

Survivors
of
Symphysiotomy

Submission
to
The United Nations Committee Against Torture

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Survivors of Symphysiotomy (SoS) is the national membership organisation of some 300 survivors of symphysiotomy and pubiotomy. A campaigning, all-volunteer group, unfunded by the State and independent of government, SoS members range in age from 47 to 91 and are spread across the 26 counties of Ireland, with a small number in Northern Ireland, England, Malta, the United States and Australia. From 1949 to 1987, these living survivors had their pelvis broken in childbirth in operations that were performed gratuitously and without consent in 24 hospitals and maternity homes in Ireland, the only industrialised country in the world to practise these discarded and dangerous operations in the mid to late 20th century.



Survivors of Symphysiotomy,
42 Rathdown Road, Phibsborough,
Dublin 7, Ireland.

Tel: 003531 83 88 168
00353 86 81 80 254

Email: info@symphysiotomyireland.com

www.symphysiotomyireland.com
facebook.com/pages/SoS-Survivors-of-Symphysiotomy

Table of Contents

I. Focus and basis of submission	1
II. Summary of complaint to the Committee against Torture	2
III. Recent and current testimonies and reactions	4
IV. A brief history of symphysiotomy and pubiotomy	7
V. Breaches of obligation under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	8
VI. Acts of torture and other cruel, inhuman or degrading treatment	8
VII. Infliction of severe physical and psychological harm	10
VIII. Deliberate infliction of acts of torture and other cruel, inhuman or degrading treatment	14
IX. Acts of torture and other cruel, inhuman or degrading treatment for a prohibited purpose	16
X. Public official involvement and the failure to prevent acts of torture and other cruel, inhuman or degrading treatment	20
XI. Continuing failure to provide an effective remedy	23
XII. Recent developments and conclusion	32
XIII. The responsibility of the Irish State	33
XIV. Questions for the Irish State	33
Annexe Statements from survivors of symphysiotomy and pubiotomy	35

I Focus and basis of submission

1 This submission relates to the torture and cruel, inhuman and degrading treatment, constituting past and continuing violations of the Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the 'Convention Against Torture'), the Irish Constitution and law of Ireland, in respect of the performance of the operations of symphysiotomy and pubiotomy in Ireland in the absence of clinical need and of patient consent from 1941 to date.

2 Symphysiotomy is a cruel and dangerous childbirth operation that severs one of the main pelvic joints (the symphysis pubis) and unhinges the pelvis, a pivotal structure of the human body. A variant of this operation, pubiotomy - even more high risk - sunders the pubic bone rather than the symphysis joint and results in a compound fracture of the pelvis.¹The performance of these operations without patient consent and in the absence of medical necessity in preference to a far safer and long established surgery - Caesarean section - constituted torture and acts of cruel, inhuman or degrading treatment and breached human rights. Many women were left permanently disabled, their lives irreparably damaged as a result of this procedure, while their babies, in some cases, died or were left brain damaged or otherwise injured. Ireland was the only country in the resource rich parts of the world to practise this discarded surgery in the mid to late 20th century. An estimated 1,500 of these 18th century operations were performed there from 1941-2005: some 300 casualties survive today. They have been waiting for truth and justice from a recalcitrant Irish State for well over a decade, since these abuses were first brought to light.

3 These genital surgeries were performed as elective or planned procedures in preference to Caesarean section, the norm for difficult births in Ireland since, at the latest, the end of the 1930s. Caesarean section was associated with sterilisation and contraception, however. Doctors hostile to birth control sought to widen the pelvis to enable future childbearing without limitation. Some women had their pelvises severed under general anaesthetic during pregnancy, before the onset of labour, or postnatally, following delivery by Caesarean section while the wound was still open, again under general anaesthetic. But most women were left for many hours in labour before being set upon by hospital staff, and, frequently under the gaze of male students, operated upon *without their consent*. Then, still in labour, the infant's head acting as a battering ram, they were left for as long as it took, hours or days, before being forced to push the baby out through the agony of an unhinging pelvis. Women unable to delivery vaginally following symphysiotomy or pubiotomy were eventually delivered by Caesarean section² by doctors who had earlier withheld this operation from them.

4 In every case, the injuries inflicted by medical practitioners were compounded by their failure to treat them as surgical patients and this negligent care served to maximise the opening of the pelvis. Indeed, the success of the surgery in ensuring future vaginal births was premised on the *partial* recovery of the patient. Had the joint healed fully or the bone knitted properly, then the permanent increase in pelvic diameter sought by doctors would have been unlikely, and the operation would

1 Richard E Tottenham 1931 *A Handbook of Midwifery*. Churchill, London, 242.

2 Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital. *Clinical Report Maternity Department 1962-63*: 35.

have failed its objective, which was to guarantee future vaginal births without limitation, by averting future Caesarean sections. Hospital staff failed to nurse women as surgical patients, often leaving the pelvis unbound, and forcing them to walk on their broken pelves within a day or two of surgery. Withholding appropriate post-operative care maintained the fiction (written on the hospital records) that these were 'normal births'. Women were usually discharged from hospital after a week or two, without medical advice or painkillers. Hospitals failed to follow up their patients and there was little or no community care. Family doctors providing a maternity service on behalf of the State and State employed public health nurses generally ignored the fact that their patients - young and previously healthy women - were unable to walk. Most women left hospital not knowing their pelves had been broken during childbirth. They made this discovery half a century later, through the media, following a lifetime, for many, of walking difficulties, incontinence, chronic pain and other sequels of symphysiotomy and pubiotomy.

II Summary of complaint

5 On 11 April, 2002, Ireland ratified the Convention Against Torture. In accordance with Articles 2,12,13,14 and 16 of the Convention, Ireland is obliged to prevent acts of torture, cruel, inhuman or degrading treatment and must ensure in its legal system that any victim of torture shall have her/his case examined impartially and promptly and shall ensure that any victim of torture shall obtain restitution and has an enforceable right to fair and adequate compensation.

6 Ireland has violated, and continues to violate, Articles 2, 12, 13, 14 and 16 of the Convention Against Torture - together with Articles 2, 7 and 17 of the International Covenant on Civil and Political Rights (hereinafter referred to as 'the Covenant') - for the following reasons:

- i. directly employing agents of various authorities of the State and of publicly owned hospitals that performed the medically unjustified and destructive operation of symphysiotomy and pubiotomy;
- ii. allowing and overseeing the performance of the medically unjustified and destructive operation of symphysiotomy and pubiotomy in private hospitals that delivered maternity services on behalf of the State in Ireland ;
- iii. failing in its obligation under the aforementioned conventions and under Article 3 of the European Convention of Human Rights and Fundamental Freedoms to put in place mechanisms to protect against the abuses of human rights constituted by the operations in question, which were carried out without patient consent on an estimated 1,500 women in Irish hospitals and maternity homes between 1941 and 2005; and
- iv. willfully failing to discharge its monitoring obligation under the UN General Assembly Body of Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law.

7 The abuses in question here were perpetrated upon women and girls because of religious

zealotry, for the purposes of medical experimentation and obstetric training, for reasons based on discrimination rooted in gender, in the terms of Article 1 of the Convention Against Torture. But for the fact that the objects of abuse were pregnant - often young and vulnerable women having their first child, knowing little of the reproductive process and unfamiliar with procedures relating to obstetrics - they would not have had these abusive operations performed on them nor suffered the appalling and often devastating consequences.

8 These women and their families continue to suffer the effects of the violations and of the cruel, inhuman and degrading treatment to which they were subjected. Yet, despite repeated calls from them and from their representative organisation, Survivors of Symphysiotomy ((hereinafter referred to as 'SoS'), from numerous members of both Houses of Oireachtas na h-Éireann, the Irish national Parliament, Ireland has failed, since it ratified the Convention on 11 April 2002, to discharge its obligations under Articles 12 and 13 of the Convention Against Torture. In spite of being presented with ample evidence that there are reasonable grounds to believe that acts of torture, cruel, inhuman or degrading treatment have been committed in the territory under its jurisdiction, the State has failed in its obligation to the victims to vindicate their right to an effective remedy and, under Article 14, their right to reparation by:

- i. Failing to initiate a prompt, independent and impartial inquiry;
- ii. Failing to provide fair and adequate restitution to survivors of symphysiotomy and pubiotomy for the damage sustained as a result of these wrongful operations.

9 Ireland's continuing failure to deal appropriately, in conformity with its international human rights obligations, with the abusive operations of symphysiotomy and pubiotomy amounts to continuing degrading treatment in violation of Article 16. There has been no official acknowledgement by the State that survivors are victims of a grave injustice. Instead, the State's reaction has been characterised by obfuscation, denial and deference to the Royal College of Physicians of Ireland) and its constituent body, the Institute of Obstetricians and Gynaecologists (hereinafter referred to as 'the IOG'), whose members perpetrated these abuses. Many of the women are conscious of their advancing years and the State's obdurate refusal since 1999 to acknowledge the very serious wrong done to them leads them to believe that the State has adopted a 'deny until they die' policy.

10 While the acts which are the subject of this submission were performed before Ireland's ratification of the Convention Against Torture, the severe physical and mental suffering of the survivors is continuing. Furthermore, the Irish State's failure to provide an effective remedy to survivors of symphysiotomy and pubiotomy gives rise to an ongoing violation of Articles 13 and 14 of the Convention Against Torture. Consequently, the acts complained of constitute torture, cruel, inhuman or degrading treatment and fall within the temporal scope of Ireland's obligations pursuant to the Convention Against Torture. The above charges are elaborated below, accompanied by background evidence of the cruel, inhuman and degrading treatment to which the women in question were subjected in Irish hospitals, both those directly operated by the public authorities and those private or voluntary hospitals which were providing maternity services on behalf of the State, in fulfillment of its statutory duty to provide maternity care, but in respect of which the State had and has an inherent duty to prevent violations of the Convention.

11 In bringing the violations in respect of symphysiotomy and pubiotomy to the attention of the

Committee, SoS relies on the Committee's decision in *A.A v Azerbaijan*³ to the effect that the Committee may examine alleged violations of the Convention which occurred prior to the State party's ratification of the Convention if the effects of these violations continued after ratification and if these effects themselves constitute a violation of the Convention.

12 Ireland is also in violation of the Covenant in respect of the medical experimentation - details of which are given below - carried out without the subjects' freely given and informed consent, that was involved in the performance of these operations, with particular reference to the 20-year experiment formally initiated in 1944 at the National Maternity Hospital, Dublin (hereinafter referred to as 'the NMH'), and to the experimentation at the International Missionary Training Hospital, Drogheda (hereinafter referred to as 'the IMTH') - where, for example, the limits of this abusive surgery were tested at both ends of the human gestational cycle - with severely adverse and, in some cases, catastrophic effects.

III Recent and current testimonies and statements

13 The excerpts below have been taken from statements by survivors and by public representatives in Oireachtas Éireann, the Irish national Parliament, that bear witness to the horror of the violations which are the subject of this complaint. Further survivor testimony is set out in the Annexe.

'I just remember being brought into a theatre and the place was packed with people. I wasn't told what was happening ... I was screaming and being restrained. I couldn't see much except for them sawing. It was excruciating pain ... I was just 27 and I was butchered.'

Survivor of pubiotomy and member of SoS, Philomena, on the birth of her third child at the NMH, Dublin, in 1959

'When I heard the stories last night of the way women were restrained, their arms pulled back and held down for the procedure to take place, I felt physically sick and ashamed that women could be treated in such a barbaric way in this country.... What they experienced was a form of institutional abuse.'

Government Deputy Heather Humphries, Member of Parliament
Statement to Parliament, 15 March 2012

'You're a Catholic family, [Dr] De Valera said, you'd be expected to have at least ten [children]. I normally do a Caesarean section, but because you are such a good a Catholic, I'll do a symphysiotomy, I'd no idea what it was. I'll have to stretch your hips and straighten your pelvis, he said.'

Survivor of symphysiotomy and member of SoS, Rosemary, on the birth of her first child at the NMH, Dublin, in 1957.

³ A. A. v. Azerbaijan Communication No. 247/2004, U.N. Doc. CAT/C/35/D/247/2004 (2005).

'It was part of an ethos that sought to control the reproductive rights of women. Women were seen as child-bearing vessels ... it was a violation of human rights.'

Deputy Clare Daly, Member of Parliament
Statement to Parliament, 15 March 2012

'I was screaming. It's not working, [the anaesthetic] I said, I can feel everything ... I saw him go and take out a proper hacksaw, like a wood saw ... a half-circle with a straight blade and a handle... The blood shot up to the ceiling, up onto his glasses, all over the nurses... Then he goes to the table, and gets something like a solder iron and puts it on me, and stopped the bleeding. ...They told me to push her out, she must have been out before they burnt me. He put the two bones together, there was a burning pain, I knew I was going to die.'

Survivor of pubiotomy and member of SoS, Cora, on the birth of her first child at 17 at the IMTH, Drogheda, in 1972.

'What they went through was a crime against human decency...Their civil liberties were defiled, most notably those of health and freedom of choice, and they suffered the most extreme excesses of degradation.'

Government Deputy Ann Phelan, Member of Parliament
Statement to Parliament, 16 April 2013

'This grotesque and barbaric procedure has been likened to female genital mutilation. There is no doubt that it is a form of abuse of women.'

Government Senator Ivana Bacik
Statement to the Senate, 16 March 2012

'The sister tutor had written 'query [Caesarean] section?' on my notes. Over my dead body, said [Dr] Sutton. ... They didn't tell me what they were doing. I thought I had paralysis. I couldn't move my legs up or down ... I asked what was wrong; nobody told me. It was a case of shut up. You felt you were up against a brick wall ... I can't make out why they didn't section me...He [Sutton] cracked it [the pubic bone].'

Survivor of pubiotomy and member of SoS, Kathleen, on the birth of her first child at St Finbarr's Hospital, Cork, in 1957.

'My mother had a symphysiotomy in 1952 in Holles Street Hospital. She is in her 90th year and still talks about it. In many cases, the practice was intended to ensure that a woman would not have a [Caesarean] section. The idea was that a [Caesarean] section would limit one's ability to have a raft of children.'

Deputy Catherine Murphy, Member of Parliament
Statement to Parliament, 15 March 2012

'Doctors hostile to birth control used a scalpel or saw to control women's reproductive behaviour. These were involuntary surgeries, performed in all but a clandestine manner. Patient consent was never sought and almost every women left hospital not knowing her pelvis had been broken.'

Deputy Finian McGrath, Member of Parliament
Statement to Parliament, 16 April 2013

'They put a needle in my arm, to induce me, but it didn't work ... [Dr] Feeney came in ... He took off his beige leather gloves and coat - he was after being at Mass - and said, I'm going to do a little thing for you. The most I thought I could have was a [Caesarean] section ... I woke up at 2.30. Where's the baby, I said. Your pelvis bone was split, the nurse said, and you're only going into strong labour ... Feeney was very abrupt. You can have ten children, all normal, he said. Who wants ten children, I said... They did it without my permission ... I was cut from the navel down ... Feeney brought in a Canadian doctor to have a look at me. Look how well she is doing, he said. I've lost the use of my legs, I said.'

Survivor of symphysiotomy and member of SoS, Ursula, on the birth of her first child at the Coombe Hospital, Dublin, in 1957

'The women were abused in every conceivable way. They were gratuitously maimed in the process of procedures conducted by pillars of Irish society on behalf of the State on extremely dubious grounds. The women involved suffered at the hands of those practitioners who rode rough-shod over their legal, moral and constitutional rights to bodily integrity and self-determination.'

Government Deputy Seán Conlan, Member of Parliament
Statement to Parliament, 16 April 2013

'The practice of symphysiotomy was allowed to continue in Ireland because of deep regulatory failure. The women who underwent the procedure were in some cases used as clinical training material for staff bound for developing countries, because the practice was a low cost surgery.'

Government Senator Colm Burke
Statement to the Senate, 16 March 2012

'It seems beyond belief that these women were used as guinea pigs in Irish hospitals by professional practitioners with a view to perfecting the procedure and exporting it to Africa and India.'

Deputy Tom Fleming, Member of Parliament
Statement to Parliament, 16 April 2013

'To my mind this [the practice of symphysiotomy and pubiotomy] is tantamount to criminal negligence ... It was a savage and painful practice.'

Government Deputy Bernard J Durkan, Member of Parliament
Statement to Parliament, 15 March 2012

IV A brief history of symphysiotomy and pubiotomy

14 Symphysiotomy was never the norm, anywhere, as a treatment for difficult births, never a generally approved practice, even in a pre-Caesarean era, even in life-and-death cases. First performed on a living woman in Paris in 1777 by Jean-René Sigault, symphysiotomy's dismal results led to its early demise. Babies were frequently fatally injured, as were women: many who survived the surgery suffered serious and permanent damage. The operation was effectively banned in France in 1798, when the French Society of Medicine declared that doctors had a duty to perform Caesarean section,⁴ where the baby could not be turned or delivered by forceps. Thereafter symphysiotomy was shunned in Western medicine, surviving only as a procedure of last resort and used by few. Obstetric texts, if they mentioned it at all, referred to symphysiotomy as dangerous and/or obsolete. Experimentation with the surgery continued, however, as lone enthusiasts, mainly in Roman Catholic countries, occasionally attempted to rehabilitate it. Galbiati, for example, attempted the bone version of the operation in Naples in 1832, cutting the pubic bone rather than the symphysis joint. His patient died in agony and pubiotomy was quickly abandoned.

15 So dangerous was symphysiotomy in the eyes of the medical profession that doctors refused to perform it. Dublin surgeon, William Dease, attacked it in 1783, describing it as 'barbarously destructive ... generally fatal to the mother and seldom successful as to saving the child'.⁵ Symphysiotomy remained a marginal practice, used as a desperate measure. *In extremis*, doctors generally opted to perform craniotomy, a fearsome surgery that decapitated the fetus in the womb, or an equally destructive variant, embryotomy. Both craniotomy and embryotomy were widely performed in preference to symphysiotomy and pubiotomy, to judge from historical and medical texts and from the decisions taken by medical bodies. In 1886, in England, the debate was between craniotomy and Caesarean section: the British Medical Association decided in favour of craniotomy, on the grounds that it led to fewer deaths for mothers.⁶ A similar decision was made by the New York Medical Association in 1899.⁷

16 The experimentation continued intermittently, however. A Neapolitan surgeon devised a chainsaw in 1894 that was designed to cut the pubic bone internally.⁸ The invention of the 'Gigli saw' led to a short-lived fad for pubiotomy, but medical interest in it faded with the publication of an influential review showing high numbers of women dying from its genital wounds.⁹ By 1909, Caesarean section was well on its way to becoming the procedure of choice in resource rich countries. One attempt was made to stem the tide of Caesarean section in Buenos Aires in the 1920s, when Enrique Zarate embarked on an experiment to replace C-section with symphysiotomy: he advised 'partial division of the symphysis with the knife, which is then completed by forceful abduction of the [woman's] thighs'.¹⁰ While Zarate failed in his ambition to revive symphysiotomy, his barbarous technique later surfaced in Ireland.

