

CHECK AGAINST DELIVERY

**Opening remarks by Minister of State at the Department of Justice and
Equality**

David Stanton TD

**Discussion of Ireland's Second State Report under the UN Convention
against Torture and other Cruel, Inhumane, Degrading Treatment or
Punishment (UNCAT) with the UN Expert Committee**

27 July 2017

Chairman, Distinguished Members of the Committee, Ladies and Gentlemen.

Good morning. I am David Stanton, T.D., Minister of State at the Department of Justice and Equality. I am the head of the Irish delegation that has travelled here for Ireland's second examination under Article 19 of the UNCAT Convention.

Before introducing our delegation, I would firstly like to thank the Committee for this invitation to appear before you. In particular I would like to thank Mr. Jens Modvig, Chairman, and to those assigned by this Committee as Rapporteurs for Ireland's report – Vice-Chair, Ms. Felice Gaer from the US, and Ms. Ana Racu from Moldova.

I would also like to thank Ambassador O'Brien for her kind words of introduction. Sadly, this will be the last time Ambassador O'Brien will be attending a Committee such as this in Geneva. She will shortly be transferring to our Embassy in Paris. I am sure all here will join me in wishing her well in the future.

It is my pleasure to introduce the other members of our national delegation today as follows:

- Michael Donnellan, Director General, Irish Prison Service
- Jimmy Martin, Assistant Secretary, Prisons Policy Division, Department of Justice and Equality
- Siobhan O'Halloran, Assistant Secretary, Mental Health Unit, Department of Health
- Noel Dowling, Principal Officer, Prisons Policy Division, Department of Justice and Equality
- Martina Feeney, Director, Human Rights Unit, Department of Foreign Affairs and Trade
- John Garry, Principal Officer, Criminal Law Reform Division, Department of Justice and Equality
- Greg Heylin, Principal Officer, COSC (The National Office for the Prevention of Domestic, Sexual and Gender-based Violence), Department of Justice and Equality
- Deaglán Ó Briain, Principal Officer, Equality Division, Department of Justice and Equality
- Tracy O'Keeffe, Principal Officer, Civil Law Reform Division, Department of Justice and Equality
- Nuala Ni Mhuircheartaigh, Deputy Permanent Representative (Human Rights), Permanent Mission of Ireland to the United Nations, Geneva
- Kathleen Connolly, Assistant Principal Officer, Policing Division, Department of Justice and Equality
- Alison Enright, Assistant Legal Advisor, Department of Foreign Affairs and Trade
- Sarah Rose Flynn, Assistant Principal Officer, International and Research Policy Unit, Department of Health
- James Gibbs, Assistant Principal Officer, Mother and Baby Homes Investigation Unit, Department of Children and Youth Affairs
- Keith Lynn, Assistant Principal Officer, Prisons Policy Division, Department of Justice and Equality
- Michael Murchan, Assistant Principal Officer, Mental Health Unit, Department of Health

- Aongus Ó hAonghusa, Assistant Principal Officer, Redress Unit, Department of Education & Skills
- Mick Quinn, Assistant Principal Officer, Irish Naturalisation and Immigration Service, Department of Justice and Equality
- John Harding, Higher Executive Officer, National Patient Safety Office, Department of Health
- Yvonne Phillips, Private Secretary to Minister of State Stanton, Department of Justice and Equality
- Chris Quattrociocchi, Higher Executive Officer, Prisons Policy Division, Department of Justice and Equality
- Niamh Clarke, Attaché, Permanent Mission of Ireland to the United Nations, Geneva
- Sarah Groarke, Attaché, Permanent Mission of Ireland to the United Nations, Geneva

Civil Society present

Ireland is fortunate in having a vibrant and independent community and voluntary sector that advocates on behalf of those whose voices need to be heard when Government is making policy choices. This will be evident to the Committee by the numerous shadow reports you have received in connection with this examination. I am delighted that so many members of our civil society groups, and our Irish Human Rights and Equality Commission are here today, or are observing proceedings online.

We undertook a consultation process with these groups last month in order to share as much information as possible in advance of this meeting in Geneva.

Mr. Chairman, Ireland has a strong human rights record. We regard the UNCAT process as a key component of those international human rights instruments to which we are a party. It is through these instruments that we seek to protect and vindicate rights of persons both at home and abroad. The process whereby the international community holds each UN Member State to account in relation its record on torture, and other cruel, inhuman or degrading

treatment is one we welcome. We look forward to engaging in an open and frank dialogue with the Committee.

In these opening remarks, I do not intend to re-state what has already been covered in that Second Report, which was submitted in November 2015 and which will be considered here over the next two days. Instead, I would like to update you on the many positive developments in key areas of interest since that report issued over 18 months ago. I hope that these positive developments clearly illustrate Ireland's unwavering commitment to honouring both the letter and spirit of the Convention.

Children no longer in adult prison system

To start, I am pleased to report that Ireland no longer sends children to adult prisons. With effect from 31 March, 2017, our Courts commit all 17 year olds to the Children's Detention Centre at Oberstown, rather than to St. Patrick's Institution. This has enabled St. Patrick's Institution to be closed with effect from 7 April, 2017 and all references to it are now removed from the statute books. This is in fulfilment of a long-standing Government policy commitment.

