



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

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English only

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**Committee against Torture**

**Concluding observations on the second periodic report of  
Ireland**

Addendum

**Information received from Ireland on follow-up to the  
concluding observations\***

[Date received: 9 August 2018]

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\* The present document is being issued without formal editing.



1. The Committee against Torture considered the second periodic report of Ireland at its meetings held on 27 and 28 July 2017. It published its concluding observations on 11 August 2017.
2. Paragraph 37 of the concluding observations requests the State party to provide, by 11 August 2018, information on:
  - (a) Follow-up to the Committee's recommendation on the ratification of the Optional Protocol (OPCAT);
  - (b) Strengthening the independence of the Garda Síochána Ombudsman Commission; and
  - (c) Investigating allegations of ill-treatment of women in the Magdalen laundries and ensuring that all victims obtain redress.
3. Our responses to these issues are as follows.

### **Ratification of the Optional Protocol to the Convention (OPCAT) (Paragraphs 7 & 8)**

4. At the end of 2017, the Department of Justice and Equality participated in a roundtable discussion on the implementation of OPCAT in Ireland at the launch of IHREC's (Irish Human Rights and Equality Commission) research into the matter.
5. IHREC commissioned that research which included a comprehensive report prepared by the Human Rights Implementation Centre (HRIC). This outlined the Commission's position on what should be the primary considerations for the State in making progress towards ratification and implementation of OPCAT. It also set out recommendation in respect of the designation and coordination of a national preventative mechanism (NPM) under OPCAT.
6. In early 2018, the Department of Justice and Equality circulated IHREC's research to relevant stakeholders for their comments and observations. The following matters, on which observations were sought, represent the critical issues to be considered arising from the research:
  - (a) Using existing sectoral authorities to carry out OPCAT inspections;
  - (b) Using an expanded office of the Inspector of Prisons to deal with OPCAT inspections in the Justice Sector (e.g. Office of Inspection of Places of Detention);
  - (c) The role/relationship such an office would have with existing agencies;
  - (d) Using existing agencies to carry out OPCAT type inspections on behalf of an Office of Inspection of Places of Detention;
  - (e) Using this expanded Office of Inspection of Places of Detention to act as a co-ordinating NPM;
  - (f) How agencies could interact with the co-ordinating NPM for OPCAT.
7. The stakeholders comprised those organisations with policy or operational responsibility in respect of inspection arrangements across the ambit of the NPM regime provided for in OPCAT. Additionally, stakeholders included advisory and advocacy organisations with expertise in this area.
8. These stakeholders included:
  - Department of Health;
  - Department of Defence;
  - Department of Children and Youth Affairs;
  - Garda Inspectorate;
  - Irish Penal Reform Trust;

- The Children’s Ombudsman;
- PRILA (Research project on Prisons: the rule of law, accountability and rights);
- Irish Council for Civil Liberties;
- Inspector of Prisons;
- SAGE (Support and Advocacy Service for Older People);
- IHREC.

9. The last of these submissions was received in April 2018 and the DJE is now in the process of considering them. Following this process which is expected to conclude within the next month, Department of Justice and Equality officials will be meeting with the newly appointed Inspector of Prisons to discuss the functions that the Inspector of Prison’s Office may carry out in the future as part of Ireland’s implementation of OPCAT. This meeting will help the DJE to finalise a policy position for agreement and will ultimately inform the shape of relevant legislation to enable ratification of OPCAT.

## **Police Complaints Mechanism**

### **Paragraph 20 (a)**

10. The Commission on the Future of Policing in Ireland, comprised of national and international experts, is undertaking a comprehensive examination of all aspects of policing including the full range of bodies that have a role in providing oversight and accountability for their activities. This includes the Garda Síochána Ombudsman Commission (GSOC) which is engaged with the Department of Justice and Equality in seeking changes to the current legislative framework to enhance its independence. Discussions will continue with the Department to progress these matters.

11. The Commission is due to report in September. Its report will inform policy in relation to all matters affecting the Garda Síochána, including the objectives, role and functions of GSOC. The Government, while positively disposed to legislative change to enhance the independence of GSOC, will await the Commission’s Report before bringing forward proposals for further changes to GSOC, to ensure that such changes are consistent with the blueprint for policing that will be proposed by the Commission.

