



*Preventing and healing  
the trauma of rape and  
sexual abuse*

**Dublin Rape Crisis Centre Submission to the United Nations Committee  
Against Torture and Other Cruel, Inhuman or Degrading Treatment or  
Punishment on Ireland's second periodic report.**

**July 2017**

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## **ABOUT US**

**The Dublin Rape Crisis Centre (DRCC) makes this submission in advance of the examination of Ireland’s second periodic report under the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.**

The DRCC is a non-governmental organisation which for almost 40 years has been dedicated to preventing the harm and trauma of rape and sexual abuse and promoting victims’ healing. DRCC is the largest of the 16 Rape Crisis Centres in Ireland and serves the population of Dublin and surrounding counties for counselling and nationwide through its helpline and policy work.

In 2015 DRCC provided crisis counselling and long-term therapy to 499 adults who experienced rape, sexual assault and childhood sexual abuse. DRCC also handled 11,789 contacts on its national 24-hour helpline, which provides a confidential listening and support service. The Centre has worked on the establishment of rape treatment centres overseas and trains diplomatic staff on trauma related matters. DRCC also serves as a gateway to a range of additional services including medical, legal, and social services.

DRCC has worked successfully as an agent of change, educating society and other frontline workers who support those impacted by sexual violence, challenging attitudes and injustices, advocating for legislation, informing policy, and providing victims/survivors with the support, compassion, and the dignity that they deserve.

This submission focuses on the State’s response to the List of Issues raised by the UN Committee against Torture (the Committee)<sup>1</sup> in respect of Ireland’s forthcoming examination.

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<sup>1</sup> UN Committee against Torture (2013) *List of issues prior to submission of the second periodic report of Ireland* 17 December 2013 CAT/C/IRL/QPR/2 - [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fQPR%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fQPR%2f2&Lang=en)

## ARTICLE 2

### Issues 3(a) & (b)

The Committee requested updated information from the State on:

- (a) Incidents of domestic violence against girls and women and specific statistics regarding the sex, age and family relationship of victims and perpetrators, as well as on investigations, prosecutions and convictions relating to sexual and domestic violence;
- (b) Efforts made to prevent domestic violence, including through the implementation of the national strategy on domestic, sexual and gender-based violence, 2010-2014;

In responding to the question raised by the Committee at issue 3(a); the State's response is limited at Para 31 to '*Statistics relating to Sexual Offences and breach of barring order / safety order/exclusion order for the period 2009/2013 of those convicted by age and sex are at Appendix.*' It should be noted that the Appendix referred to was omitted.

There may be difficulties for the State in producing the statistical information requested because, for a period, the collection of information was suspended following concerns of the Garda Síochána (Police) Inspectorate<sup>2</sup> on the reliability of the police data collection system.<sup>3</sup> Based on the figures available from the State's Central Statistics Office (CSO), it appears that the number of reports of sexual offences has risen very slowly from 1,415 in 2006 to 2,549 in 2016.<sup>4</sup> Further, these CSO figures do not assist in identifying whether the increase in the reporting is due to an increased level of crime or increased reporting of such crime.<sup>5</sup>

The small numbers reporting in Ireland gives rise to concern, given the evidence of the widespread prevalence of sexual violence in Ireland. The last comprehensive study in this area was published in 2002.<sup>6</sup> Sexual Abuse and Violence in Ireland (SAVI) Report found that 42% of women had experienced some form of sexual abuse in their lifetime and that only 10% of sexual offences were reported.<sup>7</sup> The 2014 survey undertaken by the European Union Agency for Fundamental Rights (FRA) revealed the extent of abuse suffered by women at home, work, in public and online. The FRA findings confirmed that violence against women and girls is pervasive and extensive across the EU including Ireland, with 8% of Irish women saying they had experienced sexual violence since the age of 15 as against the European average of 11%.<sup>8</sup>

<sup>2</sup> <http://www.irishexaminer.com/viewpoints/analysis/garda-inspectorate-report-a-glimpse-into-a-culture-of-chaos-297411.html> (Last accessed 22/06/2017)

