



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

Distr.: General
31 May 2011

Original: English

Committee against Torture
Forty-sixth session

Summary record of the 1005th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 24 May 2011, at 3 p.m.

Chairperson: Mr. Grossman

Contents

Consideration of reports submitted by States parties under article 19 of the Convention
(*continued*)

Initial report of Ireland (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Initial report of Ireland (continued) (CAT/C/IRL/1; HRI/CORE/1/Add.15/Rev.1)

1. *At the invitation of the Chairperson, the members of the delegation of Ireland resumed places at the Committee table.*

2. **Mr. Aylward** (Ireland) said that under the Criminal Justice (United Nations Convention against Torture) Act, torture was defined as an “act or omission”. Broadening the definition to include omission covered a wider number of possible scenarios. The amendment to section 1 (1) of the Act had been intended to bring the definition of torture into line with that contained in the Convention. Under Irish legislation a person could not be extradited to a State for an offence that was punishable by death under the law of that State. When the offence of torture was committed abroad by an Irish citizen, his or her extradition must be sought prior to any trial proceeding under Irish jurisdiction.

3. Ireland had not made a reservation under article 21 of the Convention, but rather had made the positive declaration required to empower the Committee to receive individual complaints from other States parties. Every effort was being made to expedite the adoption of the legislation required for the ratification of the Optional Protocol to the Convention against Torture. The Irish Government would decide on the designation of a national preventive mechanism in due course.

4. Turning to the question of the Magdalene laundries, he said that the Government was taking allegations of ill-treatment very seriously. Personal meetings had been conducted with women who had spent their early childhood in those institutions, and who felt that the treatment they had endured had scarred their lives. They had been informed that the more serious allegations, if proven, would constitute criminal offences under Irish law and that there was no statute of limitations applicable to offences in Irish jurisdiction. They had been invited to file complaints with the police in order for the cases to be investigated under criminal law. As yet no such complaints had been filed. Since most of the alleged events had taken place some considerable time ago, the information available was limited, but it was understood that the vast majority of women in those institutions had gone there voluntarily or with the consent of their parents or guardians.

5. The new Government had decided to amend the Immigration, Protection and Residence Bill. The amended version would be submitted to Parliament for consideration before the end of 2011. Although the Criminal Justice (Female Genital Mutilation) Bill 2011 had fallen when the Seanad had been dissolved, it would be restored to the Seanad Order Paper when the new Seanad was formed, since it had enjoyed cross-party support. The Government acknowledged the ruling of the European Court of Human Rights on Ireland’s violation of article 8 of the Convention in the case of Ms. C and would establish an expert group to address that issue, drawing on appropriate medical and legal expertise.

6. With regard to budget cuts to the human rights and equality infrastructure, he explained that given the current economic situation, Ireland was not in a position to reconsider the cuts in funding for the Irish Human Rights Commission or the Equality Authority. Responding to the concerns raised about the proliferation of Ombudsmen in Ireland, he said that that was indeed the case, and there were several similar and overlapping services. There could also be overlaps of responsibility between different State and non-State offices. Bodies, such as the National Consultative Committee on Racism and Interculturalism, could be established to conduct a particular task and their work could run its course, or they could come to be replaced by a new entity. Government services must always be subject to reform and streamlining.

7. Turning to children's detention, he said that there was a written complaints procedure in place within the recently revised safeguarding policy of the children's detention schools. The complaints system was explained in a booklet distributed to all young detainees on admission to any of the three schools. The schools were regularly inspected by the Social Services Inspectorate, whose recommendations were implemented by the detention schools and the Irish Youth Justice Service. The safeguarding policy was designed to promote children's welfare, protect them against harm or abuse, and ensure that false allegations of abuse were not made against staff. The policy provided for single cell separation to give a seriously disruptive young person the opportunity to regain self-control. Separation was a short-term care strategy, rather than a punishment. All applicants for staff positions in detention schools were vetted by the police before appointment.

