

## Universal Periodic Review Ireland

### Submission by the Irish Council for Civil Liberties (ICCL) and Partners for the 39<sup>th</sup> Session of the UPR Working Group

25 March 2021

#### Submitting Stakeholder:

##### **Irish Council for Civil Liberties (ICCL)**

[www.iccl.ie](http://www.iccl.ie)

ICCL founded in 1976, is Ireland's leading independent human rights campaigning organisation. It monitors, educates and campaigns to secure human rights for everyone in Ireland. In particular, it monitors government policy and legislation to ensure it complies with international standards and speaks out when it does not. Activities include original research on a diverse range of human rights issues, such as police reform, as well as the running of campaigns to raise public and political awareness while working with other key stakeholders.

#### Endorsed by the following Partners:

##### **Age Action**

[www.ageaction.ie](http://www.ageaction.ie)

Age Action, Ireland's leading advocacy organisation on ageing, supports and advocates for equality and human rights for all older people. Everything we do is based on a recognition of the diversity of identity and situation among older people and a concern for equality for all older people. In addressing ageing, our work includes a concern to influence perspectives on and responses to ageing. This pursuit of equality and human rights is underpinned by our work to promote ageing in place, life-long learning, and health and wellbeing for older people, empowering them to live as active citizens.

##### **BeLonG To Youth Services**

[www.belongto.org](http://www.belongto.org)

BeLonG To Youth Services is the national organisation supporting lesbian, gay, bisexual, transgender, and intersex (LGBTI+) young people in Ireland. Since 2003, the organisation has worked with LGBTI+ young people, between 14 and 23 years, to create a world where they are equal, safe, and valued in the diversity of their identities and experiences. BeLonG To also advocates and campaigns on behalf of young LGBTI+ people, and offers a specialised LGBTI+ youth service. BeLonG To responds to the needs of LGBTI+ young people in Ireland and helps them thrive

##### **Irish Family Planning Association (IFPA)**

<https://www.immigrantcouncil.ie>

The Irish Family Planning Association (IFPA) is Ireland's leading sexual health charity. We promote the right of all people to sexual and reproductive health information and dedicated, confidential and affordable healthcare services. With a strong track record in providing high quality medical, counselling and education services, the IFPA is a respected authority on sexual and reproductive health and rights and is regularly called upon to give expert opinion and advice. The IFPA works with partner organisations and civil society to raise awareness of the importance of sexual and reproductive health and rights at home and all over the world.

##### **Immigrant Council of Ireland**

[www.ifpa.ie](http://www.ifpa.ie)

The Immigrant Council of Ireland is an Independent Law Centre and NGO that works to protect, support and advocate for the rights of migrants and their families. The Immigrant Council law centre provides legal information, advice and representation through an information service and two full-time solicitors. The ICI helpline supports over 5000 calls per year, with the legal team then providing follow on legal support to 200+ cases per year. The ICI teams lead projects and policy work to advocate in a variety of local, national and international arenas to ensure the voices of migrants are represented.

##### **Irish Network Against Racism (INAR)**

<https://inar.ie>

The Irish Network Against Racism (INAR) is a civil society network of anti-racism and minority rights organisations which monitors trends in racism and related forms of discrimination in Ireland, and government legislation, policy and statutory agency practice in those areas.

##### **Irish Penal Reform Trust (IPRT)**

<https://www.iprt.ie>

IPRT is Ireland's leading non-governmental organisation campaigning for the rights of people in prison and the progressive reform of Irish penal policy. Established in 1994, IPRT has a well-established role as an independent voice in public debate on the Irish penal system.

##### **Nasc**

<https://nascireland.org>

Nasc, the Irish word for 'link', empowers migrants to realise and fulfil their rights. Nasc works with migrants and refugees to advocate and lead for change within Ireland's immigration and protection systems, to ensure fairness, access to justice and the protection of human rights. Our goal is to realise the rights of all migrants and refugees within Irish society.

##### **National Women's Council (NWC)**

<https://www.nwci.ie>

Established in 1973, the National Women's Council (NWC) is a feminist non-governmental organisation representing women and women's groups in Ireland. The NWC has 190-member organisations affiliated to it, ranging from grass roots women's groups to large trades unions. As the representative organisation of women in Ireland, our mission is to achieve women's equality, empowering women to work together in order to remove structural political, economic, cultural and affective inequalities.

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## **I. Introduction**

1. The ICCL prepared this report with feedback and support from other civil society and human rights organisations. It is endorsed by 8 organisations.<sup>1</sup>
2. The aim of this submission is to follow up on recommendations from Ireland's first and second UPR, referenced throughout, and raise new issues arising since 2016.

## **II. Background and framework**

### **A. Scope of international obligations**

3. Ireland is party to seven core international human rights treaties<sup>2</sup> and operates a dualist legal system. The majority of international human rights treaties that Ireland has ratified have not been directly incorporated into domestic law; though Ireland generally passes domestic legislation reflecting treaty obligations before ratification.<sup>3</sup>

### **2016 Recommendations**

4. Ireland accepted 75, partially accepted 10, and rejected recommendations relating to the ratification of international treaties.<sup>4</sup>

### **Updates**

5. Since 2016, the State has ratified the Convention on the Rights of Persons with Disabilities and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.
6. However, the State has not ratified some key international human rights treaties.<sup>5</sup> Further, the State retains reservations under a number of international human rights treaties.<sup>6</sup>

### **B. Constitutional and legislative framework**

7. Since 2016, three constitutional amendments have been implemented following referendums which have improved the protection of human rights: to allow the Oireachtas (Irish Parliament) to legislate for the regulation of termination of pregnancy<sup>7</sup>, remove the offense of publication or utterance of blasphemous material<sup>8</sup>, and amended the requirement of a period of a separation before proceedings for divorce are initiated and to allow for recognition of foreign divorces.<sup>9</sup>
8. The Government has committed to holding referendums on reducing the voting age to 16, extending the right to vote to citizens living outside the State, and related to article 41(2) on the role and status of women.<sup>10</sup> However, the status of these proposed referendums is unclear.

### **C. International human rights infrastructure and policy measures**

9. The Irish Human Rights and Equality Commission (IHREC) was established in 2014, amalgamating the Irish Human Rights Commission and the Equality Authority. The relevant establishing legislation<sup>11</sup> provides for a public sector equality and human rights duty.<sup>12</sup> However, the Equal Status Acts 2000-2018 preclude the use of the equality framework to challenge discriminatory laws.<sup>13</sup>
10. The Workplace Relations Commission (WRC) was established in 2015. It assumed the roles and functions of different bodies, including the Equality Tribunal. However, this role is not explicitly mentioned in its enacting legislation.<sup>14</sup>

11. Since Ireland's first and second UPR, the State has still not adopted a National Human Rights Action Plan. A national programme of human rights and equality education for civil and public servants has not been adopted and human rights/equality proofing of legislation and policy is not carried out in a systematic manner.<sup>15</sup>
12. The Government adopted a National Action Plan on Business and Human Rights (2017-2020).<sup>16</sup> A Business and Human Rights Implementation Group was established in 2018 to review the implementation of the National Plan. It had its first meeting in January 2019.<sup>17</sup>

#### **D. Cooperation with human rights mechanisms**

13. Ireland has extended a standing invitation to thematic Special Procedures since 2001. Since 2016, Ireland has hosted a visit<sup>18</sup> and received communications<sup>19</sup> from Special Rapporteurs and participated in reviews by different UN treaty bodies.<sup>20</sup> A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a visit to Ireland in 2019.

#### **Recommendations**

- Ratify key international human treaties, as previously recommended.<sup>21</sup>
- Clarify the status of the proposed referendums on Constitutional change.

#### **III. Response to Covid-19 and use of emergency measures**

14. Covid-19 has had a significant impact in Ireland on rights: on life and health; and because of restrictions put in place to curb human transmission of the disease.
15. The Irish Government passed emergency legislation in March 2020 empowering the Minister for Health to make Regulations to restrict movement, events and outline specific rules for the conduct of business in order to protect life and health by reducing transmission of Covid-19.<sup>22</sup> No derogations to human rights treaties were declared. The legislation expanded the powers of An Garda Síochána (AGS), the Irish police force, to enforce the regulations, and provided that non-compliance with a penal provision could result in up to six months imprisonment and/or a €2,500 fine. The legislation initially had an end date (sunset clause) for November 2020. This was extended to June 2021.
16. From April 2020 to March 2021, the Minister for Health has signed a series of Regulations, significantly restricting the rights to liberty, movement, freedom of assembly, freedom of association and other rights.<sup>23</sup> Garda powers have been expanded, including provision for on-the-spot fines for breaching the restrictions.<sup>24</sup>
17. Concerns relating to lack of pre-legislative scrutiny; no human rights impact assessment or human rights proofing of primary or secondary legislation; poor communication about the content of regulations; the conflation of legal requirements with public health advice; and the disproportionate impact of restrictions on certain groups have been raised by IHREC, civil society and other groups throughout the pandemic.<sup>25</sup>

#### **Recommendations**

- Subject all emergency law and powers to pre-legislative scrutiny by the Oireachtas or immediate post-legislative scrutiny to ensure democratic processes and debate are protected.