<sup>3</sup> <http://www.irishtimes.com/news/crime-and-law/recorded-sex-offences-up-36-over-five-years-cso-1.2446428>  
Central Statistics Office Review of the quality of crime statistics 2016

<sup>4</sup> <http://www.cso.ie/multiquicktables/quickTables.aspx?id=cja01>

<sup>5</sup> <http://www.cso.ie/en/releasesandpublications/er/rc/recordedcrimequarter42016/> (Last accessed 16/6/2017)

<sup>6</sup> THE SAVI REPORT (2002) *Sexual Abuse and Violence in Ireland* Hannah McGee, Rebecca Garavan, Mairéad de Barra, Joanne Byrne and Ronán Conroy. Royal College of Surgeons in Ireland Commissioned by the Dublin Rape Crisis Centre <http://www.drcc.ie/wp-content/uploads/2011/03/savi.pdf> (Last accessed 15/1/2017)

<sup>7</sup> <http://epubs.rcsi.ie/cgi/viewcontent.cgi?article=1014&context=psycholrep>

<sup>8</sup> [https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-apr14\\_en.pdf](https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-apr14_en.pdf)

The Minister of State for Justice committed to a ‘gold standard’ of data collection<sup>9</sup> in December 2016.<sup>10</sup> He stated that the collection and coordination of data on violence against women was “an absolute imperative if we are to prevent such violence.”<sup>11</sup> In February 2017 the Minister for Justice & Equality told the Dáil that she recognised the importance of updating the 2002 survey and had sought budgetary support from other government departments to assist in the cost but that it had not been forthcoming.<sup>12</sup> In the absence of robust data, decisions cannot be made that accurately reflect victims’ experiences and needs.

It is noted in Para. 14 of the State’s response to the Committee that COSC, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence has established a data committee ‘to ensure that suitable data systems are in place to collect the appropriate data to inform current and future policies and priorities.’ While this interdepartmental committee has indeed been established, it has not yet identified common agreed mechanisms for the collection of data so there has been no improvement to date as a result of COSC establishing this committee.

The prosecution of serious cases of sexual violence remains very low in Ireland. There is also a high attrition rate in rape cases. In 2009, Ireland was among 11 countries that took part in the EU Daphne II project called *Different systems-similar outcomes? Tracking attrition in reported rape cases across Europe*,<sup>13</sup> The final research report found that in Ireland the reporting of rape had increased by over 500% between 1977 and 2007, but that the conviction rate had fallen. Between 1998 and 2000 the conviction rate was 16%, but at the time of the report in 2009 that figure had dropped to 8%.<sup>14</sup> Despite the seriousness of this problem, improvements to the situation as evidenced in the Daphne research are slow.

While the rule and defence that a husband could not be guilty of the rape of his wife was abolished by the Criminal Law (Rape) (Amendment) Act 1990, only 4 convictions for marital rape have been recorded to date in Ireland.<sup>15</sup> A prosecution for marital rape may only be brought with the consent of the Director of Public Prosecutions.<sup>16</sup> Allowing for this and other difficulties in prosecution, many instances of sexual violence will be reported or noted as an incident of domestic violence because marital rape is often considered one of a range of abusive behaviours as opposed to singling it out for the crime that it is.

<sup>9</sup> <https://youtu.be/p74eEF9Vbys> approximately 8.40mins into his speech Minister Staunton makes reference to the gold standard of data collection. (Last accessed 18/01/2017)

<sup>10</sup> “*The Istanbul Convention: Measuring the Scale of the Crisis*”, a conference of the Irish Observatory against Violence against Women chaired and convened by the National Women’s Council of Ireland 9 Dec 2016.

<sup>11</sup> <http://www.thejournal.ie/women-violence-prevention-3129544-Dec2016/>

<sup>12</sup> Parliament question to Minister for Justice on February 28<sup>th</sup> 2017

<https://www.kildarestreet.com/wrans/?id=2017-02-28a.298> (Last accessed 16/06/2017)

<sup>13</sup> <http://kunkskapsbanken.nck.uu.se/nckkb/nck/publik/fil/visa/197/different>

<sup>14</sup> <http://www.irishtimes.com/news/just-8-of-reported-rapes-result-in-convictions-1.756237> (Last accessed 22/06/2017)

<sup>15</sup> <http://www.independent.ie/irish-news/courts/fourth-ever-conviction-for-marital-rape-after-man-attacked-wife-over-attractiveness-to-women-insult-35128597.html> (Last accessed 22/06/2017)

<sup>16</sup> Section 5 Criminal Law (Rape) (Amendment) Act 1990

<http://www.irishstatutebook.ie/eli/1990/act/32/section/5/enacted/en/html>.