4 M Baudelocque 1801 *Two Memoirs on the Caesarean operation*. Trans John Hull 1801 Sowler and Russell, Manchester, 101. In Colin Francombe et al 1993 *Caesarean Birth in Britain*. Middlesex University Press, London, 20.

5 William Dease 1783 *Observations on Midwifery particularly on the Different Methods of Assisting Women in tedious and difficult Labours*. Williams White Wilson Byrne and Cash, Dublin, 61. In Jo Murphy-Lawless 1998 *Reading Birth and Death A History of Obstetric Thinking*. Cork University Press, Cork, 98.

6 Colin Francombe et al 1993 op cit, 33-4.

7 M C O'Brien 1900 *Transactions of the New York State Medical Association for the year 1899* Vol (xvi): 88.

8 Kenneth Bjorklund 2002 'Minimally invasive surgery for obstructed labour: a review of symphysiotomy during the twentieth century (including 5 000 cases).' *British Journal of Obstetrics and Gynaecology* 109 (3): 236-48.

9 A Schaflj 1909. '700 Hebesteotomien.' *Z Geburtshilfe Gynakol* 64: 85 – 135.

10 D Maharaj and J Moodley 2002 'Symphysiotomy and fetal destructive operations. Best Practice and Research.' *Clinical Obstetrics and Gynaecology* 16 (1) : 117-131.

V Continuing Breaches of the Convention against Torture

17 Ireland is responsible for the introduction into clinical practice and performance of symphysiotomy and pubiotomy, which constitute acts of torture, cruel, inhuman or degrading treatment, in breach of its obligations under the Convention against Torture, for the following reasons:

- a. Symphysiotomy and pubiotomy, which are injurious childbirth operations that inflict severe physical and mental pain and suffering, were introduced into clinical practice and performed in Ireland from 1944-87 in the absence of clinical necessity;
- b. Symphysiotomy and pubiotomy were planned procedures that were intentionally inflicted by doctors on women and girls in childbirth in preference to a far safer and normative procedure that was then readily available: Caesarean section;
- c. Symphysiotomy and pubiotomy were intentionally and deliberately inflicted on women and girls in childbirth for a prohibited purpose;
- d. There was public official involvement in the introduction into clinical practice and performance symphysiotomy and pubiotomy;
- e. Ireland failed to prevent the gratuitous and involuntary performance of symphysiotomy and pubiotomy on women and girls from 1944 onwards, these operations being carried out in the absence of clinical necessity and without patient consent;
- f. Ireland has failed, and continues to fail, to provide an effective remedy to survivors of symphysiotomy and pubiotomy.

VI Continuing acts of torture, cruel, inhuman or degrading treatment

18 A decision was taken at NMH in 1952 that symphysiotomy and, presumably, pubiotomy would henceforth be carried out under local anaesthetic, as general anaesthetic was deemed too risky to the fetus.¹¹ Doctors there evidently understood the operation's potential to inflict severe mental as well as physical trauma: they continued to operate on their private patients under general anaesthetic, notwithstanding the risk to the infant. At the IMTH, however, no such distinction was made and nearly all women operated upon during labour were conscious during the act of surgery. The use of local anaesthetic meant that the operation was traumatic, mentally as well as physically. Survivor testimony shows that local anaesthetic failed to block the pain. One survivor, describing her experience of the chainsaw used to incise the pubic bone in pubiotomy at Airmount Hospital,

11 Jacqueline K Morrissey 2004 *An examination of the relationship between the Catholic Church and the medical profession in Ireland in the period 1922 – 1992, with particular emphasis on the impact of this relationship in the field of reproductive medicine*. Unpublished PhD thesis University College Dublin, 171-2.

Waterford, said it was like being cut with broken glass. Some of the symphysiotomy techniques chosen by doctors inflicted even more pain than others. 'Zarate's method', for example, a partial, subcutaneous incision, which was preferred at the IMTH, was particularly cruel. Dr John Cunningham, a former Master of the NMH, explained the technique: 'the upper and anterior portions [of the symphysis] are severed together with part of the arcuate ligament leaving the last fibres to be gently *torn* [emphasis added] by the slow abduction [splaying] of the legs. By further abduction of the legs, the separation of the pubic bones, to the desired extent, is brought about'.¹² Of the 48 cases recorded in the IMTH's 1960-61 report, Zarate's was the technique employed in 40.¹³

19 Performed during labour under local anaesthetic as so many of them were, survivor testimony shows that these acts of surgery amounted to torture, cruel, inhuman or degrading treatment. Many found the experience utterly terrifying. They continue today to relive it in nightmares, flashbacks and intrusive thoughts. Survivors describe how, without warning, a consultant obstetrician would suddenly appear in the delivery unit, and give orders to prepare the patient for surgery. Young women and girls, some as young as 15 and 17,¹⁴ expecting their first child, knowing nothing about childbirth, who had been left alone in labour for many hours, suddenly found themselves being set upon by staff. Their arms held down by midwives, their feet manacled in stirrups, high and wide in the lithotomy or 'stranded beetle' position, many recount how they screamed and struggled to get free as they were being operated upon, wide awake, in the height of labour, in front of a large audience of generally male students. They were not generally spoken to, but some were given a form upon which to scrawl their names, signifying their 'consent' to any operation the doctor saw fit to perform.

20 Survivors generally faced further hours of labour after these operations, two days in one case. As neither symphysiotomy nor pubiotomy 'delivered' a baby, hospital staff required women to give birth vaginally, notwithstanding their severe post-operative pain. These operations sundered the pelvis and made labour much more severe, with, as doctors acknowledged, the baby's head acting as a battering ram during the first stage of labour to prise open the pelvis, while, during the second stage, the woman's efforts to expel the baby opened the pelvis still further. Women describe the pain of giving birth though an unhinging pelvis as torture'. These births were particularly agonising in cases where doctors were testing the limitations of the surgery to enable vaginal birth. For example, women who were small in stature and of slight build were intentionally allowed at the IMTH to go well past their estimated date of delivery: many were carrying large infants, who were by definition more difficult to deliver. In other cases, women selected for symphysiotomy or pubiotomy were carrying babies who were in a very unfavourable position for birth at the time the scheduled surgery was performed, with infants presenting as breech, face or even brow. Such difficult presentations evidently formed part of the design of the experiment. Moreover, following symphysiotomy or pubiotomy, whatever the presentation or weight of the infant, nearly every woman had her baby extracted by forceps or vacuum, involving the attachment of the infant to a suction machine via the birth canal, and this extraction was accompanied by further birth surgery to enlarge the vaginal orifice. Survivor testimony shows that the use of such invasive procedures, while they are routine in obstetrics, added to a further dimension of severe pain and suffering to these harrowing births.

21 The postnatal period - a time of unique vulnerability for all women - was characterised by extreme physical and mental suffering. Women's post-operative pain was so acute in many cases that they required painkilling injections daily. Oblivious to their suffering, midwives very often

¹² John Cunningham 1959. *Textbook of Obstetrics*. 4th ed 1964. Heinemann, London, 433.

¹³ Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1960-61*; 40.

¹⁴ James Joseph Stuart 1960. *Coombe Lying-In Hospital Report 1960*. In *Irish Journal of Medical Science* 1961: 56-7.

forced women to walk on their broken pelves soon after surgery. This was at a time when women had lost power in their legs and had to be physically lifted in and out of bed, usually by fellow patients,¹⁵ their legs kept closely aligned together. Some fainted with the pain of putting their feet on the floor. Women were generally given no explanation as to why they were unable to walk, and women found this refusal to communicate by hospital staff most distressing. One survivor recalls how she was 'whipped out the next morning. Two nurses ... got me straight out of bed... It's all changed, you're out straightaway after an operation now, that's what she [the sister] said'. Another woman recalls how she was forced to walk by a physiotherapist: 'she told me to get out of bed ... The pain was excruciating'. Some fainted with the pain. Early ambulation ensured the permanent widening of the pelvis which facilitated the future childbearing that was central to the doctors' design.

22 Women were separated from their babies at birth and this enforced separation usually continued, as hospital midwives generally denied women access to their babies during those early days. One survivor describes how she was kept in ignorance by staff and denied all contact with her baby at this critical time: 'I didn't realise he was in an incubator, that he was in intensive care. They brought him to me on day five [after the birth]. I wasn't able to hold him, I wasn't able to feed him'. Many women have testified how tormenting they found this enforced and, in some cases, prolonged separation. Survivors speak of the agony of not being allowed to see their children, of not knowing, for certain, in some cases, whether they were alive. Another woman underlines the suffering inflicted by this separation: 'it was very hard on a mother, when you were yearning for your baby'. Like many others, she still grieves for the loss of that first two weeks' contact with her newborn daughter. Women were usually given no reason for the separation, although their babies were often in intensive care and survivor testimony shows that this refusal to communicate on the part of midwives exacerbated the suffering felt by so many women at this time. A few women, who got to see their babies soon after birth, found evidence of the trauma experienced by their sons or daughters. One woman describes her distress at seeing daughter: 'she was so sore, she would cry when they moved the incubator. She had a cerebral swelling. Her face and her head were distorted'.

VII Infliction of severe physical and psychological harm

23 These operations generally had devastating, sometimes catastrophic, effects upon those subjected to them, and these effects, both physical and mental, were, and are, lifelong, in very many cases.

24 Some women lost their babies, either from injuries inflicted by doctors during the surgery, or from asphyxiation: the prolonged labours which the symphysiotomy design often entailed left babies occasionally starved of oxygen. Master Kevin Feeney of the Coombe Lying-In Hospital, a practitioner of symphysiotomy, acknowledged that it carried a 10 per cent fetal death rate.¹⁶ Some babies sustained brain damage, and their mothers speak of the anguish of knowing that, had doctors performed a Caesarean section, this injury could have been prevented. One says: '[My son] Jimmy, was born brain damaged after the symphysiotomy and that was a life sentence for us both. It breaks

15 Marie O'Connor 2011 *Bodily Harm: symphysiotomy and pubiotomy in Ireland 1944-92*. Evertime, Westport, 27.

16 John Kevin Feeney 1956 *Coombe Lying-In Hospital Report 1956*. In Jacqueline K Morrissey 2004 op cit, 175.

my heart that he can't learn or work and is still attending a special school. He is 49 years old now and I am always blaming myself, thinking if I didn't have that operation he would be perfect. They could have done a [Caesarean} section'. Several of these now adult children born by symphysiotomy have themselves undergone or will undergo surgery. In one case, serious injury was inflicted during the symphysiotomy on one of the baby's kidneys: she had to have the damaged kidney removed at 18 and may require a transplant.

25 The IOG has described symphysiotomy as 'a procedure which permanently enlarged the pelvis',¹⁷ a description that obscures the fact that the surgery effectively unhinges the pelvis by incising the *symphysis pubis*, a fused joint that is the mainstay of the pelvis. Pubiotomy has a similar effect and results additionally in a compound fracture of the pubic bone.¹⁸ As well as holding up some of the main internal organs, such as the bowel and bladder, the pelvis supports the spinal column, and is integral to the structural and mechanical balance of the body. The failure to nurse women appropriately post-operatively intensified the injuries inflicted by these destructive operations. Instead of immobilising the pelvis, for example, hospital staff very often destabilised it further by forcing women to walk within a day or two of surgery. Women were generally discharged from hospital after ten or twelve days, unable to walk and having to be lifted into the cars that came to collect them. Confined to bed in their own homes - or in their mothers' - women were unable to look after their newborn babies, unable to mind their other children, if they had any, and unable to care for themselves. Survivor testimony shows that many were completely invalided for months following the surgery, with some reporting severe walking difficulties for well over a year. One woman describes how difficult it was to walk with an unstable pelvis: 'I needed a lot of intermittences of rest ... There's a huge gap there, you can see it on the x-ray'. Some experienced pelvic problems in subsequent childbearing.

26 Nearly all survivors continued to experience severe post-operative pain during this period. Some additionally developed wound or bone infections at the site of the operation. Many suffered from serious urinary incontinence after the operation, a problem they had never until then experienced. One woman suffered a ruptured bladder and was kept in hospital for six months following symphysiotomy. Some women were left with a vesico-vaginal fistula, an opening between the bladder or urethra and vagina that, in the worst cases, never healed and led to severe and lifelong urinary incontinence. Others suffered from recurring urinary tract infections that began following the operation. Some sustained bowel damage that led to various problems, including bowel incontinence. In the very worst cases, women were left with a recto-vaginal fistula that never healed, which led to severe and lifelong bowel incontinence. Survivor testimony also shows that the losses, emotionally, at this time were devastating. The physical harm inflicted by the act of surgery had further consequences: women were denied the simplest pleasures of motherhood, the joy of making a social call, for example, or taking a new baby out for a walk, to be admired by friends and neighbours. A number of women have recounted how they had difficulty in relating to the baby: bonding could be difficult with a child whose birth was traumatic. Depression was common at this time and family life suffered as a result.

27 The injuries inflicted by symphysiotomy and pubiotomy were multi-layered and long lasting. One survivor says it took 'the best part of seven years to get back to half normal'. Her case is not an isolated one. While walking difficulties improved somewhat with the passage of time - women report using prams as walking aids - the overwhelming majority never regained their ability to walk properly. Many women describe their gait today as 'waddling': the characteristic side-to-side walk

17 John Bonnar 2001 Letter to Dr Jim Kiely, Chief Medical Officer, Department of Health and Children. 4 May.

18 Richard E Tottenham 1931 op cit, 242.

associated with symphysiotomy was known as 'the Rotunda waddle'. One woman says her feet have become flat as a result, and a number report that one leg has become shorter than the other by half an inch or so. Some survivors are now in wheelchairs, or use walking aids. Many suffer from continuing pelvic instability: some have had numerous falls over the years and are at serious risk of further falls. The damage inflicted by the surgery, coupled with the failure to bind and rest the pelvis post-operatively, has had the gravest consequences, as one woman, quoting her orthopaedic specialist, explains: 'my spine has twisted from rocking loosely into my pelvis'. The effects on the body of an unstable pelvis over 40, 50 or 60 years are serious and wide ranging. A number of women have developed scoliosis, a musculoskeletal disorder in which there is a sideways curvature of the spine or backbone. Organ prolapse is very common, with many survivors suffering from a prolapsed womb, a prolapsed bladder or both, and, in the worst cases, a prolapsed bowel. Some have had a lifetime of surgery, including repeated back operations that involved the insertion of metal plates. One survivor has had 34 surgeries to date, some orthopaedic, some gynaecological, all in an effort to undo the damage caused by symphysiotomy.

28 For almost every woman, these operations led to a degree of permanent disability. The great majority of women experienced, and continue to experience, grave difficulty with everyday activities, such as ascending or descending a stairway, standing or sitting for long periods, getting in and out of bed, turning in bed, reaching, bending, kneeling, rising from a chair, getting in and out of a car, lifting or carrying objects, ironing, hoovering and driving. Survivor testimony suggests that being unable to do these everyday activities is what has become 'half normal' for them. Sports such as cycling or swimming had to be abandoned. The surgery had a devastating impact on almost every area of life: top gymnasts never competed again, ace camogie players never played again; dancers never danced again, gardeners never gardened again.

29 Chronic pain is another very common side-effect of syphysiotomy and pubiotomy: age has sharpened survivors' pain and exacerbated their injuries. One woman says there has been a definite disimprovement over the past 20 years: 'as you get older, the pains get worse, in the legs, in the feet...even my toes, the pain would wake me at night'. Another sums up the experience of so many survivors: 'the pain, the backache, the incontinence, never went away'. The vast majority of women suffer from chronic and severe pain, in some of the following areas: lower back, neck, upper arms, sacroiliac joints, legs, feet, toes, pelvis, groin, pubic symphysis and pubic bone. Marred by disability and moulded by pain, many survivors have spent a lifetime on prescribed painkillers, with some resorting to morphine patches, pain relieving injections or anti-inflammatory drugs, supplemented in some cases by over the counter preparations. Survivor testimony suggest that only very limited relief can be obtained from such drugs, however, and that endurance is all.

30 Severe urinary incontinence, dating back to the operation, has been a lifelong problem for a very significant number. Many women have chronic bladder problems. One has had 'at least five' operations to repair her bladder. In some cases, urinary tract infections have become chronic. Some women sustained bowel damage from symphysiotomy or pubiotomy, and in a small number of cases, these injuries were catastrophic and led to a lifetime of severe incontinence. Incontinence, when severe, has ruined lives. Some women have suffered, and continue to suffer, from chronic diarrhoea or chronic constipation post-symphysiotomy, while others have developed such conditions as irritable bowel syndrome and diverticulitis.

31 Survivor testimony shows that symphysiotomy and pubiotomy destroyed women's lives in a myriad of ways. Many women have never got over the horror of being operated upon without their knowledge or consent and suffer from post traumatic stress disorder. The mental trauma of was

done to them in the labour ward or the operating theatre continues to affect them on a daily basis, in thoughts, flashbacks and nightmares. For some, their inability to function like other mothers during those early weeks and months after the birth damaged their sense of themselves and led to a profound and enduring loss of self esteem. This was reinforced by the signal failure of the medical profession to provide women with the treatment they needed. One survivor, who, like so many others, consulted her general practitioner in vain, underlines the futility of the exercise: 'I had to go to the doctor, it was a few years after. The doctor didn't tell me what was wrong with me, no one did. He didn't examine me, no one did'. While some women succeeded in getting on with their lives, others were less fortunate. One woman explains how mental health problems prevented her from attending family occasions: 'I took panic attacks ... All my young years and family life were destroyed'. Incontinence, when severe, has ruined lives. Survivors have testified to a lifetime of acute social isolation, unable to take part in family events, such as holidays and visits, and significant occasions, such as weddings and christenings. The effect of these deprivations was cumulative and has led, in some cases, to grief and anger for what women see as their lost lives. Some, grieving the losses of those earlier years with their own children, see those losses replicated today with their grandchildren. One survivor underlines how the serious injuries she sustained meant 'not being able to do things I'd like to, like ... having fun with my grandchildren ... I couldn't play with my own children when they were young'. For most women, a lifetime of physical ill health has led to depression: some survivors have been on anti-depressants for 40 or 50 years. Some suffer from panic attacks, others from claustrophobia. Chronic pain isolates, while symptoms too embarrassing to discuss compound the isolation and the loneliness that lack of mobility brings. One woman, who suffers from chronic pain, incontinence and a prolapsed uterus, underlines the psychological effects of the surgery: 'mental scarring forever ... chronic depression ... severe panic attacks, phobias about hospitals, surgeons, nurses and doctors, anger management issues, diminished confidence'.