- Certify all primary and secondary legislation with a significant impact on rights as compliant with human rights law.
- Assess the effect of legislation restricting rights through a human rights impact assessment and prioritise analysing the impact of restrictions on at risk groups and ensuring disproportionate impacts of the law are mitigated through sufficient economic, social and other supports.

#### **IV. Equality and non-discrimination**

18. While recognising the importance of an intersectional approach to understanding inequalities, this submission highlights issues in relation to different groups separately.
19. A key overarching issue is the lack of disaggregated data by sex, gender, ethnicity, disability, and age in a range of areas where human rights are engaged, in order to inform human rights compliant policies and programmes.<sup>26</sup>

#### **A. Gender equality**

##### **2016 Recommendations**

20. Ireland accepted 46<sup>27</sup> and partially accepted 3<sup>28</sup> recommendations relating to women's rights. The Government provided updates in its interim report.<sup>29</sup>
21. Ireland did not accept recommendations relating to removing restrictive legislation on abortion.<sup>30</sup>

##### **Updates**

22. Following a referendum, the Oireachtas legislated to allow termination of pregnancy on request during the first twelve weeks of pregnancy and later in specific limited cases.<sup>31</sup> A review of this legislation is required to commence by the end of 2021.<sup>32</sup>
23. *Abortion safe zone legislation*: Ongoing anti-abortion activity outside healthcare providers aims to deter individuals from accessing health care and doctors from providing it. This can cause distress, exacerbate existing societal stigmas and pose a serious risk to a range of rights.<sup>33</sup> The Government has committed to introducing "exclusion zones outside medical facilities" but has not yet introduced legislation.<sup>34</sup>
24. *Decriminalisation of abortion*: Irish law continues to criminalise abortion services provided outside the scope of the 2018 legislation and individuals are still travelling to access some abortion services abroad.<sup>35</sup>
25. *Participation in political life*: Women are under-represented in political and public life. For example, women currently make up 22.5% of the Dáil (lower house of parliament) and 23.9% of local councillors (local government officials).<sup>36</sup>
26. *Maternity leave*: While Ireland provides for a lengthy duration of maternity leave, it has one of the lowest payment rates for maternity leave in the OECD.<sup>37</sup> A key gap is the lack of maternity leave for elected officials, which is a clear barrier to women's right to equal participation in political life.<sup>38</sup>
27. *Gender pay gap*: A gender pay gap persists, currently estimated to be 14%.<sup>39</sup> A Gender Pay Gap Information Bill, to increase transparency on pay, was introduced in 2019; its current status is unclear.<sup>40</sup>

##### **Recommendations**

- Take measures to collect data which should be disaggregated by sex, gender, ethnicity, disability, and age, in order to inform policy and programmes.
- Introduce and enact legislation providing for safe zones around abortion providers.
- Ensure the review of the Health (Regulation of Termination of Pregnancy) Act 2018 fully decriminalises abortion and removes ongoing obstacles to women's access to abortion services, including reviewing criteria in the Act.
- Take targeted measures to increase women's representation in political and public life.
- Take concrete measures to reduce the gender pay gap, including through increasing pay transparency.

## **B. Protection against racial discrimination**

### **2016 Recommendations**

28. Ireland accepted 14 recommendations relating to addressing racial discrimination.<sup>41</sup>

### **Updates**

29. *Racial profiling*: In 2019, the UN Committee on the Elimination of Racial Discrimination (CERD) highlighted its concerns about the “reportedly high incidence of racial profiling by the Irish police targeted at people of African descent, Travellers and Roma” and their disproportionate representation in the prison system.<sup>42</sup>

30. *Lack of disaggregated data on policing measures*: For example, there is a lack of disaggregated data on the basis of ethnicity in relation to Covid-19 enforcement powers, including the use of anti-spit hoods, despite the Policing Authority repeatedly requesting this information.<sup>43</sup>

31. *National action plan*: An independent Anti-Racism Committee was appointed in June 2020 and tasked with drafting an Action Plan Against Racism within one year. Its current status is unclear.

### **Recommendations**

- Conduct an inquiry into use of restraints, and use of so-called non-lethal and lethal force in Irish policing.
- Introduce legislation prohibiting racial profiling.<sup>44</sup>
- Conduct a wider inquiry into the extent to which racial profiling plays a part in Irish policing, which should include a review of policy, practices, and training.
- Record and publish disaggregated data on policing measures, including on the basis of ethnicity.
- Ensure the Action Plan Against Racism has concrete action plans with clear targets, indicators, outcomes, timeframes, and associated budget lines and includes measures to fund and provide for comprehensive support to victims of racism, including access to legal advice and counselling services.

## **C. Traveller and Roma Communities**

### **2016 Recommendations**

32. Ireland accepted five<sup>45</sup> and partially accepted four<sup>46</sup> recommendations addressing discrimination against Traveller and Roma communities.

### **Updates**

33. Travellers were recognised as an ethnic minority in a 2017 statement by the Taoiseach (Irish Prime Minister). However, there has been no legal act to this effect.

34. A National Traveller and Roma Inclusion Strategy (2017-2021) was developed but its implementation has been slow, piecemeal and hampered by a lack of clear targets

and budget lines.<sup>47</sup>

35. Anti-Traveller and anti-Roma discrimination continues to be prevalent, including in relation to accessing accommodation, education, and health services.<sup>48</sup>

### **Recommendations**

- Take legislative action to formalise the recognition of Travellers as a distinct ethnicity, clarify the rights accorded to them and ensure they are protected and promoted.
- Fully implement the Inclusion Strategy, including by developing concrete action plans with clear targets, indicators, outcomes, timeframes, and associated budget lines.

## **D. Rights of people with disabilities**

### **2016 Recommendations**

36. Ireland accepted one recommendation relating to the rights of people with disabilities.<sup>49</sup>

### **Updates**

37. Ireland ratified the Convention on the Rights of Persons with Disabilities in 2018,<sup>50</sup> but has not yet ratified its Optional Protocol.

38. Many of the substantive provisions of the Assisted Decision-Making Act 2015 have not been commenced, including a legal framework for Advance Healthcare Directives.

### **Recommendations**

39. Fully commence the Assisted Decision-Making (Capacity) Act 2015 and provide adequate resources for its implementation.

## **E. LGBTI rights**

### **2016 Recommendations**

40. Ireland accepted one recommendation to address discrimination against LGBTI individuals.<sup>51</sup>

### **Updates**

41. *LGBTI+ Specific Strategies*: Different national strategies have been adopted, such as the National LGBTI+ Inclusion Strategy (2019-2021).

42. *Trans Healthcare*: A Steering Committee was formed in 2019 to address specific issues in relation to the development of Transgender Identity Services in Ireland. It made a number of recommendations.<sup>52</sup>

43. *Legal Gender Recognition*: In 2017, a review to the Gender Recognition Act 2015 was carried out, which made important recommendations.<sup>53</sup>

44. *Conversion Therapy*: In 2018, the Prohibition of Conversion Therapies Bill was presented before the Seanad Éireann (lower house of parliament).<sup>54</sup>

45. *Relationships and Sexuality Education (RSE)*: In 2019, an Oireachtas Joint Committee produced a report on RSE, making recommendations to update the curriculum and delivery of RSE in schools, with attention to the importance of LGBTI+ inclusion.<sup>55</sup>

### **Recommendations**

- Ensure full implementation of relevant strategies and regularly review laws and policies to prevent discrimination against LGBTI individuals and to improve access to employment, education, housing and healthcare.

- Ensure the recommendations from the following sources are implemented: the report issued by the Steering Committee on the Development of HSE Transgender Identity Services; the review of the Gender Recognition Act 2015;<sup>56</sup> Oireachtas Joint Committee report on RSE.
- Review the Employment Equality Act and Equal Status Acts to ensure that transgender people have explicit protection within the equality grounds.
- Ensure legislation is enacted to prohibit 'conversion therapies'.
- Review and amend the Mental Health Act 2001, which currently does not grant young people, aged 16-17 years old, the right to consent to treatment for their mental health.
- End the 1-year MSM blood ban and bring Ireland up to international standards.

## **F. Rights of Older People**

### **Updates**

46. Concerns have been raised about the protection of the rights of older people during the Covid-19 pandemic. For those living in private nursing homes, there is concern about the lack of national clinical oversight of care, particularly how nursing homes are not integrated into the framework of public health and social care, the availability of GP care onsite and communication with specialised teams.<sup>57</sup>
47. The Government has failed to facilitate the participation of older people in policymaking in the Covid-19 response.
48. The Government committed to "consider the merits of restricting the capacity to use mandatory retirement provisions relative to the prevailing State pension age" by the end of 2018 should existing provisions not result in greater employee flexibility to work beyond 65.<sup>58</sup> Existing measures have proved inadequate for many workers wanting to remain in their job after the specified retirement age in their employment contract.

### **Recommendations**

- Conduct an inquiry into the impact of Covid-19 related measures on the rights of older people, including the levels of oversight of care in nursing homes.
- Provide for national clinical oversight of care of private nursing homes.
- Facilitate the participation of older people in all policy-making that impacts them,.
- Amend the Employment Equality Act to facilitate greater flexibility to work beyond the State pension age.