**Recommendations:**

**DRCC recommends that the State should fund, undertake and publish research on sexual abuse and violence in Ireland, building on the 2002 report.**

**DRCC recommends that the State prioritise the identification of adequate data collection systems to permit the collection of adequate, reliable, disaggregated data on sexual violence in Ireland.**

Issue 3(c)

The Committee requested updated information from the State on:

(c) Specific measures taken to enhance funding of refuge and support services provided to victims of domestic violence;

DRCC is taking this opportunity to highlight the lack of funding for services for victims of sexual violence.

Support services for sexual violence and domestic violence took severe funding cuts between 2008 and 2015. Seven consecutive years of funding cuts have led to a cut in rape crisis personnel and services, a dilapidating infrastructure, and a halt to expansion. State-allocated funding of €19.5 million in 2015 and €20.6 million in 2016 remains inadequate to provide support for 60 separate services of which 46 are domestic violence services and 16 sexual violence / rape crisis services around the country.<sup>17</sup> This is detrimental to those who rely on the services provided by the DRCC and other rape crisis centres, limiting victims' access to affordable, adequate and timely support and care. The DRCC, despite the State's underfunding of services for victims of sexual violence has managed to main core rape crisis services and a 24-hour National Helpline through fundraising efforts and the substantial support of volunteers.<sup>18</sup>

Services for victims of sexual violence are likely to be put under even more pressure in the light of State obligations under the EU Victims' Directive, to recognise the rights of victims to be referred onto services offering free support, advice, counselling, and treatment.<sup>19</sup> This provision has not been included in the Victims of Crime Bill currently being debated in the Irish Parliament.<sup>20</sup>

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<sup>17</sup> <https://www.kildarestreet.com/wrans/?id=2016-05-25a.936>. Reply of Minister Katherine Zappone TD to Eoin O Broin TD 25/5/2016

<sup>18</sup> Overall, it is estimated by Túsla, the Child and Family Agency that over 3,000 adults and nearly 200 children who experienced sexual violence were supported in 16 sexual violence/ rape crisis centres in 2015. In addition, services were supplied via the DRCC National Helpline and supplementary localised helplines. DRCC was able to answer 11,789 contacts on its helpline in 2015 and to provide therapy to 499 clients. In addition, its volunteer services provided 327 court and police accompaniments. See DRCC Annual Report 2015 <http://www.drcc.ie/wp-content/uploads/2016/08/DRCC2015-Final-Version-HR.pdf>.

<sup>19</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029> Refer to Article 8(1) & (3)

<sup>20</sup> <https://www.oireachtas.ie/documents/bills28/bills/2016/12116/B121a16d.pdf>

In addition, cuts to other public health services, in particular mental health services, have increased pressure on existing services supplied by rape crisis centres, meaning that there are longer delays than acceptable in accessing therapy and follow on services.

**Recommendation:**

**That the State adequately resource those providing services to victims of sexual violence.**

Issue 3(d)

The Committee requested updated information from the State on:

(d) Any amendments to the Domestic Violence Act of 1996 that would include clear criteria to grant safety and barring orders and extend eligibility for all parties in line with internationally recognized best practice;

The State has introduced a Domestic Violence Bill 2017 which is currently being debated in the Irish Parliament.<sup>21</sup> While this Bill is welcome, and aims to extend protection to those without property rights in the family home, those in intimate dating relationships and those at risk of online domestic abuse, it continues to have a number of drawbacks that will mean it will likely fall short of the requirements of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).<sup>22</sup> In contravention of the Istanbul Convention, the Bill continues to:

- Fail to define domestic violence to include all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit, including online stalking and harassment;<sup>23</sup>
- Fail to define a criminal offence of domestic violence;<sup>24</sup>
- Fail to include specific criteria to inform victims of domestic violence, those implementing the legislation and the judiciary of reasons why protection orders should be granted;<sup>25</sup>
- Fail to ensure immediate and free legal aid for those seeking court protection but unable to afford the €130 minimum contribution required for legal aid;<sup>26</sup>

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<sup>21</sup> [http://www.justice.ie/en/JELR/Domestic\\_Violence\\_Bill\\_2017.pdf/Files/Domestic\\_Violence\\_Bill\\_2017.pdf](http://www.justice.ie/en/JELR/Domestic_Violence_Bill_2017.pdf/Files/Domestic_Violence_Bill_2017.pdf)

<sup>22</sup> <https://rm.coe.int/168046031c>

<sup>23</sup> National Women's Council of Ireland Submission *Recommendations for Legislative Amendments: Domestic Violence Bill 2017*  
[http://www.nwci.ie/index.php/learn/publication/recommendations\\_for\\_legislative\\_amendments\\_domestic\\_violence\\_bill\\_2017](http://www.nwci.ie/index.php/learn/publication/recommendations_for_legislative_amendments_domestic_violence_bill_2017) (Last Accessed 23/6/17)

<sup>24</sup> Ibid

<sup>25</sup> Women's Aid Submission *Domestic Violence Bill 2017*  
[www.womensaid.ie/download/pdf/submission\\_on\\_the\\_domestic\\_violence\\_bill\\_2017.pdf](http://www.womensaid.ie/download/pdf/submission_on_the_domestic_violence_bill_2017.pdf) (Last accessed 23/6/17)

- Fail to provide for effective emergency barring orders providing effective protection such as measures which would allow the Gardaí to remove a respondent from the home, where appropriate, despite the fact that such measures are not provided for elsewhere in Irish law.<sup>27</sup>

**Recommendation:**

**The State ensures that the Domestic Violence Bill 2017 is fully compliant with the requirements of the Istanbul Convention and better meets the needs of victims of sexual and domestic violence by remedying the failures outlined above.**

**ARTICLE 10**

Issue 10(b)

The Committee requested information from the State on:

(b) Any efforts to implement a gender-sensitive approach to the training of those involved in the custody, interrogation or treatment of women subjected to any form of arrest, detention or imprisonment and on any training of law enforcement personnel and others on the treatment of groups at risk of ill-treatment, such as children, migrants, Travellers, Roma and other vulnerable groups;

In response to the question raised by the Committee at issue 10(b), the State's extensive response includes only one specific reference to '*gender-sensitive approach*' to training at Para. 94.

Training of law enforcement personnel is relevant to dealing with victims of sexual violence who are a vulnerable group within the justice system. This is particularly appropriate in a context where the EU Victims of Crime Directive is directly applicable in Irish law and a Victims of Crime Bill is being debated in the Irish Parliament.<sup>28</sup>

At the moment, trainee police and prison officers receive some limited specific training on dealing with victims of sexual trauma in their initial training<sup>29</sup> but there is no requirement for continued updating of the training.

Victim witnesses of sexual violence are particularly vulnerable during the trial process. They face unique challenges in the criminal justice system as they are at the same time both victim

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<sup>26</sup> Safe Ireland Submission *Legislative Amendments Recommended to Domestic Violence Bill 2017* [www.safeireland.ie/wp-content/uploads/SAFE-Ireland-Domestic-Violence-Bill-2017-Recommendations-for-Legislative-Amendments-April-2017-.pdf](http://www.safeireland.ie/wp-content/uploads/SAFE-Ireland-Domestic-Violence-Bill-2017-Recommendations-for-Legislative-Amendments-April-2017-.pdf) (Last accessed 23/6/17)

<sup>27</sup> Women's Aid *Domestic Violence Bill 2017 Submission* [www.womensaid.ie/download/pdf/submission\\_on\\_the\\_domestic\\_violence\\_bill\\_2017.pdf](http://www.womensaid.ie/download/pdf/submission_on_the_domestic_violence_bill_2017.pdf) (Last accessed 23/6/17)

<sup>28</sup> <https://www.oireachtas.ie/documents/bills28/bills/2016/12116/b12116d.pdf>

<sup>29</sup> Dublin Rape Crisis Centre supplied 13 hours of training on 8 occasions at the Police Training College and 98 hours of training to the Irish Prison Service in 2016

and complainant, with their credibility being under scrutiny to a highly unusual degree as so many of these crimes occur in intimate settings where the victim and perpetrator are known to each other.