32 The effects of the act of surgery were far reaching. In some cases, the operation was followed by sterility. One woman explains that she 'had no more children after the symphysiotomy on purpose, because of fear of childbirth'. Genital injuries made sexual relations difficult, and marriages occasionally buckled under the strain. One survivor recounts how she was only married 12 months when she was symphysiotomised: 'my childhood sweetheart husband got back an invalid and a totally different-thinking wife'. For some, sexual relations belong to a former life, a life prior to surgery. Some marriages ended in separation or divorce.

33 Symphysiotomy could be seen to affect entire families: children were also affected, and, in some cases, profoundly so. A mother's physical incapacity could result in a child or children being taken into care, as happened in one family or, more often, being raised by other family members, such as grandparents. Depression is fairly common among children born by symphysiotomy or pubiotomy, however, regardless of who reared them or whether or not they sustained physical damage: their mothers link it to their traumatic births. There were children who became their mothers' carers: being a child carer brings a burden that may become unbearable. One woman related how, five years ago, after a lifetime of looking after her, her daughter took her own life. Such a terrible tragedy illustrates how the *sequelae*, as doctors term them, of one potentially crippling operation may carry through to a younger generation.

34 The legacy of symphysiotomy and pubiotomy has been an enduring one. These acts of surgery led to many of the sequels which are specifically associated with other forms of abuse. Survivor testimony shows that many kept the operation a closely guarded secret. The topic was, and remains, taboo in many cases. One woman says her family would not understand: 'it's a big secret. I've never been able to talk about it, even to my husband, even to my son [born by symphysiotomy]'.

The silence surrounding the surgery was deafening: sisters were not told, nor sisters-in-law, nor brothers, nor brothers-in-law. Women have expressed feelings of guilt, shame and embarrassment: 'I would be very ashamed to tell anyone that this happened to me. It has divided families ... I know what happened wasn't my fault. But I felt it was me that was to blame'. A number of survivors even today are unable or unwilling to confront what was done to them, because of the pain involved in acknowledging and coming to terms with the fact that they were abused. The exposure of these abusive operations led to conflict within some families, where the need for the operation was disputed, husbands and children took refuge in denial and siblings and others took sides. In a few cases, the daughters of deceased survivors today bear witness to a continuing burden, a burden related to the fact that, because their mothers never spoke about the surgery, these daughters did not know what their mothers had endured and they now regret some of the consequences of not knowing.

VIII Deliberate infliction of acts of torture, cruel, inhuman or degrading treatment

35 Caesarean section was first performed in an Irish institution at the Rotunda Hospital, Dublin, in 1889. By the 1930s - contrary to what has been suggested by the Institute of Obstetricians and Gynaecologists (IOG) and by successive Ministers for Health in the Irish Government - the operation had become the norm in Ireland. It remained, and remains, the standard treatment for difficult to deliver infants. Long shunned by doctors in resource rich parts of the world on account of their dangers, the defunct operations of symphysiotomy and pubiotomy were revived in Dublin at a Catholic private hospital. In 1944, at the National Maternity Hospital (NMH), its Master - or clinical director and chief executive officer - from 1942-8, Dr Alex Spain, embarked on a 20 year experiment to see whether symphysiotomy and pubiotomy could replace Caesarean section in selected cases of disproportion (lack of fit between the baby's head and the mother's pelvis).¹⁹ Women expecting their first child were seen as ideal subjects. Pregnant women were used as guinea pigs there for 20 years and similar experimentation went on at the International Missionary Training Hospital, Drogheda for several decades. Spain was conscious of the fact that he was introducing into clinical practice procedures not generally accepted by his peers. Writing in 1948, he admitted: '*that I have not employed it [symphysiotomy] more frequently is due to the fact that it was an entirely new procedure to me and one has to be faced against the weight of the entire English-speaking obstetrical world*'.²⁰ This was borne out by a classic 1947 text, which described the operations of symphysiotomy and pubiotomy as 'obsolete, even with emergency cases [of contracted pelvis]'.²¹ Economics may also have entered the picture: both hospitals were under resourced and overcrowded. Symphysiotomy offered an extremely low cost alternative to Caesarean section: all the five or ten minute surgery needed was a surgical knife, rubber gloves, a urinary catheter and a local anaesthetic.²²

36 The Catholic Archbishop of Dublin, John Charles McQuaid, was Chairman of the Board of the

¹⁹ Jacqueline K Morrissey 2004 op cit, 154.

²⁰ Alex W Spain 1948 'National Maternity Hospital Report 1948.' In *Irish Journal of Medical Science* 1949: 456. in Jacqueline K Morrissey 2004 op cit, 158.

²¹ Wilfred Shaw 1947 *A Textbook of Midwifery*. 2nd ed. Churchill, London, 408.

²² Kenneth Bjorklund 2002 op cit.

National Maternity Hospital. 'Birth prevention' in his view, was a 'crime'.²³ The hospital's medical leaders disliked Caesarean section because of its association with birth control, which was against the wider teaching of the Roman Catholic Church. Medical ambition may have driven the surgery as much as religion, because the operation was also carried out for teaching purposes in the absence of medical necessity. The National Maternity Hospital was building itself up as an international training centre in the 1940s, and symphysiotomy, a low cost operation that needed neither hospital nor electricity, was seen as 'enormously useful as a substitute for Caesarian (sic) in conditions in Africa and India where major surgery was not possible'.²⁴ Pregnant women were used as clinical material for training purposes, particularly in the three main Dublin maternity hospitals, and in the International Missionary Training Hospital (IMTH), Drogheda. That hospital, which was founded by a Catholic order of nuns, the Medical Missionaries of Mary, to train staff for their many hospitals and clinics overseas, was approved for training by An Bord Altranais, the State Nursing Board, in 1942.²⁵

37 Hospital clinical reports and historical writings suggest that the selection of women for symphysiotomy or pubiotomy was deliberate and intentional. Young, healthy women expecting their first child were the preferred subjects at NMH for its medical experiment.²⁶ At the IMTH, women suspected of disproportion, many of whom were of small stature, were routinely allowed to go over their due dates so that their babies, inevitably, grew bigger and more difficult to birth, thereby testing the potential of symphysiotomy more fully. Eleven of the 48 women symphysiotomised at the IMTH in 1960-'61, for example, were overdue: their babies ranged in weight from 6lbs 5oz to 11lbs 15oz.²⁷ The operation was also routinely done at the IMTH in cases where babies were in difficult to deliver positions, again suggesting the existence of a specific policy in the obstetric unit. Babies in breech, face and brow presentations were much more difficult to deliver as a rule than those in the usual vertex or head down position, and survivor testimony shows that the prior performance of symphysiotomy or pubiotomy made those vaginal births excruciatingly painful.

38 Three types of symphysiotomy were recorded in detail in hospital clinical reports, all of them planned or scheduled. Symphysiotomy was most commonly performed on women whose labour had already begun. Doctors believed that the operation had a better chance of 'succeeding' - resulting in vaginal delivery - if labour were well advanced. Mothers selected for symphysiotomy or pubiotomy were frequently left by hospital staff to languish for hours or even days in labour. Medical opinion among some doctors of European origin practising symphysiotomy in African countries held that a cervical dilatation of five cms was required, ideally, prior to the performance of the surgery.²⁸ At the Coombe Lying-In Hospital, Master Feeney was of the view that 'symphysiotomy is an operation which should be performed deliberately and methodically ... the average patient should have the benefit of a carefully supervised trial of labour [prior to surgery].'²⁹ One woman was left in labour at the IMTH for 44 hours before she was operated upon, the 1960-61 hospital report notes.³⁰ The second type of symphysiotomy was done during pregnancy, before the

23 John Cooney 1999 *John Charles McQuaid Ruler of Catholic Ireland*. O'Brien Press, Dublin, 340.

24 Tony Farnar 1994 *Holles Street 1894-1994 The National Maternity Hospital—A Centenary History*. Farnar, Dublin, 114.

25 Marie O'Connor 2011 op cit, 84.

26 Jacqueline K Morrissey 2004 op cit, 154.

27 Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1960-61*: 35-9.

28 Crichton D and Seedat EK 1962. 'Symphysiotomy: technique, indications and limitations.' *The Lancet* (i): 554-59.

29 John Kevin Feeney 1955. Clinical report of the Coombe Lying-In Hospital for 1955. In *Irish Journal of Medical Science 1956*: 61-5. In Oonagh Walsh 2013 *Draft Report on Symphysiotomy in Ireland 1944-1984*. Department of Health, Dublin, 65.

30 Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1960-61*: 36.

onset of labour, and was described by doctors as 'prophylactic'. Some women were operated upon in this way at the IMTH days or weeks before their babies were due, and this practice continued until the late 1960s³¹. One 25-year-old woman was seven and a half months' pregnant when she was intentionally - and gratuitously - subjected to symphysiotomy. When the operation 'failed', as it did, on occasion, women went on to have a Caesarean section for the birth of the *same* baby. The 1962-63 IMTH report records how one woman, who was having her third child had her pelvis incised before labour began: the baby was delivered by Caesarean section *three weeks* after her symphysiotomy.³² The third type of symphysiotomy practised at IMTH was performed in the aftermath of a Caesarean section: it, too, was described as 'prophylactic' and belonged to a class of operations labelled 'on the way out' in the hospital's clinical reports. These symphysiotomies were carried out before the Caesarean incision was closed on women who were unconscious. Seven Caesarean symphysiotomies were reported in 1966-67, on women ranging in age from 22 to 30,³³ and post-Caesarean symphysiotomies continued to be common there until 1970.³⁴ The performance of pubiotomy was equally intentional, although it seemed, at least at NMH, to be more of a 'fail safe' procedure. Arthur Barry, Spain's successor as Master of the NMH, related how 'on two occasions, 'owing to difficulty in finding the [symphysis] joint, it was found necessary to cut the [pubic] bone. On one occasion, as a result of persistent [uterine] inertia, [Caesarean] section eventually proved necessary'.³⁵

IX Acts of torture, cruel, inhuman or degrading treatment for a prohibited purpose

39 Symphysiotomy and pubiotomy were introduced into clinical practice in Ireland and practised for a prohibited purpose in violation of the Convention Against Torture, as detailed below, in respect of non-clinical drivers - religion, experimentation without consent and medical training.

A Religion

40 Symphysiotomy was particularly prevalent in three Catholic private hospitals, the National Maternity Hospital, the Coombe Lying-In Hospital and the International Missionary Training Hospital, which were under the control of or strongly influenced by ecclesiastical authorities. Personal belief systems drove the surgery - in the absence of clinical necessity. The practice of breaking the pelvis *after* a baby was born showed just how far doctors were prepared to go to avert the 'moral hazard' - as they saw it - of Caesarean section. Post-Caesarean symphysiotomy was common at the IMTH until 1970. Long associated with sterilisation, Caesarean section was seen as limiting the number of children a woman might have, by facilitating hysterectomy and encouraging

31 Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1970-71*: 43.

32 Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1962-63*: 35.

33 Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1966-67*: 43-7.

34 Our Lady of Lourdes Hospital Drogheda International Missionary Training Centre *Clinical Report Maternity Department 1970-71*: 43.

35 Arthur Barry 1951 *National Maternity Hospital Report 1951*: 7-8. In Jacqueline K Morrissey 2004 op cit, 171-2.

artificial contraception, both practices that, carried out with the intention of limiting family size, were prohibited by the Roman Catholic Church. In Ireland, as elsewhere, many doctors had adopted a policy of repeat Caesarean sections, fearing to allow vaginal birth after abdominal delivery lest the uterus rupture. However, patient safety generally limited the number of repeat operations that could be done. To carry out a Caesarean section on a young woman having her first child was generally to limit her family to three or four children. Powerful Catholic doctors at the NMH - some of whom were members of prominent Catholic Action organisations dedicated to putting Church teaching into clinical practice - saw family limitation as contrary to what they perceived to be the Natural Law.

41 Survivors recall being exhorted by the doctors who had broken their pelves to have nine or ten children. The opposition of some of these clinicians to contraception and sterilisation is a matter of record. Spain's predecessor at NMH, John Cunningham, explained the thinking behind symphysiotomy: 'it is noticeable that in countries where the population is mainly Roman Catholic, efforts to perfect the operation [of symphysiotomy] have been sustained. Contraception and sterilisation are not countenanced by those who subscribe to the Catholic rule.'³⁶ Spain argued against Caesarean section on moral grounds in the medical press in 1949, saying that, if doctors perform it, 'the results will be contraception, the mutilating operation of sterilisation, and marital difficulty'.³⁷ His successor, Master Arthur Barry, told an international congress of Catholic doctors in Dublin in 1954 that 'every Catholic obstetrician should realise that the Caesarean operation is probably the chief cause for the practice by the profession of the unethical procedure of sterilisation and furthermore it is very frequently responsible for encouraging the *laity* [emphasis added] in the improper prevention of pregnancy or in seeking its termination'. He went on to promote symphysiotomy as 'the obstetric procedure of choice' in certain cases, one that would 'reduce the temptation to perform so many of the unethical procedures which we all so resent'.³⁸ That ideological underpinning was confirmed in 2010 when the then Chairman of the Irish Catholic Doctors' Association, Professor Emeritus Eamonn O'Dwyer, told a national newspaper that symphysiotomy was performed for religious reasons.³⁹

B Experimentation

42 The revival of a discarded and maverick operation at the National Maternity Hospital was *de facto* experimental. No known safeguards were in place to protect the patient, however. Visiting professors were appalled by the revival of the defunct surgery as a scheduled procedure at NMH. Professor Chassar Moir of Oxford University attacked symphysiotomy as a procedure that led to the death of infants: 'is it then your policy to sacrifice the firstborn baby and use its dead or dying body as nothing more than a battering ram to stretch its mother's pelvis in the hope that subsequent brothers and sisters may thereby have (possibly) an easier entrance into the world?' he asked.⁴⁰ One supporter of the surgery explained that mistakes were inevitable, because Dr Barry, Dr Spain and Dr Feeney were feeling their way with the new technique. In 1949, defending one case of neonatal death and another of Caesarean section following symphysiotomy, Barry explained that 'in extending the application of this operation, difficulties are bound to be encountered before the full

³⁶ John Cunningham 1959 op cit, 432.

³⁷ Alex Spain 1949 'Symphysiotomy and pubiotomy. An apologia based on the study of 41 cases.' *Journal of Obstetrics and Gynaecology of the British Empire* 56: 576-85.

³⁸ Arthur Barry 1954 'Conservatism in Obstetrics.' *Transactions of the 6th International Congress of Catholic Doctors* John Fleetwood (ed) Guild of St Luke, SS Cosmas and Damian, Dublin, 122-6.

³⁹ Karen Rice 2010 *Irish Daily Mail* 20 March.

⁴⁰ Royal Academy of Medicine in Ireland *Transactions: Section of Obstetrics* 1951. *Irish Journal of Medical Science* 1951: 1026. In *ibid*, 164.

limitations of the procedure can be appreciated'.⁴¹ The 'Dublin experiment' in symphysiotomy intensified under Barry's direction and has been described in detail by Dr Jacqueline Morrissey⁴². Women were used as clinical material to test the limits of surgery that they did not need on medical grounds, sometimes with tragic results. Barry described an experiment - criticised by Moir - that involved allowing a woman to labour for 24 hours before doing a symphysiotomy, then forcing her to continue in labour for a further 24 hours with a baby she had no hope of delivering vaginally: Caesarean section was finally performed, but 'the head was deeply impacted in the pelvis and great difficulty was experienced in extracting the baby, which could not be revived'.⁴³

43 No known safeguards were in place to protect the patient at IMTH, either, although much of what passed for allegedly therapeutic symphysiotomy in the obstetrics department also appeared to be of an experimental nature. The deviant nature of some of these symphysiotomies and pubiotomies coupled with the minute form of their documentation suggests that their primary purpose may have been related, not to the clinical needs of the woman being operated upon, but to the research and development needs of the surgery for hospitals and clinics owned by the Medical Missionaries of Mary overseas. The operation was routinely carried out where babies were presenting abnormally, suggesting the use of an experimental design. A breech presentation, for example, was an 'indication' for symphysiotomy, as were face and brow presentations. Women whose babies were coming in these ways were subjected to symphysiotomy at the IMTH until 1974-'75.⁴⁴ It was as though the surgery were being tested for use in conditions where medical infrastructure was lacking. For example, the hospital's 1962-'63 clinical report details how symphysiotomy was performed at 43 and 44 weeks, when babies at the outer edge of postmaturity were at risk of fatal placental dysfunction. The woman whose pregnancy went to 44 weeks was left in labour for 41 hours post-symphysiotomy, when it was finally decided that the operation had 'failed' and that, as she was unable to give birth vaginally, her 10 lb baby should be delivered by Caesarean section.⁴⁵ Allowing a woman carrying a large baby to go to 44 weeks ensured the biggest possible baby, and this, combined with leaving the patient in labour for 41 hours post-symphysiotomy, ensured the severest possible test of the operation's potential. Symphysiotomy was also recorded in Drogheda in 1962-63 at other end of the human gestational cycle, at 27 and 29 weeks⁴⁶, when fetal viability would have been unlikely. Again, only an intention to test the surgery to its outer limits could explain such aberrant medical practice.

44 Some operations were done at the IMTH prior to the onset of labour. One survivor relates how, pregnant with her first child at 25 years of age, she was admitted to the IMTH at 34 weeks and was operated on without her consent under general anaesthetic. Sent home to walk with the aid of a chair, she was readmitted at 40 weeks to have her baby extracted by forceps, again under general anaesthetic. (She has had three spinal surgeries to date: the most recent operation involved the removal of bone from her spinal chord and the insertion of a metal plate.) Such operations may have been done to test the hypothesis that symphysiotomy performed at 34 weeks of pregnancy could ensure a subsequent vaginal delivery and, if so, in what proportion of births.

41 Arthur Barry 1950 'National Maternity Hospital Report 1950' *Irish Journal of Medical Science* 1951: 899. In Jacqueline K Morrissey 2004 op cit, 169-71.