### **Magdalen Laundries**

12. In November 2017, the Ombudsman issued a report on the administration of the scheme in which he made a number of recommendations. On 29 May 2018 the Government approved the Minister’s proposals for the implementation of the Ombudsman’s recommendations, viz:

- Following a scoping review by an Inter-Departmental Committee, the redress scheme will now apply to women who worked in a Magdalen Laundry but who were resident in one of 14 adjoining institutions. A general payment will be made for the entire period of residency in the adjoining institution in addition to a “work” payment for the specific period of time worked in a Magdalen Laundry;
- A Senior Counsel has been appointed to:
  - (1) review cases where there is a dispute in relation to the length of stay in a relevant institution; and
  - (2) to review and advise on assistance to be given to applicants who lack capacity to accept an award;
- Central guidance will be drawn up on the development and operation of redress schemes in the future.

**Paragraph 26 (a) & (b)**

13. As previously stated, the Irish Government does not believe that a new enquiry is warranted. It is satisfied that the finding of the 1,000 page report of the Inter-Departmental Committee to establish the facts of State involvement with Magdalen Laundries — the McAleese Report — brought into the public arena a considerable amount of information not previously known about Magdalen Laundries.

14. The McAleese Committee had no remit to investigate or make determinations about allegations of torture or any other criminal offence. However, it did take the opportunity to record evidence and testimony that might throw light on allegations of systematic abuse. In this context, 118 women who had been in these institutions agreed to complete a questionnaire on conditions (food, punishment etc.) in these institutions and/or to meet with and discuss these issues with the independent Chair.

15. No factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found. The majority of women did report verbal abuse but not of a nature that would constitute a criminal offence. There is no doubt that the working conditions were harsh and the work was physically demanding. A small number of women did describe instances of physical punishment during their time in the institutions. However, the large majority of women said they had neither experienced nor seen other girls or women suffer physical abuse in the Magdalen Laundries. The majority of women who engaged with the Committee had been at Reformatory or Industrial Schools prior to their admission to a Magdalen Laundry. They stated clearly that the ill-treatment which they had witnessed and been subjected to in Industrial and Reformatory Schools was not a feature of the Magdalen Laundries.

16. The Committee interviewed a number of medical doctors who had attended the women in the Magdalen laundries and who had in some cases reviewed earlier records. They did not recall any indication or evidence of physical maltreatment.

17. No individuals claiming to be victims of criminal abuse in Magdalen laundries have made any complaints or requests to the Department of Justice and Equality seeking further inquiries or criminal investigations.

18. While isolated incidents of criminal behaviour cannot be ruled out, in light of facts uncovered by the McAleese Committee and in the absence of any credible evidence of systematic torture or criminal abuse being committed in the Magdalen laundries, the Irish Government does not propose to set up a specific Magdalen inquiry or investigation. It is satisfied that the existing mechanisms for the investigation and, where appropriate, prosecution of criminal offences can address individual complaints of criminal behaviour if any such complaints are made.

19. It is open to anyone who believes a criminal act took place to make a criminal complaint and it will be investigated. To date no individuals claiming to be victims of criminal abuse in Magdalen laundries have made any complaints or requests to the Department of Justice and Equality seeking further inquiries or criminal investigations.

20. Further, a total of 337 women were met during the subsequent process led by Judge Quirke to make recommendations to the Government for a redress scheme. The report made by Judge Quirke specifically noted that the accounts provided by 337 women interviewed during that process were “entirely consistent” with the observations of then-Senator McAleese in the Report.

**Right to bring a Civil Action**

21. All women who have qualified for redress under the terms of the ex-gratia scheme are required to sign an undertaking not to take an action against the State and its agencies. This does not preclude them from taking an action against a civil authority.

**Publicise the scheme to survivors living outside Ireland**

22. The scheme has been advertised throughout the world through Ireland’s diplomatic mission network, the Department’s website and through support groups.