Testifying in court can be a distressing and dangerous experience for victims of sexual violence. Intimidation by the defendant, requests to describe traumatic incidents numerous times, intense cross examination, or face to face confrontation with their abuser can injure the physical and mental security of the victim.<sup>30</sup>

Despite this lawyers and judges are not required to have any specific training in dealing with victims of sexual violence. That includes specific training in interviewing, investigating, forensics, prosecution and recognition of the rights of victims to information and not to be re-traumatised by the justice system.

Ireland has undertaken to give protection to some 4,000 refugees under the Irish Refugee Protection Programme.<sup>31</sup> DRCC is concerned that those who are settled should be in a place and have adequate and affordable access to appropriate mental health services, including rape crisis centre services, should they need them.

The Royal College of Physicians in Ireland has said that rates of post-traumatic stress disorder are up to 10 times higher among refugees than in the local population. It identifies a need for primary care, sexual health and mental health services that are culturally and linguistically competent.<sup>32</sup>

### **Recommendations:**

**That all law enforcement personnel and legal practitioners, including judges have initial and on-going training in dealing with victims of sexual violence as a mandatory part of their education.**

**That the Irish Refugee Protection Programme specifically incorporate provisions for adequate health, including mental health screening and a needs assessment which gives adequate, affordable access to rape crisis centres to those who need them.**

<sup>30</sup> <http://ww3.lawschool.cornell.edu/AvonResources/CSW-Memo-2.pdf>. Sharon Pia Hickey *Innovative Court Practices to Protect Victim Witnesses* 9 March 2015 Commission on the Status of Women Parallel Event.

<sup>31</sup> According to Minister for State for Justice, David Stanton TD in answer to a parliamentary question on 30 May 2017: “The Irish Refugee Protection Programme (IRPP) was established by Government Decision on 10 September 2015 as a direct response to the humanitarian crisis that developed in Southern Europe as a consequence of mass migration from areas of conflict in the Middle East and Africa. Under this programme, the Government has pledged to accept a total of 4,000 persons into the State, 2,622 through the EU relocation mechanism established by two EU Council Decisions in 2015 to assist Italy and Greece, 1,040 (519 by the end of 2016 and the remainder in 2017) under the UNHCR-led refugee resettlement programme currently focussed on resettling refugees from Lebanon, and the balance through a variety of mechanisms. Some elements of this intake, such as the relocation strand, come with a time limit of two years and other elements are not time limited.” <https://www.kildarestreet.com/wrans/?id=2017-05-30a.231>

<sup>32</sup> <http://www.irishtimes.com/news/health/royal-college-of-physicians-seeks-better-refugee-healthcare-1.2691169> Irish Times 20 June 2016

## ARTICLE 11

### Issue 14

The Committee requested updated information from the State on:  
Measures taken to improve the standard of health care, including mental health care, in all prisons in the State party;

In response to the question raised by the Committee at issue 14, the State sets out its responses in Para's. 126 to 129.

DRCC provides a limited outreach therapy facility to women prisoners at the Dóchas Centre, Mountjoy Prison in Dublin.<sup>33</sup> In addition, DRCC provides training to trainee prison officers to enable them to better manage the trauma of sexual violence of women in custody. There is a waiting list for therapy in Dóchas Prison. There is no rape crisis therapy provision available in the adjoining male Mountjoy Prison. It is clear to DRCC from its work with prisoners and prison staff that there is a need to extend both the training of staff and the direct services to prisoners. In addition, to better understand the problem, the State should investigate and uncover the lived realities of so many of the prison population of sexual abuse and then to offer appropriate responses.