8. Planning for the new juvenile detention centre at Oberstown was under way. Pending the construction of the new facilities, males aged 16 or 17 years were detained in Saint Patrick's Institution, a closed, medium security detention facility for males aged 16–21 years, which was operated by the Irish prison service. All females under the age of 18 years who were in detention were resident in a children's detention school. The new facility would increase the number of detention places available for minors and would facilitate the implementation of the childcare model of detention for minors. In keeping with legislation and policy on youth justice, boys aged 16 and 17 years in detention were separated from young adults, aged 18 to 21 years, in accommodation, education, work, training, recreation and exercise.

9. Sentence planning was conducted for juvenile offenders, with input from the prison services. The situation of underage offenders leaving Saint Patrick's was reviewed by a multidisciplinary team before the minor concerned was released. Attention was paid to care arrangements in order to ensure that released detainees' needs were met. The importance of community "Youth-reach" groups was recognized in that regard. Formal child protection guidelines had been introduced in 2008, outlining child protection and welfare procedures for staff, including the obligation to report any reasonable concerns or suspicions of child abuse to the designated Child Protection Officer.

10. All staff working on the positive sentence management programme received additional training. Training programmes for staff in youth detention facilities were being reviewed and efforts were being made to bring them into line with international standards. The Ombudsman for Children had published a report on Saint Patrick's Institution in February 2011, which documented the views of some of the offenders. The report had brought to light a number of discrepancies between the detainees' perception of some procedures and the intended purpose of those procedures. The report also contained detailed replies from the Irish prison service to the issues raised by inmates.

11. On prison overcrowding, he said that while the total prisoner population had been increasing constantly in recent years, the prison service was obliged to accept all prisoners committed into its custody by the Courts. On 12 April 2011 the total number of prisoners in custody was the highest recorded to date. With regard to the provision of additional prison accommodation, he said that since January 2008 almost 600 additional prisoner spaces had been constructed and brought into use. The prison service had sought to identify disused cells in prison facilities, which could be re-commissioned to provide extra space. All re-commissioned cells included in-cell sanitation. Currently 72 per cent of prisoner accommodation had in-cell sanitation. New building technology meant that in-cell sanitation could be installed in Mountjoy prison, which had not been possible previously owing to the age of the building and the stonework involved. A new, camping style toilet had been tested in Mountjoy, Limerick and Cork prisons, with positive feedback from the prisoners. The initiative would therefore be extended to all prisons without in-cell sanitation.

12. **Mr. Purcell** (Ireland) said that the Minister for Justice and Equality had established a committee to review the Thornton Hall project, which had been postponed for financial reasons. The Committee had been asked to assess the need for new prison accommodation and to advise, by 1 July 2011, whether work on the project should proceed. The new facility had never been intended to be a single large prison, but rather a campus style development with a number of individual, self-contained facilities, giving access to work training, education and other rehabilitation programmes, including pre-release accommodation.

13. No amount of prisoner violence was acceptable and every effort was made by prison staff and management to limit acts of violence. That notwithstanding, no regime could completely eliminate the possibility of violent incidents occurring in facilities where a large number of dangerous and violent offenders were detained. Considering Ireland's large prison population, the level of violence was relatively low. Most attacks by prisoners against other prisoners were not random acts of violence, but rather related to outside issues, such as drug debts and gang rivalries. Enhanced security measures had been introduced over recent years, and the number of weapons seized had fallen dramatically. Most of those weapons were homemade or improvised items, rather than weapons brought into the prison, and had been confiscated during routine searches.

14. On the issue of protection of prisoners, he said that those seeking protection from the general prison population or those who had been identified as posing a threat were separated immediately. External issues prompting a request for protection included gang rivalry, drug debts and perceived cooperation with the police. In some cases, prisoners were transferred to other detention facilities. Some prisons had separate landings for protection prisoners, with a wide range of activities and health care and chaplaincy services.

15. By 2007, all padded cells had been replaced by close supervision and special observation cells, which were single occupancy cells with larger windows, a door with a full face observation window, a communications system, a television set, in-cell sanitation and improved quality bedding. Prisoners were never placed in those cells as punishment. Safety observation cells were used for prisoners only on medical grounds and only subject to the authorization of a doctor, psychiatrist or registered nurse. Special observation cells would be used for management purposes.

