

# UNCAT and Places of Detention in Ireland: Recommendations & Additional Information.

Presented by the Irish Penal Reform Trust to assist the UN Committee against Torture in advance of Ireland's second periodic review under the UN CAT (27<sup>th</sup> and 28<sup>th</sup> July 2017).

See full IPRT submission at: [http://www.iprt.ie/files/IPRT\\_61st\\_Session\\_Report\\_lo-res.pdf](http://www.iprt.ie/files/IPRT_61st_Session_Report_lo-res.pdf)

## 1.

### OPCAT

**(Conc. Obs, para. 11, recommendation (c))**

**Recommendation:**

- The Irish Government must ratify OPCAT without further delay, and establish a National Preventative Mechanism within 3 years of ratification.

## 2.

### Inspector of Prisons

**Additional Information:**

- An inspection report of the Training Unit (semi-open prison in Dublin, now closed) is awaiting publication.

**Recommendations:**

- The Inspector should be permitted by law to publish reports directly.
- *Inspection of Places of Detention Bill* must be a legislative priority.
- The staffing and resourcing of the Office of the Inspector of Prisons should be increased.
- The Irish Prison Service should introduce a mechanism to ensure implementation across the whole prison estate of recommendations arising in the Inspector's investigations into deaths in custody.

## 3.

### Prison Crowding

**(Art. 11 and 16, Concl. Obs. para. 11; LoIPR, para. 11)**

**Additional Information:**

- Prisoners have been reported to be sleeping on floors in Cloverhill [remand] Prison.<sup>1</sup>
- Inappropriate cell-sharing has been reported in Midlands Prison<sup>2</sup> and the use of double cells for the single accommodation of older prisoners capacity results in crowding in other parts of that prison.
- A standard 'Risk Assessment Tool' for cell sharing was recommended by the Commission of Investigation into the killing of Gary Douch in Mountjoy Prison (2014)<sup>3</sup>; and by the Inspector of Prisons following the 2013 death of a prisoner in Midlands Prison.<sup>4</sup> In July 2017, this tool is still under development.<sup>5</sup>

**Recommendations:**

- The Irish Prison Service should commit to single occupancy cells as the prison estate standard.
- The IPS Risk Assessment Tool must be finalised and implemented with urgency.
- Official prison capacities and safe custody limits should be continually updated, in line with the criteria set out by the Inspector of Prisons.<sup>6</sup>
- The number of people in prison must be reduced within safe custody limits.
- The principle of 'Imprisonment as a last resort' should be enshrined in legislation.

<sup>1</sup> *Cloverhill Prison Visiting Committee Annual Report 2014* (published 2015), available at: <http://www.justice.ie/en/JELR/Cloverhill%20VC%20Annual%20Report%202014.pdf/Files/Cloverhill%20VC%20Annual%20Report%202014.pdf>

<sup>2</sup> *A report by the Inspector of Prisons Judge Michael Reilly into the circumstances surrounding the death of Prisoner B in the Midlands Prison on 12 February 2013* (2015), available at: [http://justice.ie/en/JELR/Pages/Report\\_on\\_the\\_death\\_in\\_custody\\_of\\_Prisoner\\_B\\_February\\_2013](http://justice.ie/en/JELR/Pages/Report_on_the_death_in_custody_of_Prisoner_B_February_2013)

<sup>3</sup> See Jesuit Centre for Faith and Justice, Submission to the UNCAT, July 2017.

<sup>4</sup> Inspector of Prisons 2015, op cit.

<sup>5</sup> Response of Minister for Justice & Equality Charles Flanagan TD, Parliamentary Question, 12 July 2017, available at: <https://www.kildarestreet.com/wrans/?id=2017-07-12a.606>

<sup>6</sup> *The Irish Prison Population - an examination of duties and obligations owed to prisoners*, Inspector of Prisons (2010), available at: [http://www.inspectorofprisons.gov.ie/en/iop/pages/other\\_reports](http://www.inspectorofprisons.gov.ie/en/iop/pages/other_reports)

## 4.

### Prison conditions

(Art. 11 and 16; Concl. Obs. para. 12; LolPR, para. 12)

#### Additional Information:

- 42% of prisoners do not have 24/7 access to private toilet facilities.<sup>7</sup>
- 80% of prisoners eat their meals in their cells,<sup>8</sup> most often in close proximity to screened toilets.
- Significant staff shortages are currently resulting in reduced access to regimes, including frequent closure of schools and workshops, and reduced visits. This is causing tensions, and is likely to increase violence.

#### Additional Question:

- Can the State submit a list of schools, workshops, libraries, and visiting rooms that have reduced opening hours as a result of staffing shortages?

#### Recommendations:

- All prisoners should have 24/7 access to private toilet facilities.
- The Irish Prison Service should commit to the principle of 'normalisation' and work towards communal dining as the norm.
- The Irish Prison Service should get additional resources in 2018 to recruit more staff and improve access to out-of-cell activities.

## 5.

### Healthcare

(Art. 11 and 16; Concl. Obs. para. 14; LolPR, para. 14)

#### Additional Information:

- There is one doctor for 820 men in Midlands Prison<sup>9</sup>, which holds a large number of older prisoners with specific health needs.
- Prisoners are missing hospital appointments due to staff shortages.

#### Recommendations:

- Medical advice must always take precedence over operational concerns.
- Responsibility for prison health should be transferred to the national health service ("HSE").
- The Health Information Quality Authority should have responsibility for inspection of prison healthcare, with annual reports published.