23. Following the recent Government Decision to apply the scheme to 14 adjoining institutions (on foot of a recommendation by the Ombudsman), advertisements were placed in newspapers in Ireland and the UK. The Department of Foreign Affairs & Trade has also issued notices on our behalf through their Missions i.e. through their Embassies and Consulates worldwide and have forwarded the notice to umbrella Irish community organisations such as the “Coalition of Irish Immigration Centres” in the US and “Irish in Britain” in the UK.

#### **Fully implement the recommendation of Justice Quirke**

24. A successful event for Magdalen women — titled “*Dublin Honours Magdalenes*” — was held in Dublin’s Mansion House on 5/6 June 2018. Over 200 former residents of Magdalen institutions accepted the invitation to attend. The President of Ireland also hosted the women at his official residence. Although the event was organised by a voluntary group, the Department of Justice and Equality provided the bulk of the funding (approximately €300,000), used its database of applicants to the Magdalen Redress Scheme to issue invitations and assisted organisers in other ways.

25. The successful event was in line with two of the recommendations of Mr. Justice Quirke. It provided an opportunity for the women to meet and exchange contact details, and make their known their views for a suitable memorial.

#### **Dedicated Unit**

26. The principal purpose of the recommendation in the Quirke Report for a “Dedicated Unit” was to provide access to Magdalen survivors. These services are provided on a cross-departmental basis and the staff in the Restorative Justice Unit of the Department of Justice & Equality engage with the Magdalen women on a daily basis and advise them on all matters.

#### **Greater access for victims and their representatives to relevant information held in public and private archives**

27. The Religious congregations who ran the institutions have committed to providing all of their former residents with records relating to their time in a relevant institution, once their identity has been properly established. They have also committed to meeting with their former residents to discuss matters relating to their time in the institution.

28. The records relating to the institutions the subject of the Magdalen ex-gratia scheme are in the ownership of the religious congregations and held in their private archives. The congregations are bound by data protection regulations. In addition, the State does not have the authority to instruct them on their operation. Any records held in a public archive are publically available.

29. In addition to the above information, the Committee may find of interest the following significant milestones achieved in relation to other topics raised in the concluding observations.

#### **Abortion**

##### **Paragraph 4 (g)**

30. Further to the Committee’s welcome, at point 4 (g), of the establishment of the Citizens’ Assembly to consider a number of issues including abortion laws, the following update is submitted.

31. The Citizens’ Assembly submitted its final report, setting out its recommendations, to the Oireachtas on 29 June 2017.

32. The Joint Committee on the Eighth Amendment of the Constitution, chaired by Senator Catherine Noone, was established to consider the Citizens’ Assembly report and recommendations, and reported its conclusions and recommendations to the Houses of the Oireachtas on 20 December 2017.

33. A majority of Committee members recommended that change is needed to extend the grounds for lawful termination of pregnancy in the State. A majority of members of the Committee also made recommendations on grounds on which termination of pregnancy should be permitted in Ireland. The Committee further noted that measures and policies that address and seek to minimise the instances of crisis pregnancies should also be put in place.

34. The Government held a referendum on the eighth amendment of the Constitution — Article 40.3.3 on Friday 25 May 2018. On Polling Day, the people were asked to vote on whether they agree or disagree with the proposal to delete Article 40.3.3 in its entirety, and to substitute an article in the Constitution, the object and effect of which would be to articulate clearly the principle that laws may be enacted by the Oireachtas, to provide for the regulation of termination of pregnancy.

35. The people of Ireland voted in favour of the Thirty-sixth Amendment of the Constitution Bill. The result of the referendum was 66.4 % in favour; 33.6% against.

36. Two applications for permission to challenge the result of the referendum were made to the High Court under section 42 of the Referendum Act 1994. On 20 July, the President of the High Court refused leave in both cases, and on 24 July, costs were awarded to the State against both applicants. One of the applicants decided not to appeal. The other applicant has appealed and the case will be heard on Friday, 17th August. Another case relates to an intervener who tried to substitute themselves into another case after it was withdrawn and struck out. That appeal was dealt with on 31 July and the litigant lost in the Court of Appeal. They now intend to go to the Supreme Court.