16. With regard to complaints by prisoners, a number of avenues were open, and provision was made for enhanced grievance procedures, under which prisoners could request a meeting with an officer of the Ministry for Justice, Equality and Law Reform. A team had been appointed to examine specific allegations made against the staff of Mountjoy prison and to recommend ways of strengthening prisoner protection. The team's recommendations had been implemented throughout the prison system, and the new procedures, which included prompt investigation of allegations, easy access to complaints mechanisms for prisoners, and the establishment of a system for keeping record of complaints, had been commended by the European Committee for the Prevention of Torture.

17. As far as possible remand prisoners and sentenced prisoners were held separately. In the event that they could not be separated, remand prisoners were often reluctant to move to other detention facilities, since they wished to remain as close to home as possible.

18. **Mr. O'Sullivan** (Ireland), referring to the question of Ireland's low recognition rate for claims for refugee status, said that consideration should be given to the fairness of the process, rather than statistical outcomes. The Irish recognition rate included only first instance applications and did not include subsidiary protection cases or appeals for humanitarian leave to remain. Ireland was geographically less accessible than other European Union member States, which also affected the number of asylum applications it received. Many of the countries that had a high acceptance rate in Europe had a low

application rate in Ireland. Conversely, Nigeria had the highest asylum application rate in Ireland, and one of the lowest acceptance rates in Europe.

19. He said that section 3 of the Immigration Act 1999 did give the Minister broad powers but that it was invoked only when all other avenues had been explored and failed. After a final request, the Minister decided whether an individual could remain in Ireland. However, the Minister did not have unlimited discretion even under section 3; cases were given full consideration and were subject to the overall prohibition on refoulement. All decisions were amenable to judicial review.

20. Applications for subsidiary protection were considered on their merits, bearing in mind the prevailing political and human rights situation in the applicant's country of origin, as well as the applicant's own credibility based on the findings of the Office of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal (RAT). The Government was committed to establishing an independent appeals process in immigration cases.

21. The RAT and the ORAC were statutorily independent bodies committed to ensuring that all asylum applicants were treated with dignity and respect. The issue of the independence of the two bodies had been brought before the High Court, which, in a comprehensive judgement delivered on 9 February 2011, had held that the current setup was effective and sufficiently robust to guard against ministerial intervention. Ireland's legislation relating to subsidiary protection was a transposition of the relevant European Community legislation. There were plans to introduce a single unified procedure in the Immigration, Residence and Protection Bill 2010.

22. The commitment to non-refoulement was an overarching principle affecting everyone in the immigration system. Any administrative decision on the issue of refoulement was open to judicial review. In its current form, the Immigration, Residence and Protection Bill included no provision for summary deportation; rather it contained extensive review options and a clear commitment to non-refoulement. The Government had felt that a simple explicit prohibition of refoulement in all cases would be more effective than a complex administrative procedure.

23. **Ms. Regan** (Ireland) said that the aim of the Irish Government was to help people with disabilities to live full lives in their families and communities for as long as they could. Much progress had been made in that respect. Most people in psychiatric institutions were held on a voluntary basis and the Government was planning to introduce new legislation to guarantee the rights of incapacitated persons and wards of court. It also intended to review the Mental Health Act 2001 in the light of human rights standards.

24. The Government had an ongoing mental health initiative called "A Vision for Change", which contained provision for closing large psychiatric hospitals and transferring people to community residential facilities. The Health Service Executive, working in conjunction with various governmental departments, was developing its Corporate Plan 2011–2014 to address the transfer of people with intellectual disabilities from psychiatric hospitals to more appropriate accommodation.

25. **Ms. Fisher** (Ireland) said that evidence on domestic and sexual violence in Ireland reflected the global picture. Information was available on the various types of order issued under the Domestic Violence Acts of 1996 and 2002. Other information relating to domestic violence was contained within crimes statistics on offences against the person. Ireland had a National Strategy on Domestic, Sexual and Gender-based Violence, which aimed to improve the intake of data on domestic and sexual violence in order to make policy more effective. It was available online, along with progress reports on its implementation.