## 6.

### Mental Health

#### Recommendations:

- A 'whole of government' response to mental health care is urgently needed.
- Investment in community mental health and residential facilities is needed.
- Courts need increased referral options away from prison for low-level offenders with mental health issues.
- Prisoners with serious mental health issues should be removed from the prison system.
- The availability of beds in psychiatric care facilities for prisoners with acute mentally-illnesses must be increased.

<sup>7</sup> See: *Census Prison Population April 2017 Cell Occupancy-In Cell Sanitation*, available at: [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/April-2017-In-Cell.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2017-In-Cell.pdf)

<sup>8</sup> Response of Minister for Justice & Equality Charles Flanagan TD, Parliamentary Question, 11 July 2017, available at: <https://www.kildarestreet.com/wrans/?id=2017-07-11a.756>

<sup>9</sup> Midlands Prison Visiting Committee Annual Report 2015, available at: [http://www.justice.ie/en/JELR/MIDLANDS\\_PRISON\\_VC%20Annual%20Report\\_2015.pdf/Files/MIDLANDS\\_PRISON\\_VC%20Annual%20Report\\_2015.pdf](http://www.justice.ie/en/JELR/MIDLANDS_PRISON_VC%20Annual%20Report_2015.pdf/Files/MIDLANDS_PRISON_VC%20Annual%20Report_2015.pdf)

## 7.

### Violence in Prisons

(Art. 11 and 16; Concl. Obs. para. 15; LolPR, para. 15)

#### Additional Information:

- 670 violent incidents took place in 2016; 85% of these (572) were prisoner-on-prisoner incidents.<sup>10</sup> The highest number of prisoner-on-prisoner incidents took place at Mountjoy (156), followed by Castlereagh (139) and Cloverhill (82).
- Assaults by prisoners on prison officers increased from 91 to 98 in 2016.
- There were 826 recorded incidents where a Control and Restraint (C&R) team was deployed in 2016. Of these, 373 were in Portlaoise; 273 were in Mountjoy; and 102 were in Cloverhill Prison.<sup>11</sup>

#### Additional Question:

- Can the State explain the disproportionately high use of C&R in Portlaoise prison?

#### Recommendations:

- **Statistics on violent incidents in prisons, including sexual violence, should be published annually.**
- **The number of prisoner complaints in relation to incidents of violence or sexual violence should be published annually.**
- **The Irish Prison Service should introduce measures to reduce the number of incidents involving Control and Restraint teams.**

## 8.

### Solitary Confinement

#### Additional Information:

- Prisoners with severe mental health issues (including psychosis) and challenging behaviours are being held for long periods in isolation.
- Some prisoners in prolonged isolation may be released back into the community at the end of their sentences.

#### Recommendations:

- **The practice of holding prisoners with mental health issues in isolation must end.**
- **No person should be held in solitary confinement for more than 15 days.**
- **Restricted regimes should not be the standard response to dealing with violence and prisoner safety concerns.**
- **There must be proper transition programmes out of solitary confinement, both back to the general prison population and pre-release.**
- **The focus of the new Violent and Disruptive Prisoner Unit in Midlands Prison must be on returning the prisoners back to the general prison population.**

## 9.

### Separation of remand prisoners

(Art. 11 and 16; Concl. Obs. para. 12; LolPR, para. 12)

#### Recommendations:

- **The State must commit to a timeframe as to when the separation of remand from sentenced prisoners will be met.**
- **Lengths of time detained on remand should be reduced.**

<sup>10</sup> 'The Dóchas female prison experienced the highest number of assaults by convicts on officers last year', thejournal.ie, 17 July 2016, available at: <http://www.thejournal.ie/dochas-centre-assaults-3501377-Jul2017/>

<sup>11</sup> Response of Minister for Justice & Equality Charles Flanagan TD, Parliamentary Question, 11 July 2017, available at: <https://www.kildarestreet.com/wrans/?id=2017-07-11a.723>

## 10.

### Immigration-related detention

(Art. 11 and 16; Concl. Obs., para. 17; LoIPR, para.17)

**Recommendation:**

- The detention of people under immigration law in prison must end.

## 11.

### Complaints and investigations mechanisms

(Art. 2, 12, 13 and 16; Concl. Obs, para. 18; LoIPR, para.18)

**Recommendation:**

- Prisoners must have access to an independent complaints/appeal mechanism such as a Prisoner Ombudsman or equivalent.

## 12.

### Juvenile detention

(Art. 2, 11 and 16; Concl. Obs., para. 22; LoIPR, para. 22)

**Recommendations:**

- Single separation should not be used as a behaviour management tool for children.
- Government should give a timeframe for the publication of recent reviews of Oberstown Children Detention Campus.
- There should be a discrete policy for 18–24 year olds in the criminal justice system, which focuses on diversion and age-appropriate interventions.

## 13.

### Closure of the Training Unit

**Recommendations:**

- Prisoners who are accessing day programmes (temporary release for college or work) must be accommodated separately from the general prison population.
- An open prison should be provided in the Dublin area.
- There should be a statutory obligation on State agencies to co-operate around prisoner release (housing, health, education, social welfare, etc.)

## 14.

### Training of Prison Staff

**Recommendations:**

- The State should ensure that law enforcement, judicial, medical and other personnel who are involved in custody, interrogation or treatment or who otherwise come into contact with prisoners are provided with the necessary training with regard to the prohibition of torture.
- Training in relation to UNCAT and the Mandela Rules should be provided to all prison staff.

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