

The Dublin Rape Crisis Centre (DRCC) makes this submission in advance of the examination of Ireland’s combined sixth and seventh periodic reports (September 2016) under the UN Convention on the Elimination of all forms of Discrimination against Women.

The DRCC is a non-governmental organisation which for almost 40 years has been dedicated to preventing the harm and healing the trauma of rape and sexual abuse. We are the largest of the 16 Rape Crisis Centres in Ireland and serve the population of the greater Dublin area and surrounding counties for counselling as well as having a national remit for our helpline and policy work.

We provide services to those impacted by sexual violence. In 2015 we provided crisis counselling and long-term therapy to 499 adults who experienced rape, sexual assault and childhood sexual abuse. We run a national 24-hour helpline which provides a confidential listening and support service. There were 11,789 contacts to the helpline in 2015. It also acts as a gateway to a range of additional services including medical, Garda and court accompaniment, together with signposting to other available services.

We have worked successfully as agents of change, educating society and other front line workers who meet those impacted by sexual violence, challenging attitudes and injustices, advocating for legislation, informing policy and providing victims/survivors with the support, compassion and dignity that they deserve.

This submission focuses on the List of Issues raised by the Committee¹ in respect of Ireland’s forthcoming examination.

GENERAL

- **Issue 1 - Data**

There is no objective, up to date data available to identify authoritatively the number of women and girls in Ireland who have been subjected to sexual violence. The State’s response does not provide any such data and, to our knowledge, this information is not available to the State party or at all. The last comprehensive study on the level of sexual violence in Ireland dates from 2002 and was not state sponsored.² The Tánaiste and Minister for Justice & Equality has told the Dáil that she had sought budget support from other government departments to assist the cost of such a survey but that it had not been forthcoming.³

¹ CEDAW/C/IRL/QPR/6-7 16March 2016

² THE SAVI REPORT Sexual Abuse and Violence in Ireland (2002) 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/about/savi.pdf> Last accessed 15/1/2017

³ Parliament question to Tánaiste & Minister for Justice 9/11/2016 <http://www.parliamentary-questions.com/question/34085-16/> Last accessed 18/01/2017

Nonetheless, Minister Staunton, Minister of State for Justice committed to a ‘gold standard’ of data collection⁴ at a conference hosted by The Irish Observatory on Violence against Women⁵ to mark the 16 Days of Violence against Women. He stated that the collection and coordination of data on violence against women was “an absolute imperative if we are to prevent such violence.”⁶

There has been no large scale attitudinal survey of the Irish population. A recent Eurobarometer Report has indicated that 21% of the 1,002 Irish people surveyed in that poll believe that sex without consent is acceptable in certain circumstances.⁷

Recent reports from the Central Statistics Office of police figures showing an increased level of sexual offences does not aid understanding, when it is unclear whether the increase in the reporting is due to an increased level of crime or increased reporting of such crime.⁸ Without accurate and comprehensive data, the State cannot itself understand, nor can those affected by sexual violence, or their advocates, the extent of sexual violence in Ireland or how to respond to it.

RECOMMENDATIONS

- **Conduct a thorough, comprehensive analysis of the level of sexual violence in Ireland and the public attitudes to it, in order to provide a baseline and then for regular updates.**
- **Disaggregate the data collected through the Central Statistics Office, the Garda PULSE system and the Courts Service, to better determine the categories of victims of sexual violence and the types of crimes reported, prosecuted and convicted.⁹**

NATIONAL MACHINERY FOR THE ADVANCEMENT OF WOMEN

- **Issue 8 - Advancement of women through gender budgeting**

The DRCC is concerned that steps have not been taken to ensure adequate respect for the advancement of women through gender budgeting and equality budgeting.

⁴ <https://youtu.be/p74eEF9Vbys> Approximately 8.40mins into his speech Minister Staunton makes reference to the gold standard of data collection. Accessed 18/01/2017

⁵ “*The Istanbul Convention: Measuring the Scale of the Crisis*”, an event chaired and convened by the NWCI on December 9th 2016.