## **V. Right to life, liberty, and security of the person**

### **A. OP-CAT and detention conditions**

#### **2016 Recommendations**

49. Ireland accepted 6 recommendations relating to improving prison conditions and investigating cases of abuse.<sup>59</sup>

#### **Updates**

50. The ICCL and IPRT have repeatedly called for the ratification and implementation of OP-CAT.<sup>60</sup> Publishing the legislation to implement OP-CAT is an objective in the Department of Justice 2021 Strategy.

51. In November 2020, the CPT published a report on its 2019 visit to Ireland.<sup>61</sup>

#### **Prison establishments**

52. *Lack of a fully independent complaints mechanism for prisoners:* The CPT highlighted that the current complaints system in prisons “cannot be considered fit for purpose.”<sup>62</sup>
53. *Undocumented use of spit hoods:* The Irish Prison Service has been using spit hoods since 2019, which may constitute a form of torture, inhuman or degrading treatment. There is no centralised database of their use.<sup>63</sup>
54. *Increase in prison population and overcrowding:* There has been a 7.9% increase in the daily average number of persons in prison custody (from 2017-2019), which saw overcrowded conditions in 2019 and early 2020.<sup>64</sup>
55. *Increase in pre-trial detention:* There has been a 21% increase in the daily average number of people held in pre-trial detention since 2017.<sup>65</sup>
56. *Increase in number of persons held in solitary confinement:* The number of people held in solitary confinement has increased.<sup>66</sup>
57. *Lack of access to mental health services:* The CPT found that there are a rising number of homeless people with mental illness in Irish prisons. From July 2019-July 2020, every month there were between 20-33 prisoners with severe mental illness awaiting transfer to the Central Mental Hospital.<sup>67</sup>

#### Other detention facilities:

58. *Allegations of ill-treatment during police detention:* The CPT highlighted allegations of physical ill-treatment and verbal disrespect from remand prisoners in police custody and recommended that custody registers in all Garda stations should be comprehensively maintained and an independent system to monitor stations should be put in place.<sup>68</sup>
59. *Need to separate immigration detainees, remand, and convicted prisoners:* The CPT highlighted that immigration detainees continue to be held in prisons with remand and convicted prisoners.

#### Psychiatric institutions and other residential institutions:

60. *Use of PRN medication:* The CPT raised concerns about the use of “pro re nata” (PRN) medication in psychiatric institutions.
61. *Covid-19 related limitations on safeguards:* The Mental Health Act 2001 was amended in March 2020 to provide for emergency measures in response to Covid-19.<sup>69</sup> ICCL raised concerns about these amendments as key safeguards relating to the detention of patients have been eroded.<sup>70</sup>
62. *Need for independent inspections:* There is a need for independent inspections of psychiatric institutions and other health institutions where people are detained.

#### **Recommendations:**

- Ratify OP-CAT and create an effective and independent National Preventive Mechanism to inspect all places of detention, including prisons, police stations, direct provision centres, and psychiatric hospitals.
- Establish a completely independent mechanism for the consideration of prisoner complaints, such as through access to an Office of Prison Ombudsman.
- Immediately end the use of spit hoods. If this does not immediately end, document their use in a centralised database and disaggregate the data by gender, ethnicity, age, and disability.

- Expedite the commencement of section 9 of the Criminal Justice Act 2011 to ensure that all persons detained by the police have the right of access to a lawyer.
- Use the measures introduced to successfully reduce the prison population during the Covid-19 pandemic as an opportunity to maintain low prison numbers and end overcrowding in Irish prisons.
- Compile comprehensive statistics relating to the use of pre-trial detention.
- Ensure that solitary confinement is used as a measure of last resort, imposed for as short a time as possible, is never applied to children, and that prolonged and consecutive periods of solitary confinement are strictly prohibited. To this end, record and publish data on when, and for how long, people are held in solitary confinement.
- Increase access to therapeutic psychiatric beds in community facilities and in the Central Mental Hospital so that prisoners with severe mental illness can be quickly diverted from the criminal justice system and receive the appropriate care needed.
- People detained for immigration purposes should not be held in detention centres or prisons.
- Ensure that human rights safeguards on detention on mental health grounds are respected and any limitations are proportionate and necessary.
- Review the use of PRN medication in psychiatric institutions and draw up guidelines and safeguards for its use.

## **B. Historical abuse of women and children in medical/institutional care**

### **2016 Recommendations**

63. One recommendation related to the historical abuse of women and children was partially accepted.<sup>71</sup> There is no information on its status in Ireland's interim report.

### **Updates**

64. *Flawed investigations*: The final report of the Commission of Investigation into Mother and Baby Homes was published in 2021.<sup>72</sup> Its methodology and final report have been heavily criticised by survivor groups and civil society, including for the lack of a human rights analysis.<sup>73</sup> The Government's action plan in response to the report<sup>74</sup> outlines eight areas where the Government intends to take action to provide redress for survivors.<sup>75</sup>

65. *Need to conduct investigations into mass gravesites*: The Government published a General Scheme of a Certain Institutional Burials (Authorised Interventions) Bill in February 2021, which has been criticised.

66. *Illegal and unregulated adoptions*: The final report of the Mother and Baby Homes Commission did not examine the system of unregulated adoptions. There are many unanswered questions regarding how this system operated, leading to the ongoing violation of private and family rights of adoptees and their families.

67. *Access to redress*: The Mother and Baby Homes Commission recommended access to redress for certain categories of survivors and not others. All survivors are entitled to redress and must be granted this without undue administrative or other hurdles.

### **Recommendations**

- Ratify the Convention against Enforced Disappearances as this provides a clear roadmap for dealing with enforced disappearances.
- Conduct independent, thorough and effective investigations into allegations of ill-treatment of women and children in all institutional contexts, with a view to ensuring accountability for human rights abuses.

- Conduct an independent, thorough and effective investigation into the system of unregulated, illegal and/ or forced adoption in Ireland in the 20<sup>th</sup> Century.
- Ensure access to birth certificates and adoption files to all those seeking their personal information.
- Amend existing legislation to grant relevant powers to existing bodies to address mass graves, including investigation of cause of death where appropriate, or enact legislation in line with international human rights law to provide for an agency with the relevant powers to do so.
- Implement a generous redress scheme to all survivors of state-run institutions who suffered human rights abuses, ensuring there are no undue administrative hurdles in its implementation.

### **C. Addressing gender-based violence (GBV)**

#### **2016 Recommendations**

68. Ireland accepted 15 recommendations to address GBV.<sup>76</sup>

#### **Updates**

69. The need to effectively prevent and respond to domestic violence is pressing given the increase of women and children seeking support from domestic violence during the Covid-19 pandemic<sup>77</sup> and the increase in criminal charges in these cases.<sup>78</sup>

70. Ireland adopted a Domestic Violence Act in 2018. This Act criminalises coercive control.<sup>79</sup> In 2020, there were three convictions of coercive control<sup>80</sup>.

#### **Recommendations**

- Conduct an awareness-raising campaign on the offense of coercive control and other provisions of the Domestic Violence Act 2018.
- Provide increased funding to non-governmental organisations that provide services to victims of GBV, including domestic violence.

### **D. Trafficking**

#### **2016 Recommendations**

71. Ireland accepted four recommendations relating to preventing and combatting human trafficking, including through adopting a National Action Plan.<sup>81</sup>

#### **Updates**

72. Ireland adopted a second National Action Plan in 2016. Progress on its implementation is unclear. Since 2016, systemic deficiencies in victim identification, referral, and assistance, and the lack of convictions for trafficking have been identified as problematic.<sup>82</sup>

73. The Department of Justice highlighted initiatives to address human trafficking in its 2021 Action Plan.<sup>83</sup>

#### **Recommendations**

- Vigorously investigate, prosecute, and convict suspected offenders of human trafficking.
- Improve victim identification and referral, and issue a revised referral mechanism in coordination with NGOs offering formal identification, a recovery and reflection period, and services to all victims.<sup>84</sup> Recognising the gendered nature of trafficking victims, gender-specific accommodation and supports, where required, should be prioritised.
- Ensure victims of human trafficking rights to identification, R&R period and assistance are enshrined in primary legislation, applicable to all victims, regardless of

their immigration status and nationality.

## **E. Coroner's Service**

### **Updates**

74. The Coroner's Service is a disparate network of part-time coroners, operating without the necessary support of specialist investigators and staff.<sup>85</sup> The Coroners (Amendment) Act 2019 made some important procedural changes. However, the system remains under resourced and inadequate. There have been unacceptable delays in holding inquests, inconsistencies in process and procedure, and bereaved families have been marginalised.

### **Recommendations**

- Restructure and significantly increase the funding necessary to meet the requirements of an independent, professional Coroner Service in its routine work and in conducting thorough investigations into deaths in contested circumstances.
- Take measures to address delays in holding inquests, such as through providing for case investigations.
- Take measures to address inconsistencies in process and procedure, such as through recording all inquest proceedings and making them available.
- Ensure that legal aid is available to all bereaved families seeking legal representation at inquests.

## **VI. Administration of justice, including impunity, and the rule of law - Police reform**

### **Updates**

75. Ireland is currently in the midst of a comprehensive policing reform process, as the Government and AGS implement the recommendations of the Commission on the Future of Policing (CFP).<sup>86</sup> In particular, the police oversight body, must be better resourced and given greater powers. New legislation on police powers must ensure powers of search, arrest and detention are used only in full compliance with human rights principles.