37. As there is a referendum petition outstanding, the referendum result remains provisional and the Thirty-sixth Amendment of the Constitution Bill 2018 cannot be signed into law by the President. This means that the Bill to expand the grounds for the legal termination of pregnancy cannot be published in the Houses of the Oireachtas, as article 40.3.3 remains unchanged in the Constitution.

38. However, in anticipation of the Thirty-sixth Amendment of the Constitution Bill being enacted, work is ongoing on the legislation to regulate termination of pregnancy. An updated General Scheme of the Health (Regulation of Termination of Pregnancy) Bill was approved by Government on 10 July 2018 and is available on the Department of Health website at the following link: <https://health.gov.ie/wp-content/uploads/2018/03/General-Scheme-for-Publication.pdf>.

39. The General Scheme expands the legal grounds on which termination of pregnancy may be provided in Ireland. Currently, under the Protection of Life During Pregnancy Act 2013, termination may only be carried out in cases where there is a threat to the life of the pregnant woman.

40. The General Scheme provides for termination to be carried out in cases where there is a risk of serious harm to the health of the pregnant woman, where there is a condition present which is likely to lead to the death of the foetus either before or within 28 days of birth, and without restriction up to 12 weeks of pregnancy.

41. The Minister for Health Simon Harris has stated that it is a priority for the Government to have a medically delivered, safe and regulated service for the termination of pregnancy for all those who require it, based on the huge mandate that the Irish people have given for this work.

#### **Paragraph 32 (e)**

42. Further to the Committee's recommendation that Ireland ensures the provision of post-abortion health care for women irrespective of whether they have undergone an illegal or legal abortion, it should be noted that the Government, through the Health Service Executive Sexual Health and Crisis Pregnancy Programme, funds the provision of crisis pregnancy and post-abortion counselling services, which operate out of more than 40 locations nationwide. All services provide access to post-termination counselling, and a number provide free post-termination medical check-ups.

## **Situation of Asylum Seekers and Migrants**

### **Paragraph 11**

43. The Irish Government opted-in to the EU (recast) Reception Conditions Directive 2013 with effect from 30 June 2018, aligning our position with EU norms and standards. The Directive lays down the standards for the reception of international protection applicants while their application is being determined.

44. Under the Directive, asylum seekers will have access to the labour market nine months from the date when their protection application was lodged, if they have yet to receive a first instance recommendation from the International Protection Office, and if they have cooperated with the process. Government has approved a broad and generous access to the labour market for qualified applicants amongst a number of other important reforms in a range of areas covered by the Directive including reception conditions for applicants, improved identification of vulnerability and children's rights. Eligible applicants will have access to all sectors of employment, with the exception of the Civil and Public Service, An Garda Síochána (Irish police), and the Irish Defence Forces.

45. The Directive will bring Ireland into line with standards across the EU Member States for reception conditions for international protection applicants, including standards in accommodation centers. This continues the recent and ongoing positive work carried out to enhance living arrangements for applicants and their families, and to further provide a wide range of supports and services to asylum seekers. Participation in the Directive is another important step in the reform of our international protection and reception systems.

46. An information campaign was launched to ensure that applicants, employers, trade unions, NGOs and all other relevant bodies are fully informed of the labour market access and eligibility arrangements that will apply. Full details and an application form is available on the INIS website ([www.inis.gov.ie](http://www.inis.gov.ie)).

### **Disabilities**

#### **Paragraph 38**

47. Ireland has now ratified the UN Convention on the Rights of Persons with Disabilities (CRPD). The Convention came in to force for Ireland on 19 April 2018. The Minister of State for Disability Issues visited the United Nations on that date to mark the event.

48. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The Convention provides that people with disabilities should have the same rights as everyone else and should be provided with the practical supports to make that aspiration a reality.

49. Ongoing progress and implementation will be internally monitored through the structures in place to support the implementation of the National Disability Inclusion Strategy (NDIS), which was published on 14 July 2017. Its implementation is monitored by a Steering Group, which comprises the key departments, the National Disability Authority and the Disability Stakeholders Group.

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