The Oberstown Campus, to where all 16 and 17 years sentenced to detention by the Courts are now sent, has undergone a capital expenditure programme of €56 million over the last few years. This development has resulted in 6 new residential units on campus, a new educational and recreational facility and a new administration building which includes facilities for meetings as well as a fully furnished medical suite.

Ending of "Slopping out"

Staying in the area of prisons, I am sure the Committee will welcome the great strides that have been made in achieving the complete elimination of the practice of 'slopping out' in the Irish Prison system. With the construction of a new prison in Cork, which opened on 12 February 2016, and the refurbishment of Mountjoy prison, 99% of prisoners now have access to in-cell sanitation. The latest published report on this issue from April 2017 shows

that of the 3,750 persons in custody at that time, only 56 (19 males in Limerick & 37 males in Portlaoise), were subject to 'slopping out'. All of these prisoners – totalling approximately 1% of the overall prison population - were in single occupancy cells.

The Irish Prison Service's Capital Strategy 2016-2021 outlines plans for the complete replacement of the outdated accommodation in Limerick and Portlaoise prisons as well as improvements across a number of other prisons. The plans for the redevelopment of the remaining part of Limerick prison subject to 'slopping out' are at a very advanced stage. Building work, which will have the effect of ending slopping out in the prison, will commence in early 2018 and will be completed in late 2020. On completion of the Limerick and Portlaoise projects, "slopping out" will be eliminated across the prisons estate. The Irish Prison Service continues to implement its capital strategy plan 2016 -2021.

As well as the elimination of "slopping out", this strategy will see a modernisation of all outdated accommodation within the prison Estate, and improvements to Work and Training facilities and visiting facilities within the Estate.

Prisoner Complaints System

Our independent Inspector of Prisons – the late and much missed Judge Michael Reilly - made a report on improvements to the complaints system for prisoners. The Government fully accepted all recommendations made in that report. One of the key recommendations is that our independent Office of the Ombudsman has an oversight role in the complaints system for prisoners. The Irish Prison Service (IPS) and officials of my Department have agreed a process with the Ombudsman's office and the IPS is currently working through the various technical issues involved, including the creation of an IT based complaints recording system. We expect that the new complaints system will be approved by the Prisons Management Board by the end of the year.

UN Optional Protocol (OPCAT)

The Optional Protocol to the UN Convention against Torture – otherwise known as OPCAT - provides for a system of inspections of places of detention at UN level, and at national level by what the optional protocol refers to as National Preventative Mechanisms.

While work on the general scheme of an Inspection of Places of Detention Bill, which will include provisions to enable ratification of OPCAT is well advanced, we are conscious of the need to engage in advance with civil society and consult on the mechanisms necessary for the ratification and implementation of the OPCAT. The Bill aims to provide for inspection of all places of detention in the Justice area - prisons, Garda stations, courts. My Department hosted an Open Policy Debate on 23 November 2015 on the concept of a Criminal Justice Inspectorate, and in particular, the role such an Inspectorate might have in enabling the ratification of **OPCAT**. A revised consultation document was circulated last November, the focus of which is the establishment of a National Preventive Mechanism for the purposes of inspections of places of detention under the OPCAT.

It is our intention to consider all of these contributions in advance of finalising the General Scheme of the Inspection of Places of Detention Bill particularly in relation to the provision of National Preventive Mechanisms for the purposes of inspection under the OPCAT.

New Prison Rules on solitary confinement

I will take this opportunity to mention that the Minister for Justice and Equality, has recently made a Statutory Instrument entitled “Prison (Amendment) Rules 2017 (no. 276 of 2017) which takes into account the UN ‘Nelson Mandela Rules’ in respect of the issue of solitary confinement. The Mandela Rules define solitary confinement as being restricted to one’s cell or room for more than 22 hours a day without meaningful human contact. The new provision specifies that this out-of-cell time means a minimum of two hours with the

facility for meaningful human contact, that phrase now being defined as interaction between a prisoner and another person of sufficient proximity so as to allow both to communicate by way of conversation. These legal rights will be enforceable in the Courts.

Reducing overcrowding and alternatives to custody contribution

The Irish Prison Service is committed to taking effective measures to reduce overcrowding in prisons. Significant investment has taken place in our prison estate in recent years with in excess of 900 new prison spaces having been constructed and brought into use since 2007. The provision of high quality prison accommodation for female prisoners in Limerick Prison will more than double its current capacity and the development in 2018 of step down facilities for women in the Dublin region will help to address overcrowding in Limerick prison and in the Dochas centre.

In addition the Irish Prison Service continues to implement the innovative & successful Community Return Programme, an incentivised scheme for earned temporary release under which offenders who pose no threat to the community are offered early temporary release in return for supervised community service.

Furthermore, alternatives to custody continue to be pursued and legislation has already been passed. The Fines (Payment and Recovery) Act 2014 is fully enacted and provides that the Court imposing a fine shall take into account a person's financial circumstances. The Fines Act provides for an enhanced instalment payment regime.