76. *Use of anti-spit hoods:* Anti-spit hoods were introduced and have been used by AGS during the Covid-19 response.<sup>87</sup> ICCL has called for this practice to be immediately ended.<sup>88</sup>

77. *Treatment of child suspects:* Recent research documented negative experiences of children when in AGS custody and during police interviews.<sup>89</sup>

### **Recommendations**

- Ensure the swift and thorough implementation of the recommendations in the CFP Report and ensure that all reforms strengthen Ireland's compliance with national and international human rights law and standards.
- Ensure reform of Ireland's police oversight body, the Garda Síochána Ombudsman Commission (GSOC), includes greater resourcing and greater powers to ensure accountability for human rights abuses by police.
- Ensure new legislation on police powers requires that the powers of search, arrest and detention are used sparingly, in full compliance with human rights principles, in particular necessity and proportionality.
- Immediately end the use of spit hoods. If this practice does not immediately end, document the use of spit hoods by AGS in a centralised database and disaggregate the data by gender, ethnicity, age, and disability.

- AGS should develop a clear policy on interviewing child suspects, detain children in Garda custody only as a last resort, adopt a zero-tolerance approach to any ill-treatment of children, and develop specialist training for all members of AGS and lawyers.

## **VII. Human rights and counter-terrorism**

### **2011 and 2016 Recommendation**

78. Ireland did not support the recommendation made in 2011 and 2016 to “Avoid maintaining special criminal courts in penal legislation.”<sup>90</sup>

### **Updates**

79. The Offences against the State Acts (OASA) are Ireland’s primary counter-terrorism legislation. The OASA 1998 and the Criminal Justice (Amendment) Act 2009 underpin the operation of the Special Criminal Court. The continued use of the Special Criminal Court outside of a proclaimed emergency period gives rise to human rights concerns, including related to the right to a fair trial and right to equality before the law.<sup>91</sup>

80. In February 2021, the Minister for Justice appointed a group of experts to review the Offences against the State Acts<sup>92</sup>

### **Recommendations**

- Abolish the Special Criminal Court.
- If the Special Criminal Court is not abolished, ensure fair trial rights are protected and strengthened, including by ensuring the rules of evidence in ordinary courts apply and that protected juries are introduced into the Court.

## **VIII. Freedom of peaceful assembly and of association - Funding restrictions for civil society**

### **2016 Recommendations**

81. Ireland accepted one recommendation relating to the protection and promotion of civil society.<sup>93</sup> The Government provided updates in its interim report.<sup>94</sup>

### **Updates**

82. The Coalition for Civil Society Freedom has highlighted the restrictions on freedom of association that have emerged since 2017<sup>95</sup>. These restrictions stem from a 2001 amendment of the Electoral Act 1997, which imposes restrictions and reporting obligations on ‘third parties’ who accept donations over €100 for ‘political purposes,’ defined broadly.<sup>96</sup> This has been applied to civil society organisations, with some having been threatened with prosecution.<sup>97</sup>

### **Recommendations**

- Amend the Electoral Act 1997 in the context of the broader electoral reform bill which is currently before parliament, in order to remove the vague and broad definition of ‘political purposes’ to ensure that this cannot be used to restrict civil society and in a manner that is compatible with human rights obligations.
- Ensure any amendments to the Electoral Act 1997 concerning political advertising are compatible with human rights obligations, especially the right to freedom of expression<sup>98</sup> and freedom of peaceful assembly and association.<sup>99</sup>

## **IX. Legal protection of economic, social and cultural rights**

### **2016 Recommendations**

83. Ireland accepted two recommendations to ratify the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights (OP-ICESCR).<sup>100</sup> This was also recommended and accepted in the 2011 UPR.<sup>101</sup>

### **Updates**

84. Ireland signed the OP-ICESCR on 23 May 2012. No steps have been taken towards ratification.<sup>102</sup>

85. Equality legislation<sup>103</sup> does not provide all grounds of discrimination prohibited by ICESCR.<sup>104</sup>

86. A Private Members Bill, proposes to introduce the obligation contained within the ICESCR to "progressively realize" such rights to the "maximum of available resources."<sup>105</sup>

### **Recommendations**

- Ratify OP-ICESCR.
- Bring Ireland's equality legislation in line with Article 2(2) ICESCR by widening the grounds upon which discrimination is prohibited, including socio-economic status.
- Enact the Thirty-Seventh Amendment of the Constitution Bill 2018 and hold a relevant referendum, as required by the Irish Constitution.

## **X. Migrants, refugees, and asylum seekers**

### **2016 Recommendations**

87. Ireland accepted twelve and partially accepted five recommendations relating to the rights of refugees, migrants, and asylum seekers.

### **Updates**

88. Migrants, refugees, and asylum seekers have been disproportionately negatively affected by Covid-19.<sup>106</sup>

89. In February 2021, a white paper to end Direct Provision and establish a new international protection support service was published.<sup>107</sup>

90. In its 2021 Action Plan, the Department of Justice identified reform of the overall immigration system as a key priority.

### **Recommendations**

- Fully implement the commitments to replace Direct Provision and establish a not-for-profit system.
- Conduct a thorough review and reform of asylum, immigration and citizenship related administration and policy to address significant deficiencies in each area. This must include a review of relevant legislation to determine if it is fit for purpose, in consultation with civil society, legal professionals, and migrant communities.

## **XI. Right to development and environment issues**

### **2016 Recommendations**

91. Ireland accepted one recommendation relating to climate action.<sup>108</sup> An update was provided in the Government's interim report.<sup>109</sup>

## **Updates**

92. In 2020, Climate Case Ireland won a Supreme Court case against the Government for failing to take action on climate change.<sup>110</sup> In October 2020, the Climate Action and Low-Carbon Development (Amendment) Bill was introduced.<sup>111</sup> The Joint Committee on Climate Action has made key recommendations, such as the need to include reparations in building meaningful climate justice obligations.<sup>112</sup> Climate Case Ireland called upon the Government to legislate in line with climate justice and science.<sup>113</sup>

## **Recommendations**

- Strengthen the Climate Action and Low-Carbon Development (Amendment) Bill 2020 in line with the Joint Committee on Climate Action and recommendations by Climate Case Ireland.

## **XII. Freedom of religion or belief, expression and right to participate in public and political life- Hate speech**

### **2016 Recommendations**

93. Ireland accepted three recommendations relating to hate speech.<sup>114</sup> Updates were provided in the Government's interim report.<sup>115</sup>

## **Updates**

94. The Department of Justice published a comprehensive report in December 2020 with a view to publishing draft legislation on hate crime and hate speech in 2021.<sup>116</sup>

## **Recommendations**

- Legislate appropriately for hate crime taking into account principles of fairness, equality, non-discrimination, presumption of innocence, right to a fair trial. .
- Ensure that hate speech legislation is rooted in human rights law, fully reflects the importance of freedom of expression and provides for defences, including artistic, journalistic, investigative, and reporting activities. .

## **XIII. Right to privacy, marriage and family life**

### **A. Data protection concerns**

95. Data protection laws and safeguards are essential for protecting human rights, notably the right to privacy.<sup>117</sup>

96. However, it has been widely reported that other Member States believe the Irish Data Protection Commission (DPC) is unable to discharge its duties under the GDPR.<sup>118</sup>

97. For example, in January 2021, European Court of Justice (ECJ) issued an opinion that referred to the DPC's "persistent administrative inertia" and "fail[ure] to take any meaningful action in order to investigate possible breaches of the GDPR and, where appropriate, enforce its rules".<sup>119</sup>

98. In February 2021, the ICCL revealed that the DPC has been unable to implement internal managerial and technical changes that it had said were essential for it to be able to enforce the GDPR.<sup>120</sup>

## **Recommendations**

- Strengthen and reform the DPC, such as through appointing two new commissioners and conducting an independent and broadly scoped review of how best to further strengthen and reform this public body.

### **B. Surveillance and online regulation concerns**

99. In Ireland, different public officials, including AGS,<sup>121</sup> can seek and obtain access to metadata relating to everyone's communications data under the Communications (Retention of Data) Act 2011.<sup>122</sup> This data is sought and obtained without consent or knowledge of the person affected and without any oversight from a judicial or independent authority. In April 2014, the ECJ declared the European Union (EU) Directive underpinning Ireland's data retention scheme "invalid", as it "entails a wide-ranging and particularly serious interference with the fundamental rights to respect for private life and to the protection of personal data". A number of human rights experts have reinforced this point.<sup>123</sup> Ireland has failed to update its laws to reflect this judgment.

100. Ireland is in the process of passing an Online Safety and Media Regulation Bill. Concerns have been raised<sup>124</sup> regarding the protection of the right to freedom of expression and the right to privacy, given that its definition of harmful content online lacks precision, clarity and certainty, and is too vague, arbitrary and unspecific about the specific content, the publication or dissemination of which could lead to sanction.<sup>125</sup>

### **Recommendations**

- Ensure laws and policies on data retention are fully compliant with EU law and relevant international human rights law and standards on the right to privacy.
- Ensure any attempts to regulate online speech are compliant with its obligations under human rights law, with particular regard to the right to freedom of expression and the right to privacy.
- Ensure that enforcement officers properly take into account the right to privacy when investigating crime and that law and policy reflects the importance of balancing this right with broader societal concerns and victims' rights.