⁶ <http://www.thejournal.ie/women-violence-prevention-3129544-Dec2016/>

⁷ Eurobarometer poll November 2016 https://ec.europa.eu/ireland/news/21-de-mhuintir-na-h%C3%A9ireann-den-tuairim-go-bhfuil-caidreamh-colla%C3%AD-gan-toili%C3%BA-ceart-go-leor-i_en

⁸ <http://www.cso.ie/en/releasesandpublications/er/rc/recordedcrimequarter12016/> Last accessed 15/1/2017

⁹ See recommendation on Data at Para. 6 of Committee on Economic, Social and Cultural Rights, concluding observations on the third periodic report of Ireland June 2015 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/150/67/PDF/G1515067.pdf?OpenElement> Last accessed 15/1/2017

During the economic downturn from 2008 onwards, budgeting processes, always secretive, became even more restricted and confined to the heads of government and of the financial departments. According to an Organisation for Economic Co-operation and Development (OECD) report of 2013, ‘Some studies have placed Ireland lowest among OECD countries for effective parliamentary engagement in budgeting.’¹⁰ Some preliminary steps have been taken to open the process to some parliamentary scrutiny. No review though has been undertaken of the measures involved during austerity which resulted in disadvantage to vulnerable women and children, despite the recommendation of the Committee on Economic, Social and Cultural Rights (UN CESCR) that such a review occurs. That Committee also highlighted the disadvantages suffered by vulnerable groups as a result of the failure to adopt a human rights and equality approach to budgeting.¹¹

The DRCC welcomes the commitment in the programme for government to gender and equality budgeting.¹²

RECOMMENDATIONS

The State should advance gender and equality budgeting by clearly identifying:-

- **a minimum core to protect the rights of vulnerable women and girls;**
- **the use of the maximum available resources to ensure that vulnerable women and girls are treated with dignity and respect for their human rights**
- **how civil society is to effectively participate in the process.**

VIOLENCE AGAINST WOMEN

- **Issue 11**

Criminal Law (Sexual Offences) Bill 2015

While the Criminal Law (Sexual Offences) Bill 2015¹³ is not specifically referenced in the List of Issues, the measures contained within it have the capacity to significantly protect women and girls, particularly girls, against sexual offences and to heighten their protection in the court system.

¹⁰ OECD Review of Budget Oversight by Parliament: Ireland. Preliminary Draft Autumn 2015
<https://www.oireachtas.ie/parliament/media/housesoftheoireachtas/Ireland-Parliamentary-Budget-Review-Preliminary-Draft.pdf> Last accessed 15/1/2017

¹¹ See recommendation on Maximum Available Resources at Para. 11 (a to d) of UN CESCR, concluding observations on the third periodic report of Ireland, June 2015
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/150/67/PDF/G1515067.pdf?OpenElement>. Last accessed 15/1/2017

¹² Programme for partnership government 2016
http://www.merrionstreet.ie/merrionstreet/en/imagelibrary/programme_for_partnership_government.pdf
Last accessed 15/1/2017

¹³ <https://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2015/7915/document1.htm> Last accessed 15/1/2017

The draft legislation, which is in the final stage prior to enactment provides for a number of new offences related to the grooming of children for sexual exploitation through Information and Communications Technology (ICT). It also contains new measures to recognise ICT child pornography and to provide for heavier penalties for offenders. These gaps in child protection have been highlighted by the State's Special Rapporteur on Child Protection since his first report in 2007 and in all subsequent reports¹⁴ as well as by all those who advocate for children and those, like DRCC, who work with the older children and adult victims of child sexual abuse.

