



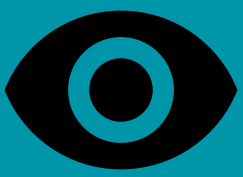
FRAMEWORK FOR THE PREVENTION OF TORTURE

Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

(UNCAT Article 2)

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment...

(UNCAT Article 16)



RATIFICATION OF OPCAT

Ireland has not ratified the Optional Protocol to the Convention against Torture, nor has it taken concrete steps to establish a National Preventive Mechanism.



REPRODUCTIVE RIGHTS

Under the current legislative framework barriers to accessing sexual and reproductive healthcare impede a person's right to bodily autonomy and disproportionately impact on those who face difficulties in travelling to seek a termination of pregnancy.

DOMESTIC VIOLENCE



Victims of gender-based violence experience significant obstacles in securing protection and support.

IHREC RECOMMENDS



Ratify OPCAT without further delay and outline the legislative, policy and other reforms required to establish a National Preventive Mechanism.



Revise the legal framework on abortion in line with recommendations by UN treaty monitoring bodies.



Integrate concluding observations of the UN Committee on the Elimination of Discrimination against Women into national policy on domestic violence.

INTERNATIONAL PROTECTION

No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

(UNCAT Article 3)



NON-REFOULEMENT

Ireland has seen a steady increase in the rate of refusals of leave to land.



FAMILY REUNIFICATION

Ireland's restrictive family reunification provisions cause hardship to families.



DIRECT PROVISION

Long periods in direct provision have negative impacts on persons seeking asylum.

Privately run centres do not set performance measures and there are limited penalties for underperformance.



IMMIGRATION-RELATED DETENTION

Ireland continues to allow for immigration-related detention in prisons and garda stations.



RENDITION

The State continues to rely on diplomatic assurances to discharge its obligations in relation to transiting passengers.

IHREC RECOMMENDS



Ensure that persons at ports of entry have access to legal and interpretative services, and resource the new application procedure with highly-trained personnel.



Amend the restrictive family reunification provisions under the *International Protection Act 2015*.



Impose a specified maximum period for which applicants for protection can be detained.



End reliance on diplomatic assurances as a means of ensuring that individuals transiting through or deported from the State will not be subject to torture.

POLICING

Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel.

(UNCAT Article 10)

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment...

(UNCAT Article 11)



ACCOUNTABILITY & OVERSIGHT

Reforms have not addressed all of the issues identified in relation to the powers and resourcing of the Garda Síochána Ombudsman Commission (GSOC), nor have they resulted in a Policing Authority with full potential to de-politicise policing.



CUSTODY & INTERROGATION

Police custodial settings are not subject to independent oversight or unannounced inspections. The right to a lawyer during questioning is not a statutory right, which inhibits the development of consistent practice.



DUTY TO INVESTIGATE

There are deficiencies in systems, processes, training, guidance and police awareness which hinder investigations.



EDUCATION & INFORMATION

The Code of Ethics for the Garda Síochána does not explicitly name the Convention against Torture and the positive duty to prevent torture.

IHREC RECOMMENDS



Strengthen the powers and resources of GSOC to enable it to effectively and comprehensively address complaints.



Progress the review of the Policing Authority to ensure that it is a truly independent body and that policing is de-politicised.



Establish the statutory right to a solicitor during interrogation.



Address reported deficiencies in the recording and investigation of crimes.



Incorporate an explicit reference to the prohibition on torture in the Code of Ethics for the Garda Síochána

PRISONS

Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.
(UN Mandela Rules 2015)

The Committee recommends that the State adopt a policy focusing on the development of alternative, non-custodial sanctions...

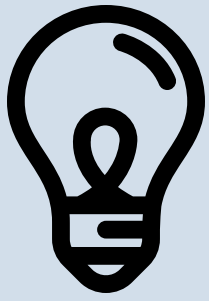
[and] that the State establish an independent and effective complaint and investigation mechanism to facilitate the submission of complaints by victims of torture and ill-treatment by prison staff...

(UN Committee against Torture, Concluding Observations on Ireland 2011)



SOLITARY CONFINEMENT

Prolonged segregation damages the mental health of the detainee. There were over 400 prisons on restricted regimes (19 hours lock-up per day) in April 2017.



OVERSIGHT AND COMPLAINTS

The Inspector of Prisons has a broad statutory mandate which requires significant resources. The current complaints mechanism is deficient in terms of external oversight.



OVERCROWDING

The over-reliance on prison as punishment continues to cause capacity issues in prisons.

IHREC RECOMMENDS



Ensure that solitary confinement is imposed as an exceptional measure, subject to a proportionality test, incorporating rigorous standards of review.



Enhance the independence and resourcing of the role of the Inspector of Prisons to enable fulfilment of its statutory mandate.



Provide for independent oversight of the prison complaints regime.



Progress legislative reforms to improve alternatives to custodial sanctions.

MENTAL HEALTH & CAPACITY REFORM

The Committee recommends that [Ireland] review its Mental Health Act 2001 in order to ensure that that it complies with international standards.

(UN Committee against Torture,
Concluding Observations on Ireland, 2011)

Any legal provisions [...] allowing confinement or compulsory treatment in mental health settings, including through guardianship and other substituted decision-making, must be revised.

(Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2013)



CRPD

Ireland has not yet ratified the Convention on the Rights of Persons with Disabilities (CRPD) and has not operationalised legislation which reforms the system of substituted decision-making.



REFORM OF MENTAL HEALTH LAW AND POLICY

Ireland's mental health laws contain obstacles to achieving a service that is human rights compliant. Commitments under Ireland's mental health policy have not been met.



INVOLUNTARY TREATMENT & RESTRAINT

The rate of involuntary admissions has increased incrementally since Ireland's first examination. Compliance rates with codes of practice on restraint are not satisfactory.

IHREC RECOMMENDS



Ratify the Convention on the Rights of Persons with Disabilities and legislate for the deprivation of liberty in certain care settings.



Commence the *Assisted Decision-Making (Capacity) Act 2015* without further delay.



Progress reforms of the *Mental Health Act 2001*, update and resource the national policy on mental health *A Vision for Change*.



Review standards and guidance on the use of restraint to improve consistency, clarity and to improve compliance rates.

HISTORICAL ABUSE

The Committee recommends that the State institute prompt, independent and thorough investigations into all complaints of torture and other cruel, inhuman or degrading treatment or punishment

(UN Committee against Torture,
Concluding Observations on Ireland, 2011)

[R]edress should be tailored to the particular needs of the victim and be proportionate to the gravity of the violations committed against them.

(UN Committee against Torture, General Comment No. 3, 2012)



INVESTIGATIONS

A common feature of most inquiries into historical abuse is that they have not taken a human rights based approach.



SECURING REDRESS AND EFFECTIVE REMEDIES

Survivors have experienced various hurdles in relation to securing redress, rehabilitation and effective remedies for the trauma and suffering endured.



REPEAT VICTIMISATION

Treatment of survivors of abuse by public institutions can inflict further trauma upon survivors.

IHREC RECOMMENDS



Embed human rights and equality considerations in the statutory framework for the investigation of abuse.



Fully investigate the treatment of women in the Magdalene laundries.



Revise the scope of the Commission of Investigation into Mother and Baby Homes to include all institutions and persons affected.



Establish a statutory, independent investigation into cases of symphysiotomy, which can guarantee access to an effective remedy.



Review the State's narrow interpretation of the *O'Keefe v Ireland* decision.



Incorporate safeguards into the operations of Caranua to ensure that survivors of abuse are not subject to repeat victimisation.