## **XIV. Impact of Brexit on Human Rights**

### **Updates**

101. The 1998 Good Friday Agreement created obligations for the Irish Government, as one of its guarantors, to ensure that the "Rights, Safeguards and Equality of Opportunity" provisions are safeguarded. The departure of the United Kingdom (UK) from the EU poses challenges for the equivalent protection of rights of individuals in Northern Ireland.

### **Recommendations:**

- Ensure that all agreements with the EU and with the UK ensure the protection of the key principle of equivalence of rights contained within the Good Friday Peace Agreement for the people of Northern Ireland.
- Work with the UK to ensure that there is no reduction or weakening of rights protections for anyone in Northern Ireland, including through national legislation.

## References

<sup>1</sup> This report is endorsed by 8 non-governmental organisations (NGOs) and civil society groups. All of the views expressed in the report do not necessarily reflect the policies and positions of each endorsing organisation.

<sup>2</sup> Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Covenant on Civil and Political Rights (ICCPR); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); Convention on the Rights of the Child (CRC); Convention on the Rights of Persons with Disabilities (CRPD).

<sup>3</sup> An exception includes the European Convention on Human Rights Act 2003 which gave effect to the European Convention on Human Rights in domestic law. However, the Convention was incorporated at sub-constitutional level limiting its potential impact. An example of implementing legislation include the Assisted Decision Making (Capacity) Act 2015 passed before ratification of the UN Convention on the Rights of Persons with Disabilities. However, key sections of this legislation have not been commenced, as noted later in this submission.

<sup>4</sup> UPR 2016 Recommendations related to the ratification of the following treaties: including the Optional Protocol to the Convention against Torture, Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Convention on the Rights of Persons with Disabilities, Convention for the Protection of All Persons from Enforced Disappearances, and the Optional Protocol to the Convention on the Rights of Children on the sale of children, child prostitution and child pornography. It did not accept 10 recommendations, including relating to ratifying the International Convention on the Protection of all Migrant Workers and their Families.

<sup>5</sup> Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention for the Protection of All Persons from Enforced Disappearances; Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; Optional Protocol to the Convention on the Rights of Persons with Disabilities; UNESCO Convention against Discrimination in Education; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

<sup>6</sup> Reservations include: Article 4 ICERD, Article 10(2), 14 20(1) ICCPR (Both articles deal with the issue of the incitement to hatred. The State's position is that these are incompatible with Article 40.6.1 of the Irish Constitution which protects free speech). Article 2(2) ICESCR and Article 13(2)(a) ICESCR, Article 16, 11(d) and (f) CEDAW and Articles 11(1) and 13(a). Reasoning available from: <[https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-3&chapter=4&lang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en#EndDec)> and <[https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#EndDec)> [Accessed 17 September 2015].

<sup>7</sup> Thirty-sixth Amendment of the Constitution, signed into law by the President on 18 September 2018. Available at: <http://www.irishstatutebook.ie/eli/2018/ca/36/enacted/en/print.html>.

<sup>8</sup> Thirty-seventh Amendment of the Constitution, signed into law by the President on 27 November 2018. Available at: <https://www.oireachtas.ie/en/bills/bill/2018/87/>.

<sup>9</sup> Thirty-eighth Amendment of the Constitution, signed into law by the President on 11 June 2019. Available at: <http://www.irishstatutebook.ie/eli/2019/ca/38/enacted/en/html>. The relevant legislation still requires a 2 year period of separation before a divorce (reduced following the Constitutional amendment from 4 years). S.5 Family Law (Divorce) Act 1996, as amended.

<sup>10</sup> Citizens Information, Convention on the Constitution. Available at: [https://www.citizensinformation.ie/en/government\\_in\\_ireland/irish\\_constitution\\_1/constitutional\\_convention.html](https://www.citizensinformation.ie/en/government_in_ireland/irish_constitution_1/constitutional_convention.html).

<sup>11</sup> Irish Human Rights and Equality Commission Act 2014. Available at: [http://www.ihrec.ie/download/pdf/ihrec\\_act\\_2014.pdf](http://www.ihrec.ie/download/pdf/ihrec_act_2014.pdf).

<sup>12</sup> Irish Human Rights and Equality Commission Act 2014, s 42.

<sup>13</sup> UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the combined sixth and seventh periodic reports of Ireland*, 9 March 2017, CEDAW/C/IRL/CO/67, para. 12. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/IRL/CO/6-7&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/IRL/CO/6-7&Lang=En).

<sup>14</sup> Workplace Relations Act 2015 (No. 16 of 2015). Available at: <http://www.irishstatutebook.ie/eli/2015/act/16/enacted/en/html>.

<sup>15</sup> See for example, IHREC, *Ireland's Emergency Powers during the Covid-19 Pandemic*, 2021. Available at <https://www.ihrec.ie/app/uploads/2021/02/Irelands-Emergency-Powers-During-the-Covid-19-Pandemic-25022021.pdf>.

<sup>16</sup> Department of Foreign Affairs, National Action Plan on Business and Human Rights (2017-2020). Available at: <https://www.dfa.ie/our-role-policies/international-priorities/human-rights/business-and-human-rights/nationalplanonbusinessandhumanrights2017-2020/>.

<sup>17</sup> Global National Action Plans: Ireland. Available at: <https://globalnaps.org/country/ireland/>.

<sup>18</sup> UN Human Rights Council, *Report of the Special Rapporteur on the sale and sexual exploitation of children: Visit to Ireland*, 15 November 2019, A/HRC/40/51/Add.2. Available at: <https://spinternet.ohchr.org/Download.aspx?SymbolNo=A%2fHRC%2f40%2f51%2fAdd.2&Lang=en>.

<sup>19</sup> See for example, UNOHCHR, *Ireland's Public Services Card discriminates against the marginalised, warns UN rights expert*, 21 April 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25811&LangID=E>.

<sup>20</sup> UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the combined sixth and seventh periodic reports of Ireland*, 9 March 2017, CEDAW/C/IRL/CO/67. Available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/IRL/CO/6-7&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/IRL/CO/6-7&Lang=En). Committee against Torture, *Concluding Observations on the second periodic report of Ireland*, 31 August 2017, CAT/C/IRL/CO/2. Available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/IRL/CO/2&Lang=En). Committee on the Elimination of Racial Discrimination, *Concluding Observations on the combined fifth to ninth reports of Ireland*, 23 January 2020, CERD/C/IRL/CO/5-9. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/IRL/CO/5-9&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/IRL/CO/5-9&Lang=En).

<sup>21</sup> See for example, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention for the Protection of All Persons from Enforced Disappearances; Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; Optional Protocol to the Convention on the Rights of Persons with Disabilities; UNESCO Convention against Discrimination in Education; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

<sup>22</sup> The Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020

<sup>23</sup> These regulations can be viewed here: <https://www.gov.ie/en/collection/1f150-view-statutory-instruments-related-to-the-covid-19-pandemic/>

<sup>24</sup> As of March 2021, over 9000 fines have been issued for “non-essential travel”. More statistics on fines can be found here: <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/news-media/coronavirus-covid-19-.html#COVID-19%20Related%20Statistics>

<sup>25</sup> See for example, ICCL, *Submission to Covid Committee 7 Sept 2020*, 2020. Available at: <https://www.iccl.ie/iccl-submission-to-covid-committee-7-sept-2020/>; IHREC, *Ireland's Emergency Powers during the Covid-19 Pandemic*, 2021. Available at <https://www.ihrec.ie/app/uploads/2021/02/Irelands-Emergency-Powers-During-the-Covid-19-Pandemic-25022021.pdf>.

<https://www.ihrec.ie/documents/irelands-emergency-powers-during-the-covid-19-pandemic/>; Irish Refugee Council, *“Powerless” Experiences of Direct Provision during the Covid-19 Pandemic*, 2020. Available at: <https://www.irishrefugeecouncil.ie/news/powerless-experiences-of-direct-provision-during-the-covid-19-pandemic>.

<sup>26</sup> See UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the combined sixth and seventh periodic reports of Ireland*, 9 March 2017, CEDAW/C/IRL/CO/67, para. 18.

<sup>27</sup> See for example, UPR 2016 Recommendation 135.91: Continue to take actions to address the issue of gender pay gap, improve the access to decent work for marginalised women, and ensure adequate social protection system for women in vulnerable situations; UPR 2016 Recommendation 135.92: Continue to make efforts to ensure women's participation in political life and in decision-making; UPR 2016 Recommendation 135.93: Adopt effective measures to increase the representation of women in the public and private sectors, especially in decision-making posts; UPR 2016 Recommendation 135.94: Scale up effective measures to further increase women's representation and their meaningful participation in decision-making level in the public and private sectors; UPR 2016 Recommendation 135.137: Make sure all women and young girls have easy access to information on crisis pregnancy options by health-providers; UPR 2016 Recommendation 135.136: Conduct consultations involving all stakeholders, including civil society organisations, in

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order to examine whether article 40.3.3. of the Constitution could be revised and the legal framework related to abortion broadened.

<sup>28</sup> See for example, UPR Recommendation 2016: Take additional measures aimed at achieving the gender equality, including amendment to the Constitution on the role and status of women in Irish society.

