



IPRT
Irish Penal Reform Trust

IPRT Summary and Recommendations

Complaints, Monitoring and Inspection in Prisons

Irish Penal Reform Trust

The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system, with prison as a last resort. IPRT is committed to reducing imprisonment and to the progressive reform of the penal system based on evidence-led policies.

Introduction

Monitoring and inspection of places of detention, as well as the establishment of an independent mechanism for the review of prisoners' complaints, are central to the protection of human rights of prisoners and form part of Ireland's obligations under international law. An effective system of external oversight of prisons should fulfil three distinct functions:

- a) **Preventive function:** an inspection regime should deter and prevent violations of rights inside the prisons.
- b) **Improvement function:** bodies authorised to visit places of detention should have the power to publish their findings, and make recommendations for improvement to practices found to be in breach of human rights standards or in breach of law governing the management of prisons on the national level. Publication of reports should not be subject to ministerial control, and a follow-up mechanism should exist to ensure the effective implementation of recommendations made.
- c) **Individual complaints review function:** the system should include an easily accessible mechanism for external and independent review of individual complaints brought forward by prisoners.

In November 2009, IPRT set out our argument in detail in the *IPRT Position Paper 7 - Complaints, Monitoring and Inspection in Prisons*, which is available at www.iprt.ie/position-papers. The recommendations are reproduced in summary below.

Recommendations

1. Complaints:

The current system for prisoners' complaints does not fully comply with international human rights standards for independent review of such complaints. The most significant gap in the system concerns the possibility of making a complaint to an external body that would be empowered to receive individual complaints, to adjudicate on the matter raised, and to make binding recommendations for improvement. IPRT's view is that an Office of Prisoner Ombudsman should be established, empowered to receive and consider individual complaints directly, as previously recommended by the CPT. Annual statistics on the number of complaints received within the Irish prison system are not publicly available. However, in his *Report on an Inspection of Mountjoy Prison* (24th March 2011) and in his *Guidance on Best Practice relating to Prisoners' Complaints and Prison Discipline* (2010), the Inspector of Prisons, Judge Michael Reilly has expressed serious concerns about the handling of complaints within the prison system.

IPRT calls on the Government to establish an independent Office of Prisoner Ombudsman as soon as practicable.

2. Appeals:

The internal grievance process does not afford prisoners with a possibility of bringing an appeal against Governor's decision to an independent authority, and it therefore does not fulfil the requirements of the European Prison Rules 2006. The opportunity to bring the complaint to the attention of an officer of the Minister for Justice does not fulfil such function.

IPRT calls on the Government to introduce a process of external review of such appeals by a body independent of the Irish Prison Service and the Department of Justice and Equality. Consideration should be given to empowering the proposed Office of Prisoner Ombudsman to hear such appeals.

3. Children in St Patrick's Institution:

While the Ombudsman for Children's Office has a statutory remit to consider individual complaints lodged by children held in Children Detention Schools in Ireland, this does not extend to children held in St. Patrick's Institution. This situation is highly unsatisfactory and breaches international children rights standards regarding independent oversight of places of detention for children.

IPRT calls on the Government to extend the remit of the Ombudsman for Children's Office to receive and consider individual complaints from children who are held in St. Patrick's Institution.

4. Investigations into Deaths in Prison Custody:

Currently the cumulative effect of the law and practice concerning investigations into deaths in custody falls short of the requirements of the ECHR. We note that the Garda Síochána Ombudsman Commission investigates all deaths in police custody. The creation of an independent body with a remit to review all deaths in custody of the Irish Prison Service would ensure equality of provision across the various agencies responsible for custody of individuals who come into contact with the criminal justice system.

IPRT urges the Government to include in the remit of the proposed Office of Prisoner Ombudsman in Ireland the duty to investigate all deaths that occur while in the custody of the Irish Prison Service.

5. Prison Inspections:

In 2009, IPRT welcomed the initiative undertaken by the Inspector of Prisons in relation to the establishment of a set of standards for inspection of prisons in Ireland. In the absence of a national statutory basis for prisoners rights, the *Standards for the Inspection of Prisons in Ireland* are an encouraging step towards a strengthened protection of individuals in detention, as the Government has committed to in its Programme for Government.

IPRT calls on the Government to introduce legislation that puts the *Standards* on a statutory footing. Furthermore, IPRT calls on the Government to introduce a binding mechanism for the implementation of recommendations made by the Inspector of Prisons and to introduce the necessary changes to the Prisons Act 2007 as soon as possible.

IPRT calls on Government to introduce changes to the Prisons Act 2007 that would enable the Inspector of Prisons to report directly to the Oireachtas. Such a reporting mechanism will strengthen the independence of the Office of the Inspector of Prisons.

6. Visiting Committees:

The Prisons Visiting Committees are the sole lay monitoring mechanism of prisons in Ireland, and should therefore play an important role in the oversight of conditions in and the management of prisons. However, there is currently a lack of effective powers for the Visiting Committees and no mechanism for implementation of their recommendations or a follow-up to their observations. An overall reform of the system of Visiting Committees is needed.

IPRT calls on the Government to review the existing functions and powers of the Visiting Committees, as well as the appointments and reporting process, with a view to strengthening their role as a lay monitoring mechanism.

IPRT calls on the Government to make resources available to ensure that all members of the Visiting Committees are appropriately trained, including in international human rights standards pertaining to people in detention.

7. OPCAT:

Lastly, IPRT calls on the Government to ratify without delay the Optional Protocol to the UN Convention against Torture, and to establish effective National Preventative Mechanisms (NPM) under the Protocol, in which the proposed Prisoner Ombudsman should play a vital role, together with reformed and strengthened Prison Visiting Committees.

Further information

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