### **Recommendations:**

**To meet current need and pending the outcome of the research mentioned in this section, the State make available therapeutic treatments to all prisoners who are victims of sexual violence if they need it.**

**That the State fund and undertake research; to investigate and uncover the lived realities of those prisoners who are victims of sexual abuse and to identify appropriate responses.**

## ARTICLES 12, 13 and 14

### Issue 20(e)

The Committee requested information from the State on:  
(e) Status of the review and implementation of the Garda Síochána policy on the investigation of sexual crimes, crimes against children and child welfare;

In responding to the question raised by the Committee at issue 20(e); the State's response is limited at Para 228 to *'the review of An Garda Síochána Policy on Sexual Crime, Crimes against Children and Child Welfare has been completed and the updated policy is available on the Garda website: www.garda.ie'*.

<sup>33</sup> <http://www.drcc.ie/wp-content/uploads/2016/08/DRCC2015-Final-Version-HR.pdf> See page 5 of DRCC Annual Report for details of outreach services provided

While that Garda (Police) Policy is in place since 2013 which recognises the need for a specialised approach to the investigation of sexual offences, its implementation has been slow.

In addition, in a Police Inspectorate Report in November 2014,<sup>34</sup> it was recommended that practice in the investigation of sexual crimes be amended so that

- the police implement a victim centred policy;
- the police institute good investigative practices in rape and other sexual offences;
- dedicated officers are specially trained to undertake the initial investigation to include taking a victim's statement, forensic retrieval, rape trauma and victim care.

Although the recommendations were welcomed by the Minister for Justice and Equality<sup>35</sup> the first four units were only set up in June 2017.<sup>36</sup> While they were recommended for all twenty eight Police divisions, they are currently established on a pilot basis in only four districts across three divisions. The roll out of the policies has been very slow and is a serious concern for the Policing Authority<sup>37</sup> as well as for DRCC and others working with victims of sexual violence. So too is the designation of the current units as pilots, without a timed, costed action plan for full implementation. As a result, victims of sexual violence do not have consistent nationwide access to the expert services which they need in order to support them in reporting offences committed against them and in having those offences thoroughly investigated and prosecuted.

**Recommendation:**

**That the State provide a detailed action plan and budget to ensure that each Garda (Police) Division has enough protective services units to adequately serve victims of sexual violence wherever they are in Ireland within a specified short time frame.**

<sup>34</sup> <http://www.drcc.ie/2014/11/press-release-drcc-and-the-garda-inspectorate-report/> DRCC & the Garda Inspectorate Report DRCC Press Release 14 November 2014

<sup>35</sup> <http://www.justice.ie/en/JELR/Pages/PR14000315> Minister for Justice & Equality Press Release 11 November 2014

<sup>36</sup> <http://www.garda.ie/Controller.aspx?Page=20558> Four new Divisional Protective Services Units go live on the 2/6/17 Garda Press Release 2 June 2017

<sup>37</sup> [http://www.policingauthority.ie/Website/PA/PolicingAuthorityWeb.nsf/page/DCMY-AMXF6B1212242-en/\\$File/Quarterly%20Report%20on%20CPI%20April%202017.pdf](http://www.policingauthority.ie/Website/PA/PolicingAuthorityWeb.nsf/page/DCMY-AMXF6B1212242-en/$File/Quarterly%20Report%20on%20CPI%20April%202017.pdf) p.14-15 Quarterly Report of the Policing Authority to the Minister for Justice & Equality April 2014

## Other Article 14 Issues

### Consistency of Approach to Sentencing

Ireland has an individualised system of sentencing in which judges exercise a relatively broad sentencing discretion. This leads to a concern about inconsistency in sentences imposed on those convicted of rape and other sexual offences. According to one analyst,<sup>38</sup> the sources of inconsistency are an individualised sentencing system, multiple sentencing aims and judicial variability.

There are no Sentencing Guidelines available to judges other than those developed by judicial case law. A pilot project established by the Courts Service, the Irish Sentencing Information System, to plan for and provide information on sentencing decisions stalled at an early stage with the last information on the website dating from May 2014. The project aim was to design and develop a computerised information system, on sentences and other penalties imposed for offences in criminal proceedings, which may inform judges when considering the sentence to be imposed in an individual case. No such information system exists for cases of rape and other sexual offences.