42 Jacqueline K Morrissey 2004 op cit.

43 Arthur Barry 1950 'National Maternity Hospital Report 1950.' In *Irish Journal of Medical Science* 1951:899. In Jacqueline K Morrissey 2004 op cit, 169-71.

44 Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1974-'75*: 53.

45 Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1962-63*:36-7.

46 Ibid.

45 The performance of the childbirth surgery on a woman who had just given birth by Caesarean section was not uncommon at the IMTH. 'On the way out' symphysiotomies, as they were termed in the clinical reports - were carried out in the aftermath of Caesarean section, without patient consent, on women who were unconscious. Such operations were difficult to comprehend from a medical perspective, as the baby had already been delivered and the benefit to the woman of a divided pelvis was difficult to discern. Again, this double operation may have been done for research purposes, to see whether or not symphysiotomy post-Caesarean might obviate the need for C-section in future births and, if so, in what proportion of cases. Minute statistics on these deviant procedures were published bi-annually and distributed widely, including to the State Department of Health.

C Training

46 The operation was carried out for teaching purposes from the 1940s through the 1980s in the absence of clinical necessity. The National Maternity Hospital trained doctors bound for Africa and India from the 1940s onwards. Historian Tony Farmer records that symphysiotomy was 'enormously useful as a substitute for Caesarian section in conditions in Africa and India where major surgery was not possible'.⁴⁷ Traffic from Ireland to Africa and from Africa to Ireland was strong in the 1950s. By 1954, as a Medical Missionary of Mary recounted, over 50 per cent of medical personnel in Nigeria were Irish trained.⁴⁸ Her order of nuns had founded the International Missionary Training Hospital to train medical missionaries to work overseas. The widespread practice of symphysiotomy at the nuns' hospital in Afikpo, Ebonyi State, Nigeria,⁴⁹ may be indicative of the importance of this teaching role in exporting the surgery overseas. The operation of symphysiotomy persisted in Drogheda until 1987, over 20 years after it had officially ceased at the National Maternity Hospital - where it has been reported as late as 1972. One survivor who underwent symphysiotomy gratuitously at the IMTH at 34 weeks of pregnancy recalls seeing a camera in theatre before the general anaesthetic took effect. Another woman, who was operated upon wide awake, described those present: 'there were 17 or 18 staff in the theatre ... anaesthetists, midwifery students, assistant gynaecologists, nurses'.⁵⁰ Survivor testimony indicates that such large audiences were relatively common at these operations, while medical records bear out that these were planned procedures that were carried out in the absence of clinical need. Such operations, carried out sporadically at the Protestant Rotunda Hospital in Dublin, where opposition to birth control among doctors was uncommon, could only have been done for training purposes. The potential fruits of this medical training could be glimpsed from 1950 onwards, in Kenya, Malawi, Nigeria, Rhodesia, South Africa, Tanzania, Uganda, Zaire and Zambia, where the operation of symphysiotomy was described by its practitioners, who were generally of European origin.

47 Tony Farmer 1994 *Holles Street 1894-1994 The National Maternity Hospital—A Centenary History*. Farmer, Dublin, 114.

48 Margaret Mary Nolan 1954 'Obstetrical problems in Nigeria.' *Irish Journal of Medical Science* May 341: 205-11.

49 IM Sunday-Adeoye, P Okonta and D Twomey 2004 'Symphysiotomy at the Mater Misericordiae Hospital Afikpo, Ebonyi State of Nigeria (1982-1999): a review of 1013 cases.' *Journal of Obstetrics and Gynaecology* Jan24(5):525-529.

50 Marie O'Connor 2012 op cit. 117.

X Public official involvement and failure to prevent acts of torture, cruel, inhuman or degrading treatment

47 It is a general principle of international law that a breach of an international obligation within its territory entails the responsibility of the state concerned.⁵¹ Ireland has objective responsibility for the reintroduction and performance of symphysiotomy and pubiotomy in that:

- a. the operations were performed by the Irish State's agents, servants or institutions or by agents publicly licensed in institutions contracted to deliver maternity services, provided on behalf of the State;
- b. Ireland failed in its duty, including statutory duty, to protect and vindicate the rights of its citizens not to be subjected to a cruel and unwarranted operation.

48 The Irish State asserted the right to direct the development of hospital services in the public interest in the 1930s.⁵² The 1933 Public Hospitals Act introduced a measure of State control over private not for profit or 'voluntary' hospitals, as they were termed, in return for State resources. The State Hospitals Commission had wide powers of investigation under that Act. Private not for profit hospitals were required, as charitable institutions, to treat a proportion of their patients free of charge: this was to be enforced by the relevant Minister of the Irish Government through supervision and inspection.

49 Until the 1970s, local statutory authorities whose main function was local government played a role in funding and controlling hospital services. Successive legislation from 1947 onwards provided for the making of arrangements by local authorities and health boards with voluntary hospitals and maternity homes that involved the payment of monies by the State in return for the provision of hospital services. Approval by the relevant Minister of the Irish Government was a precondition. Statutorily, private not for profit hospitals provided services on behalf of health boards⁵³. Section 12 of the 1947 Health Act empowered health authorities to make or implement agreements for the use of health institutions, while Section 18 of the same Act allowed those State authorities to make rules for the management of those health institutions. Such provisions were carried through in the 1953 and 1970 Health Acts.

50 Government provision and supervision of maternity care was evident even before the creation of the Irish State in 1922. The new State added to previous legislation in this area. Pursuant to the 1934 Registration of Maternity Homes Act and the Maternity Homes Regulations (Statutory Instrument No 167 of 1934), local health authorities were required to maintain a register of each maternity home in their functional areas and, pursuant to Section 12 of the 1934 Act, their authorised officers were entitled to enter and inspect all such facilities. In the exercise of their

⁵¹ *Draft Articles on Responsibility of States for Internationally Wrongful Acts*. In *Report of the International Law Commission on the Work of its Fifty-Third Session*, UN GAOR 56th Session Supp No. 10, at 43, U.N. Doc. A/56/10 (2001). Text reproduced as it appears in the annex to the General Assembly resolution 56/83 of 12 December 2001.

⁵² Ruth Barrington 1987 *Health Medicine and Politics in Ireland 1900-1970*. Institute of Public Administration, Dublin, 117.

⁵³ *Health The Wider Dimensions (A Consultative Statement on Health Policy)*. Department of Health n.d. [1986], 21. In Fergus O'Ferrell 2000 *Citizenship and Public Service: voluntary and statutory relationships in Irish healthcare*. Adelaide Hospital Society, Dublin, 46.

powers pursuant to these provisions, local authorities also had a duty to patients in any maternity home within their functional area to carry out competent and proper inspections and to ensure the safety, well-being and proper care of women availing of services there. Furthermore, pursuant to the provisions of Section 12 of the 1934 Act, the Minister's inspectors had statutory powers similar to those of the local authorities' authorised officers. (The function was transferred to the Minister for Health from the Minister for Local Government pursuant to the provisions of the 1947 Health (Transfer of Departmental Administration and Ministerial Functions) Order, (Statutory Instrument No 58 of 1947.) The State and its institutions therefore had a non-delegable statutory duty to ensure the safety, well-being and proper care of women in maternity hospitals, units and homes, which it failed to fulfill for survivors of symphysiotomy and pubiotomy.

51 Section 21 of the 1947 Health Act imposed a general duty on the health authority relating to maternity care to 'make arrangements for safeguarding the health of women in respect of motherhood'. These arrangements were further specified in the 1953 Health Act, whose provisions were carried through into the 1970 Health Act, which remains in force. The 1953 Act introduced a national maternity service, imposing a duty on the State to provide medical, surgical and midwifery service free of charge for all but the top income group (about 15 per cent of the population in 1979), who, if opting for private obstetric care, were required to pay fees. Pursuant to the provisions of Section 16 of the 1953 Health Act, the State's local health authorities, made available, without charge to eligible patients, *inter alia*, 'midwifery, hospital and specialist services for the attendance to the health of women . . . in respect of motherhood'. The 'basket' of services available included, and includes, antenatal, intrapartum (or childbirth) and postnatal attendance for a period of six weeks. In 1953, the services were envisaged as being primarily domiciliary, with general practitioners and midwives contracted by the State - using a standard contract drawn up by the Department of Health. However, Sub-section 5 expressly contemplated that confinement might take place in a hospital or maternity home and women could choose hospital confinement upon payment of a small fee. Concomitant arrangements were made by the State with such voluntary hospitals, such as the three main Dublin maternity hospitals, to provide the same services⁵⁴ as an alternative avenue to fulfil the State's duty relating to motherhood.

52 Although an estimated 1,500 of these operations were performed from 1941 to 2005, symphysiotomy and pubiotomy were not generally approved practices in Ireland. Many Catholic doctors refused to perform them. The bulk of these operations were done by a small number of powerful doctors who held senior positions in teaching hospitals, a feature that helped to disseminate the surgery. Over 800 of these procedures were carried out in three Catholic private hospitals: in Dublin, these operations were done or directed, in the main, by Masters Alex Spain and Arthur Barry at the National Maternity Hospital; Master Feeney at the Coombe Lying-In Hospital; and Drs Gerard Connolly and Liam O'Brien in Drogheda, at the International Missionary Training Hospital, where, from 1956-1984, around 400 women were subjected to symphysiotomy or pubiotomy.⁵⁵ (Records for earlier years incomplete, so these figures are likely to under-represent the total: having worked for the Medical Missionaries of Mary in Anua, Nigeria, Dr Connolly returned in 1945 to take up running of a maternity home for the order in Drogheda.⁵⁶) Joint State contracts across both public and private sector hospitals were common, so a relatively small number of doctors might perform the surgery in both public and private facilities. In Cork, for example, these surgeries were performed by Dr RC Sutton in St Finbarr's, a State hospital, and also in the private Bons Secours and Erinville Hospitals, where they were also done by Drs W and JB Kearney (who

54 Brendan Hensey 1959 *The Health Services of Ireland*. 3rd ed. 1979. Institute of Public Administration, Dublin, 126.

55 Sheila Martin 2009 *Symphysiotomy at Our Lady of Lourdes*. Diploma thesis (unpublished), 1. In Marie O'Connor 2011 *op cit*, 19.

56 Maureen Harding Clark 2006 *The Lourdes Hospital Inquiry: an inquiry into peripartum hysterectomy at Our Lady of Lourdes Hospital, Drogheda*. The Stationary Office, Dublin, 162.

were brothers).

53 From 1949 to 1987, living survivors of symphysiotomy underwent these operations at the hands of a small number of medical practitioners, some of whom practised obstetrics simultaneously in a number of hospitals and nursing homes.

54 These operations were widely performed in the absence of clinical necessity for training purposes. The State's supervisory role was particularly salient in nursing and midwifery. Under the 1950 Nurses Act, An Bord Altranais (the State Nursing Board) was required to approve hospitals for training purposes. The Board ignored these aberrant operations, although from its inspections, it must or should have known that nurses and midwives routinely assisted in symphysiotomies and pubiotomies in certain hospitals. The State accredited the International Missionary Training Hospital as a training site for nurses and midwives in 1942, while the State approval of older voluntary hospitals goes back much further. This accreditation was central to service provision: the services of underfunded voluntary hospitals depended largely on trainee medical and nursing staff.

55 Ireland failed utterly in its duty to protect patients, despite the ample availability of information about these operations. The practice of symphysiotomy was an open secret. Dr Gerard Connolly of the IMTH told the Royal Academy of Medicine in Dublin in 1964 that was likely attended by State medical officers of health that he was aware of his reputation as an 'addict' of symphysiotomy.⁵⁷ The three main Dublin maternity hospitals produced annual clinical reports setting out these operations in considerable detail, as did the IMTH, bi-annually. For example, the 1960 Coombe Hospital Report carried details of symphysiotomies performed the previous year on three young girls, one aged 15 and two aged 17,⁵⁸ while the 1962-3 IMTH Report reported that symphysiotomy had been carried out on women whose fetuses were at the extreme edges of both ends of the human gestational cycle.⁵⁹ These reports were sent to the Department of Health: the State ignored them.

56 Medical staff in public and private not for profit hospitals who carried out these operations, such as consultant obstetricians and consultant anaesthetists, non-consultant hospital doctors (trainees), nurses, midwives and other staff engaged in providing obstetric services, were acting as agents of the State. From 1972 onwards, all medical consultant appointments were controlled by the State through a statutory body, Comhairle na n-Ospideál (The Hospitals Council). This body also regulated specialist postgraduate training: all training posts, including in obstetrics, in both public and voluntary hospitals were under its control. Throughout the period in question in this complaint, the salaries of all employed medical personnel involved in the performance of these operations were paid and/or funded by the State.

57 The State's failure to ensure patient safety extended into the community. The health system did little or nothing to attempt to limit the damage wrought by symphysiotomy and pubiotomy by attending to women's health care needs post-operatively. Women unable to walk were discharged from hospital into the community into the care of family doctors who generally ignored the fact that their patients were unable to walk at six weeks postnatally, a fact also ignored by State employed public health nurses, who visited these new mothers in their homes. This negligent care was

⁵⁷ Royal Academy of Medicine in Ireland *Transactions*: Section of Obstetrics The annual reports of the Rotunda, Coombe and National Maternity Hospitals for the year 1964.

⁵⁸ James Joseph Stuart 1960 op cit, 56-7.

⁵⁹ Our Lady of Lourdes Hospital Drogheda International Missionary Training Hospital *Clinical Report Maternity Department 1962-63*, op cit, 36-7.

provided under contract to the State under the Maternity and Infant Care Scheme as per the 1947, 1953 and 1970 Health Acts.

58 For the foregoing reasons, it is submitted that Ireland knowingly permitted and/or authorised the practice of symphysiotomy and pubiotomy in breach of its obligations pursuant to the Convention Against Torture.

XI Continuing failure to provide an effective remedy

59 Ireland has failed to provide survivors of symphysiotomy and pubiotomy with an effective remedy. The basis for this statement is set out in the paragraphs that now follow.

A Ireland's continuing refusal to investigate the violation promptly

60 Since the scandal of symphysiotomy was exposed 15 years ago (pubiotomy had not by then come to light), the Irish State has refused, and continues to refuse, to carry out a thorough and impartial investigation of the practice. Successive Ministers for Health, members of the Irish Government, have repeatedly refused to carry out a comprehensive and independent inquiry into symphysiotomy and pubiotomy. The State, in effect, abdicated its responsibility to vindicate the human rights of Irish citizens by taking its lead from the very body whose members had perpetrated these abuses. Wrongly, the Department of Health looked to its medical officers to resolve the issue instead of entrusting it to its administrative cadre. Regulatory capture followed.

61 The practice was first exposed in 1999, by historian, Dr Jacqueline Morrissey, then doing a doctoral thesis on the relationship between the Catholic Church and the medical profession in Ireland and the impact of this relationship on reproductive health.⁶⁰ A year and a half after the practice of symphysiotomy - but not pubiotomy - had been exposed, the Chief Medical Officer of Health sought a report on the matter from the Institute of Obstetricians and Gynecologists (IOG), a private medical body representing, inter alia, the doctors who carried out these operations which charges itself with maintaining standards of clinical practice. In response, the IOG Chairman, Professor John Bonnar, defended the practice of symphysiotomy to the hilt, wrongly suggesting that symphysiotomy was the norm for obstructed labour until the 1960s when symphysiotomy was allegedly 'replaced' by 'the modern caesarean section'.⁶¹ The training body minimised the gravity of the procedure, describing it as 'permanently enlarging' the pelvis, omitting to mention that this enlargement was achieved by incising the *symphysis pubis* or cutting the pubic bone, and conveyed the impression that symphysiotomy was safe. 'Excellent results' had been claimed for this 18th century operation, Professor Bonnar stated in his letter.

62 Since 2001, Professor Bonnar's missive has been used by the State to torpedo all attempts to secure an independent inquiry into the practice. This one page letter - termed a 'report' - was

⁶⁰ Jacqueline K Morrissey 2004 op cit.

⁶¹ John Bonnar 2001 op cit.

adopted as a template for all official pronouncements on symphysiotomy and remains in use to this day. Successive Ministers of Health, who relied upon Department of Health officials to draft their statements, misled the Irish Parliament again and again. Minister for State at the Department of Health, Dr Tom Moffatt, was the first to claim that symphysiotomy was used in an era when Caesarean sections carried a 'higher risk' than symphysiotomy⁶². A State health board 'information leaflet', issued, to judge from the logo, by the North Eastern Health Board and addressed to 'all general practitioners and pharmacists', alleged that 'between the 1950s and the 1980s, symphysiotomy was gradually replaced by the modern caesarean section, as antibiotics were available by then to treat infection and sepsis was less of a hazard'.⁶³ In 2010, ruling out an inquiry into symphysiotomy, the then Minister for Health, Mary Harney, claimed that symphysiotomy was superseded by Caesarean section in Ireland in the 1980s (emphasis added).⁶⁴

63 Demands for an independent inquiry into the practice began shortly after Survivors of Symphysiotomy, (SoS) was founded in 2002. The then Minister for Health, Micheál Martin, promised an 'external review' of the surgery. Once again, at the suggestion of the vested interest, the IOG, his Department invited a Swedish advocate of symphysiotomy in low resource countries, Dr Kenneth Bjorklund, to undertake this exercise. SoS objected to Bjorklund's appointment upon learning of his partiality for the operation and he withdrew from the process. (Dr Glen Mola, another devotee of symphysiotomy in Papua New Guinea, was also mooted by the Department as a possible reviewer, again, presumably, on the advice of the IOG.) Martin's successor as Minister for Health, Mary Harney, later terminated the process. In 2008, she rejected the advice of the State Human Rights Commission to reconsider the Government's refusal to review symphysiotomy; in 2009 she rejected a recommendation from the Irish Parliament's Joint Committee on Health to hold an independent inquiry; and in 2010, for the third time, she again refused to mount such an investigation, the day after a major television exposé of the surgery by the State broadcaster on its *Prime Time* programme.⁶⁵

64 Eight years after SoS had first looked for an independent inquiry, the government abandoned even the *idea* of an external review with its promise, however flimsy, of impartiality. Instead, in February 2010, four days after RTE's *Prime Time* revelations, the Minister asked the IOG, a private medical body, to carry out its own review of what was effectively its own practice. In a letter that appeared to be framed by the IOG's own theories and loaded the dice in respect of the information sought, Minister Harney gave the IOG *carte blanche* to devise its own terms of reference for its self-examination. In a written answer to a parliamentary question, Harney later articulated the Government's view of symphysiotomy as 'a matter primarily for the Institute of Obstetricians and Gynaecologists to advise and lead upon'⁶⁶. The IOG was given ten weeks in which to 'review' the surgery. In the event, no review appeared. The Government did nothing.