<sup>29</sup> Ireland Universal Periodic Review, *National Interim Report*, 2020. Available at: [https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR\\_Interim\\_Report2020\\_PartII.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR_Interim_Report2020_PartII.pdf).

<sup>30</sup> UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Ireland*, Addendum, 20 September 2016, A/HRC/33/17/Add.1. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/207/53/PDF/G1620753.pdf?OpenElement>.

<sup>31</sup> Health (Regulation of Termination of Pregnancy) Act 2018. Available at: <http://www.irishstatutebook.ie/eli/2018/act/31/enacted/en/html>.

<sup>32</sup> Health (Regulation of Termination of Pregnancy) Act 2018, section 7 ("The Minister shall, not later than 3 years after the commencement of this section, carry out a review of the operation of this Act").

<sup>33</sup> ICCL, *A rights based analysis of safe access zones*, January 2020. Available at: <https://www.iccl.ie/wp-content/uploads/2020/01/ICCL-Investigation-Abortion-Safe-Zones.pdf>.

<sup>34</sup> Department of the Taoiseach, *Programme for Government: Our Shared Future*, 29 October 2020. Available at: <https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/>.

<sup>35</sup> Joint Committee, *Report of the Joint Committee on the Eighth Amendment of the Constitution*, December 2017, pp. 12-13, para. 3.4-3.10. Available at: [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_the\\_eighth\\_amendment\\_of\\_the\\_constitution/reports/2017/2017-12-20\\_report-of-the-joint-committee-on-the-eighth-amendment-of-the-constitution\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_the_eighth_amendment_of_the_constitution/reports/2017/2017-12-20_report-of-the-joint-committee-on-the-eighth-amendment-of-the-constitution_en.pdf). International examples present a move to taking out-moded abortion laws off criminal statutes. Berer, M., *Abortion law and policy around the world: In search of decriminalisation*, 2017, 19(1) *Health Hum Rights*, 13-27. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5473035/>. Human Rights Law Centre, *Abortion law finally passes South Australian Parliament in win or human rights*, 2020. Available at: <https://www.hrlc.org.au/news/2021/3/2/abortion-law-finally-passes-south-australian-parliament-in-win-for-human-rights?rq=abortion%20south%20australia>.

<sup>36</sup> McGreevy, R., *No gender parity in Dail 'until 2063' at current rate of progress*, 18 October 2020. Available at: <https://www.irishtimes.com/news/ireland/irish-news/no-gender-parity-in-d%C3%A1il-until-2063-at-current-rate-of-progress-1.4384216>.

<sup>37</sup> OECD Family Database, *Parental leave systems*, p. 3. Available at: [http://www.oecd.org/els/soc/PF2\\_1\\_Parental\\_leave\\_systems.pdf](http://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf).

<sup>38</sup> McQuinn, C., *Lack of maternity leave for politicians is 'awful' and 'downright traumatic' when things go wrong*, 15 January 2021. Available at: <https://www.independent.ie/news/lack-of-maternity-leave-for-politicians-is-awful-and-downright-traumatic-when-things-go-wrong-39974190.html>.

<sup>39</sup> Irish Jobs, *Graduate Gender Pay Gap Widens*, 18 September 2020. Available at: <https://www.irishjobs.ie/careeradvice/graduate-gender-pay-gap-widens/>.

<sup>40</sup> The Journal.ie, *'Strengthened' gender pay gap bill to be brought before Cabinet in January, O'Gorman confirms*, 28 December 2020. Available at: <https://www.thejournal.ie/gender-pay-gap-bill-cabinet-5311797-Dec2020/>.

<sup>41</sup> See for example: Recommendation 135.103: Renew the national plan of action against racism or elaborate a new one, always in collaboration with civil society

<sup>42</sup> Committee on the Elimination of Racial Discrimination, *Concluding Observations on the combined fifth to ninth reports of Ireland*, 23 January 2020, CERD/C/IRL/CO/5-9, para. 15.

<sup>43</sup> Policing Authority, *Policing Performance by the Garda Síochána in relation to Covid-19 Regulations*, 6 May 2020, p. 9. Available at: [https://www.policingauthority.ie/assets/uploads/documents/Policing\\_performance\\_by\\_the\\_Garda\\_S%C3%A0och%C3%A1na\\_in\\_Relation\\_to\\_Covid-19\\_Regulations\\_-\\_6th\\_May\\_2020.pdf](https://www.policingauthority.ie/assets/uploads/documents/Policing_performance_by_the_Garda_S%C3%A0och%C3%A1na_in_Relation_to_Covid-19_Regulations_-_6th_May_2020.pdf).

<sup>44</sup> Committee on the Elimination of Racial Discrimination, *Concluding Observations on the combined fifth to ninth reports of Ireland*, 23 January 2020, CERD/C/IRL/CO/5-9, para. 16.

<sup>45</sup> UPR 2016 Recommendation 135.144: Continue to strengthen the basic rights and non-discrimination of the Roma and Travellers; UPR 2016 Recommendation 135.145 Adopt a progressive Traveller Roma Inclusion strategy; UPR 2016 Recommendation 135.146 : Activate the policies of integration of Travellers and Roma in all social, economic, cultural, political, educational, and other policies; UPR 2016 Recommendation 135.147: Give special emphasis to employment, access to health care and the right to housing in the application of the national strategy on the inclusion of Travellers and Roma; UPR 2016 Recommendation 136.83: Conduct and finalise a timely review of

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the request for recognition of the Travellers as an ethnic group.

<sup>46</sup> UPR 2016 Recommendation 136.44: Step up measures to combat acts of racism by the law enforcement bodies, including against Travellers; UPR 2016 Recommendation 136.84: Take concrete measures for the issuance of medical cards in Traveller and Roma communities, to guarantee that such children enjoy the same access to and quality of health-care services as others; UPR 2016 Recommendation 136.85: Strengthen measures to eliminate racial discrimination against Roma and children on the basis of religion in health and education sectors; UPR 2016 Recommendation 136.86: Introduce measures to improve the living standards of Travellers in society and ensure the legislation in place does not hinder their nomadic customs and practices.

<sup>47</sup> Pavee Point, *Civil society monitoring report on implementation of the National Traveller and Roma Inclusion Strategy*, 2019, p.7. Available at: <https://www.paveepoint.ie/wp-content/uploads/2015/04/RCM-Y3-C3-Ireland-final-15Jan2020-1.pdf>.

<sup>48</sup> NUIG, *Implications of Covid-19 pandemic on Roma and Travellers communities*, 15 June 2020. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/ie\\_report\\_-\\_covid-19\\_impact\\_on\\_roma\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/ie_report_-_covid-19_impact_on_roma_en.pdf).

<sup>49</sup> UPR 2016 Recommendation 135.143: Continue to improve employment opportunities and remove barriers to employment for persons with disabilities

<sup>50</sup> IHREC, CRPD. Available at: <https://www.ihrec.ie/crpd/>.

<sup>51</sup> UPR 2016 Recommendation 135.119: Take further steps to address discrimination in access to goods, employment and services, including healthcare

<sup>52</sup> HSE, *Final Report of the Steering Committee on the Development of HSE Transgender Identity Services*, February 2020. Available at: <https://www.hse.ie/eng/about/who/primarycare/socialinclusion/other-areas/lgbti/final-report-of-the-steering-committee-on-the-development-of-hse-transgender-identity-services.pdf>.

<sup>53</sup> Department of Social Protection, *Review of the Gender Recognition Act 2015*, 17 July 2018. Available at: <https://www.gov.ie/en/press-release/6b7814-review-of-the-gender-recognition-act-2015-report-to-the-minister-for/>.

<sup>54</sup> Prohibition of Conversion Therapies Bill 2018 (Bill 39 of 2018). Available at: <https://www.oireachtas.ie/en/bills/bill/2018/39/>.

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[https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_education\\_and\\_skills/reports/2019/2019-01-29\\_report-on-relationships-and-sexuality-education\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_education_and_skills/reports/2019/2019-01-29_report-on-relationships-and-sexuality-education_en.pdf)

<sup>56</sup> Including that a review of the legislation should be carried out every two years.

<sup>57</sup> *See for example*, recommendation by the Special Oireachtas Committee on COVID-19 that 'the lack of statutory clinical oversight of care for residents in the private nursing home sector is one of the biggest weaknesses exposed by Covid-19. See Special Committee on Covid-19 (July 2020) *Interim Report on Covid-19 in Nursing Homes Response*. Available at [https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special\\_committee\\_on\\_covid-19\\_response/reports/2020/2020-07-31\\_interim-report-on-covid-19-in-nursing-homes\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid-19_response/reports/2020/2020-07-31_interim-report-on-covid-19-in-nursing-homes_en.pdf).

<sup>58</sup> Government of Ireland, *The Roadmap for Pension Reform 2018-2023*, 2018, p.38. Available at: <https://www.gov.ie/en/publication/abdb6f-a-roadmap-for-pensions-reform-2018-2023/>.