26. The new Irish Government was specifically committed to renewing the law on domestic violence, in such fields as removing the qualifying period for an application for a safety order, protecting victim anonymity and pursuing criminal prosecution for violent or coercive acts, harassment and stalking. Marital rape had been a crime under Irish law since 1990. Legally-resident migrant victims of domestic violence, including dependent spouses, had the right to apply to the Minister for Justice and Equality for a change of status. There was no automatic right of residence but each case was humanely assessed on its own merits. Domestic violence refuges and services were funded by the Health Care Executive. Unfortunately, widespread expenditure cuts in all Irish public services had also affected domestic and sexual violence services.

27. **Mr. Saunders** (Ireland) said that Ireland fully accepted the need for the audio-visual recording of interviews carried out by the Garda Síochána. The regulations applied to interviews in respect of detention for “arrestable offences”, which were defined in Irish law as offences carrying a penalty of 5 or more years’ imprisonment. Recording systems had been installed in a total of 252 interview rooms in 147 Garda stations, and closed-circuit television was a requirement in the building of all new stations. The Garda Commissioner had instructed that the recording of interviews should be the norm and there was virtually full compliance with that directive.

28. Persons detained in Garda custody had the right to consult a solicitor as often as they wished. A Garda officer had to inform them of that right without delay, orally and in writing. The written information was available in many languages. Irish law did not permit a solicitor to be present during Garda interviews, although the case law of the European Court of Human Rights was being examined to discover potential implications for Irish law and practice in that field.

29. The Criminal Justice Act 2007 contained provision for inferences to be drawn from a detainee’s refusal to answer questions. However, various conditions and safeguards existed and a person could not be convicted solely or mainly on the inference itself. The provisions were in line with the jurisprudence of the European Convention on Human Rights. An Advisory Committee including lawyers and members of the Irish Human Rights Commission had been established to oversee policy on the interviewing of suspects in Garda custody. It reviewed the adequacy of law and took into account evolving best practice. Furthermore, the Irish Government hoped to give early enactment to the Criminal Justice Bill 2011, which gave statutory effect to current Garda practice and established, inter alia, that an interview could not begin unless a detainee had consulted a lawyer, and that a detainee had an absolute right to consult a lawyer before any adverse inferences from his or her silence were used.

30. **Ms. Walsh** (Ireland) said that most of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography had been given effect in the Criminal Law (Human Trafficking Act) 2008. The Government was addressing outstanding issues through legislation currently being prepared, which would give children greater protection against sexual abuse and exploitation.

31. Many measures had been taken against human trafficking over the previous three years. They included the National Action Plan 2009–2012 containing 144 actions, 92 of which had made significant progress by the end of 2010, as well as measures in relation to rehabilitation, awareness-raising, engagement with civil society, health care and counselling, assistance with social and spiritual issues, financial management, immigration status, work, accommodation and legal aid. Those measures had been commended by the Executive Director of the United Nations Office on Drugs and Crime.

32. Measures in relation to training had also been introduced. In collaboration with the International Organization for Migration and non-governmental organizations, various public sector workers, including over 25 per cent of the police force, had received training on human trafficking issues. Awareness-raising measures had included a nationwide publicity campaign with advertisements on television and articles in a wide range of periodicals and magazines. Round-table forums and working groups composed of representatives from civil society monitored individual issues, and a high-level group was responsible for monitoring the implementation of the National Action Plan and reporting to Government.

33. **Mr. Aylward** (Ireland) said that the age of criminal responsibility in Ireland had been raised in 2006 from 7 to 12 years. Currently there were no plans to change it. The Irish Government intended to ratify the United Nations Convention on the Rights of Persons with Disabilities as soon as it could. Ireland did not become party to treaties unless it was first satisfied that it could comply with its obligations, including any necessary amendment of domestic law. Ireland's National Disability Strategy already covered many provisions of the Convention.