65 The IOG drew up terms of reference that limited the information sought, by, for example, excluding the practice of pubiotomy and narrowly focusing on *rates* of symphysiotomy and maternal mortality and excluding survivor testimony. The terms also veiled time and place, suggesting that the symphysiotomy *experiment* might not be addressed, looked - in a pre-protocol era - for 'guidelines' (on a defunct procedure), and skewed the information sought by reflecting the IOG's own construct: that symphysiotomy was the 'norm' for difficult births in Ireland in an era when Caesarean section was 'more dangerous', an unsustainable theory. The terms excluded

62 Dr Tom Moffatt TD 2001 *Dáil Debates* Adjournment Debate Hospital Practices Vol 535 No 3 Col 987-8. 3May.

63 North Eastern Health Board *Information Leaflet Symphysiotomy* n.d.

64 <http://www.rte.ie/news/2010/0219/127799-symphysiotomy>.

65 Marie O'Connor 2011 op cit, 43-6.

66 Mary Harney TD 2010 *Dáil Debates* Written answers 'Medical Inquiries' Vol 703 No 3 Col 622-3 25 Feb.

consideration of the injuries inflicted by the surgery and of its, in very many cases, lifelong impact. Instead, the Institute proposed to make a *literature review* the centrepiece of its 'inquiry', seeking to contract a leading proponent of symphysiotomy in low resource countries, Dr Nynke van den Broek, at the Liverpool School of Tropical Medicine, to undertake this work. Such a literature review would likely have been favorable to symphysiotomy: published articles on the surgery tend to be written by practitioners of symphysiotomy in low resource countries, who - in the absence of long term follow up of their patients - generally hold most positive views on this destructive procedure. Other conflict of interest queries also arose. SoS expressed its concerns over the IOG's plans to the Department of Health, putting forward detailed alternative proposals for an impartial and independent inquiry that included draft terms of reference and suggesting experts in law, history and sociology to conduct it. The Department responded with a two line email effectively directing SoS back to the IOG. In October 2010, however, following a prominent article in the *Irish Times* exposing some of the potential conflicts of interest,⁶⁷ the IOG abandoned its plans.

B Continuing failure to investigate the violation thoroughly or impartially

66 Some fourteen months after the IOG had been asked to do its own review, in May 2011, the incoming Minister for Health, James Reilly, commissioned a historian, Dr Oonagh Walsh, to prepare a report on the practice. Dr Walsh's appointment was made following consultation with the IOG, the Department of Health confirmed.⁶⁸ The Deputy Chief Medical Officer also confirmed that Walsh's final terms of reference were 'developed by the Chief Medical Officer's Division and the Acute Hospitals Division of the Department of Health (DOH), having taken cognisance of work done previously by the Institute of Obstetrics and Gynaecology'.⁶⁹ These terms, which were the subject of a contractual agreement between the Department and the author, bore a striking resemblance to those written earlier by the IOG for its own self-investigation. Like those, these reductionist terms excluded survivor testimony at the formative stage of the research, narrowed the focus to maternal mortality, and ignored the injuries inflicted, omitting to look at morbidity or ill health. Instead, the report was to look for (non-existent) protocols and guidelines on symphysiotomy. Finally, in a throwback to the IOG's literature review - which reflected that body's persistent wish to examine symphysiotomy through the rose-tinted glasses of proponents of the surgery in low resource countries - who generally belonged to the colonising or ex-colonising classes - the Walsh report was to examine 'the Irish experience compared to other countries'.

67 The 77-page draft report took over two years. Due in September 2011, it was eventually published in July 2013.⁷⁰ The exercise was carefully structured: the report's two stage process enabled the 'history' of symphysiotomy to be written without the eye-witness accounts that survivor testimony would have provided, while the 'consultation process' that followed the report's publication enabled the text to be revised - if the author saw fit - while survivors were offered 'tea-and-sympathy' sessions organised by the Department, an overture overwhelmingly rejected by SoS members. The draft report presents a blizzard of medical literature that blinds the reader to the central fact that these operations were carried out in the absence of medical necessity. The silencing of the victims enabled this 'history' of symphysiotomy to be filtered through the narrow lens of self-selecting medical literature: these aberrant and abusive operations are effectively presented solely through the eyes of those who carried them out. The report's preoccupation with obstetrics also serves to present these mutilating surgeries in the best possible light. Many of the articles on

67 Carl O'Brien 2010 'Report on "brutal" childbirth surgery will be flawed, claims survivors' group' *Irish Times* 21 Oct.

68 Jennifer Martin 2011 Email to Tom Moran 12 May.

69 Jennifer Martin 2011 Email to Olivia Kearney, Catherine Naughton, Tom Moran, Betty Moran, Sheila O'Connor, Phyllis Harford, Cathriona Molloy and Colm MacGeehin 19 July.

70 Oonagh Walsh 2013 *Draft Report on Symphysiotomy in Ireland 1944-1984*. n.d.

symphysiotomy in the medical press have been written by doctors presenting the results of their own handiwork in tiny, statistically insignificant studies informed by the biases of medicine and sexism and, occasionally, colonialism and racism.

68 Ireland's investigation of symphysiotomy was neither impartial nor thorough. The basis for this statement is set out in the paragraphs that follow.

A The defence of symphysiotomy in the draft Walsh report

69 The draft Walsh report mirrors the official line on symphysiotomy that has been spun by Irish obstetrics and echoed by the Department of Health since 2001. The document adopts elements of two somewhat conflicting narratives written by the IOG and its members, namely, that symphysiotomy was the norm for difficult births until Caesarean section became 'safer', or, in the alternative, that Caesarean section was the norm, and that symphysiotomy was done to avoid the risks of repeat C-sections. Both narratives seek to assert that symphysiotomy was 'safer' than Caesarean section and both seek to justify symphysiotomy on clinical grounds. Walsh denies that symphysiotomy was carried out solely for training purposes, but presents no evidence to show that operations attended by very large numbers of trainees were clinically required. The draft report is an apologia for symphysiotomy that justifies almost all of these operations, effectively finding 97 per cent of them medically acceptable. The document seriously misrepresents the legal position in Ireland during the period in question in relation to patient consent. Walsh wrongly portrays the legal doctrine of patient consent as a non-applicable principle that doctors in Ireland were under no obligation to uphold, which, the report contends, 'is still not a legal requirement except in relation to mental health',⁷¹ a ludicrous proposition. However, while Walsh blames the Catholic Church for these operations, the draft report fails utterly to explain why symphysiotomy and pubiotomy were favoured only by a small minority of mainly Catholic doctors, who performed symphysiotomy in preference to Caesarean section, while the majority of their Irish and mostly Catholic colleagues - sometimes in the same hospital - carried out C-sections under clinical circumstances that were identical.

70 The draft Walsh report ignores the fact that the formal introduction into clinical practice of the defunct operations of symphysiotomy (and pubiotomy) was an experiment, with its attendant dangers. Indeed, the report denies all experimentation,⁷² omitting any reference to the Dublin experiment amply documented by Dr Jacqueline Morrissey. The latter's doctoral thesis shows that symphysiotomy was introduced into clinical practice at the National Maternity Hospital in 1944 on a trial basis. Master Barry himself acknowledged the experimental nature of some of these operations in his clinical reports. Walsh states, wrongly, that symphysiotomy was 'never proposed as an alternative to Caesarean section', ignoring the fact that the revivalists aimed to replace Caesarean section with symphysiotomy in selected cases and that the NMH experiment was designed to test the limits of the surgery to this end. Evidence of further and more extreme experimentation in Drogheda can be found in the IMTH clinical reports. Walsh also denies that symphysiotomy was carried out in the absence of clinical necessity as a tool for training.⁷³

71 The draft report defends the practice of symphysiotomy as an elective operation, although such practice was unheard of in resource rich countries in the 1940s. Wrongly, Walsh finds

71 Ibid, 68.

72 Ibid, 56-7.

73 Ibid.

symphysiotomy to be 'an appropriate clinical intervention' in 'women suffering mild to moderate disproportion',⁷⁴ concluding that, only in a handful of cases, following the birth of a child by Caesarean section, was this intervention 'wrongly used'. In every other well-off country in the world, however, including in Catholic countries at that time, disproportion, whether mild, moderate or severe, was treated by C-section. Symphysiotomy could not, under any circumstances, be justified in Ireland or anywhere else as a procedure of choice: the report veils the fact that symphysiotomy was a long discarded and discredited operation by the time it was exhumed in Dublin, one that had never gained acceptance in any country as an elective operation. Eminent doctors in the 1940s, including professors from England, Scotland and Wales, roundly attacked its introduction into clinical practice at the National Maternity Hospital as a planned procedure.

72 The view that symphysiotomy was medically acceptable as a planned procedure rests on the preposterous argument, advanced by Walsh, that incising the pelvis was 'safer' than Caesarean section in the 1940s and 50s. Again, while this is a view that is upheld by the IOG, there is no good evidence for it. Long term follow up of post-symphysiotomy patients was almost unknown in the last century: just 129 women were studied over a period of 100 years.⁷⁵ Apart from a mere 18 cases, no longitudinal research was ever conducted in Dublin to assess the long term consequences of symphysiotomy.⁷⁶ Walsh veils this lack of evidence, however. And, while the draft report argues for the safety of the surgery, it fails to prove its own case. The report's claim that 'fewer mothers and babies died as a result of symphysiotomy compared to the death rates associated with caesarean sections'⁷⁷ is untrue: the Walsh statistics are fundamentally flawed, because they do not compare like with like. Symphysiotomy was, and is, inherently high risk: if the knife or scalpel cut into the ligaments or the bladder, for example, a woman might be left with walking difficulties or severe incontinence, as many were. Even doctors who promoted symphysiotomy admitted that babies died who would otherwise have been lived had a C-section been performed. As John Kevin Feeney wrote in 1954, 'the real harvest of symphysiotomy is reaped in subsequent deliveries'.⁷⁸ Moreover, over 150 key witnesses at that time could have testified as to their injuries - and some to their lost babies - but they were not interviewed for the draft report on the spurious ground that to do so would have compromised the production of 'an independent report, compiled without influence or input from vested interests'.⁷⁹ In reality, the testimony of Irish survivors would have made it impossible for the author to conclude that symphysiotomy was 'a safer way' of dealing with problem births than Caesarean section. The maternal consequences - often lifelong - of this high risk surgery, which included bowel and bladder injuries, organ prolapse, chronic pain and mental health issues, as well as walking difficulties and incontinence, were ignored. The use of symphysiotomy in Irish hospitals and nursing homes from the 1940s onwards, at a time when Caesarean section was the accepted and far safer treatment for difficult births, was therefore abusive.

B The exclusion of survivor testimony

73 The exclusion of survivor testimony by the authorities was intentional. Had survivors been interviewed, one of the draft report's most fundamental findings, that symphysiotomy was used 'mostly in emergencies',⁸⁰ could not have been made. While this finding is at one with the IOG's

74 Ibid, 70.

75 Kenneth Bjorklund 2002 op cit.

76 Royal Academy of Medicine in Ireland 'Transactions: Section of Obstetrics 1956'. *Irish Journal of Medical Science* 1956: 526. In Jacqueline K Morrissey 2004 op cit, 187.

77 Oonagh Walsh 2013 op cit, [vi].

78 John Kevin Feeney 'Coombe Lying-In Hospital Report 1954'. *Irish Journal of Medical Science* 1955: 51. In Jacqueline K Morrissey 2004 op cit, 186.

79 Oonagh Walsh 2013 op cit, 2.

80 Ibid, [v].

totally incorrect view ('many of these cases were emergency admissions'),⁸¹ survivor testimony and medical records both show that these operations were almost always planned, and that they were carried out by doctors as a procedure of choice before, during and after labour. This is also borne out by published case histories and statistical tables set out in hospital clinical reports, which were left largely unanalysed by Walsh.

74 Walsh's central argument is that symphysiotomy was justified in the 1940s and '50s, when the safety of repeat Caesarean sections was 'unproven' and women had no control over their fertility. Survivor testimony would have rebutted this theory: many survivors had repeat Caesarean sections following the 'failure' of symphysiotomy to ensure future vaginal births and many limited the size of their families. The first part of this theory is unsustainable: the suggestion that it was appropriate for doctors to subject women to the material and corporeal risks involved in severing the pelvis with a view to 'saving' them from whatever theoretical and statistical risks were associated with repeat Caesareans is absurd. This defence of symphysiotomy echoes an argument first advanced by a former Master of the NMH, Dr Peter Boylan,⁸² and used, unsuccessfully by the Medical Missionaries of Mary in a recent legal case (*Kearney v McQuillan*).⁸³ Walsh ignores the fact that vaginal birth after Caesarean section was permitted in the 1940s in Dublin, that repeat Caesarean sections were common and that doctors could, and did, disagree as to what constituted an upper safety limit. One of the main complications of repeat C-section was uterine rupture: the infrequency of fatal cases in the main Dublin maternity hospitals in the 1940s⁸⁴ suggests that claims about the dangers of repeat Caesarean are inflated. By then, 'lower segment Caesarean section' had become common: the new technique greatly diminished the risk of uterine rupture.

75 The second part of this theory, that women had no control over their fertility, is equally unsustainable, but it allows the report to blame the Catholic Church for the performance of these surgeries and exculpate the doctors involved - and the State as the regulator. Had survivor testimony been permitted to inform the draft report, this is yet another finding that could not have been made. Some survivors chose not to have any more children following the operation of symphysiotomy, while others went on to have relatively small families by the standards of the time. The author chooses this argument in which to frame her draft report, finding that the performance of symphysiotomy 'was considered to be the most suitable thing to do in order to obey the laws of the time', which meant that 'contraception and sterilisation to prevent pregnancy were both illegal and unacceptable'⁸⁵. But to suggest that, before the advent of the contraceptive pill, women were helplessly having huge families was wrong, as demographic and hospital data show. Walsh wrongly conflates family limitation with artificial birth control. However, history shows that family limitation was practiced in Ireland from the beginning of the last century: from 1911 to 1946, family size shrank by 20 per cent.⁸⁶ Women, especially in Dublin, were planning their families from at least the 1940s onwards: National Maternity Hospital data show that middle class women were having fewer children than their less well off sisters.⁸⁷ This trend intensified: couples marrying in the 1950s had fewer children. In 1954, for example, only 23 per cent of Irish couples had five children or more.⁸⁸ Secondly, Walsh misrepresents the legal position. Sterilisation was not illegal: it was unavailable because doctors refused to perform it. While the 1929 Censorship of Publications

81 John Bonnar 2001 op cit.

82 Peter Boylan and Tony Farmer 1999 'Obstetrics and Ethics' Letter *Irish Times* 6 Oct.

83 *Kearney v McQuillan*

84 K O'Driscoll and B Quinn *Journal of Obstetrics and Gynaecology of the British Empire* 1951. In Tony Farmer 1994 op cit, 121.

85 Oonagh Walsh 2013 op cit, [v].

86 Diarmaid Ferriter 2009 *Occasions of Sin: Sex and Society in Modern Ireland*. Profile, London, 297.

87 Tony Farmer 1994 op cit, 116.

88 Diarmaid Ferriter 2009 op cit, 301.

Act banned material related to birth control, it did not prevent the importation, distribution or sale of magazines that covered such topics, because periodicals were outside the powers of the Censorship Board,⁸⁹ a fact Walsh fails to mention. British newspapers and magazines, some containing articles on family planning, flooded into Ireland in the postwar years.⁹⁰ The 1935 Criminal Law Amendment Act did not outlaw the use of artificial contraceptives, nor did it prevent the contraceptive pill from being distributed. Thirdly, Walsh's assertion that contraception and sterilisation were 'unacceptable'⁹¹ does not stand up. By 1949, the practice of hysterectomy post Caesarean section as a method of sterilisation was well established in Dublin,⁹² suggesting a level of patient demand. By the 1950s, limiting one's family was no longer sinful, according to the Catholic Church: Pope Pius XII justified the use of the safe period in 1951.⁹³ The contraceptive pill came to Ireland in 1967: six years later, over 20,000 women in Ireland were taking oral contraceptives.⁹⁴ And still the practice of symphysiotomy continued.

(iii) The misrepresentation of the doctrine of informed consent

76 However, it is in the area of patient consent to medical treatment that Walsh's multiple defective findings are most egregious. Walsh defends the involuntary performance of these major operations, which were carried out on a pivotal structure of the human body, by asserting that there was no legal requirement in Ireland to seek patient consent from 1944-84. The report further claims that securing patient consent 'is still not a legal requirement' in Ireland today. These findings are a most serious misrepresentation of fact and of law. It is clear from numerous judicial statements, international treaties and medical text books that patient consent was, and is, a universal standard that was underpinned by clear requirements in Irish law. The law has long recognised a competent patient's right to decide what happens to his or her body. This right was enunciated in 1914 in *Schloendorff v the Society of New York Hospital*.⁹⁵ A celebrated 1965 judgement of the Irish Supreme Court - in the case of *Ryan v Attorney General*⁹⁶ - established that bodily integrity was one of the unenumerated rights under the Constitution of Ireland, which was adopted by the Irish people in 1937. This right was widened by subsequent judgements into a right to have one's health protected by from damage by the State. These rights are closely related to the right to autonomy and in 1953, this right was upheld by the Irish Supreme Court, in *Daniels v Haskins*,⁹⁷ when Lavery J upheld the patient's right to exercise personal autonomy:

It is clear that there are some matters which a doctor must disclose in order to afford his patient an opportunity of deciding whether she accepts his view or wishes to consult another doctor and an opportunity to make a choice between alternative courses. An example would be where a dangerous operation was contemplated.

The performance of these high risk and involuntary childbirth operations during the period in question therefore constituted assault and battery.

89 Diarmaid Ferriter 2009 op cit, 305.

90 Michael Solomons 1992 *Pro Life? The Irish Question*. Lilliput Press, Dublin, 7.

91 Oonagh Walsh 2013 op cit, 70

92 Alex Spain 1949 op cit.

93 Tony Farmar 1994 op cit, 152.

94 Keith Wilson-Davis 1974 'The contraceptive situation in the Irish Republic.' *Journal of Biosocial Science* 6: 483-492.

95 *Schloendorff v the Society of New York Hospital* 1914. In John Seymour 2000 *Childbirth and the Law*. Oxford University Press, Oxford, 203.