<sup>59</sup> UPR 2016 Recommendation 135.120: Investigate all cases of abuse of office by the officials of the penitentiary institutions; UPR 2016 Recommendation 135.121: Continue with its efforts to bring incarceration facilities into line with international standards; UPR 2016 Recommendation 135.122: Improve prison conditions; UPR 2016 Recommendation 135.123: Improve conditions and address prison overcrowding; UPR 2016 Recommendation 135.124: Improve conditions and address prison overcrowding; UPR 2016 Recommendation 135.125: Ensure completed separation of remand and sentenced prisoners, juvenile and adult prisoners and detained immigrants.

<sup>60</sup> ICCL, Work on OPCAT. Available at: <https://www.iccl.ie/tag/opcat/>.

<sup>61</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Government of Ireland on the visit from CPT from 23 September to 4 October 2019, 2020. Available at: <https://rm.coe.int/1680a078cf>

<sup>62</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Government of Ireland on the visit from CPT from 23 September to 4 October 2019, 2020, p. 5.

<sup>63</sup> Gallagher, C. *Use of spit hoods on prisoners not centrally recorded*, 6 February 2021. Available at: <https://www.irishtimes.com/news/crime-and-law/use-of-spit-hoods-on-prisoners-not-centrally-recorded-1.4477330>.

<sup>64</sup> Irish Prison Service, *Annual Report 2020*, 2020. Available at: <https://www.irishprisons.ie/information-centre/publications/annual-reports/>; IPRT, Progress in the

Penal System, 2020, p. 54. Available at: [https://www.iprt.ie/site/assets/files/6845/progress\\_in\\_the\\_penal\\_system\\_2020.pdf](https://www.iprt.ie/site/assets/files/6845/progress_in_the_penal_system_2020.pdf).

<sup>65</sup> IPRT, Progress in the Penal System, 2020, p.35.

<sup>66</sup> IPRT, Progress in the Penal System, 2020, p. 68.

<sup>67</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Government of Ireland on the visit from CPT from 23 September to 4 October 2019, 2020, pp.47-48; IPRT, Annual Report 2020, p.4. Available at: [https://www.iprt.ie/site/assets/files/6845/progress\\_in\\_the\\_penal\\_system\\_2020.pdf](https://www.iprt.ie/site/assets/files/6845/progress_in_the_penal_system_2020.pdf).

<sup>68</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Government of Ireland on the visit from CPT from 23 September to 4 October 2019, 2020, p.4.

<sup>69</sup> Emergency Measures in the Public Interest (Covid-19) Act 2020 (Act 2 of 2020). Available at: <https://www.oireachtas.ie/en/bills/bill/2020/4/>.

<sup>70</sup> ICCL, Explanatory Note on the Emergency Measures in the Public Interest Bill 2020, 2020. Available at: <https://www.iccl.ie/wp-content/uploads/2020/03/ICCL-Explanatory-Note-on-Emergency-Measures-in-the-Public-Interest.pdf>. ICCL, Monitoring human rights during the pandemic, Update 2. Available at: <https://www.iccl.ie/wp-content/uploads/2020/06/Update-2-Your-rights-in-the-pandemic.pdf>.

<sup>71</sup> UPR 2016 Recommendation 136.51 Conduct comprehensive investigation related to reports by human rights non-governmental organisations about abuses in child care institutions and homes for mother and children, as well as practices of forced labour in so-called 'Magdalene laundries.'

<sup>72</sup> Commission of Investigation into Mother and Baby Homes, *The Final Report of the Commission of Investigation into Mother and Baby Homes*, 12 January 2021. Available at <https://www.gov.ie/en/publication/d4b3d-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/>.

<sup>73</sup> See for example, ICCL, *ICCL follow up report to UN Committee against Torture 2018*, 2018. Available at: <https://www.iccl.ie/wp-content/uploads/2018/11/ICCL-Follow-up-report-to-UNCAT-final-23.11.18.pdf>. Maeve O'Rourke, Claire McGettrick, Rod Baker, Raymond Hill *et al.*, *CLANN: Ireland's Unmarried Mothers and their Children: Gathering the Data: Principal Submission to the Commission of Investigation into Mother and Baby Homes*. Dublin: Justice For Magdalenes Research, Adoption Rights Alliance, Hogan Lovells, 15 October 2018. Available at: [http://clannproject.org/wp-content/uploads/Clann-Submissions\\_Redacted-Public-Version-October-2018.pdf](http://clannproject.org/wp-content/uploads/Clann-Submissions_Redacted-Public-Version-October-2018.pdf).

<sup>74</sup> Commission of Investigation into Mother and Baby Homes, *The Final Report of the Commission of Investigation into Mother and Baby Homes*, 30 October 2020. Available at <https://www.gov.ie/en/publication/d4b3d-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/>.

<sup>75</sup> The Action Plan is outlined in a Press Statement, published on 12 January 2021 and available here: <https://www.gov.ie/en/press-release/4f64f-government-statement-on-the-final-report-of-the-commission-of-investigation-mother-and-baby-homes-and-certain-related-matters/>

<sup>76</sup> UPR 2016 Recommendation 135.95: Take all measures to effectively combat all forms of violence and discrimination against women; UPR 2016 Recommendation 135.96: Strengthen measures to combat domestic and sexual violence against women; UPR 2016 Recommendation 135.97: Strengthen measures to combat and prevent domestic and sexual violence against women; UPR 2016 Recommendation 135.98: Undertake the necessary steps to strengthen its response to domestic violence as recommended by the Committee of Economic, Social and Cultural Rights; UPR 2016 Recommendations 135.99-135.102: Adopt a Domestic Violence Bill; UPR 2016 Recommendations 136.36-136.42.

<sup>77</sup> <https://www.irishtimes.com/news/social-affairs/covid-19-sharp-increase-in-women-and-children-fleeing-domestic-violence-1.4404850>

<sup>78</sup> Cox, J., *Domestic abuse criminal charges up 25% to 7600*, 16 January 2021. Available at: <https://www.breakingnews.ie/ireland/domestic-abuse-criminal-charges-up-25-to-7600-1070322.html>.

<sup>79</sup> Domestic Violence Act 2018, section 39. Available at: <http://www.irishstatutebook.ie/eli/2018/act/6/section/39/enacted/en/html#sec39>.

<sup>80</sup> Cox, J., *Domestic abuse criminal charges up 25% to 7600*, 16 January 2021. Available at: <https://www.breakingnews.ie/ireland/domestic-abuse-criminal-charges-up-25-to-7600-1070322.html>. Recent research found that 40% of Irish people do not understand coercive control, highlighting the need for increased awareness-raising on this offense and law Safeguarding Ireland, *40% of public don't understand coercive control*, 28 February 2021. Available at: <https://www.safeguardingireland.org/40-of-public-dont-understand-coercive-control/>.

<sup>81</sup> UPR 2016 Recommendation 135.150: Continue efforts to adopt the National Action Plan to prevent and combat human trafficking; UPR 2016 Recommendation 135.151: Speed up the adoption of a national plan of action to prevent and combat trafficking in persons; UPR 2016 Recommendation 136.94: Modify the administrative provisions on immigration to protect the victims of trafficking of persons and integrate the prevention of trafficking in persons into the policies for asylum seekers; UPR 2016 Recommendation 136.95: Continue efforts to pass legislation to combat human trafficking in the form of sham marriages.

<sup>82</sup> US State Department, *2020 Trafficking in Persons Report – Ireland*, 2020. Available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/ireland/>.

<sup>83</sup> Department of Justice, *Action Plan 2021*, action 17. Available at: [http://www.justice.ie/en/JELR/Department\\_of\\_Justice\\_Action\\_Plan\\_2021.pdf/Files/Department\\_of\\_Justice\\_Action\\_Plan\\_2021.pdf](http://www.justice.ie/en/JELR/Department_of_Justice_Action_Plan_2021.pdf/Files/Department_of_Justice_Action_Plan_2021.pdf).

<sup>84</sup> US State Department, *2020 Trafficking in Persons Report – Ireland*, 2020. Available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/ireland/>.

<sup>85</sup> ICCL commissioned research on this issue and will be launching a campaign advocating for significant reform to the Coroner's Service in April 2021.

<sup>86</sup> Commission on the Future of Policing in Ireland, *The Future of Policing in Ireland*, 18 September 2018. Available at: <http://www.policereform.ie/>. Government of Ireland, *A Policing Service for our Future*, 2019. Available at: [http://www.justice.ie/en/JELR/A\\_Policing\\_Service\\_for\\_the\\_Future.pdf/Files/A\\_Policing\\_Service\\_for\\_the\\_Future.pdf](http://www.justice.ie/en/JELR/A_Policing_Service_for_the_Future.pdf/Files/A_Policing_Service_for_the_Future.pdf).

<sup>87</sup> Ireland's police force

<sup>88</sup> ICCL, *Ahead of garda review, ICCL calls for the use of "barbaric" spit hoods to be immediately ended*, 30 August 2020. Available at: <https://www.iccl.ie/news/ahead-of-garda-review-iccl-calls-for-use-of-barbaric-spit-hoods-to-be-immediately-ended/>.

<sup>89</sup> UCC, *Children's Rights and Police Questioning*, 2021, p. iv. Available at: <https://www.ucc.ie/en/media/academic/law/PolicingAuthorityReportFINAL24.02.21.pdf>.

<sup>90</sup> Recommendation 137.11 Avoid maintaining special criminal courts in penal legislation

<sup>91</sup> ICCL, *Review of the Special Criminal Court*, 23 June 2020. Available at: <https://www.iccl.ie/wp-content/uploads/2020/06/ICCL-Review-of-the-Special-Criminal-Court-2020.pdf>.