34. He expressed regret that Ireland's initial periodic report to the Committee (CAT/C/IRL/1) had been submitted late. It had been prepared on the basis of extensive consultations and contained a vast amount of information from State stakeholders and external parties.

35. Irish law contained no provision for using the defence of following orders as a justification for acts of torture, even under exceptional circumstances such as war or threat of war. Freedom from torture and inhuman treatment was guaranteed under the Constitution. Police and prison officers received human rights training. They were taught that individuals should be treated with respect and that ill-treatment would not be tolerated.

36. The courts of inquiry mentioned in paragraphs 275 and 276 of Ireland's initial periodic report (CAT/C/IRL/1) were investigative not prosecutorial. They examined the circumstances of an incident to ensure that the Irish Defence Forces could learn from it and avoid any recurrence. They met after the prosecution of the related offence. Paragraph 277 simply restated the fact that a Coroner could hold an inquest into the death of an Irish citizen at home or abroad, and paragraph 278 that any allegation of torture against a member of the Defence Forces would be investigated by the authorities with a view to bringing charges. There were no recorded instances of torture or mistreatment of Irish military personnel due to actions which would fall under the terms of the Convention.

37. **Mr. Gallegos Chiriboga** (First Country Rapporteur) commended the Irish delegation on producing very lengthy and impressive replies to the Committee's questions within 24 hours.

38. The Committee had also greatly benefited from the advice of Irish NGOs. According to the joint NGO shadow report, the definition of torture under the Criminal Justice Act 2006 had been amended to refer only to acts or omissions pertaining to the actions of a public official. However, the Special Rapporteur on torture had stated in 2008 (A/HRC/7/3) that States were required to protect people within their jurisdiction from torture and ill-treatment committed by private individuals if there was consent and acquiescence by a public official. The amendment failed to conform to that standard. He invited the delegation to respond to that comment.

39. With regard to extraordinary rendition, Amnesty International had referred to a diplomatic cable from the United States Embassy in Ireland released by WikiLeaks, which described a meeting in December 2007 between the then United States Ambassador and the then Minister for Foreign Affairs, where it was stated that the Minister seemed quite convinced that at least three flights involving renditions had refuelled at Shannon Airport

before or after conducting renditions elsewhere. The cable also stated that the Ambassador had thanked the Minister for his staunch rejection of the Irish Human Rights Commission's recommendation that the Government should inspect aircraft suspected to have been involved in rendition flights. He found it difficult to reconcile the content of the cable with the delegation's response to the Committee's question concerning extraordinary rendition.

40. Noting that even experienced public officials were confused by the proliferation of ombudsman and other mandates, he urged the State party to take steps to streamline procedures and to promote uniformity. The report referred to a large number of bills and plans to draft legislation prior to the ratification of international instruments. It would be helpful if the State party could provide a rough estimate of the time frame for ratification.

41. He reiterated the Committee's concern about the drastic reduction in the refugee acceptance rate. According to the Spiritan Asylum Services Initiative (SPIRASI), the Irish authorities had rejected 98.5 per cent of asylum applications during the first three quarters of 2010. He concluded that as the Irish economy declined the authorities were taking increasingly harsh decisions against migrants and asylum-seekers.

42. He also reiterated his suggestion that the Irish Human Rights Commission should be answerable to the legislature rather than to the executive, in order to ensure its independence and compliance with the Paris Principles. He was surprised at the State party's failure to accord due attention to the Istanbul Protocol, which provided valuable guidance for medical and other personnel who were required to deal with cases of torture and ill-treatment.

43. While he commended the State party on the policy concerning persons with intellectual disabilities set out in the "Vision for Change", he cited an NGO report concerning the alleged abuse and mistreatment of people with disabilities in residential settings. Apparently Ireland had no mandatory standards or independent inspections for assessing care provided by residential services to people with disabilities. He asked whether there was any way of monitoring such institutions.

44. **Ms. Kleopas** (Second Country Rapporteur), referring to the State party's plans to increase prison accommodation, asked whether cells would normally be designed for single occupancy. Noting that future action on the plans for Thornton Hall and the new centre for juveniles in Oberstown would depend on the availability of finance, she emphasized that progress on human rights issues should be a top priority. She also enquired about non-custodial measures to alleviate overcrowding, such as shorter prison sentences and rehabilitation facilities for drug addicts, increased use of parole and the remission of sentences.