96 *Ryan v Attorney General* [1965] Irish Reports 345.

97 *Daniels v Haskins* [1953] Irish Reports 73.

Public commentary on the draft Walsh Report

77 The following is a selection of comments made publicly on the draft Walsh report:

'She [Minister for Health Mary Harney] was asking the institution whose members were responsible for the abuse in the first place to investigate itself. It was not a proper inquiry ... Similarly, the report currently in the hands of the Minister was not the outcome of a transparent and public investigation... the need for a proper inquiry remains.'

Deputy Caoimhghín Ó Caoláin, Member of Parliament
Statement to Parliament, 15 March 2012

'I am calling on the Government to do exactly what these women want. They have repudiated the Walsh report, so it should be binned, today. If they want to start the process again, that must start immediately, and it must be the process they want. They should also, immediately, receive a full apology from the Government for having treated them so poorly to date in this inquiry.'

Deputy Stephen Donnelly, Member of Parliament
Press Release 27 June 2012

'They [victims] were hurt by the Walsh report, which was commissioned by the Government. It concluded that 97% of symphysiotomies carried out in Ireland were in line with acceptable medical practice. The survivors were not asked for their opinions, their stories or about what they had been forced to endure.'

Deputy Sean Crowe, Member of Parliament
Statement to Parliament 18 April, 2013

'It's clear from reading Dr Walsh's first report that all her conclusions are based on essentially desk-based research — databases searched, requests to libraries (libraries!), hospitals asked for their records, and so on. And at the bottom of the description of her research methods, Dr Walsh notes: "Maternity hospitals were not required to produce annual reports in the 1940s, 1950s or 1960s so no firm statistics are available". Perhaps not surprisingly — especially given the fact that she never met a single survivor as part of the original research, nor ever read an individual patient file, the overall effect of Dr Walsh's research is to minimise the incidence of and the reasons for the procedure.'

Fergus Finlay, Chief Executive of Barnardo's
The Irish Examiner, 16 April 2013

'The [draft Walsh] report was based on a central flaw that the barbaric practice of symphysiotomy was medically acceptable, which is simply not the case. The idea that the final report will add anything new is highly suspect. In light of this, why are we waiting for the final report? The only conclusion one can draw, and it is one being drawn by many of the survivors, is that far from grappling with the legacy of injustice as best it can, the Government appears to be engaged in an attempt to deny access to the courts to the ageing victims of symphysiotomy by long-fingering the issues, while holding out the possibility of redress. In other words, it is coercing the victims into acceptance.'

78 Thus, as has been shown above, the single purported investigation commissioned by the Irish State into these barbarous operations was - and remains to date - totally misdirected, deficient and incorrect, in terms of the findings of its draft report. Faced with a Government-commissioned draft report that justified the latter day practice of symphysiotomy in Ireland, Survivors of Symphysiotomy decided, at well attended general meetings, that members would not take any individual part in the official 'consultation' organised by the Department of Health on the draft report, but, instead, to submit a collective response in the form of a written critique, which was accompanied by some 20 individual responses from SoS members.

79 The Government reportedly received the final version of the Walsh Report in November 2012. After initially promising to publish it in September 2013, the Minister for Health subsequently refused to release it, a position he has reiterated again and again. At the time of writing, the suppression of this report by the Government continues.

80 The failure of the Irish Government to acknowledge that the performance of symphysiotomy and pubiotomy constituted gross medical negligence has compelled victims to seek justice through the Irish courts by initiating legal actions for personal injuries against the authorities and the public and voluntary hospitals where these mutilating operations were gratuitously performed. It is now apparent that the State has instructed its lawyers to contest until the bitter end these legal actions.

81 The State has also sought to place more hurdles in the path of those women seeking redress through the courts, further delaying a resolution for them. Under Ireland's Statutes of Limitation, any legal action must be brought within two years of the plaintiff's date of knowledge. The State contends all legal action is barred by the passage of time. Ireland does not, in its law, provide for a discretionary extension of the limitation period, unlike many other common law jurisdictions, such as England and Wales, which does permit extensions of time in cases where it is equitable to do so. Survivors of Symphysiotomy lobbied Ireland's Parliament to introduce special legislation to extend the limitation period in these cases. The Government has now opposed the enactment into law of this Bill, despite the fact that when Ireland faced claims brought by survivors of institutional child abuse, its national Parliament had no difficulty in amending the Statute of Limitation to permit those claims to proceed.

82 Instead of engaging with the casualties of these abusive surgeries, the Irish Government has repeatedly refused to respond to SoS's offer of an early settlement of members' legal actions, based on (i) a statement of truth that these operations were wrongful, unjustified and unjustifiable; (ii) levels of restitution that reflect the range of injuries sustained *and* represent a significant discount on the court awards in these cases, which range from €325,000-€600,000; and (iii) access to independent legal representation and independent medical assessment paid for by the State. SoS and their lawyers have repeatedly called on the Irish State to negotiate a fair settlement. On all three occasions, the State has refused to meet with Survivors of Symphysiotomy and their lawyers or neglected to respond, in line with its adherence to a false narrative emanating from a vested interest - the IOG - that effectively denies that the operations in question amounted to medical negligence, a narrative that flies in the face of the decision of the Irish Supreme Court in *Kearney v McQuillan*, that the defendants had failed to establish that symphysiotomy was a generally approved practice.

XII Recent developments and conclusion

83 In November 2013, the Minister announced the appointment of a former Circuit Court Judge, Ms Yvonne Murphy, to advise him on how to bring 'closure' to survivors of symphysiotomy and pubiotomy. In the same moment, the Government announced its opposition to SoS's Statute of Limitations (Amendment) Bill - which it did not initially oppose and which reached Second Stage in Parliament. So, it seems as though the Government is hoping to block as many survivors as possible from access to justice, while at the same time moving to establish the parameters of so-called 'redress' in an attempt to lure 250 plus survivors from their legal actions with a paltry *ex gratia* scheme. No *ex gratia* scheme can provide an effective remedy, however. The performance of symphysiotomy and pubiotomy in Ireland from 1949-1987 amounted to torture, cruel, inhuman and degrading treatment. As in the case of the UN Human Rights Conventions, Article 3 of the European Convention on Human Rights, which says that no one can be subjected to torture, cruel, inhuman or degrading treatment, calls for an effective remedy for any violation. In a recent judgement (*O'Keefe v Ireland*), the European Court of Human Rights found that no *ex gratia* scheme, which by definition is based on no admission of liability, can meet the requirements of Article 3 for an effective remedy. The Murphy process, which contemplates an *ex gratia* scheme of 'redress', is therefore fundamentally misconceived. The judgement also underlined that a state could not absolve itself from ensuring compliance with international human rights obligations by delegating compliance to private bodies or individuals or ascribing all responsibility for non-compliance to such bodies or persons. These rulings clearly have a wider application in respect of violations of the United Nations Human Rights Conventions.

84 Survivors are entitled to both truth and justice. The draft Walsh report was a whitewash, and the Government's suppression of the final report - now being considered by Ms Murphy - does not inspire confidence. Furthermore, there seems to be an intention on the part of Government to deny survivors their moral and financial entitlements in the face of violations of international human rights conventions. Survivors demand to be treated as victims of medical negligence, but it appears the Government has no intention of acknowledging the fact of such negligence. Furthermore, Minister Reilly has indicated that, in any 'redress' scheme that may be devised, he intends to deny survivors the right of legal representation, which suggests that a crude scheme that takes no account of individual injuries is in the offing. Also, the Minister has dismissed out of hand the idea that any survivor - even the most badly injured - might get €250,000 in restitution for a lost life, so the Government clearly intends to ignore the benchmarks laid down by the Irish courts for awards in these cases. In yet a further denial of survivors' rights, the Minister has stated that his preference is for 'redress' to be paid in instalments across survivors' lifetimes, a suggestion that many 70-plus and 80-plus survivors find deeply cynical.

85 Closure cannot come from denial or concealment. 'Redress' without admission of liability is not the same as compensation. The solution that the Government apparently now hopes to enforce, a scheme that will maintain the official lie that there has been no medical negligence - or hardly any - breaches survivors' rights to truth and justice. The authorities have never admitted that pubiotomy was practised and that the practice of both symphysiotomy and pubiotomy was wrong, nor are they willing to do so. Denying survivors access to independent legal and medical supports suggests that what the authorities are planning is a mere token. For the Government to pay meaningful compensation would require proof of negligence, and no survivor denied access to independent

lawyers and independent doctors could possibly prove that her operation was negligent. Clearly, the Government has no intention of making a fair and just offer to survivors that reflects the seriousness of their injuries and acknowledges the magnitude of the wrong done to them. Survivors have been left with no option but to step up their legal actions and to initiate formal complaints to relevant international bodies.

XIII The responsibility of the Irish State

86 For the reasons set out above, it is submitted that Ireland is objectively responsible for the reintroduction and practice of symphysiotomy and has breached and continues to breach its obligations pursuant to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in violation of its obligations in international law.

XIV Questions for the Irish State

87 The following questions for the Irish State are submitted for consideration:

1 Question for the Irish State: does the Irish State accept that the performance of symphysiotomy and pubiotomy in Ireland from the 1940s through the 1990s was not medically justified in the circumstances then prevailing, where Caesarean section was the norm for difficult births and was readily available?

2 Question for the Irish State: does the Irish State accept that, in all cases, the operations of symphysiotomy and pubiotomy were performed without patient consent, and that such operations therefore violated women's constitutional and human rights?

3 Question for the Irish State: does the Irish State accept that the performance of symphysiotomy and pubiotomy in the absence of clinical necessity was related to institutional needs, such as the need to train students ?

4 Question for the Irish State: does the Irish State accept that there were elements of experimentation in respect of symphysiotomy and pubiotomy, and that the gratuitous performance of these operations was related to institutional needs, such as the need to perfect the surgery for export to missionary hospitals and clinics in African countries?

5 Question for the Irish State: Does the State accept that an ex gratia scheme, which based on no admission of liability, fails to meet the test for an effective remedy?

6 Question for the Irish State: Will the State ensure that restitution includes admission of liability and corresponds to the awards made by the Irish Supreme Court in *Kearney v McQuillan*, in *Nelson*

v the Health Service Executive and in other symphysiotomy cases?

7 Question for the Irish State: Will the State allow survivors the right of independent legal representation in assessing appropriate individual awards by way of restitution?

8 Question for the Irish State: Will the State allow survivors the right of independent medical assessment in assessing appropriate individual awards by way of restitution?

Annexe

Testimony from survivors of symphysiotomy and pubiotomy

34 The following testimony has been given by survivors of symphysiotomy and pubiotomy: further statements may be made available.

Dolores

I worked for six years in Bewley's before I got married, as a waitress ... We got married in 1958 ... We were lucky, we got a corporation house for newly-weds ... I worked for the Medical Missionaries of Mary. They were wonderful ...

It was 1961. I suggested going to the Rotunda myself ... I was a public patient. One Friday morning, I got pains ... My husband came in to hospital with me. I was in an ordinary bed for two days, nothing was happening. Saturday and Sunday, I had the odd pain, no more, they weren't strong. I was due the next day, then they got anxious. On Sunday night, they told me I'd be going down the next morning, they brought me for a shower. On Monday, they brought me down to the labour ward, then they brought me to the operating theatre, I thought I was going to have the baby. I was put out, I nearly suffocated with what they gave me, it was sickening. When I woke up, I asked the nurse, is the baby alright. You didn't have it yet, the nurse said, you've had your pelvis broken. Shocked, I was. The baby will be born soon, she said.

That night, after the operation, I started [in labour]. Pat [my husband] had to leave. The labour ward was cold, miserable, out of this world, there were tiles on the floor. I was left so long on the labour ward, I was dying, it was freezing cold there, I'll never forget it. The next morning, at twelve, they said you need to go up to the operating theatre. They rushed me to the theatre, they didn't speak to me, I don't know who did it. They broke the bone on Monday, and on Tuesday, at twelve, I had a [Caesarean] section. I came back to the ward. They left me flat, I was so sore, Jesus, they left me in a bad way. When Pat and his friend came in, there was roaring, I was in awful pain — you couldn't move your head. I was very bad after the first [operation], after the second, it was impossible.

I don't know how long I was in [hospital] for, I was knocked out, out of this world. The smell of it, the anesthetic, I couldn't breathe. It was a miracle I was alive. I was left so long in labour, I'd have been alright if they did a [Caesarean] section [in the beginning], it wouldn't have been so bad. They took an awful chance on people's lives, didn't they? I'd like them to go through it, to see how it felt. I didn't want to live, I was in a week or a fortnight, I didn't know where I was, I didn't know what day it was. No, they put nothing on my hips. I didn't know what nightdress I had, or what I had [a boy or a girl]. There were two patients. Pat came in to see me, are you alright, he said. They were worried about me. The nurses would leave you out on a chair, they'd wash your face. I was so ill I didn't know what they were doing to me.

She never stopped crying in there, she was left too long [in labour]. Her hair was orange or ginger, I didn't know what colour it was. I wondered was [the labour] gone so far that the blood had gone to her head. It was a rose colour, she had it until she was two years of age.

The nieces were in the house when I came home, Pat had the baby. I was freezing. Get a [hot water] jar, I said, I want to lie down. I wasn't able to talk to them, I was sick and sore. I came home on a Sunday, and collapsed the following Tuesday, on the floor, at home. Pat was at work, the baby was

crying. Only for a neighbour heard her ... I fell asleep, I couldn't waken up, the ambulance came, they rushed me back to the hospital. They kept me in a couple of weeks, they fed me with mince on a spoon. I lost my appetite, I didn't feel like eating.

No, they never sent out anyone to me, the public health nurse never came near me. I thought it was a bit queer, not to give you a chance to pull yourself together. It took me a long time to get back into myself, it was the end of my good days. Was my child going to be affected, I asked myself. She was a very cross child. My back started to fall down. I couldn't balance, I couldn't straighten. My back was very bad, the pelvis bone never goes back. It stopped everything, I was in awful pain ... Pat made up bottles for the baby. The neighbors would bring in a cup of tea, the next door lady helped me, I wasn't eating much. He had to go back to work, it was a tenant purchase [the house], forty pound rent a week. You'd worry about that more than dinners, your home is your home.

The child was crying all the time, my sister took her away. I wouldn't trust him [Pat] with her, he wouldn't know what to do. She put her on the sideboard, in a carry cot, and put her son, John, in the pram. She minded her for a long time. I used to sleep on the couch, wrapped in blankets, with a hot water bottle. I couldn't go up the stairs, no. After a couple of months, Anne brought back the baby... It was my first baby, yes, and my last. It scared me stiff, I was scared stiff, I couldn't go through it again, it was the last thought in my head, to have another child ...

I can't straighten up my back, I'd like to, but I can't. I got rheumatoid arthritis ... it came on seven or eight years ago. There was a part of my body gone... I leave the light on all night, my nerves were gone since then [the operations], I was afraid of everything, it was very frightening, from beginning to end. I never visualised anything like it, I was in a shocking state, everything was in a blur. They never pointed out to me why they done it. I couldn't move with the pain, they shouldn't have done it. No one said anything, I didn't know I had a pelvis bone. It was very, very, very severe. I couldn't turn, that part of my body was gone. I had a cross on the stomach [one cut down, the other across]. Why didn't I have a section in the first place? I can't understand it. I can still feel the cold of that labour ward today. They didn't say anything about the pelvis, they didn't say anything about the pelvis bone. They left me with half a back.

Kathleen

I went to train as a nurse in England, from 1945 to '52... I used to do night nursing in [St] Finbarr's [Hospital]... The maternity nurses were the worst. The women would be roaring in the labour ward, and the nurses would say, you should have thought of that when you were getting pregnant. So crude, it was, they'd give them a slap on the bottom. Shut up that roaring, they'd say. Pain relief? They were very scarce with it, you could scream away... In every hospital here, it was all nuns. They were in charge even though they weren't trained. They're gone now, the wheel has turned. Our priests were bullies, too. Power, power and bullies, that's what it was.

I remember the day as if it was yesterday. I knew it was wrong. My GP [general practitioner] knew it was wrong. It happened in 1957, on 1 September. I was about 31. I'd have been fine if they'd sectioned me. My pelvis was disproportioned. Your pelvis would never deliver a child, the doctor said... He sent me away to the hospital when I was three months pregnant, into [St] Finbarr's ... I saw [Dr] Sutton, but he never said anything.

The sister tutor had written 'query section?' on my notes. Over my dead body, said Sutton. I was in strong, violent pain when I went in, overdue by a week and a couple of days, maybe ... The head never engaged at any stage, I was in very strong labour, stupid with all that gas and air. After three days—I heard this myself—I heard the gynae sister say, is that woman still in labour? Get onto Dr Sutton at once, and say to him, come please, or else we we'll lose a mother and child here. And

Sutton said, what do you want? She'll bloody well deliver herself like any other woman. The sister tutor said to Sutton, get down here - he came then. I was weak, in an awful state and he was the cause of it... He didn't talk to me, he was surly fond of the drink ... I was put out, yes [for the operation]. He was six pounds eleven ounces.

The next day they heard the roaring and screaming. They didn't tell me what they were doing, I thought I had paralysis, I couldn't move my legs up or down, I was so sore I couldn't move. I couldn't hold him [the child]: they kept him in [hospital] three months. I was in six weeks, my legs were as dead as dead could be. I asked what was wrong, nobody told me. It was a case of shut up - you felt you were up against a brick wall. He [Sutton] didn't come to my bedside. I was too paralysed to walk. After the second week, they put me walking on a corridor, I fainted with the pain, it was like walking on thorns, the pain and the soreness. I got no help, no, no help whatsoever from them [in hospital] ...

[At home], the wound was discharging; there was a terrible smell. I dosed it with Dettol. There was no nurse [to look after me]. I remember, it was the winter, the pain in my back [was so bad], it would be fine thing to be dead, I thought. The doctor came in, turned the key in the [front] door like they did then. My God, my love, I'm so sorry, he said, you've suffered so much. It didn't work out for us, things didn't go right for you, it never crossed my mind that that would be done to you. Take little strolls, little ones.