The draft legislation, if enacted and implemented, will advance the rights of those with intellectual disabilities: both to have their rights to family life recognised and also their rights to be better protected from sexual harm. In addition, the draft legislation contains provisions to better protect children giving evidence in the courts system. These last provisions could be improved upon by extending the protection and capacity to give video evidence and to be protected from cross examination by the accused directly, to all vulnerable adults.

While the current draft of the legislation does not include a statutory definition of what constitutes consent to sexual activity, the Tánaiste & Minister for Justice has promised to address the topic at the next stage of the Bill.¹⁵ This commitment is welcome.

Irish law fails to protect the victims of rape through its current interpretation of the defence of 'consent'. A recent Supreme Court decision¹⁶ given by an unusually large, seven-judge court found that the claim of 'honest belief' in the victim's consent, no matter how irrational, would constitute a full defence to a charge of rape, leading to full acquittal. This entirely subjective defence is out of line with more modern practice which recognises the requirement for some degree of reasonableness in the accused's deduction process in calling on this defence.

The State Party should use the logical opportunity of this legislation to bring Irish law into line with modern practice and into line with the rights of women and girl victims of sexual violence by amending the defence of 'honest belief' to include some element of reasonableness, while having regard to the rights of the accused to plead honest belief.

While recognising the government's commitment to ensuring this legislation is put in place the DRCC remains concerned about the length of time that this legislation is taking to process through the Oireachtas to enactment, following which it will have to be implemented by

¹⁴ http://www.dcy.gov.ie/docs/Report_of_the_Special_Rapporteur_on_Child_Protection_Mr_Geof/687.htm

¹⁵ Oireachtas Committee debate 7 December 2016 <https://www.kildarestreet.com/committees/?id=2016-12-07a.206&s=Criminal+Law+%28Sexual+Offences%29+Bill+2015+Committee+Stage> Last accessed 15/1/2017

¹⁶ <http://www.supremecourt.ie/Judgments.nsf/1b0757edc371032e802572ea0061450e/ef35c763b26550ef802580680048810c?OpenDocument> Last accessed 15/1/2017

regulation.¹⁷ It was first debated in October 2015. While it remains an unimplemented Bill, many women and girls remain at serious risk of predatory sexual offenders and will not receive the protection that they require.

Victims of Crime Bill 2016 and EU Directive

The State party published the Criminal Justice (Victims of Crime) Bill 2016¹⁸ on December 29th 2016, which, when enacted, will put victims' rights on a statutory footing in Irish law for the first time.

The Bill seeks to transpose an EU Law, the Victims Directive, into Irish law. The Directive became directly applicable in Irish law on 16 November 2015. When and if enacted, the legislation should improve the day to day experiences of women and girls engaged with the criminal justice system by strengthening their rights. Included in those rights, are a right to information, to privacy and protection from intimidation inside and outside the courts and access to necessary services. However, the legislation has still be debated by both houses of the Oireachtas, enacted and commenced.

RECOMMENDATIONS

- **The State party should ensure that the Criminal Law (Sexual Offences) Bill 2015 is enacted and implemented as a priority.**
- **The State party should consider extending the court protections proposed for children in the Criminal Law (Sexual Offences) Bill 2015 to vulnerable adults.**
- **A statutory definition of consent should also reform the current entirely subjective defence to rape of 'honest belief' which permits a full acquittal.**
- **The State party should prioritise the enactment and implementation of legislation to give effect to the EU Victims Directive.**

Recording, Prosecution and Conviction

In response to the question raised by the Committee about prosecution and conviction rates, the State's response at Para. 90 onwards are noted. The prosecution of serious cases of sexual violence remains very low in Ireland.