45. She welcomed the various in-cell sanitation projects and enquired about the estimated time frame. She also invited the State party to comment on the recommendation by the European Committee for the Prevention of Torture that it should make every effort, until such time as all cells possessed in-cell sanitation, to ensure that prisoners who needed to use toilet facilities were released from their cells without undue delay at all times, including at night. She asked whether it was true that asylum-seekers and refugees were detained in prisons and other inappropriate locations. The Committee would appreciate further information about specific measures to reduce inter-prisoner violence related to external issues such as drug debts and gang rivalry.

46. She disagreed with the State party's position on corporal punishment, which should, in her view, be prohibited by law. Negative community reactions could be addressed by organizing public awareness campaigns concerning alternative means of imposing discipline. She asked whether the State party intended to institute an independent investigation into the findings of the Ryan report on child abuse, as required by articles 12 and 13 of the Convention, and to provide compensation to the victims.

47. As the definition of torture in Irish legislation contained the element of omission and as the State party might have failed to exercise due diligence in the case of the Magdalene laundries, she considered that the authorities had a responsibility to conduct an investigation and to ensure that the victims obtained redress under article 14 of the Convention.

48. There was clearly no independent mechanism in the State party for investigating allegations of ill-treatment in prisons, as required by articles 12 and 13 of the Convention. It was also important to clarify the legislation concerning complaints against police officers to ensure that it covered all forms of ill-treatment and torture and that investigations were conducted by an independent mechanism.

49. While she commended the complaints procedure for children in detention schools, she pointed out that some children might find it difficult to fill out the relevant form. A simpler procedure would be more appropriate. She asked whether the State party planned to amend the Domestic Violence Act 1996 to include clear criteria, to grant safety and barring orders, and to extend eligibility for all parties who were or had been in an intimate relationship, regardless of cohabitation, in line with internationally recognized best practices.

50. **Ms. Gaer** said that she had inquired about the concern expressed in the joint shadow report about a proposal to “lease back” certain categories of cases from the *Gárda Síochána* Ombudsman Commission to the police for investigation. She was amazed to learn that over 60 per cent of the asylum-seekers who were returned each year were Nigerian and asked whether any Nigerians had been granted refugee status following an assessment of the risk of torture. Were there any procedures for monitoring sexual violence in detention and, if so, what action had been taken? According to the delegation, 11 cases had been forwarded to the Director of Public Prosecutions on the basis of the Ryan report, 8 had been rejected and 3 of which were pending. She enquired about the grounds for the high rejection rate.

51. With regard to the Magdalene laundries issue, she emphasized the importance of preventing any recurrence. To that end, article 10 of the Convention required educational and awareness-raising measures. In addition, article 12 required States parties to conduct investigations, article 13 recognized the individual’s right to complain, and article 14 stipulated that victims should obtain redress. According to the delegation, the vast majority of women had joined the laundries voluntarily, or if they were minors with the consent of their parents or guardians. Voluntary action implied that the action was non-coercive and based on an informed choice that could be reversed. She asked whether there was any evidence to suggest that the women were aware of the conditions and the procedure for leaving. When minors reached the age of majority, was there any procedure whereby they could take an independent decision? Apart from the question of consent, it seemed that major restraints were imposed on freedom of movement. There had been reports of police capturing women and returning them to the laundries. She therefore wondered whether any measures of due diligence had been taken by the authorities, such as inspections of the facilities to ensure that they complied with relevant standards or measures to prevent acts or omissions amounting to torture.

52. **Mr. Mariño Menéndez** enquired about the maximum period of solitary confinement or preventive incommunicado detention. Noting that the new Government intended to amend the Immigration Protection and Residence Bill 2010, he asked whether it was true that the subsidiary protection procedure currently entailed a waiting period of up to five years and, if so, whether the new law would address the problem. He also asked for reassurance that the decisions of the Refugee Appeals Tribunal were made public and recommended that appeals pursuant to the Dublin II Regulation before the Tribunal should have suspensive effect under the new legislation. He asked whether there was any statistical data concerning stateless persons in Ireland. He also enquired about decisions regarding

rehabilitation of victims of torture or ill-treatment, including compensation pursuant to article 14 of the Convention.