I took a stroll down town, but I couldn't keep going, I got locked in, I couldn't move, it was the soreness of the bones. A woman on the other side of the road asked me to come over and have a cup of tea, but I couldn't cross the road. They thought I was going to die, I was so white. There was no binding of the pelvis, no, I was shuffling for six months. Once, I went up the stairs, but I couldn't keep going, and I couldn't come down, I was jammed in the middle, frozen to death. My husband came home to find me shaking. Arthritis set in straight after [the surgery]. My sister got married and I couldn't go to the wedding. It was like I was walking on springs, like this [showing two separate, unconnected springs, one going up as the other came down, with her hands]. I had this dragging down pain in my back, the pain was in the spine, at the bottom of the spine. They treated it [the arthritis] with tablets, I got over it. The pain eased off, it was bad the first year. I had a friend who came in to help me with the baby, I couldn't get up the steps, my pelvis stayed [making a rocking motion with her hands from side to side]. It was very hard to keep your balance, I could write a book about it, it was so sore and painful. I was never right after it. It took the wind out of my sails... Everything was thrown to one side, the doctor said ... I couldn't enjoy myself, I couldn't go out, I was walking on thorns. If I landed on my back, my children would have to pull me up. I couldn't sit up [by myself]. I had a bad prolapse of the womb after ... I had to have a total hysterectomy, my bladder, everything, all gone ...

He [my husband] was a cross man. You're only half a woman, he said, after the hysterectomy. What kind of a thing was that to say to me? He made out that I wanted it [the hysterectomy]. I couldn't take it any more, I came down here ...

The doctors were gods, absolutely, in their own minds they were. Who knows the child better than the mother? The child's doctor would say, did you ever hear any mother saying anything right? They haven't the brains. Or some woman might know her [due] dates, and the doctor would say: she doesn't know anything, she's too stupid. They won't say that now, women won't take it.

Stiffness now is what I have. I wear a [pelvic] belt, but I can't wear it all day. I am completely incontinent today ... I was called to the Regional [Hospital] a couple of years ago to see a gynae ... There was supposed to be a special [medical] card [for survivors of symphysiotomy] but that never came ... I have a home help, yes, one hour a day, five days a week. I know her very well, she is very

kind. If I went down to clean out the fire, I couldn't get up, so she has the fire set ...

I have no [hospital] notes. [Dr] Kearney didn't believe me [when I told him what they did to me], so he sent away for my notes ... I didn't get your notes, he said, they said they never had a patient of that name that year. It was my word against theirs. All I have from there is the baptism certificate of the child [stating where she was born]. I never got my note, it was a trick of the trade, wasn't it? Making a confounded liar of a person.

I can't make out why they didn't section me. The GP measured my pelvis, so they were well up on it. He [Sutton] did it alright, he cracked it [the pubic bone]. No, he wasn't against family planning, he wasn't the type. I thought I was flying ... There was something in Sutton that liked to see a person suffer, it was kind of savage. I was reared in the country on a farm, we had calving cattle. The vets were so nice to the animals [in labour], they would talk to them, and encourage them, and [rubbing the flank of an imaginary animal with her hands] stroke them. The doctors were so horrible to a human being. There was no way a vet would put an animal through what we went through.

My mother had six children, all at home. She had her own private nurse for a week after [calling to the house]. She had the doctor as well, for no reason, she didn't need him. My mother had a great time in those days, long ago ... Her daughters never had it as good.

Vera

I was 23 the following month, in August, when I had it done. It was 1968. I was attending the hospital and a GP [general practitioner]. I'd had two miscarriages before that, so I was more anxious, I'd have done anything to make sure everything was in order. They discovered the baby was breech at 8 months. The doctor said she was very good at turning breeches, but she couldn't get her to turn. She was too big. They did 2 x-rays to see if my pelvis was big enough. But they let me go over [my due date] 17 days.

I went in [to the Lourdes] on the Monday, I was in labour all day Monday until 3 o'clock, the waters broke that evening, I had gas and air. Then the nurse realised it was getting serious. [Dr] Connolly did a symphysiotomy. With her being breech and everything, it [the labour] had gone on too long.

He came in with a big entourage. It was very invasive, you were tied up, you had no control. There was a good crowd there, nurses, other people behind him, two or three—other doctors I took them to be—juniors, students ... My feet were tied up in stirrups for the symphysiotomy, I had gas and air. I must have fainted off, the nurse came with a bowl of water and a facecloth, and splashed water all over my face. These are the things you remember. I hated it, it was not nice, I still don't like it [splashing water on my face]. I was in terrible distress. What he did to me—you have no power, when your legs are caught up like that. There was one person who was holding my hand, a junior doctor in training, yes, he was the only one who showed me kindness, and the nurse who threw the water on me. It was so clinical. They knew she was big, that she was breech, he [Connolly] should have done a Caesarean section. There was no discussion, she was too far down [the birth canal]. That's where she must have got her damage.

Things followed on from each other. She was taken away and put into an incubator, into special care ... Three days after [the operation, the nurse said, get out of bed. I can't, I said, I'm supposed to stay in bed. Do you think you're in a hotel, she said. She literally threw me out, took a look at me, then threw me back in. If I'd stood up, I might never have ever walked again. How was I? Sore and sick and crying all the time. I only had the catheter in for a few days. I had to, I couldn't get out

of bed, because of my pelvis. She was in intensive care. I minded the separation, yes.

Yes, I did have binding: it had to be tight until the bones knotted. The pelvis bone was like a Crunchie, with holes in it, that was the reason for the binding, that's what we were told, anyway. Yes, I did get some painkilling injections in the hospital, I was supposed to get iron injections as well, but I couldn't take them.

They made me learn to walk up and down the stairs, up and down. When he sawed my bone or whatever he did, I didn't realise what was happening, I was given no advice. I thought I'd never get out of the hospital—I was in there for 13 days ... She was a big girl, she was 9 pounds, I was very slight.

I went home to my mother ... I was in agony... Yes, I was walking, hobbling, you'd call it. My sister had to come over and look after the baby, I got a good bit of help. My brothers helped, too. I don't know how I managed, I spent two months in my mother's house. Then I got back into myself.

She had her first operation at 18, to take out stones in her kidney ... Air got into her lungs during that first operation, it was a foreign doctor who told me this happened to her at birth. She had to have her kidney removed after that. There was bruising on her abdomen, the records showed ... The area around the kidney was all damaged, I don't know why. She had a burst appendix at 19, it was because of the kidney stones ... She had to have her kidney removed after that, it was taken out when she was 23.

I was nervous over the years, always conscious of the need not to break that bone again ... My sister said to take cod liver oil, so I took that until I got sick of it, then I took evening primrose oil, I still take it. If I didn't take it, I'd know about it, it's small things like that that matter. I swore by baths and water, I'd hop into the shower, it gives you a bit of relief ...I didn't realise it [symphysiotomy] would cause so much trouble and pain ... Your own relationship with your husband was at risk ... Running to the toilet all the time... I was always determined never to let it take over my life ... I wasn't going to let it destroy my life. Yes, in the majority of cases, it did destroy their lives ... I have every kind of an insole, reflexology, heel insoles, you name it, I have it. I had physio, my ankle was so bad, so I thought maybe I'd get physio, it was very sore. I would do anything to try and help myself ... I try not to put on weight ... I have a medical card, but I pay for the incontinence pads myself ...

The GP arranged for me to have an x-ray. She asked me what size shoes do you take, size 4, I said, they should have done a Caesarean, she said, if you are a size 4 or under ... The letter from the obstetricians said some were done improperly. When the hospital knew that, they should have told us. ...No one has ever taken responsibility. They should say, we now apologise because you are in pain and in grave discomfort. They didn't admit it. Had we been told, I'm sure there would have been better [medical] treatment [we could have got] ... They should have advised us on what to do and what not to do, they should have advised our husbands about the everyday things ... There was no special care. They never followed any woman up.

It shouldn't have been done. Caesarean sections were there at the time, it was bad doctoring ...

As you get older, the pains get worse, in the legs, in the feet ... There has been a definite disimprovement over the past 20 years, it's getting worse and worse, even my toes. The pain would wake me at night, I take Solpadeine ... otherwise I'd be awake at four. A lot of those women are in dire straits, a lot suffer from urinary incontinence, a lot are in wheelchairs, or have walking aids ...

You don't take a block out from the bottom of the house, because there's going to be cracking. The

pelvis is the same, it's the foundation of the house.

Ursula

My husband left me in to the Coombe the night before, because he had to go away for a week and I was due that day ... They put a needle in my arm, to induce me, but it didn't work. They left me 'til the 19th. It was 1957. On Sunday morning, [Dr] Feeney [the Master] came in. [Dr] Kennedy [my doctor] was there ... Feeney took off his beige leather gloves and coat—he was after being at Mass—and said, I'm going to do a little thing for you. The most I thought I could have was a [Caesarean] section. Off he went and operated on me. I woke up at 2.30. Where's the baby, I said. Your pelvis bone was split, the nurse said, and you're only going into strong labour. I couldn't believe I hadn't had the baby. The child was born by forceps, they pulled it out. I didn't know I had lost the use of my legs.

Feeney was very abrupt. You can have ten children, all normal, he said. Who wants ten children, I said ... They did it without my permission. Margaret Kennedy, I think, did it, you'll see her name in the records. They told me nothing, I was cut from the navel down for the operation. They practiced it out in Africa.

After my sister saw me [in hospital], she took a [second] heart attack. When the priest came in to give her the last rites, she said, I'm alright, look after my sister, she's had a very bad operation .. I didn't know until I saw the coffin going out, four nurses came and put me into a sheet and carried me to the window.

I was very bad after the operation. I lost the use of my legs. [Dr] Feeney brought in a Canadian doctor to have a look at me. Look how well she is doing, he said. I've lost the use of my legs, I said. He took him and turned and walked out of the ward. Two sweeping brushes they gave me, the heads up, one under each arm. They had no crutches.

It was medieval [in the old Coombe], a dump, filthy. The afterbirths were in a bin in the toilet, and flies over them, and the flies would be on the bottle left on the locker, and you'd have to rinse it. The outpatients reminded me of the cowshed at home - all tiled walls, you'd wash it down with running water - the water was running down the walls [of the outpatients]. I went to the private part, it was eight to a room, the public was ten to a room. The water was pouring out of me, it still is.

They did nothing for me, told me to get out after two weeks, I couldn't walk for ages after. I was 42 days in there It was my first baby, we were married in June, 16 months before. I'd be 26 that Christmas. I was never sick a day in my life ... I was cut from side to side and top to bottom ... There were scrapes on her forehead [after the operation]. She was pretty strong. She was the smallest, seven and a half pounds, I was five foot two inches ...

I came home and saw my GP. He was a very good doctor. Why did you let them do this to you, he said. I thought you could only have four sections, I said. That's nonsense, he said. I know one who has just had her fifth and she's fine. They were only experimenting on you. ...

I was very bad for a year, even the walking was bad. We were living in a flat ... There was a woman there who was very good to me, she'd come down every morning and every evening to help me with the baby .. There were no nurses, no, I got no help whatsoever. I was very weak after the symphysiotomy, depressed ... They didn't tell you [what they were doing], nothing. I was a private [patient], some had it done in their senses. But I had the bone sawed down ... I have arthritis, on and

off, ever since, in the hip. I'm on all sorts of tablets. Bit by bit I got better ... but I never stopped leaking, I went in for a repair job .. but it didn't work. ... They tried to make a sling to get the womb to support the bladder, it didn't work ...

My second [child] brought the whole lot back to me. I'd get a feeling I was suffocating. I couldn't go up the church, I'd have to sit in the back seat ... I was on speed after, amphetamines ... I wouldn't take them, the chemist said, they'll kill you. ... I was off them in three months. I'm still taking Xanax for depression ... I've been getting terrible pains recently, on both sides...

We were Catholics, but my mother's people were Church of Ireland. Protestants would only have three children, at most.

Cora

Shortly after I married, I got pregnant ... I was looking forward to it, my first newborn baby ever ... It was 1972. My Dad brought me to the Cottage Hospital to make the arrangements ... The water broke during the early hours, I was 17 and didn't know a lot. We didn't get a lot of advice ... so I was naïve about giving birth. I was in shock, I couldn't understand what was happening... a bit afraid ...

Two young nurses there were told to bring me down to the bathroom and run a bath. I sat there in the bath expecting one of them to come, but no one came. I got out and dried myself, came out and opened the door and said to one nurse, tell me what to do. I'd brought a case with my own clothes, but the matron told me to get into a gown. I want my own clothes and my own slippers, I said. The gown, I found out later, is for when you have an operation. They put me into an auxiliary room, with ironing boards and towels, and brushes, and mops and brooms. There was a bench thing there so I sat on it. I was left on my own.

I was in pain continuously, getting pain after pain. I could feel a tightening, pushing feeling in my stomach, I didn't know what I was supposed to do. No matter how much you want to push you mustn't push, they said, because you might do yourself damage. I was left stuck in that room. I felt bad in myself and my head was sore. I felt I wasn't going to last much longer, if they didn't do something. I could feel my temperature rising, it was unbearable.

I'd seen a nurse, I'd seen two. Can you tell me what's going to happen, I said, what I am to do. I told you not to be speaking to her, the matron told them. If we speak we get sacked, they said to me. I need to be told what to do, I said. I lost track of time. The matron told the two nurses to take me out, they put me on a stretcher and rolled it and brought me for an x-ray. The machine up on the ceiling looked like an electric fire with bars on it. The matron and the nurse were behind the screen, you could see their faces, it was like a window. I must have been there fifteen or twenty minutes. Then the matron started pressing on my stomach very severely. Whatever way she pulled at my stomach, the baby turned, she made it somersault around and the head went up under my ribs. I could feel it. She went behind the glass with a big smile on her face. It's a breech, she said. I asked her to put the baby back the way he was, and she sniggered and straightaway went out for someone. She sent me back on a trolley with the two young nurses and they put me back into the cleaning room. I was never with a patient in a ward the whole time I was there. The two nurses weren't as harsh as the matron. Sorry, they said, we have to do as we are told. They said they were sorry for me. I was told I would have to go to the Lourdes. Don't worry because you're going to have a Caesarean, they said. It's a little cut, but it won't be noticeable, because it's on the bikini line. They said Dr Sheehan will do you ...

They left me for a few minutes. The matron sent for one of the girls to shave me. They pulled down a big wooden ironing board, I was still in the auxiliary room, it was weird. All I saw was the matron and the two young nurses. I was going delirious, so bad I was forgetting my own name. I was in a panic, I was going to have a baby, it was a nightmare. Strange things kept happening. They must have informed my husband and my dad, because they came up in five minutes. You'll be alright, they said. Come in the ambulance with me, I said ...

It wasn't a proper ambulance, it was a black kind of a van thing, I didn't see any equipment. There was a bench at the side made of hard wood that you could lie on. There were two men dressed in black with flat caps, and a nun with a short veil and a long coat in grey and white. Why have they sent a nun to bring me to hospital, I said to myself. As bad as I was in the so-called ambulance, I said, I want my husband. You don't need a man, she said, you need a woman. My case was in the van. I'll look after all them clothes, she said. Can I have my husband, I said. You're better off away from men, she said. I felt frightened, really scared. The two men didn't speak. There was a partition between them and us... she was sitting on another plank, and there was a window at the back that looked blacked off. I didn't like nuns, I knew what they were like. I don't like you, I said, you're evil, I knew she was evil. I couldn't understand why I was being treated like this.

I was told Dr Sheehan was just back from Africa, and that he flew up from Dublin to do this operation, that he was two years in Africa, and that his hands were blessed by the Pope ... After a short drive, we ended up at the Lourdes. The two men in the long black coats took me out on the stretcher and my husband and my dad went after them. We couldn't go in the front door, there was something wrong with the lock, we were told. So we went up the fire escape, around the corner, up a stairs that went round and round on the inside, like a spiral circle that got narrower and narrower at the top. Once we hit the wall and I nearly fell off, it was a good job my husband was coming behind, he pushed the stretcher forward. We went up several stories to the very top, out onto a corridor and into an operating room.

There was a big white fridge on one side, and a long wheelie table, and a wooden table, and a plank, and a bare wall and a window, with white tiles on one side. It looked funny to me, like a butcher's shop, that's how it felt. It didn't look like a proper theatre, no, it was not a room for giving birth in, it was a horrible room. They had two silver things, stirrups, do you call them, and they put my legs into them. There were nurses and a young student, a black man. I went to kick him, stay away from me, you black bastard, I said. You shouldn't be calling me that, he said, I'm trying to help, I'll turn her around. He put my legs even higher. I couldn't breathe, so he put my legs down a bit, and started to turn her. Dr Sheehan is here now, one of the nurses said, so he had to stop. I pity you now, he said, I asked him what he meant, but he just went bursting through the door.

The nurse held my hand and told me there was nothing to worry about. They got me to sign a piece of paper and one of them held my hand up while I was doing it. He [Dr Sheehan] comes in with a black case. In his hand there was a needle like one you would use for a cow, with a plunger, full of white stuff, and he put that into my leg, near the top, on the inside. You'll be alright now, he said, it's to stop the pain, so you won't feel it. There was an awful lot of young people there, ten at least. He told two young nurses to hold my arms, so I don't look at what he was doing. I felt being cut. I can feel everything, I said - I was screaming - it's not working. I felt the pure instinct of death. The nurses were getting sick, they'd leave, I could see them looking horrified. I could feel all that pain, they were not mentioning the baby, I felt it tightening round me. The nurses let go of me and I seen him go and take out a proper hacksaw, like a wood saw, the same thing as for wood, a half-circle with a straight blade and a handle. He took it out of the black case ... No nurses had the strength to hold me down. It was out of this world, the torture. The blood shot up to the ceiling, up onto his glasses, all over the nurses. I'll get you in the next world, I thought. Then he goes to the table, and gets something like a solder iron and puts it on me, and stopped the bleeding. It was death. I knew I

was being killed, there was blood coming out of me.

There was this big Hoover sound, I saw a black spongy circle, like a cap, attached to a machine. The sound was really noisy ... They told me to push him out. He must have been out before they burnt me. He put the suction thing back, he looked disappointed that he couldn't use it. You women, he said ... The nurse gave me the baby, he had a cut on his cheek. It's only a superficial cut, she said, it will go away. It was very upsetting to see the baby's face like that. They just took him away then. I was worried about the cut. He still had that mark the next time I saw him, and there were scratches on his face...

He put the two bones together, there was a burning pain, I knew I was going to die. He was shoving the bones together, sewing them together. I made such a noise, a deep death noise, very deep and loud, came out of me. It's a shame, the nurse said. It's a shame, the waste of a young healthy body, he said. I was thinking, I'm still alive, he hadn't tested me with a stethoscope or anything. I couldn't move my eyes, I was paralysed, all my body, my eyes. My brain was panicking, it took every ounce of will power to move my little finger. It moved. She's still alive, the nurse said. It happens all the time, he said, it's just reflex. They put the sheet over me and left the room. I know it sounds strange, but I left my body.