<sup>92</sup> Department of Justice, *Minister McEntee appoints Independent Review Group to examine the Offences against the State Acts*, 16 February 2021. Available at: <https://www.gov.ie/en/press-release/51927-minister-mcentee-appoints-independent-review-group-to-examine-the-offences-against-the-state-acts/>.

<sup>93</sup> UPR 2016 Recommendation 135.126: Continue its efforts, at national and international levels, towards the protection and promotion of the civil society place.

<sup>94</sup> Ireland Universal Periodic Review, *National Interim Report*, 2020. Available at: [https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR\\_Interim\\_Report2020\\_PartII.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR_Interim_Report2020_PartII.pdf).

<sup>95</sup> Coalition for Civil Society Freedom, *Submission to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, 2020. Available at: <https://www.iccl.ie/wp-content/uploads/2020/07/Submission-to-UN-SR-FoAA-by-Coalition-For-Civil-Society-Freedom-Ireland.pdf>.

<sup>96</sup> Electoral Act 1997, section 22 "Political purposes" is defined in relation to different purposes, including "to promote or oppose, directly or indirectly, the interests of a third party in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to a policy or policies or functions of the Government or any public authority."

<sup>97</sup> Coalition for Civil Society Freedom, *Submission to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, 2020, p.1. Available at: <https://www.iccl.ie/wp-content/uploads/2020/07/Submission-to-UN-SR-FoAA-by-Coalition-For-Civil-Society-Freedom-Ireland.pdf>.

<sup>98</sup> UN General Assembly, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, 6 April 2018, A/HRC/38/35, pp. 19, 20. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/096/72/PDF/G1809672.pdf?OpenElement>.

<sup>99</sup> UN General Assembly, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, 17 May 2019, A/HRC/41/41, pp. 17-19. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/141/02/PDF/G1914102.pdf?OpenElement>.

<sup>100</sup> UPR 2016 Recommendation 135.6 Ratify the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

- <sup>101</sup> UPR 2011 Recommendations: 107.4. Consider incorporating the right to health and the right to housing (Portugal) and sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) (Ecuador); (accepted);
- <sup>102</sup> Ireland Universal Periodic Review, *National Interim Report*, 2020. Available at: [https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR\\_Interim\\_Report2020\\_PartII.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR_Interim_Report2020_PartII.pdf).
- <sup>103</sup> See for example, Equal Status Acts 2000 – 2011.
- <sup>104</sup> During its review of Ireland's third periodic report in 2015, the UN Committee on Economic, Social and Cultural Rights recommended that Ireland adopt comprehensive anti-discrimination legislation in line with Article 2(2) of the ICESCR. E/C.12/IRL/CO/3, para.12. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en).
- <sup>105</sup> Thirty-Seventh Amendment of the Constitution (Economic, Social And Cultural Rights) Bill 2018. Available at: <https://www.oireachtas.ie/en/bills/bill/2018/99/>.
- <sup>106</sup> National Economic and Social Council, *The impacts of Covid-19 on Ethnic Minority and Migrant Groups in Ireland*, 2011. Available at: [http://files.nesc.ie/nesc\\_research\\_series/research\\_series\\_paper\\_18\\_Covid19Migrants.pdf](http://files.nesc.ie/nesc_research_series/research_series_paper_18_Covid19Migrants.pdf).
- <sup>107</sup> Department of Children, Equality, Disability, Integration and Youth, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service*, 2021. Available at: <https://www.gov.ie/pdf/?file=https://assets.gov.ie/124757/ef0c3059-b117-4bfa-a2df-8213bb6a63db.pdf#page=0>.
- <sup>108</sup> UPR 2016 Recommendation 136.96: Take steps to move towards increased renewable energy in line with pledges on Climate Action
- <sup>109</sup> Ireland Universal Periodic Review, *National Interim Report*, 2020. Available at: [https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR\\_Interim\\_Report2020\\_PartII.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR_Interim_Report2020_PartII.pdf).
- <sup>110</sup> Climate Case Ireland, Update, 18 December 2020. Available at: <https://www.climatecaseireland.ie/climate-case-ireland-welcomes-cross-party-report-that-recommends-minister-eamon-ryan-preserve-the-effect-of-the-supreme-court-in-climate-case-ireland/>.
- <sup>111</sup> Climate Action and Low Carbon Development (Amendment) Bill 2020. Available at: <https://www.gov.ie/en/publication/984d2-climate-action-and-low-carbon-development-amendment-bill-2020/>.
- <sup>112</sup> Joint Committee on Climate Action, Pre-legislative scrutiny on the draft of the Climate Action and Low Carbon Development (Amendment) Bill, December 2020, p. 35. Available at: [https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint\\_committee\\_on\\_climate\\_action/reports/2020/2020-12-18\\_pre-legislative-scrutiny-on-the-draft-of-the-climate-action-and-low-carbon-development-amendment-bill-2020\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_climate_action/reports/2020/2020-12-18_pre-legislative-scrutiny-on-the-draft-of-the-climate-action-and-low-carbon-development-amendment-bill-2020_en.pdf).
- <sup>113</sup> Climate Case Ireland, Update, 18 December 2020. Available at: <https://www.climatecaseireland.ie/climate-case-ireland-welcomes-cross-party-report-that-recommends-minister-eamon-ryan-preserve-the-effect-of-the-supreme-court-in-climate-case-ireland/>.
- <sup>114</sup> UPR 2016 Recommendation 135.115: Combat hate speech and prosecute perpetrators of xenophobic acts; UPR 2016 Recommendation 135.116: Ensure accountability for hate crimes; UPR 2016 Recommendation 135.117: Take measures to eliminate racial discrimination and combat hate crime.
- <sup>115</sup> Ireland Universal Periodic Review, *National Interim Report*, 2020. Available at: [https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR\\_Interim\\_Report2020\\_PartII.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/session25/IE/UPR_Interim_Report2020_PartII.pdf).
- <sup>116</sup> Department of Justice, *Legislation for hate crime and hate speech in Ireland: Report on Public Consultation*, 2020. Available at: [http://www.justice.ie/en/JELR/Pages/Legislating\\_for\\_Hate\\_Speech\\_and\\_Hate\\_Crime\\_in\\_Ireland\\_Report](http://www.justice.ie/en/JELR/Pages/Legislating_for_Hate_Speech_and_Hate_Crime_in_Ireland_Report).
- <sup>117</sup> Human Rights Watch, *The EU General Data Protection Regulation*, 2018. Available at: <https://www.hrw.org/news/2018/06/06/eu-general-data-protection-regulation>.
- <sup>118</sup> Scally, D., *German regulator says Irish data protection commission is being 'overwhelmed'*, The Irish Times, 3 February 2020. Available at: <https://www.irishtimes.com/business/financial-services/german-regulator-says-irish-data-protection-commission-is-being-overwhelmed-1.4159494>.
- <sup>119</sup> "Opinion of Advocate General Bobek, Case C-645/19 Facebook Ireland Limited, Facebook Inc., Facebook Belgium BVBA v Gegevensbeschermingsautoriteit", 13 January 2021, paragraph 114 and 135.
- <sup>120</sup> ICCL, *"Internal problems exposed at Irish Data Protection Commission"*, 9 February 2021. Available at: <https://www.iccl.ie/news/internal-problems-exposed-at-irish-data-protection-commission/>.

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<sup>121</sup> This includes members of An Garda Síochána, Revenue, the Defence Forces, the Competition and Consumer Protection Commission, the Garda Síochána Ombudsman Commission (GSOC) and the Data Protection Commissioner (DPC).

<sup>122</sup> Communications (Retention of Data) Act 2011. Available at: <http://www.irishstatutebook.ie/eli/2011/act/3/enacted/en/html>.

<sup>123</sup> *See for example*, report of the UN Special Rapporteur on the promotion and protection of the freedom of opinion and expression, UN doc. A/HRC/23/40, 17 April 2014; report of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, UN doc. A/69/397, 23 September 2014, and report of the UN High Commissioner for Human Rights, Right to Privacy in the Digital Age, UN doc. A/HRC/27/37, 30 June 2014. Also on December 16, 2020, the UN General Assembly adopted a draft resolution, “The right to privacy in the digital age”, in which it called on States to end violations of the right to privacy and to create conditions to prevent such violations, including ensuring that national legislation complies with their international human rights law obligations. See General Assembly Adopts 48 Third Committee Resolutions, Proclaims International Day for People of African Descent, Covering Broad Themes of Human Rights (United Nations), December 18, 2020. Available at: <https://www.un.org/press/en/2020/ga12304.doc.htm>.

<sup>124</sup> General Scheme of the Online Safety and Media Regulation Bill. Available at: <https://www.gov.ie/en/publication/d8e4c-online-safety-and-media-regulation-bill/#general-scheme-of-the-online-safety-media-regulation-bill>.

<sup>125</sup> General Scheme of the Online Safety and Media Regulation Bill, p. 82 (The definition in the current draft of the Bill defines harmful content as “material which is likely to have the effect of intimidating, threatening, humiliating or persecuting a person to which it pertains and which a reasonable person would conclude was the intention of its dissemination”).