53. **Mr. Bruni** joined Mr. Gallegos Chiriboga in enquiring whether the Criminal Justice Act 2006 limited torture to an act or omission committed by public officials and failed to cover the part of the Convention definition referring to persons who committed such acts or omissions with the consent or acquiescence of a public official. He welcomed the inclusion of a reference to omissions and asked whether that addition had led to any legal proceedings. He asked whether the inter-agency Strategic Human Rights Advisory Committee had access to places of detention and, if so, whether it could make unannounced visits. According to the report, the *Gárda Síochána Ombudsman's Commission* was empowered to investigate complaints concerning the death of, or serious harm to, a person in police custody. However, only 62 of the 4,746 complaints received between 9 May 2007 and 31 December 2008 had been considered well founded. He enquired about the fate of the remaining complaints.

54. **Ms. Sveaass** said that she hoped that the Mental Health Act would be amended shortly. She wondered whether section 23 of the Act, under which staff in approved mental health centres could prevent voluntary patients who wished to leave from doing so for 24 hours, was compatible with the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms. With regard to separated minors seeking asylum, she asked whether anything was done to trace their families. She urged the State party to follow the example of the Spiritan Asylum Services Initiative and extend the practice of preparing medical legal reports under the provisions of the Istanbul Protocol to mainstream health-care facilities. Police officers and prison staff should also receive training on the Protocol.

55. With regard to the Magdalene laundries case, she suggested that the Government could consider making a public apology to the victims. She asked whether a public inquiry into the institutions could be opened and said that it should not be left to a handful of the victims to initiate court action for redress. Could the victims launch a class action or obtain compensation without going to court?

56. **Mr. Wang Xuexian** welcomed the news that the Government was planning to make a statement with regard to the Magdalene laundries case shortly and urged the State party to consider setting up a statutory inquiry into the matter. He invited the delegation to comment on a report by the Irish Human Rights Commission on extraordinary rendition, which had been critical of the State party's acceptance of diplomatic assurances from the United States of America to the effect that no extraordinary rendition prisoners had been ferried by aircraft through Ireland. The report had also urged the monitoring of suspicious aircraft and called for a public investigation of allegations of extraordinary rendition flights landing in the territory of the State party.

57. **The Chairperson** asked, with regard to subsidiary protection, what form the new appeals process announced by the State party's new Government would take. He invited the delegation to comment on the low acceptance rates of asylum applications by the Office of the Refugee Applications Commissioner and Refugee Appeals Tribunal, claims that their decision-making was poor and criticism of the backlog of cases. Furthermore, according to information before the Committee, the High Court did not fully review administrative decisions by those bodies, whose independence had also been called into question.

58. Noting that, in the Committee's view, female genital mutilation constituted an act of torture, he asked what the position of the State party was in that regard. Was the risk of being subjected to female genital mutilation considered grounds for non-refoulement? He also asked whether the State party considered that corporal punishment of children in the family setting did not contravene the Convention.

59. **Mr. Aylward** (Ireland) said that the State party would have great difficulty convincing parents in Ireland that a clip on the ear administered by them to their children constituted an act of torture. The Government opposed excessive use of violence in the home, but an absolute prohibition on chastising children was unthinkable.

60. The State party abhorred female genital mutilation and saw it as a form of inhuman treatment that was an offence under the Non-Fatal Offences against the Person Act, and for which perpetrators were liable to be extradited. A forthcoming review of the Act would doubtless clarify whether it would henceforth be considered an act of torture.