I looked down at myself. There was a silver cord attached to me, I was going up to the Gates of Heaven, and I met two angels and the Angel Gabriel. God was shouting at me to get in. I don't want to, I said, I haven't done an awful lot of time below. You got to have a very good reason, Gabriel said, if you want to go back. I do, I said, I have a baby to look after. My body felt so bony and hard. I got back into my body, I had a little power but not enough strength to turn my head around. There was a light at the bottom of the fridge, the room was totally cold. I was still attached to the stirrups. I saw this square machine on a stand, there were tubes coming out of it and the tubes were inside my private parts. Everyone was gone away, there was no one around.

I heard Sheehan. There was a tinkling sound, like cups, they were drinking tea. The door was ajar. I've never done a liver transplant, he said. There's a wealthy woman in the private part in her late 50s, she has two or three years at most, I'd love to do an operation on her, she's not absorbing food, so it wouldn't make a difference to her. And the nurse said, after what I seen, I never want to have a baby. I'm the only one in the room, I said to myself, so it must be me he means. The machine was suffocating me, there were bubbles coming up at the back of my mouth. I was dying again when my husband comes in and takes the sheet off me. The bubbles were coming up the back of my throat. This night nurse comes in and shines a light on me. They left the machine on, she said. And she switched it off. The bubbles started going back down again. They put a drip on each side of my arm. I could see the head behind the door, but they said he [Sheehan] must have gone off somewhere else. I wanted to speak to him. If you keep talking like that, we'll have to leave you here, the nurse said ... It was 12 o'clock at night when I was found. I was put into a ward on the same floor.

I woke up with a catheter, it was in for ten days at least. The nurses wouldn't speak to me. They'd get you out of bed and make you walk, they'd lift your two legs together in and out of the bed. The walking was to stop blood clots, they said. They got me out on the third day. After a few days they started looking for samples, but my bowels weren't working, it was too soon anyway. They gave me half a raw egg, no toast, it was horrible. Food was not allowed to be brought in and they said they don't do cooking, because of the germs. Barley water and the odd sweet, that's all I got. It was doctors' orders not to allow any food, I was not being fed at all. The second night after I came in, I heard lots of screaming from the same room. A woman died in that room. The nurses came in all covered in blood, the walls were covered in blood, they said, and the woman died.

It was so secretive. I never seen him [Sheehan] again. My husband asked to speak to him. The

nurses didn't speak much, they wouldn't be friendly, they said nothing. One night, the nurse came to change the capiter with a torch, she put it in the wrong place, where I had the operation. Things went black in front of me. There was no wee going in, so they had to put in another tube, and there was bottles and bottles of it. I had needles every hour, because there was an infection in the water. I was pincushioned on both sides with penicillin needles, it was pure agony.

Only for my husband and my dad, I wouldn't have survived. All my stuff was taken, that nun never looked after my stuff. I've got a lovely couple in America, she said, you're too young to look after a baby. Where's my case, I said ... She brought me some baby bottles and some nappies. I'm a married woman, I said, I'm going to keep him, my husband will help me. A man is not able to look after a baby, she said. We're going to do our best, I said. He was 22. It's like yesterday. It'll never be forgotten what they did to me.

Six days after, I got him back at last. He still had that mark the next time I saw him, and there were scratches on his face...I saw the mark on his cheek, he looked hungry to me. Give me the bottle, I said. If I'd had some food, maybe I'd had more strength. Not being fed, thirteen days after the birth, I thought I'd die with starvation ... I was anaemic. They were making me walk, I was full of pain, all the time, but I wanted to walk. It took me ages and ages, you were pushing yourself to walk, it wasn't a proper walk. You were walking in a fashion. My feet were flat, I had pains in my knees, in my hip, pelvic pain, my back was killing me, my pelvis was killing me, you could hear it crunching. It was eternal suffering. I have chronic pubic pain, I take painkillers, and rest. My bladder? I think it was damaged, accidentally, I have to really rush to get there, I need to go very often.

They gave me some soup [after I came home] , but I was throwing up, my stomach was closing up. I stayed in bed quite a while, I was only young. My dad was living there, he was very helpful, my husband was very helpful. I couldn't get out with the pram, he used to take her out. I couldn't get up to feed her or to change her. I carried on as best I could, I used to make myself do things. They gave me no painkillers, no advice, nothing. They used to buy paracetamol themselves, I had irritable bowel, pains in the stomach. They thought I was being addicted. I overdosed sometimes, I'd get sick. I took everything, codenol, Neurofen ...

Yes, the sexual side was affected, there was tension. I was told I mustn't have another child after the operation. They told my husband, he was scared, it made our lives miserable. There were arguments, constant, destructive. I got very bad tempered, I was easily annoyed. I could kill ... Sheehan. I used to visualise him on the operating table, and imagine myself operating on him. I suffered from depression. The bad temper, it was not right, it went away. I still get flashbacks sometimes, it comes out, every so often I'd be sweating in a nightmare. It can happen today. He has depression sometimes... He heard some of it [the story of his birth] ...

Six years later we decided to have another child... As I got nearer the time, I was a nervous wreck... I went hysterical when I heard the nurse saying they might have to cut me a little bit, I thought I would have to be sawed. I told them what had happened and they said it should be reported ..Then it was just me, he went off with a younger woman. I got in a relationship, too....

I was telling my doctor and she wouldn't believe me, she thought I was a clinical nuisance. Until you bring me the medical records, she said... Is it very painful, my son asked. For me it was, I said, I had to have a Caesarean section, I was cut with a saw. But you don't do it with a saw, he said... Then he found it ... It all came together, we got the records and brought them to the doctor. She shook hands with me, she knows I am in pain now, she sent me for counseling.

Aileen

I went to the GP because I wanted to know if I was pregnant ... I always wanted babies. At seven or eight months he said, what size shoe do you take? Three, I said. Better go to the clinic, he said, you need to have a section. I didn't know what a section was. When they x-rayed me [in St Finbarr's Hospital], they said, you'll have a bouncing baby, you're going to have a [Caesarean] section. They're going to cut me up in pieces, I thought, in sections. So I went to Deirdre, my friend, to ask her what a section was ... She told me ... I'm taking you to Dr Sutton, she said, to his private place ... When I went to see him, he said nothing. I thought he'd mind me, that I'd be safe, he said nothing about a Caesarean section. It was 1963.

Two weeks later, I had pains ... That night the waters broke. Go in, my Gran said, and [when they put you to bed], tie the sheet onto the end of the bed and pull it. Why am I pulling the end of a sheet to have a baby, I said to myself. I thought I'd see Dr Sutton when I went in [to hospital]. But the nurse went and got a razor; the doctor had it in his hand. You're going shaving, I said, and I'm having a baby. I'm just going to prep you, the nurse said. I was 22. It was 50 years ago. I didn't know what prepping was [shaving, often accompanied by an enema]. I started having pains, like period pains. I got out of bed to pull the sheet. Every time I'd have a pain, I'd get out of bed and pull the end of the sheet. Then the nurse came in and took the sheet off the end of the bed. Then it got bad, they started poking around and saying words like 'centimetres'. I didn't know why they were talking about centimetres, they were for measuring ...

Sutton came in and said, you're fine. I was there all night. Very early in the morning, I was in a little first aid room outside the labour ward, I could hear a woman screaming. I could hear them saying to her, 'come on now, missus, you must push'. I'm not pushing anything, I said, I'm having a baby. I thought they were making her push things around the room. I was taken in [fooled]. They didn't tell you anything. They gave me a mask. I couldn't stand it over my face. I could cope with the pain. I wasn't in full labour, I thought, it wasn't too bad. They put me on a table and hung my two legs up on stirrups. I want my legs down, I said. There were two nurses at the end of me. That's a foot, one of them said, you have to push that back in. Sutton was there, on the spot. There was confusion, they had this thing over my nose. I wanted to be awake, to see what was happening. I could feel it. I could hear screaming, I knew it was me who was screaming. I could feel ... a lot of hurt. I was away down this awful tunnel. It was scary ... You have an angel, they said, thank your doctor when he comes in, he saved your life.

Next day, I wouldn't open my eyes, for a full day, they were very worried about me. The baby lived for ten minutes. She was baptized. She was the image of you, they said. My husband and my sister saw her, her head was wrapped in cotton wool. But I didn't see her ... I couldn't move with the pain ... I couldn't turn in the bed.

Can I have more babies, I asked the nurse. Next time, she said, you'll have your baby in the corridor, and there'll be a swing to your hips. My uncle came in to see me two days later. Are you going to do anything about it, he said to my husband ... Please don't put me in a room with babies, I said. I was in a wheelchair, with a drain and a bag. I'm not going to the toilet, I said to the nurse [wondering why not]. You are, she said, and caught the bag and threw it on the bed. The nurses walked me up the stairs - you got a pain up to the top of your head when they made you walk. Once I was in so much pain, it was an emergency, they had to call a doctor. Over a month my friend said I was in hospital, but I don't remember.

All the baby clothes, the ones my grandmother had bought, we had to throw out. Chris had to make the coffin and bury the baby himself, she was buried under a tree. We had no money. I couldn't walk. Where is she buried? I asked him, years later.

When I went back for my [six week] check up [to Sutton], there was no conversation, no nothing. I told him was fine, thanked him for saving my life. You had a disappointment, he said when I went to pay him, we'll leave it at that. I couldn't make the dinner, I couldn't go up the stairs. I wouldn't go out, in case people would be looking at me. Even my period, I felt, was not coming the right way. I had this hole in front, it was oozing, but there was no one to ask what it was ...

I so much wanted that baby. I craved a child. That's it, Chris said. I have to have children, that's what I got married for, I said. I thought that was the norm, what I went through in 1963 with Martin. I wasn't even walking by the time I had my second, in '64. I'll never forget the pain of trying to conceive. I went back to Sutton, I thought he was a great man, that he'd saved my life ...

I had a section. After I came home, I still couldn't walk, or put my foot on a step, or bring the pram downstairs ... I stayed with Sutton. On Mark, in '67, I had a section again. I had another girl in '69, Siobhán. Afterwards, Sutton said to me: no more, put a tablet between your thighs. After Siobhán's birth, we got a council flat. I remember trying to lift my right leg up the stairs with her. After a good few years, my walking improved. But lifting could still be a problem on the right side, I get a pain there sometimes.

Why didn't he section me? I wanted six children. I don't know why he didn't do a section. I had no problem with sections.

One time, the doctor examined me. Did you have a bad confinement, he said, they cut you from back to front. It still hurts [that pelvic area]. I'm 73, so I don't have to go for any more smear tests, they were very painful. I got claustrophobia, I put it down to the change [menopause]. I couldn't go up to the front of the church at Mass, I had to sit on the back seat. I couldn't go on the train. I can't tolerate the dark, I have to have a light in my room to this day. I used to wake up in Finbarr's screaming, I dreamt about being locked in a matchbox, not being able to get out. The sex thing had to stop, I couldn't bear it ...

Around 2004, they took us to CUH [Cork University Hospital] for assessment. Did you break your pelvis bone, they asked me, or were you in an accident ... I was the only one whose child had died. They couldn't find my notes [in Finbarr's] when I went in [the following year] There was no patient, no baby born, no Aileen in Finbarr's, that's what they said ... Stillborn, that's what it said [on the death cert]. It really upset me, to think what she went through. Dragging her out like that, they perforated her head. But when I got her birth cert, I felt like she'd been born again ... One day, I met the staff nurse from Finbarr's on the bus. Aren't you the girl who had that terrible thing done, she said, I never saw anything like it. We couldn't say anything about the things that went on in there [in Finbarr's].

Hannah

I stayed at home 'til I got married ... We were well off farmers ... I was born in 1929, women had no say in those days, they were walked all over ... I was 30 having my first child, great during the pregnancy ... We went to nursing homes in those days. Don't be talking about nursing homes or anything else, my GP said, you're going to Holles St [the National Maternity Hospital] The best doctor there is Dr De Valera. I was thinking of going to the Rotunda, I said. You will not go to the Rotunda, he said, you are a Catholic - you will go to Holles St ... When I went in, there was a crowd of women screaming ... I got such a fright I went home!

De Valera said, I'd like it [the baby] to come on naturally. I was almost a week at home, I was small,

and the baby was getting bigger and bigger. I went in again - they induced me. I normally do a Caesarean section, De Valera said, but because you are such a good a Catholic, I'll do a symphysiotomy, you're a Catholic family, you'd be expected to have at least ten - if you have a Caesarean, you can only have three. And, as a Catholic, you need to go through the pains of childbirth - if you had a Caesarean, you wouldn't. The baby is as big as yourself - why do small women marry big men? I'll have to stretch your hips and straighten your pelvis. I'd no idea what a symphysiotomy was.

He [De Valera] didn't do it, [Dr] Alvey did it. I was completely out. I remember waking up in a dark room - I was a private patient. Did I not have my baby, I asked. You had it hours ago, the nurse said, but you won't be seeing it for a while, you had a hard time, and the baby had a very hard time.

Nuala

I walked on air for nine months, never had a day's sickness. But, once in the Lourdes [the IMTH], anything that could go wrong went wrong. I was just unfortunate ... My pelvis must have been so small: I took a size four shoe. She was eight [pounds] twelve [ounces] ... But I was in good health otherwise.

I'm sure he [Dr Michael Neary] could have done a [Caesarean] section. Present were trainees, it said on the notes. He did it: it's on my notes ... When I said it to him, can you do a section, he said, I think it's too late. I was a candidate for three sections. He told the judge [Maureen Harding Clark] he never did one ... She was a brow presentation, stuck for hours on end, mid-cavity, they said. You still had to push after the symphysiotomy, she was born within ten minutes, the vein in my neck was swollen from pushing. We were all awake, you had to deliver the baby, you had to be awake for it, to push the baby into the world. It was a dreadful, dreadful experience.

What was scandalous for me - a major issue - was that I couldn't get my baby. It was very hard on a mother, when you were yearning for your baby. There was no humanity about it. All I longed for ...the emptiness is still there. I can feel it now, talking to you, a kind of grief... They had no compassion for that want that was on a mother to hold her baby. They could have carried her up in an incubator. I was in a room on my own, it wouldn't have disturbed anyone. You weren't even listened to, you were a commodity. Not one of them came and said, God love you, I'll see if I can get your baby for you. They were all colluding together. She was so sore [after the operation], she would cry when they moved the incubator. She had a cerebral swelling, her face and head were distorted ...

I went home ... to my mother's house, I couldn't do the stairs with my legs. I used to have my leg propped up: my mother would tie a bolster [case] around me at night and pin it. No, they gave me nothing for the pain coming home, nothing. No one took us aside, no one told us what to do. My mother knew I had a dreadful pain, but she didn't know what caused it, she was always packing my back with cushions and pillows to relieve the pain ... I was crying with the pain, it was as if my leg fell apart. Keep you legs together, my mother thought, she didn't know what had happened ... It was a nightmare, like coming out of a crash ...

There was bone growing on bone; it didn't knit where it was supposed to knit. Every day I think about it ... Bone grew in the space, it's like an abscess on my right hand side. When different doctors did it, they wrapped the patient in sheets so the bone knitted. If you broke your pelvis in an accident, you'd be in traction for a couple of months. There was no wrapping of the pelvis in my case. ... You just got on with it. As I got stronger and more able to walk, things got a bit easier ... I had pain for nine years, then it got better, the pain subsided somewhat. I got so many infections

down there, I got urinary infections as well ... Those infections went on for nine years. I couldn't feel anything on the outside part of my leg for a long time ...

I cope with it every day ... you just live with the repercussions, the pain ... There's just no support there to hold the water back ... I was so sore, I was limping the day I went to see the consultant - some winters, and some summers, it would be bad. And he said, I've never ever done a symphysiotomy and I would hope I never have to do one. I could never see a case when it should be done ... But I'm strong, I'm not going to let it get the better of me. I'm on an anti-depressant ... My husband was the only one who knew ... only that there was such a good, kind person in my life ... He just thought they had to do it to save the baby. We thought there was no other answer. I thought it was my own personal problem, I was thankful to God for the baby. Then you begin to think....You wouldn't do it to a cow, would you? You'd put her down first.

No one asked you did you want the Pill. It was a Catholic hospital. You were only allowed to have three sections, so you were curbing your family... Other than that, I can't think why he [Neary] did it. Was he on a power trip, in front of his trainees....? If it was all gone through, in the [medical] notes, would it be proved he had to do it? I don't think so. .. You have to ask yourself why, was it for the nuns' sake...? Why did it happen?

She [my daughter] would suffer with depression at times. I would never discuss it with her, never. I feel it didn't help her, to have such a struggle to come into the world ... I am still bereaved for that first fortnight in the hospital. I will never get over that ... At least I could believe she was there [if they'd let me feed her]. She wasn't ill, because she was being fed every three hours ...

You'd see the older women, crippled, in pain all the time, and you'd ask yourself, is that my lot? But you still have to get on with life ... No money will take your pain away, or your bad experience ...If someone said it's wrong, that it shouldn't have been done... Sometimes I think it's dead in the water, then at other times, I think someone should have been made answerable ... The nuns should have said, it [symphysiotomy] is not going to happen here. Most of them had been on the missions. But it was done in Ireland as well [as in Africa]. The nuns believed that if you went through [the pain of] labour, it would prepare you for bonding with your baby ...

Why did I have to have a section [on my fifth child] after having had a symphysiotomy [on my fourth]? There was no explanation ... My doctor said to me they [gynaecologists] don't bother speaking to women, because they don't think a woman would understand what they're saying ... They still look on women as second-class citizens ... A man wouldn't do it to a man, but a man would do it to a woman. A vet would probably not do it to an animal. Nobody questioned it, nobody said, what about a section ... It was their argument against yours, but ... if you haven't got the medical knowledge, you might make a very poor argument. The way you were treated, you didn't need to know ...

We had saved nine months to go private. We thought, if you went to the Lourdes, the gynaecologist would be there at the birth ... We thought he would know a bit more, just a bit more, than the midwives. At 25 or 26, you're very naïve, you put your trust in people. You say to yourself, I've booked a gynaecologist, I've paid good money in case anything goes wrong ... When I became more enlightened, I realised it was neglect, sheer neglect. He should have done a section.

Marie O'Connor
Chairperson of Survivors of Symphysiotomy

Ruadhan Mac Aodhain
Member of the Irish Bar

Colin Smith
Member of the Irish Bar

Michael Lynn
Member of the Irish Bar

Matthias Kelly
Member of the Irish Bar

10 March 2014