In the SAVI report of 2002, only 8% of women who suffered an adult sexual assault reported their experience to the Gardaí.¹⁹

¹⁷ S.1.2 Criminal Law (Sexual Offences) Bill 2015 as amended in the Select Committee on Justice & Equality <http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2015/7915/document1.htm> Last accessed 15/01/2017

¹⁸ <http://www.oireachtas.ie/documents/bills28/bills/2016/12116/b12116d.pdf>

¹⁹ THE SAVI REPORT Sexual Abuse and Violence in Ireland (2002) 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/about/savi.pdf> Last accessed 15/1/2017

In 2009, Ireland was among 11 countries that took part in the EU Daphne II project, *Different systems - similar outcomes*²⁰, which looked at attrition in rape cases. The report found the reporting of rape had increased in Ireland by over 500% between 1977 and 2007, but that the conviction rate had fallen. Between 1998 and 2000 the conviction rate was 16 per cent, but at the time of the report in 2009 that figure had dropped to 8%.²¹ The small percentage of those known to have suffered sexual violence that proceeds to prosecution is a matter of serious concern.

Only four convictions in cases of marital rape, an offence introduced by the Criminal Law Act 1990, have ever been recorded.²²

There are no formal Sentencing Guidelines available to the judiciary. A database of sentencing information, begun some years ago, has not progressed through lack of funding. Therefore judges interpret the law based on their own experience and knowledge as well as the guidance given by the superior courts in prior cases.

Neither judges nor other legal professionals engaged in sexual violence cases are obliged to undertake specific training targeted at ensuring the protection of the victims of sexual violence in the justice system.

While recent policy directives of An Garda Síochána are a welcome move towards harmonisation, the actual approach of Gardaí on the ground remains inconsistent. At least one specialist interviewer is now present in each Garda division. Only three Garda Protective Units have been put in place on a pilot basis instead of the 9 proposed in February to be in place by the end of 2016. Overall, the aim is to put one in each of the 28 divisions.

Sexual Assault Treatment Units (SATU) are not consistently available to women and girl children all around the country. A unit in Dublin city deals with girls over 14 years of age. Services available to younger girls in the city of Dublin are unsatisfactory because they are entirely ad hoc.

Medical and paramedical staff does not consistently receive training on the impact of sexual violence on a woman in an intimate relationship and particularly on pregnant women. The experience of the DRCC is that women will sometimes feel that they cannot enter an intimate relationship, begin a family, look after themselves in pregnancy or even attend to their general health at any stage after sexual violence, such as attending for cervical smear tests.

²⁰ <http://kunskapsbanken.nck.uu.se/nckkb/nck/publik/fil/visa/197/different>

²¹ <http://www.irishtimes.com/news/just-8-of-reported-rapes-result-in-convictions-1.756237>

²² <http://www.independent.ie/irish-news/courts/fourth-ever-conviction-for-marital-rape-after-man-attacked-wife-over-attractiveness-to-women-insult-35128597.html>

RECOMMENDATIONS

- **Within the health system: Standardise and resource SATU services to make them totally accessible to all women and girl victims of sexual violence. Train medical professionals.**
- **Within the Justice system: Resource Garda Protective Unit's country-wide. Audit all elements of the justice system, including police and court, to ensure that the rights of victims of sexual offences are adequately protected at each and every stage of the criminal justice process.**

Funding of Support Services

The Committee asked for information on funding of support services which the State Party addresses at Para. 98 & 99 of its response. It notes that the budget of €20.4 million to Túsla in 2016 is the sum allocated to cover 60 separate services including the 16 sexual violence / rape crisis services around the country. Support services took swingeing funding cuts between 2008 and 2015. For the DRCC, the impact of 7 consecutive years of funding cuts has been a cut in personnel and a total lack of investment in any infrastructure. Other rape crisis services have suffered in the same way. This has resulted in a reduction in the capacity of women and girls victims of sexual violence to access affordable, adequate and timely support and care. Notwithstanding this, rape crisis services and a 24-hour national helpline have been maintained with the funding available and the substantial support of volunteers²³.

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. While Túsla has identified that it is appropriate to adopt a comprehensive needs based approach, this new agency is still at the stage of planning and collecting information. Meanwhile many victims of sexual violence fail to receive the services that they require.

