x of the present document). 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 paragraph x of the present document).

### **Independent monitoring of places of deprivation of liberty and OPCAT**

7. While noting that the Inspector of Prisons, the Prison Visiting Committees, the Health Information and Quality Authority (HIQA) 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 to the Convention (“OPCAT”) 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. (Articles 2, 11, 16)

8. **The State party should:**

- (a) **Ratify forthwith the Optional Protocol to the Convention (“OPCAT”) 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 is concerned that the provision of fundamental safeguards by the police is not effectively monitored, noting the delegation’s statement during the dialogue with the Committee that they were not aware of any case in which a police officer has 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 to assess claims for asylum and subsidiary protection and the information provided by the State party during the dialogue indicating that asylum seekers are only placed in detention as exceptional measures, 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 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 and the Committee reiterates its concern that individuals denied leave to land should have access to legal aid and interpretation prior to being returned to their point of embarkation for the State (arts. 3, 11, 12, 13 and 16).

12. **The State party should:**

**(a) Enshrine in its legislation the principle that detention of asylum-seekers should be used 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, provide them with care and protection to avoid re-traumatization, 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 country-wide and to 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 that they can understand, and provide the Committee with data on the countries of origin of persons denied "leave to land" and the point of embarkation for the State party to which they were returned in its next periodic report.**

#### **Training**

13. The Committee is concerned at the absence of specific training of public officials on the absolute prohibition of torture, on dealing with victims of gender-based, including domestic and sexual violence, as well as the lack of training programmes for 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 coming 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, 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 for 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, the measures taken to address overcrowding and improve material conditions, including the significant reduction in the number of prisoners who have 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 sentenced 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 of concern as there remain 56 persons who still have to “slop out” and 1,539 prisoners who are required to use toilet facilities in the presence of another inmate, in cells where prisoners also have to take their meals;
- (e) Systematic deficiencies in the health care services in the prison system, including serious understaffing regarding prison personnel as well as a shortage of qualified medical and psychiatric staff and psychologists;
- (f) That solitary confinement has been used for prolonged periods, including as a disciplinary measure;
- (g) Prisoners on protection are held under a poor regime, including lack of outdoor exercise, and with almost no contact with the outside world;
- (h) Prisoners continue to be handcuffed when transported between facilities and during external medical examinations.

**16. The State party should:**

- (a) Continue to strengthen the measures aimed at decreasing further the number of persons in the prison system and to reduce overcrowding with a view to bringing conditions of detention in line with 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 on 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 in order to eliminate completely the “slopping out” system, 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, including psychiatric, personnel and psychologists, and enable the referral of inmates requiring specialized medical care to outside medical facilities without delays for 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 prolonging 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 on protection are not penalized by their situation, 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 (CPT);

(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 consultations of 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 of prisoners with mental disorders and psycho-social disabilities (arts. 2, 11 and 16).

18. **The State party should:**

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

(b) Enhance steps 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 the 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 a person with psycho-social disability and ensure that they receive appropriate therapeutic treatment.

**Police complaints mechanism**

19. While appreciating the establishment of the Garda Síochaná Ombudsman Commission (GSOC), the Committee is concerned about:

(a) The capacity of the Garda Síochaná Ombudsman Commission (GSOC) to function independently and effectively and to investigate allegations of torture and ill-treatment, including with regard to financial and staffing limitations;

(b) The “leaseback” practice whereby complaints referred to GSOC 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 An Garda Síochaná;

(d) Limited public awareness about its 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 Síochaná Ombudsman Commission (GSOC) 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 GSOC which may relate to torture or ill-treatment and on the final outcome of such complaints processed by the GSOC;

(d) Ensure that victims have access to effective remedies and reparation;

(e) Sensitize the public about the existence and functioning of the GSOC.

### **Complaints in the prison system**

21. While taking note of the Irish Prison Service Complaints Policy introduced in 2014 that initiated a new complaints model with four separate categories of complaints (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 lack of or incomplete documentation of complaints, delays in investigations by external investigators, gaps in referrals to police in appropriate cases, confusion about the complaints categorization as well as delays in their resolution; and that there is reportedly no confidence in the complaints system, that prisoners fear that they would not be protected if they were to make a complaint and were therefore discouraged from making complaints (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 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 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 affirmed that it has no intention of continuing to deliver 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 An Garda Síochaná 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 An Garda Síochaná into allegations of abuse at institutions dealt with in the Ryan Report, as well as on whether these resulted in prosecutions and convictions, and 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 rehabilitation as possible.

### **Investigations, accountability and redress in the context of Magdalens Laundries**

25. While noting the measures taken by the State party to address allegations of ill-treatment of women at the Magdalens Laundries, including its creation of an ex gratia scheme that has provided over €25.5 million to 677 former Magdalens 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 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 of Justice Quirke concerning redress for Magdalene survivors have not been fully implemented (arts. 2, 4, 12, 12, 14 and 16).

**26. The State party should:**

**(a) Undertake a thorough, 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 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 Justice Quirke; and 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 should be made accessible to the public to the greatest extent possible.**

**Syphphysiotomy**

29. The Committee expresses concern about the past practice in the State party of subjecting women and girls symphysiotomy childbirth operation, which entails 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 benefitted, 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 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 there are many cases in which 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 offense of domestic violence and 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 Domestic Violence 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 of the State party which is expected to be addressed in a referendum in the State party, and the present 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 due to the State 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 required contribution 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 offenses, 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 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 FGM 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 (FGM), step up the State party's efforts to deter this practice, and reconsider the State party's position regarding amending the double criminality requirement in its domestic legislation, noting that another State party's failure to criminalize FGM does not relieve Ireland of its obligations under the Convention against Torture.**

#### **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 that will substantially alter its procedures regarding involuntary confinement in such facilities – the Assisted Decision-Making (Capacity) Act 2015 – the substantive provisions of this law have not been commenced, and as a result the Lunacy Regulations (Ireland) Act 1871 continue 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 further ensure that all allegations of ill-treatment in residential care settings are promptly, impartially, and effectively investigated by its authorities and the perpetrators are prosecuted and punished and victims 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 to the Convention, strengthening the independence of the Garda Síochaná Ombudsman Commission (GSOC) and on investigating allegations of ill-treatment of women in the Magdalén 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 the third periodic report under article 19 of the Convention, by 11 August 2021.**