In addition, the introduction of the Criminal Justice (Community Service) (Amendment) Act, 2011 requires judges when considering imposing a sentence of imprisonment of 12 months or less to first consider the appropriateness of community service as an alternative to imprisonment. It is expected that these measures, taken together, will significantly reduce the need to commit persons to prison for non-payment of fines and short sentences.

Improvements in International Protection Processes

In the area of international protection, the International Protection Act 2015 formally commenced on 31 December 2016. This represents a fundamental reform of the system for assessing the applications of those seeking international protection in Ireland. It ensures that all aspects of a person's claim - Asylum, Subsidiary Protection and Permission to Remain - are considered together rather than sequentially, as heretofore. This new single application procedure will significantly accelerate the protection determination process and by extension will reduce the length of time applicants spend in State provided accommodation.

Domestic Violence

In the area of domestic violence, the Government has taken a wide range of initiatives to tackle this including the publication in January 2016 its Second National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021. In February this year, the Government published the Domestic Violence Bill which is progressing through our parliament. The Bill enhances the legislative measures available within the civil law system to support and protect victims. It also contains measures required under the Istanbul Convention.

The Criminal Justice (Victims Bill) was published on 29 December 2016 and has passed second stage in our parliament. The Bill introduces, for the first time, statutory rights for all victims of crime, including victims of domestic violence

Abortion

In Ireland termination of pregnancy is regulated by constitutional and statute law. Abortion has been a highly politicised and divisive issue in Ireland for a number of decades. It has been dealt with by way of referendums; it has been

subject to Supreme Court decisions: it has been subject to UN commentaries; and it has been subject to extensive parliamentary scrutiny.

In trying to find a resolution suitable for such a complex and deeply personal issue, the Government established a Citizen's Assembly, in line with its Programme for Partnership Government commitment to consider a number of matters including constitutional reform. Judge Mary Laffoy, a Justice of the Supreme Court, chairs the Assembly, which is made up of ninety-nine citizens chosen on a random basis from the population.

The Assembly was required to first consider the Eighth Amendment of the Constitution, i.e., Article 40.3.3 on the right to life of the unborn. It held a series of meetings to consider the Eighth Amendment to the Constitution between 15 October 2016 and 23 April 2017. It gathered facts in relation to the issue, listened to experts in the medical, legal, and ethical field and to advocates' views on the topic. The Assembly's recommendations will be considered by a Special Oireachtas Committee, which will be asked to report to the Oireachtas within three months of its first public meeting.

Social Legacy Issues

Ireland accepts that it cannot be proud of certain aspects of its social history. Many of the issues which arise are addressed in the shadow reports this Committee has received. I would like to take the committee through several of these difficult issues and highlight what the Government, and its predecessors, has done to address them.

Magdalen Laundries

Firstly, I would just like to update the Committee on the operation of the Magdalen Restorative Justice Ex-gratia scheme. The redress scheme was set up following the publication of the report in February, 2013 of an Inter-Departmental Committee set up to establish the facts of the State's involvement with the Magdalen Laundries.

To date, over €25.5 million has been paid out to 677 women under the Magdalen Laundries Redress Scheme. The scheme remains open to new applications and 10 new applications have been received so far this year.

Residential Redress Scheme

The independent Residential Institutions Redress Board was established in December 2002 pursuant to the Residential Institutions Redress Act, 2002 to make fair and reasonable awards to persons who, as children, were abused while resident in industrial schools, reformatories and other institutions subject to state regulation or inspection.

By 17th May 2017, the Redress Board had received a total of 16,650 applications and had finalised 16,649 cases. Awards were made in accordance with the framework proposed by the independent Compensation Advisory Committee which advised on the appropriate levels of compensation for injuries related to childhood abuse and was published in January 2002.

The average value of awards made at 17th May 2017 is € 62,250. The overall expenditure on the scheme is expected to be some € 1.25bn.

Mother and Baby Homes

In 2015, the Government established an independent Commission of Investigation into Mother and Baby Homes to provide a full account of what happened to vulnerable women and children in these institutions during the period 1922 to 1998.

The Commission's Terms of Reference provide for a detailed examination of living condition and care arrangements and the pathways of entry and exit of the women and children who were residents of these institutions. The Commission has prepared two Interim Reports to date, in July 2016 and September 2016. Both were published by the Government.

This statutory Commission is a vital step on the path we have commenced to establish the truth of what happened in these institutions. The Irish Government is committed to this important and sensitive work and we will respond comprehensively to the findings and recommendations of the Commission when it completes its work. Its final reports are due to be completed by February 2018.

Conclusion

This opening remarks are not intended to address all of the queries raised by the Committee or in the shadow reports submitted to you. We look forward to an engaging and constructive dialogue over the next two days, to listening to the expert opinions of the Committee. Mr. Chairman, on my own behalf and on behalf of my team of senior colleagues here present, we look forward to responding to the best of our ability to all the queries and comments you will put to us over the course of this examination.

Ends