RECOMMENDATIONS:

- **Restore funding to 2008 levels as an interim measure for all domestic violence and sexual violence support services.**
- **Ensure that Túsla has the resources that it needs to complete its planning work and deliver a comprehensive needs based service to victims of sexual and domestic violence.**

²³ 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 & garda accompaniments. See Annual Report 2015. <http://www.drcc.ie/wp-content/uploads/2016/08/DRCC2015-Final-Version-HR.pdf> The Rape Crisis Network off Ireland which gathers figures from 11 regional rape crisis centres has information at <http://www.rcni.ie/wp-content/uploads/RCNL-RCC-StatsAR-2015.pdf>. Two other large rape crisis centres in Cork and Galway also provide counselling and support services with the Galway Rape Crisis Centre offering 2,690 counselling sessions in 2014.

TRAFFICKING AND EXPLOITATION OF PROSTITUTION

- **Issue 15 - Consultations on prostitution legislation**

Based on the support services that it offers to those living in prostitution and those who have been the victims of trafficking, the DRCC supports the introduction of the provisions in the Criminal Law (Sexual Offences) Bill 2015 which de-criminalise the sale of sex by those living in prostitution and which criminalise the purchasers of sex instead. The experience of those victims who use the services of RCCs is that women in prostitution are extremely vulnerable and are exploited for a wide variety of reasons.

The level of sexual violence and harm that they suffer requires urgent attention. Following reasoned and lengthy debate, an Oireachtas Committee concluded that criminalising the purchase of sex would be the most appropriate way to reduce the demand and therefore decrease the pressure for exploitation.²⁴

RECOMMENDATION

- **The State Party should prioritise the enactment and implementation of legislation to give effect to the Criminal Law (Sexual Offences) Bill 2015, criminalising the purchase of sex in Ireland and providing for the decriminalisation of those involved in prostitution.**

EDUCATION

- **Issue 19 - Sexual and reproductive health education**

The State Party's response to the question raised by the Committee about measures relating to school curricula for sexual and reproductive health at Para 169-172 is noted. However, there is no mandatory programme to educate girls in relation to sexual health and safety. A January 2017 newspaper report of conversations with a focus group of those in their 20s, said that the overall consensus was that sex education in Irish schools continues to be poorly taught, with too much focus on the biological function of sexual intercourse rather than on the emotions and feelings tied up with sex.²⁵ Young people leave second level schooling without adequate education on these topics. A 2013 Union of Students in Ireland (USI) study²⁶ of 2,750 Irish students of whom 1,811 described themselves as women, instanced experiences of harassment, stalking, violence and sexual assault.

²⁴ <https://www.oireachtas.ie/parliament/media/committees/justice/1.Part-1-final.pdf> and <http://www.oireachtas.ie/parliament/media/committees/justice/archivejustice/Addendum-to-Prostitution-Report.pdf> Accessed 17 Jan 2017

²⁵ Irish Times by Sorcha Pollock 14 Jan 2017. <http://www.irishtimes.com/life-and-style/people/irish-twenty-somethings-part-1-we-live-in-a-liberal-echo-chamber-1.2933497> Accessed 17 Jan 2017

²⁶ USI 2013 *Say Something* <http://usi.ie/wp-content/uploads/2013/09/say-something-Final-Online-Report.pdf>. Last accessed 5/1/2017

The research found that 16% of students reported having some form of unwanted sexual experience. The explanations given as to why respondents had not reported to the Gardaí was that they did not believe the incident sufficiently serious to report (57%) or they did not believe it to be a crime (44%). In addition, many vulnerable girls and young women fall out of the formal school system and do not receive the education that they need on these topics.

RECOMMENDATION:

- **The State should incorporate awareness and prevention programmes relating to sexual violence into already established school programmes and should ensure frontline workers working with vulnerable girls and young women are adequately trained in how to pass such education on to those outside the formal education system.**