61. With regard to delays in the assessment of asylum applications, he noted that it was often in the interest of applicants, especially those whose claims were unfounded, to prolong the assessment process as much as they could. Indeed, some spared no efforts to do so in order to delay the inevitable refusal as long as possible. Under the current system, only one set of circumstances submitted by an applicant was examined at a time, meaning that applicants could then make a series of appeals based on circumstances not yet considered. Under a proposed new approach, all possible circumstances would be examined at once, which would help to smash a system that had virtually become a racket in the State party and was undermining its international credibility.

62. With regard to the Office of the Refugee Applications Commissioner and Refugee Appeals Tribunal, he said that a great deal of misinformation about them was in circulation that was frequently used unscrupulously. A High Court judge had performed a thorough review of those bodies that had left no doubt as to their independence. The delegation was quite sure that no one deserving of refuge in the State party was being denied it.

63. Turning to the alleged ill-treatment of women and girls in the Magdalene laundries case and proposals to set up a statutory inquiry, compensation schemes or even pension plans for the victims, he pointed out that the institutions concerned had never been run by the State. He could not see how recent legislation on inspections could be made retrospective, as some had suggested, in order to provide victims with redress. He had heard harrowing accounts from victims of their time in those institutions, but noted that the religious who had managed them had yet to present their version of the facts. The Government had not finalized its position on the matter.

64. **Mr. Purcell** (Ireland) said that the State party was upgrading prison accommodation significantly. All cells were now built to accommodate up to two prisoners and were between 11 and 13 square meters. They were equipped with toilets and washbasins and, in some new blocks, with showers. Those amenities would be standard in cells built or renovated in the future. Sanitary facilities were currently being installed in cells of one wing in Mountjoy prison, one of three remaining prisons in the State party in which cells were not so equipped. Depending on the outcome of that project and the availability of funds, the remaining cells in that prison, as well as those in Cork and Limerick prisons, would also be equipped with sanitary facilities. That would have the added benefit of eliminating the need for toilet patrols in those prisons.

65. He acknowledged that the number of prisoners sentenced for drug-related crimes had risen in recent years, largely as a result of the commitment by the Garda Síochána and the Government to combat organized drug-related crime. Heavy sentences for such crimes were imposed only on persons convicted for the supply of drugs rather than mere possession. Treatment programmes were available in the prisons for inmates with problems of drug addiction.

66. He underlined that violence between prison inmates was relatively low, with an average of 2.5 assaults a day among a prison population of approximately 4,500. Gangs were a problem in any prison system and prisoners sometimes had to be separated from other inmates for their own safety. Parole in the Irish prison system was either automatic or

discretionary and the State party's legislation on temporary release complied with the rules of the Council of Europe. The Criminal Justice Act provided considerable flexibility with regard to controlling the number of prisoners in the system.

67. **Mr. Aylward** (Ireland) said that talks were continuing with the religious congregations in the State party on compensation for people affected by the outcome of the Ryan report. Existing schemes of redress had been exhausted and the Government was considering the option of using money from the religious congregations to establish a statutory fund in order to meet the welfare, education and health needs of survivors of institutional child abuse.

68. **Mr. O'Sullivan** (Ireland) noted that the 98.5 per cent refusal rate for asylum applications in the first instance in the first three quarters of 2010 had to be seen in the light of the comparatively low acceptance rates in previous years. Applications from Nigerians were treated on an equal footing with those of applicants of other nationalities and the acceptance rate for them was no lower in Ireland than elsewhere. The growing sophistication of biometric data technology and language analysis used in the assessment of asylum applications was also contributing to a lowering of acceptance rates.

69. Decisions on applications were made available to legal professionals working in the field of asylum and refugees, but the Government was giving consideration to publishing them for a broader public. Any decision in that regard would probably be included in the forthcoming immigration, residence and protection bill, as would any considerations relating to the Dublin II Regulation. The result of the application of the non-suspensive effect on appeals was often simply that asylum-seekers lodged an application in another member State of the European Union.

70. Consideration would be given to promoting a broader awareness of the Istanbul Protocol in the State party. While it was true that the High Court played a limited role in the review of asylum applications, the fact that it ensured that the State fulfilled its administrative responsibilities constituted in itself an important remedy for asylum applicants.

The meeting rose at 6.05 p.m.