While a non-custodial sentence has been described as ‘wholly exceptional’, a sentence of less than three years as ‘unusual’,<sup>39</sup> and while the trend for rape convictions seems to be towards longer sentences,<sup>40</sup> a person convicted of rape in 2015 was initially given a fully suspended 7 year sentence.<sup>41</sup> The Director of Public Prosecutions appealed the leniency of conviction. The Court of Appeal re-sentenced the offender to a term of one year and three months imprisonment.<sup>42</sup>

The absence of guidelines, the wide differences between sentence lengths and the fact that rape cases are heard *in camera* result in an information vacuum for victims of sexual violence which gives rise to uncertainty and additional trauma for victims and a risk of inadequate sentencing for offenders. The proposal to establish a Sentencing Information Committee in the Judicial Council Bill 2017,<sup>43</sup> to disseminate sentencing information to ‘judges and persons other than judges’<sup>44</sup> is a welcome first step.

<sup>38</sup> [http://www.jsijournal.ie/html/Volume\\_10\\_No.\\_2/\[2010\]2\\_Consistency\\_sentencing\\_Maguire.pdf](http://www.jsijournal.ie/html/Volume_10_No._2/[2010]2_Consistency_sentencing_Maguire.pdf)

Dr. Niamh Maguire. Judicial Studies Institute Journal 2010

<sup>39</sup> Katharina Ó Cathaoir *Recent Rape Sentencing Analysis: The WD Case & Beyond*. Judicial Researchers’ Office | 22 November 2012

<sup>40</sup> <https://www.irishtimes.com/news/crime-and-law/rape-sentences-averaging-10-years-after-rise-over-last-decade-1.2656754>

<sup>41</sup> <http://www.irishtimes.com/life-and-style/people/ro%C3%ADs%C3%ADn-meets-i-m-not-a-typical-victim-niamh-n%C3%AD-dhomhnaill-1.2289018>

<sup>42</sup> <http://www.independent.ie/irish-news/news/sleep-rape-victim-niamh-n-dhomhnaill-i-dont-believe-he-would-have-stopped-with-just-me-34569223.html>

<sup>43</sup> [http://www.justice.ie/en/JELR/Judicial\\_Council\\_Bill.pdf/Files/Judicial\\_Council\\_Bill.pdf](http://www.justice.ie/en/JELR/Judicial_Council_Bill.pdf/Files/Judicial_Council_Bill.pdf) section 18

<sup>44</sup> S. 18 (2)(b) Judicial Council Bill 2017

**Recommendations:**

**That the State enacts speedily the provision of the Judicial Council Bill 2017 relating to the collation of sentencing information and that such information is published for general information.**

**That pending the establishment and resourcing of an effective system for the collection and dissemination of information relating to sentencing, that the State restore and fund the Irish Sentencing Information System.**

Effective right to redress

Victims of sexual violence who seek redress through the criminal law system face a number of barriers including the risk of re-victimisation in the court process.

Victims of sexual violence are treated in criminal proceedings similar to victims of any other crime, without taking their special protection needs into account. Such needs in particular relate to the status of the complainant as normally the main witness against the accused. Therefore the victim/complainant may be questioned on sexual experience without any notice prior to the actual hearing. The cross-examination may be centred entirely on credibility and, at the moment, the accused person may personally engage in substantial cross examination of the complainant.

The Criminal Law (Sexual Offences) Act 2017 contains provisions which will allow a judge to limit the extent to which an accused can cross examine an accused. This provision has not yet been commenced or activated, waiting on court rules. The EU Victims of Crime Directive does have such a provision<sup>45</sup> and the Victims of Crime Bill 2016, if enacted, will seek to limit secondary or repeat victimisation. Many clients of the DRCC and those who contact its 24-Hour National Helpline feel that they are re-traumatised and made vulnerable by the court system and by the manner in which cases are conducted. There is an immediate need for thorough training of all legal and court personnel to raise their awareness of the special needs of victims of sexual violence.

**Recommendation:**

**That the State carry out a thorough review of the systems and practices of the Irish court system, including the High Court and the Court of Appeal which hear rape cases, in consultation with complainants and those providing services to victims, to identify where there are risks of repeat victimisation. That the State put in place reforms to avoid the risk of repeat victimisation.**

<sup>45</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029> DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA